



SOUTH  
KESTEVEN  
DISTRICT  
COUNCIL

# Constitution

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# **PART 1**

## **SUMMARY AND EXPLANATION**

## **The Council's Constitution**

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

### **What is in the Constitution?**

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

Part 2 of the Constitution is divided into 17 Articles, which set out the basic rules governing the Council's business. The Articles refer to more detailed procedures and codes of practice, which are set out in separate rules and protocols contained with other Parts of the Constitution.

Article 1 sets out, in more detail, the purpose of this Constitution. This is ultimately to ensure that the Council provides community leadership, involves members of the public in the democratic process, helps Councillors provide effective representation, takes decisions efficiently and effectively, holds decision-makers to account and improves the delivery of services.

Articles 1 to 17 explain the rights of members of the public and how the key parts of the Council operate. These are set out below:

- Article 1 – The Constitution
- Article 2 – Members of the Council
- Article 3 – Members of the Public and the Council
- Article 4 – Full Council
- Article 5 – The Chairman of the Council
- Article 6 – Overview and Scrutiny Committees
- Article 7 – Cabinet
- Article 8 – Regulatory Committees
- Article 9 – Governance and Audit Committee
- Article 10 – Standards Committee
- Article 11 – Employment Committee
- Article 12 – Joint Arrangements
- Article 13 – Officers
- Article 14 – Decision Making
- Article 15 – Finance, Contracts and Legal Matters
- Article 16 – Review and Revision of the Constitution
- Article 17 – Suspension, Interpretation and Publication of the Constitution

## **How the Council Operates**

The Council is composed of 56 Members (Councillors) elected every four years. Councillors are democratically accountable to residents of their Ward. Currently, South Kesteven District Council has 30 District Wards. 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.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. This is included in Part 5 of the Constitution.

All Councillors meet together as Full Council. Meetings of Full Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. Full Council appoints a Leader who chairs meetings of Cabinet. Full Council also appoints Councillors to sit on Committees and Outside Bodies.

### **Cabinet**

Cabinet is part of the Council which is responsible for most day-to-day decisions. Cabinet is made up of the Leader who is appointed by the Council and up to nine other Councillors appointed by the Leader. When major decisions are to be discussed or made, these are published in advance on Cabinet's Forward Plan. If these major decisions are to be discussed with Council Officers at a meeting of Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed. Cabinet has to make decisions which are in line with the Council's overall policies and budget.

If it wishes to make a decision which is outside the budget or policy framework, this must be referred to Full Council as a whole to decide.

### **Overview and Scrutiny**

The Council has five Overview and Scrutiny Committees which scrutinise and hold to account the work of Cabinet and Council as a whole. They also have a role in helping to develop policies, and challenge or contribute to matters such as service delivery and budget monitoring. The Council's Overview and Scrutiny Committees are:

- Culture and Leisure Overview and Scrutiny Committee
- Environment Overview and Scrutiny Committee
- Finance and Economic Overview and Scrutiny Committee
- Housing Overview and Scrutiny Committee
- Rural and Communities Overview and Scrutiny Committee

These Committees also carry out any external scrutiny and allow members of the public to have a greater say in Council matters. They can hold public inquiries into matters of local concern.

A function of the Overview and Scrutiny Committees is to monitor decisions made by Cabinet as a whole or individual Cabinet Members, and exercise the 'Call-In' function where necessary. This enables the Committees to consider whether a decision is appropriate and, if not, has the ability to refer it back to the decision-maker for further consideration.

## **Regulatory Committees**

Regulatory Committees take decisions which cannot legally be made by Cabinet or individual Cabinet Members and have to be made by specifically appointed Committees of the Council.

The Council's Regulatory Committees are:

- Alcohol, Entertainment and Late Night Refreshment Licensing Committee
- Licensing Committee (which deals with separate licensing matters such as taxi licensing)
- Planning Committee

## **The Council's Staff**

The Council has people working for it called Officers to give professional advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Member/Officer Protocol governs the relationship between the Council's elected Members and Officers of the Council which is included in Part 5 of the Constitution.

## **Rights of Members of the Public**

Members of the public have a number of rights in their dealings with the Council both in accordance with this Constitution or as part of general legal rights and are entitled to do the following:

- Vote at local elections if they are registered
- Contact their local Councillor about any matters of concern to them
- Inspect and obtain a copy of the Constitution
- Attend meetings of the Council, its Cabinet and its Committees or other meetings held in the public domain, except where certain confidential or 'exempt' matters are being discussed
- Inspect the Cabinet Forward Plan, setting out upcoming Key Decisions and items scheduled to be held at private meetings of Cabinet
- Petition to request a referendum on a mayoral form of Cabinet
- Participate at meetings where there is provision for public speaking
- Make written representations in relation to licensing and planning applications

- Inspect reports and background papers, and any record of decisions made by the Council, Cabinet, Committee or any other meeting held in the public domain
- Submit complaints to the Council about standard of service provided by the Council
- Submit petitions to the Council in accordance with the Council's Petitions Scheme
- Submit complaints to the Ombudsman if they think the Council has not followed its procedures properly
- Submit complaints to the Monitoring Officer if they can evidence that a Councillor has breached the Council's Code of Conduct
- Inspect the Council's accounts and make their views known to the external auditor
- Seek information which the Council must disclose under the Freedom of Information Act 2000
- Make their views known to the Council on any matter

The Council welcomes participation and feedback from members of the public in its work. For further information on your rights or to make a written comment, compliment or complaint, please contact the Business Support Unit, Council Offices, The Picture House, St Catherine's Road, Grantham, Lincolnshire NG31 6TT or email: [businesssupport@southkesteven.gov.uk](mailto:businesssupport@southkesteven.gov.uk)

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# PART 2

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## **Article 1 – The Constitution**

### **1.1 Powers of the Council**

The Council will exercise all its powers and duties in accordance with all relevant legislation and this Constitution.

### **1.2 The Constitution**

This Constitution, and all of its codes and protocols, is the Constitution of South Kesteven District Council.

### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to ensure that:

- i) The Council can facilitate and provide community leadership, involving residents, businesses and other stakeholders in the democratic process
- ii) The Council supports and promotes the active involvement of residents in the process of its decision-making
- iii) Councillors are assisted in their representational roles as community leaders
- iv) Decisions are taken efficiently, effectively and transparently
- v) Those responsible for making decisions are clearly identifiable and accountable to residents and that they explain the reasons for their decisions
- vi) Council has an effective means of publicly holding decision-makers to account
- vii) The Council's Cabinet and Overview and Scrutiny functions do not allow a decision-maker to scrutinise a decision which they have directly taken or which they are directly involved
- viii) The Council can improve the delivery of its services

## **1.4 Publication of the Constitution**

The Monitoring Officer will ensure that:

- i) All Councillors have access to a copy of the Council's Constitution, in whichever format requested
  
- ii) Copies of the full document and a summary are available for public inspection and published on the Council's website, and can be purchased by members of the local press and public on payment of a reasonable fee

## **Article 2 – Members of the Council**

### **2.1 Composition**

The Council will comprise of 56 elected members, known as Councillors. South Kesteven is divided into 30 electoral wards with one or more Councillors representing each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State.

### **2.2 Eligibility**

Only registered electors of South Kesteven, or those living or working there or those who own property or rent property within the district, will be eligible to stand as a Councillor.

### **2.3 Election and Terms of Office for Councillors**

The regular election cycle of Councillors for South Kesteven District Council will be held on the first Thursday in May every four years. The term of office for Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

By-elections may be held within the regular four-year term, if necessary, should any vacancies arise. The term of office for a Councillor elected at a by-election will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### **2.4 Key Roles and Functions of all Councillors**

All Councillors will:

- i) Collectively be the ultimate policy makers for the Council and carry out a number of strategic and corporate management functions
- ii) Contribute to the good governance of the area and actively encourage community participation and public involvement in decision-making
- iii) Effectively represent the interests of their ward and of individual residents
- iv) Balance different interests identified within their ward and represent the ward as a whole
- v) Be involved in decision-making
- vi) Be available to represent the Council on other bodies

- vii) Maintain the highest standards of conduct and ethics
- viii) Be entitled to act in accordance with the procedures and protocols set out in this Constitution

## **2.5 Rights and Duties of Councillors**

All Councillors will:

- i) Have such rights of access as the law allows to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions
- ii) Not make public information which is confidential or exempt without the consent of the Council or authorised Officer or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it. For these purposes definitions of 'confidential' and 'exempt' are clarified in the Access to Information Procedure Rules in Part 4 of this Constitution

## **2.6 Conduct**

Councillors will at all times observe the Members' Code of Conduct and the protocol on Member/Officer Relations as set out in Part 5 of this Constitution, together with all other relevant protocols and procedures within the document.

## **2.7 Training**

- i) Councillors are expected to engage with the Council's Member Development Programme and must attend any mandatory training or associated refresher training that may be required prior to acting as a Member on certain Committees.
- ii) The following training and development sessions are mandatory for all Members of Council, and refresher training will be offered on an annual basis:
  - Councillor Code of Conduct
  - Equality, Diversity and Inclusion
  - PREVENT
  - Safeguarding
- iii) Failure to attend the training and development sessions listed at 2.7(ii) within six months of the Council Annual Meeting, or six months since election to office, means that a Member is unable to act on any committees or bodies to which they have been appointed until they have attended all mandatory training and development sessions.

- iv) A request to use a certificate for the training sessions listed at 2.7(ii) from a Member's place of work or similar will be accepted, subject to the Monitoring Officer being satisfied that the certificate demonstrates that the necessary criteria has been covered.

## **Article 3 – Members of the Public and the Council**

### **3.1 Rights of Members of the Public**

The rights of members of the public are set out in this Article, with specific details of rights to information and participation at meetings set out in the Council's Access to Information Procedure Rules in Part 4 of this Constitution.

### **3.2 Voting and Petitions**

Members of the public on the electoral register for the area of South Kesteven have the right to:

- i) Vote at local electoral events
- ii) Sign a petition to request a referendum of all electors for the Council to adopt a Constitution with a model of governance facilitated by an Elected Mayor

All members of the public, and other stakeholders, can present petitions to the Council which are relevant to any matter of which it has powers and duties affecting the area of South Kesteven.

### **3.3 Information**

Members of the public have the right to:

- i) Attend meetings of the Council and its Committees, except where confidential or exempt information is likely to be disclosed that the meeting as a consequence is held in private
- ii) Attend meetings of Cabinet, except where confidential or exempt information is likely to be disclosed
- iii) Review the Cabinet Forward Plan and schedule of Key Decisions to be taken by Cabinet
- iv) Inspect reports and background papers and any records of decisions made by the Council, its Regulatory Committees or Cabinet
- v) Inspect the Council's accounts and make their views known to the external auditor

### **3.4 Participation**

Members of the public have the right to:

- i) Participate in the public open forum at meetings of Full Council in accordance with the Council Procedure Rules set out in Part 4 of this Constitution
- ii) Participate at meetings of the Alcohol, Entertainment and Late Night Refreshment Licensing Committee, the Licensing Committee and Planning Committee in accordance with their respective Procedure Rules as set out in Part 4 of this Constitution.
- iii) Participate at meetings of the Council's Overview and Scrutiny Committees in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

### **3.5 Complaints**

Members of the public have the right to complain to:

- i) The Council itself through the customer feedback process
- ii) The relevant Ombudsman, after exhausting the Council's own customer feedback process
- iii) The Council's Monitoring Officer if the matter relates to a breach of the Councillors' Code of Conduct
- iv) The Council's auditors on the legality of the Council's finances
- v) The Information Commissioner in respect of suspected data breaches
- vi) The Police in respect of any acts of suspected corruption on the part of the person connected with the Council

### **3.6 Responsibilities of Members of the Public**

Members of the public must not be violent, abusive or threatening towards Councillors, Officers or any other members of the public on Council land or premises and must not wilfully harm things owned by the Council, Councillors or Officers.

## **Article 4 – Full Council**

### **4.1 Policy Framework**

The Council's Policy Framework consists of the following plans and strategies which only Full Council can adopt:

- The Corporate Plan
- The Local Plan and Development Policy Documents
- The Sustainable Communities Strategy
- The Pay Policy Statement
- The Gambling Statement of Licensing Principles

### **4.2 Financial Framework**

The Council's Financial Framework consists of the following plans and strategies which only Full Council can adopt:

- The Medium Term Financial Strategy
- The Treasury Management Strategy

The setting of the budget includes the allocation of financial resources to different services, projects and reserves, calculating the Council Tax base and setting the Council Tax.

### **4.3 Functions of the Council**

In addition to the Council's Policy and Financial Frameworks, there are certain other functions which can only be exercised by the Council at a properly convened meeting of Full Council of which all Councillors have been summoned. These are set out in Part 3 of this Constitution.

### **4.4 Council Meetings**

There are three types of Full Council meetings:

- i) The Annual Meeting
- ii) Ordinary Meetings
- iii) Extraordinary Meetings

Each of these meetings will be conducted in accordance with Council Procedure Rules and Access to Information Procedure Rules as set out in Part 4 of this Constitution.

## **Article 5 – The Chairman of the Council**

### **5.1 Election of the Chairman and Vice-Chairman of the Council**

The Chairman and Vice-Chairman of the Council will be elected by the Council at its Annual Meeting.

### **5.2 Role and function of the Chairman**

The Chairman of the Council, and in their absence or when requested to act on their behalf the Vice-Chairman, will have the following roles and functions:

#### **(a) Ceremonial Role**

The Chairman of the Council has a role as a symbol of the Authority, a symbol of an open society and an expression of social cohesion. They will normally carry out the ceremonial duties of the Council, such as:

- i) Royal visits
- ii) Religious or cultural services
- iii) Remembrance Day
- iv) Reviews of Troops
- v) Civic banquets and functions
- vi) Visits of other civic heads
- vii) Civic funerals
- viii) Visits of consular officers or those of a similar nature
- ix) Civic visits abroad
- x) Other official engagements

The Chairman will have use of the Chairman's Room, a motor car and the services of a Civic Officer, all at their discretion within the prescribed budget, for the performance of those ceremonial duties.

The Chairman and their consort, if applicable, will have the right to wear the chain or badge of office when performing ceremonial duties and charring meetings of Full Council.

Promotional roles may be shared between the Leader of the Council and the Chairman.

**(b) Chairing meetings of Full Council**

- i) To uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary
- ii) To preside over meetings of Full Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community
- iii) To ensure that the Full Council meeting is a forum for the debate of matters of concern to the local community in accordance with Council Procedure Rules
- iv) To promote public involvement in the Council's activities
- v) To be the conscience of the Council

## **Article 6 – Overview and Scrutiny Committees**

### **6.1 Appointment and Remit**

At its Annual Meeting, Full Council will appoint Overview and Scrutiny Committees to review and scrutinise the discharge of the Council's executive functions and the effectiveness of the Council's policies. The Council's five current Overview and Scrutiny Committees are:

#### ***Culture and Leisure Overview and Scrutiny Committee***

The Committee is responsible for:

- Arts and culture
- Heritage
- Markets and fairs
- Sport and physical activity
- Leisure SK Ltd
- Visitor economy

#### ***Environment Overview and Scrutiny Committee***

The Committee is responsible for:

- Air quality
- Animal welfare licensing (Policy)
- Commercial, industrial, and clinical waste collection and management
- Dog breeding and control orders
- Domestic waste and recycling management
- Energy efficiency
- Environment SK Ltd
- Environment SK Commercial Services Ltd
- Estate and grounds maintenance
- Flooding
- Food hygiene and safety
- Health and safety
- Noise
- Renewable energy
- Scrap metal dealers
- Green open space management

## ***Finance and Economic Overview and Scrutiny Committee***

The Committee is responsible for:

- Budget monitoring
- Budget setting
- Business rate relief
- Business trade and licensing (Policy)
- Business transformation
- Charitable rate relief
- Council-owned property, assets, and maintenance (non-council house)
- Customer access strategy
- Data protection reporting
- Economic development
- Fees and charges
- Large-scale development projects
- Medium term financial planning and national funding proposals
- Procurement
- Review of outturn
- Town centre developments and partnerships

## ***Housing Overview and Scrutiny Committee***

The Committee is responsible for:

- Aubers Ridge Management Company Ltd
- Council housing services
- Gravitas Housing Ltd
- Strategic housing services
- Overview of Housing Revenue Account
- Housing Capital Programme

## ***Rural and Communities Overview and Scrutiny Committee***

The Committee is responsible for:

- Allotments
- Anti-social behaviour, community safety and local policing
- Benefit claims
- Community engagement & cohesion
- Community funding and volunteering
- Community right to bid
- Community well-being
- Customer services
- Disabled facilities grant

- Equality and diversity
- Parish and town council liaison
- Public conveniences
- Safeguarding and individual wellbeing
- Shop front designs and funding
- Street furniture

### **Joint Environment Overview and Scrutiny Committee and Rural and Communities Overview and Scrutiny Committee**

Joint meetings of these two Overview and Scrutiny Committees will be responsible for:

- Alcohol, entertainment, and leisure licensing (Policy)
- Car parks, bus stations and town centre infrastructure
- Licensing (Policy)
- Planning Policy
- Street services
- Street lighting

## **6.2 Membership**

Full Council will appoint Councillors to Overview and Scrutiny Committees, the number of which will be dependent upon the size of each individual Committee as set out in the Overview and Scrutiny Procedure Rules at Part 4 of this Constitution.

Overview and Scrutiny Committees will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

Cabinet Members cannot be Members of an Overview and Scrutiny Committee.

## **6.3 Role and Function**

Overview and Scrutiny Committees must conduct their proceedings in accordance with the principles of Council Procedure Rules and Access to Information Procedure Rules set out in Part 4 of this Constitution, other than those rules which only apply to meetings of Full Council.

In addition, Overview and Scrutiny Committees will carry out their duties in accordance with the Overview and Scrutiny Procedure Rules contained in Part 4 of this Constitution.

## **6.4 Annual Report**

Overview and Scrutiny Committees must report annually to Full Council the work they have carried out over the previous municipal year.

## **6.5 Joint Working of Overview and Scrutiny Committees**

The Chairman of the Finance and Economic Overview and Scrutiny Committee will carry out the following functions:

- i) To chair a meeting for all Members of Overview and Scrutiny Committees to scrutinise the Council's proposed budget in accordance with the Budget Procedure Rules contained in Part 4 of this Constitution.
- ii) To chair a meeting, when necessary, of the Chairmen of all Overview and Scrutiny Committees to determine which Overview and Scrutiny Committee, having regard to prescribed areas of interest and existing workloads, may most appropriately be tasked to undertake work on a proposed item for consideration.
- iii) To chair a meeting of the Chairmen of all Overview and Scrutiny Committees to determine the content of the Overview and Scrutiny annual report.

The Vice-Chairman of the Finance, Economic and Environment Overview and Scrutiny Committee will support the Chairman in relation to the above meetings and chair the meetings in their absence. In the absence of the Vice-Chairman, a Vice-Chairman will be elected from those in attendance at the respective meeting, for that meeting only.

Specific joint working arrangements in respect of the Environment Overview and Scrutiny Committee and Rural and Communities Overview and Scrutiny Committee are set out in paragraph 6.1 above.

## **Article 7 – Cabinet**

### **7.1 The Role of Cabinet**

The Leader of the Council will appoint Councillors as Cabinet Members to form a Cabinet to carry out all of the Council's functions which are not the responsibility of any other part of the Authority, whether by law or under this Constitution.

Cabinet is at the heart of the day-to-day decision-making process of the Council and has a key role in proposing the budget and policy framework to Full Council.

### **7.2 Form and Composition**

Cabinet will consist of the Leader together with at least two but not more than nine other Councillors.

### **7.3 Leader**

The Leader will be a Councillor elected to the position of Leader by Full Council and will hold the office for a four-year term, unless:

- i) They resign from office
- ii) They are no longer a Councillor
- iii) A Notice of Motion is submitted and Full Council passes a resolution to remove the Leader from office

The Leader of the Council will be responsible for:

- iv) Determining the size of Cabinet
- v) Appointing a Deputy Leader
- vi) Appointing, removing and replacing Members of Cabinet
- vii) Allocating decision-making powers to Cabinet and individual Members of Cabinet
- viii) Allocating portfolio areas of responsibility to Cabinet Members

#### **7.4 Deputy Leader**

- i) The Deputy Leader will exercise all the functions of the Leader of the Council in their absence.
- ii) If for any reason the Leader is unable to act, or the office of Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, Cabinet must act in the Leader's place, or arrange for a Cabinet Member to act in their place until a new Leader can be elected.

#### **7.5 Other Cabinet Members**

Other Cabinet Members, including the Deputy Leader, will hold office until whichever of the following events occur first:

- i) They resign from office
- ii) They are no longer Councillors
- iii) They are removed from office by the Leader of the Council.

Councillors appointed to Cabinet cannot be Members of any of the Council's Overview and Scrutiny Committees.

The Chairman of the Council or Vice-Chairman of the Council cannot be appointed onto Cabinet.

#### **7.6 Cabinet Portfolios**

Each Cabinet Member will have special responsibility for the exercise of a portfolio of Cabinet functions as agreed by the Leader of the Council.

The Leader will determine which Cabinet Member is to be responsible for each portfolio.

#### **7.7 Proceedings of Cabinet**

Cabinet must conduct its proceedings in accordance with the principles of Council Procedure Rules and Access to Information Procedure Rules set out in Part 4 of this Constitution, other than those rules which only apply to meetings of Full Council.

In addition, Cabinet will carry out its duties in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

## **Article 8 – Regulatory Committees**

### **8.1 Regulatory and other Committees**

The Council will appoint the following Committees to discharge the responsibilities set out in Part 3(a) of this Constitution:

- Alcohol, Entertainment and Late Night Refreshment Licensing Committee
- Licensing Committee
- Planning Committee

### **8.2 Membership of Regulatory Committees**

Full Council will appoint Councillors to Regulatory Committees, the number of which will be dependent upon the size of each individual Committee as set out in their respective Procedure Rules at Part 4 of this Constitution.

Regulatory Committees will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

### **8.3 Training**

Councillors must attend mandatory training and annual refresher training in order to sit and act on the Alcohol, Entertainment and Late Night Refreshment Licensing Committee, the Licensing Committee and Planning Committee.

### **8.4 Proceedings of Regulatory and other Committees**

Regulatory and other Committees must conduct their proceedings in accordance with the principles of Council Procedure Rules and Access to Information Procedure Rules set out in Part 4 of this Constitution, other than those rules which only apply to meetings of Full Council.

In addition, meetings of the Alcohol, Entertainment and Late Night Refreshment Licensing Committee, the Licensing Committee and Planning Committee will follow their own prescribed procedures as set out in Part 4 of this Constitution.

### **8.5 Review Boards and Appeal Panels**

The Council will appoint Review Boards and Appeal Panels to discharge the responsibilities set out in Part 3(a) of this Constitution.

## **Article 9 – Governance and Audit Committee**

### **9.1 Role and Function**

The Council will establish a Governance and Audit Committee which will undertake the following functions:

#### ***Audit Activity***

- i) Approve the appointment of internal auditors
- ii) Approve the internal audit strategy and plan and monitor their performance
- iii) Review internal audit progress reports, outlining the main issues arising and paying particular attention to reports with limited assurance
- iv) Review the status of agreed internal audit recommendations to ensure implementation by the due date
- v) Receive the annual report and opinion of the Head of Internal Audit
- vi) Consider the appointment of external auditors
- vii) Consider and review the reports of external audit, including the audit plan, audit letter and certification of grants and returns
- viii) Review the effectiveness of the relationship between internal audit and external audit and that the value of the audit process is actively promoted in line with the Accounts and Audit Regulations
- ix) Meet in private with the internal and external auditors at least annually

#### ***Risk Management***

- x) Approve the risk management strategy and framework
- xi) Review the corporate risk register and other key risks (including partnerships) and seek assurances that appropriate mitigating action has been taken where necessary
- xii) Approve the annual report on risk management activity and consider the effectiveness of the Council's overall arrangements for managing risk

## ***Governance***

- xiii) Approve the Annual Governance Statement and ensure that in-year assurance statements completed by Officers properly reflect the risk and control environment and any actions required to improve it
- xiv) Approve the Code of Corporate Governance and action plan
- xv) Review the effectiveness of the governance arrangements underpinning the establishment and maintenance of key partnerships
- xvi) Consider the outcome of a self-assessment of the effectiveness of the Committee's work (at least bi-annually)
- xvii) Produce a Chairman's Annual Report on the activities of the Committee and present this to Full Council

## ***Regulatory Framework***

- xviii) Review the Council's internal control policies, such as Contract Procedure Rules, Financial Regulations, and any significant amendments or revisions to them
- xix) Monitor, review and amend as appropriate the thresholds and limits contained in the Financial Regulations Guidance Notes
- xx) Approve the Counter Fraud, Bribery and Corruption Framework, including the Whistleblowing Policy and Anti-Money Laundering Policy
- xxi) Monitor, review and amend as appropriate the Council's approved Treasury Management Strategy, paying particular attention to the inherent risks of the prevailing economic/financial climate
- xxii) Review the annual report on the effectiveness of the Council's Health and Safety arrangements
- xxiii) Receive an annual report on the Council's involvement in safeguarding vulnerable adults and children
- xxiv) Initiate inquiries on matters brought to the Committee's attention by the Chief Executive, Deputy Chief Executive, Directors, Assistant Directors or any Council body

### ***Accounts and Financial Reporting***

- xxv) Approve the annual statement of accounts and receive the external auditor's Annual Governance Report on issues arising from the audit and the value for money opinion
- xxvi) Approve the Annual Revenue and Capital Outturn report, including the movement of reserves
- xxvii) Approve the Statement of Accounting Policies to be used in the production of the financial statements. In particular, to approve the underlying assumptions to be used to calculate International Accounting Standard (IAS) 19 pension figures in the statement of accounts
- xxviii) Review and draw the attention of the Council to issues arising out of the financial statements and financial reports in accordance with the Local Government Act 2003.

### ***Ombudsman***

- xxix) Consider the Monitoring Officer's annual report on the outcome of Ombudsman enquiries.
- xxx) Consider specific reports from the Ombudsman as required.

### ***Constitution***

- xxxi) Advise and propose to Full Council amendments to the Constitution relating to all matters other than conduct and probity issues
- xxxii) Receive and consider reports from the Monitoring Officer or Chief Executive in relation to proposed amendments to the Constitution
- xxxiii) Receive and consider reports from Cabinet or any of the Council's Committees which propose amendments to the Constitution
- xxxiv) Monitor and review the operation of the Constitution

### ***Council Companies***

- xxxv) Approve the appointment and removal of directors to and from Council-owned companies, subject to the Articles of Association of the company concerned

## **9.2 Membership**

Full Council will appoint no fewer than nine Councillors to the Governance and Audit Committee.

The Governance and Audit Committee will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

The Committee may appoint, as a Co-opted Member, an external appointee as a member of the Governance and Audit Committee. Any appointee would not have voting rights.

## **9.3 Training**

Councillors must attend mandatory training and annual refresher training in order to sit and act on the Governance and Audit Committee.

## **9.4 Proceedings of the Governance and Audit Committee**

The Governance and Audit Committee must conduct its proceedings in accordance with the principles of Council Procedure Rules and Access to Information Procedure Rules set out in Part 4 of this Constitution, other than those rules which only apply to meetings of Full Council.

## **9.5 Attendance at Meetings**

All Councillors have the right to attend any meeting of the Governance and Audit Committee and are entitled to speak.

## **Article 10 – Standards Committee**

### **10.1 Role and Function**

The Council will establish a Standards Committee which will:

- i) Promote and maintain high standards of conduct by Members of South Kesteven District Council and all Town and Parish Councils in the district.
- ii) Develop a culture of openness, transparency, trust and confidence between Members and in Member and Officer relationships and embed a strong culture of strong ethical and corporate governance at all levels in the Council.
- iii) Advise the Council on the adoption or revision of the Councillor Code of Conduct.
- iv) Advise and recommend to the Monitoring Officer any training that may be necessary on matters relating to and assisting Members, Co-opted Members and Town and Parish Councillors on observing the Member Code of Conduct.
- v) Approve procedures for the conduct of hearings into complaints against Members.
- vi) Advise the Council on the content and requirements for codes, protocols or other procedures relating to standards of conduct throughout the Council.
- vii) Receive regular reports from the Monitoring Officer and assess the operation and effectiveness of the Councillor Code of Conduct.
- viii) Inform the Council of relevant issues arising from the determination of Code of Conduct complaints.
- ix) Hear and determine appeals against refusal to grant dispensations by the Monitoring Officer.

### **10.2 Membership**

Full Council will appoint no fewer than eleven Councillors to the Standards Committee.

The Council's Independent Person(s) will be invited to attend and fully contribute at meetings of the Standards Committee. They will not be entitled to vote.

The Standards Committee will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

### **10.3 Training**

Councillors must attend mandatory training and annual refresher training in order to sit and act on the Standards Committee and Hearing Review Panel.

### **10.4 Proceedings of the Standards Committee**

The Standards Committee must conduct its proceedings in accordance with the principles of Council Procedure Rules and Access to Information Procedure Rules set out in Part 4 of this Constitution, other than those rules which only apply to meetings of Full Council.

### **10.5 Attendance at Meetings**

All Councillors have the right to attend any meeting of the Standards Committee and are entitled to speak. This does not apply to meetings of the Hearing Review Panel.

### **10.6 Hearing Review Panel**

The Hearing Review Panel will act as a Sub-Committee of the Standards Committee. It will conduct its proceedings in accordance with the principles of Council Procedure Rules and Access to Information Procedure Rules set out in Part 4 of this Constitution, other than those rules which only apply to meetings of Full Council.

The Hearing Review Panel will hear and determine Member Code of Conduct complaints referred to it by the Monitoring Officer in accordance with procedures approved by the Standards Committee.

The Hearing Review Panel will comprise a minimum of three elected members of the Standards Committee. The Independent Person(s) will also be in attendance but will not be entitled to vote.

The Hearing Review Panel will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989, unless in exceptional circumstances where conflicts of interest make it impossible to do so.

## **Article 11 – Employment Committee**

### **11.1 Role and Function**

The Council will establish an Employment Committee which, in accordance with Officer Employment, Disciplinary and Dismissal Procedure Rules as set out in Part 4 of this Constitution and in consultation with the relevant Independent Person where appropriate, will:

- i) Oversee the recruitment and selection process of the Council's Head of Paid Service and determine terms and conditions of employment and make recommendations to Full Council in this respect
- ii) Take decisions affecting the remuneration, terms and conditions of service of the Head of Paid Service
- iii) Undertake performance appraisals of the Head of Paid Service and contribute to Directors' annual targets against which performance can be measured
- iv) Oversee the recruitment and selection process of the Monitoring Officer and Section 151 Officer and make recommendations to Full Council in this respect
- v) Appoint the Deputy Chief Executive, Directors and posts falling within the level of Assistant Director, or any such equivalent posts
- vi) Consider allegations concerning the conduct or capability of Statutory Officers and other Chief Officers in order to establish whether or not they are sufficiently well-founded and serious in content to justify investigation
- vii) Suspend a Statutory Officer or other Chief Officer under the terms of the Joint Negotiating Committee Conditions of Service for Chief Executives or the Joint Negotiating Committee Conditions of Service for Chief Officers
- viii) Review the appointment of an external investigator to carry out an investigation on behalf of the Committee where necessary
- ix) Receive and consider any report of an investigator and, if appropriate, hold a capability or disciplinary hearing and determine a course of action (up to and including dismissal) within the Council's power under law and within its procedures

- x) Dismiss Chief Officers, the Monitoring Officer, the Section 151 Officer and posts falling within the definition of Deputy Chief Officer in Section 2(1) of the Local Government and Housing Act 1989
- xi) Settle all matters relating to the above appointments or dismissals
- xii) Oversee the recruitment and selection process of the relevant independent person in accordance with the Localism Act 2011 and make recommendations to Full Council in that respect
- xiii) To discharge the Council's functions under Section 112 of the Local Government Act 1972 which have not otherwise been delegated, including advising Full Council and Committees on:
  - The requirements for, and the availability of, human resources necessary for the fulfilment of the Council's policies
  - The promotion of good employee relations in the Council
  - Matters of general employment and personnel concern to the Council
  - The promotion of equal opportunities for all employees of the Council, and in the Council's recruitment and selection procedures, and to monitor the effectiveness of such measures
  - Matters affecting the efficient use of the Council's staff resources and to make recommendations to Cabinet
  - Review and recommend adoption of the People and Organisational Development Strategy and Annual Pay Policy prior to going to Full Council
- xiv) Keep under review local terms and conditions of employment for employees and make recommendations regarding the annual local pay award
- xv) Consider and recommend appropriate actions where necessary in response to proposals relating to changes within the structure of the organisation which involves substantial changes in responsibilities of Chief Officers
- xvi) Promote and pursue a policy of equal opportunities in employment and 'sign-off' key information before it is published
- xvii) Consider matters relating to superannuation, pensions and gratuities

## **11.2 Membership**

- i) Full Council will appoint not less than seven Councillors to the Employment Committee.

- ii) The Employment Committee will comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.
- iii) Membership of the Committee will, as and when required, include the involvement of the relevant appointed Independent Person.

### **11.3 Proceedings of the Employment Committee**

The Employment Committee must conduct its proceedings in accordance with the principles of Council Procedure Rules and Access to Information Procedure Rules set out in Part 4 of this Constitution, other than those rules which only apply to meetings of Full Council.

In addition, in relation to employment, the Committee must follow the Officer Employment, Disciplinary and Dismissal Procedure Rules set out in Part 4 of this Constitution.

### **11.4 Attendance at Meetings**

All Councillors have the right to attend any meeting of the Employment Committee and are permitted to speak. This does not apply to interviews for appointments or disciplinary proceedings.

## **Article 12 – Joint Arrangements**

### **12.1 Joint Arrangements**

The Council may establish joint arrangements with one or more Local Authority to exercise functions which are not executive functions in any of the participating authorities. Such arrangements may involve the appointment of Joint Committees with these other Local Authorities.

### **12.2 Joint Arrangements – Cabinet**

Cabinet may establish joint arrangements with one or more Local Authority to exercise executive functions. Such arrangements may involve the appointment of Joint Committees with these other Local Authorities. Only Members of Cabinet will normally be entitled to be appointed onto Joint Committees established by Cabinet, except in the following circumstances:

- The Joint Committee has functions for only part of the area of the Authority and that area is smaller than two-fifths of the authority by area of population. In such cases, Cabinet may appoint any Councillor to the Joint Committee who is a local ward Member which is wholly or partly contained within the area.

### **12.3 Arrangements to Promote Economic, Social or Environmental Wellbeing**

The Council or Cabinet, in order to promote the economic, social or environmental wellbeing of South Kesteven may:

- i) Enter into arrangements or agreements with any person or body
- ii) Co-operate with, facilitate or co-ordinate the activities of any person or body
- iii) Exercise on behalf of that person or body any functions of that person or body

### **12.4 Proceedings of Joint Committees**

Joint Committees must conduct their proceedings in accordance with the principles of Council Procedure Rules and Access to Information Procedure Rules set out in Part 4 of this Constitution, other than those rules which only apply to meetings of Full Council, unless they set their own Terms of Reference.

If a Joint Committee is established by Cabinet it must also conduct its proceedings in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution, unless they set their own Terms of Reference.

### **12.5 Delegation to and from other Local Authorities**

The Council may delegate non-executive functions to another Local Authority or, in certain circumstances, the executive of another Local Authority.

Cabinet 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 such a delegation from another Local Authority shall be reserved to Full Council.

### **12.6 Contracting Out**

The Council (for functions which are not executive functions) or Cabinet (for executive functions) may contract out to another body or organisation functions which may be exercised by an Officer, and which are subject to:

- i) An Order under Section 70 of the Deregulation and Contracting Out Act 1994
- ii) Contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making

## **Article 13 – Officers**

### **13.1 Terminology**

The term ‘Officers’ means all employees engaged by the Council to carry out its functions.

A ‘Proper Officer’ or ‘Chief Officer’ is an Officer who has responsibility for a particular statutory function or range of functions.

### **13.2 Appointment, Recruitment and Dismissal of Officers**

The appointment, recruitment and dismissal of Officers will be undertaken in accordance with the Officer Employment, Disciplinary and Dismissal Procedure Rules as set out in Part 4 of this Constitution.

### **13.3 Statutory Officers**

#### ***Head of Paid Service***

The Council is required to designate a Head of Paid Service, a Section 151 Officer and a Monitoring Officer.

The Head of Paid Service cannot be the Monitoring Officer but if they are a qualified accountant, they may also hold the position of Section 151 Officer.

The Monitoring Officer cannot hold the position of Head of Paid Service or Section 151 Officer.

### **13.4 Management Structure**

The Council will employ such Officers as it considers necessary to carry out its functions.

The Council will employ Officers for the following posts who will be designated as Chief Officers:

- Chief Executive (Head of Paid Service – Statutory Officer)
- Deputy Chief Executive (Section 151 Officer – Statutory Officer)
- Director of Growth and Culture
- Director of Housing and Projects
- Assistant Director of Governance and Public Protection (Monitoring Officer – Statutory Officer)
- Assistant Director of Leisure, Culture and Place

- Assistant Director of Planning
- Deputy Director of Finance

To enable Chief Officers to carry out their functions, the Council will provide them with such Officers, accommodation and other resources they consider are necessary.

### **13.5 Deputies**

Under the relevant provisions, Statutory Officers of the Council can nominate members of their staff to perform their duties when they are unable to act owing to absence or illness. This will be an Officer at the relevant managerial level in the organisation who has the requisite professional qualifications or experience according to the particular duties required to be performed.

Deputy Statutory Officers are:

- Deputy Section 151 Officer – Assistant Director of Finance
- Deputy Monitoring Officer – Director: Housing & Projects

### **13.6 Decision-making – Officer Scheme of Delegation**

The Council's scheme of delegation for its Officers is set out in Part 3(c) of this Constitution.

### **13.7 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations as set out in Part 5 of this Constitution, together with all other relevant protocols and procedures within the document.

## **Article 14 – Decision Making**

### **14.1 Responsibility for Decision Making**

The Council has established and will maintain a record of what part of the Council or individual has responsibility for particular decisions or decisions relating to specific areas or functions. This is set out in Part 3 of this Constitution.

### **14.2 Principles of Decision Making**

All decisions of the Council, whoever takes them, will be made:

- i) In accordance with this Constitution
- ii) Within the Council's legal powers
- iii) With respect for human rights
- iv) Having regard to the Council's objectives and vision set out in its Corporate Plan, unless the decision seeks to amend them
- v) Having regard to all relevant considerations and only those considerations
- vi) Having concluded that the desired outcome merits the action or expenditure involved
- vii) With clearly defined aims and desired outcomes
- viii) With an explanation as to what options were considered
- ix) With clear reasons for the decision
- x) Proportionately
- xi) With due consultation and professional advice of Officers having been taking into account
- xii) In favour of openness and transparency
- xiii) Accountably

### **14.3 Decisions by Officers**

Officers making decisions must follow the Officer Code of Conduct set out in Part 5 of this Constitution and act in accordance with the above principles, together with the Council's Financial Regulations, Contract Procedure Rules and any other relevant protocols or procedures set out in this Constitution.

### **14.4 Decision-making Affecting Civil Rights and Obligations**

Any person or body charged with determining the civil rights and obligations of any person on behalf of the Council will follow a proper procedure which accords with the requirements of natural justice and safeguards the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## **Article 15 – Finance, Contracts and Legal Matters**

### **15.1 Financial Management**

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

### **15.2 Contracts**

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

### **15.3 Legal Proceedings**

Unless any enactment otherwise authorises or requires, the Chief Executive, the Monitoring Officer or any Officer of the Council so authorised by them in writing may institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Chief Executive considers that such action is necessary to protect the Council's interests.

### **15.4 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by either the Chief Executive, Deputy Chief Executive, Monitoring Officer, any relevant Director or any other person authorised by them in writing, unless any enactment otherwise authorises or requires the Council to give requisite authority to some other person.

All contracts entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing. Contracts must either be signed by the relevant Cabinet Member or an Officer of the Authority or be made under the Common Seal of the Council attested by an authorised officer.

### **15.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Chief Executive. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed.

## **Article 16 – Review and Revision of the Constitution**

### **16.1 Duty to Monitor and Review the Constitution**

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

### **16.2 Protocol for Monitoring and Review of the Constitution by the Monitoring Officer**

It will be the duty of the Monitoring Officer to make such recommendations for changes as may be necessary in order to better achieve the purposes of this Constitution set out in Article 1 of this Constitution. In undertaking this duty, the Monitoring Officer will have regard to any legislative changes affecting the Constitution and may:

- i) Observe meetings of different parts of the Councillor and Officer structure
- ii) Undertake an audit trail of a sample of decisions
- iii) Record and analyse issues raised with them by Councillors, Officers, the public and other relevant stakeholders
- iv) Compare practices in this Authority with those of other authorities or national examples of best practice
- v) Liaise with the Governance and Audit Committee whenever necessary as part of the review process

### **16.3 Changes to the Constitution**

- i) Changes to the Constitution will only be approved by Full Council after consideration of a report by the Monitoring Officer on the proposal by the Governance and Audit Committee
- ii) This excludes changes which are statements of factual matters appertaining to the Council, such as its objectives and policy framework, or legislative changes which the Authority has no choice but to implement. In such instances, a decision of Full Council will not be required in order for the necessary changes to be made to the Constitution

## **16.4 Changes in the Arrangements for Discharging the Council's Functions**

Any proposal to change the arrangements for discharging the Council's functions to any other form of executive arrangements or alternative arrangements as defined in the Local Government Act 2000, Local Government Involvement in Health Act 2007 and the Localism Act 2011 will be dealt with in consultation with local electors and other interest parties and in accordance with the procedures laid down in those Acts and all relevant subordinate legislation made and guidance issued under it.

## **Article 17 – Suspension and Interpretation of the Constitution**

### **17.1 Suspension of the Constitution**

#### ***Articles not to be suspended***

The Articles of the Constitution cannot be suspended.

#### ***Rules capable of suspension***

All rules of the Council contained within Part 4 of the Constitution may be suspended by Full Council to the extent permitted by law.

#### ***Procedure for suspension of rules***

A motion to suspend any rules will not be moved without notice, unless at least half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking into account the purposes of this Constitution set out in Article 1.

### **17.2 Interpretation**

This Constitution will be interpreted in accordance with the laws of England and all words will be given their natural meaning where appropriate.

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

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# **PART 3**

## **RESPONSIBILITY FOR FUNCTIONS**

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## Part 3(a) – Council Functions

3.1.1 Those items included as part of the Council's Policy Framework are functions relating to plans and strategies required statutorily to be adopted by the Council. The Council's Policy Framework consists of:

- The Corporate Plan
- The Medium Term Financial Strategy
- The Local Development Plan and Development Policy Documents
- The Sustainable Communities Strategy
- The Pay Policy Statement
- The Gambling Statement of Licensing Principles

3.1.2 The following functions are also reserved for the Council:

- a) Adopting and changing the Constitution
- b) Approving or adopting the Council's Policy Framework
- c) Approving the Council's budget
- d) Setting the Authority's Council Tax
- e) Approving any application to the Secretary of State in respect of any Housing Land Transfer
- f) Making decisions about any matter in the discharge of an Executive function which is covered by the Council's Policy Framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the budget
- g) Appointing the Leader of the Council
- h) Approving the terms of reference for Committees and other bodies, deciding upon their composition and making appointments to them, including the appointments of Chairmen and Vice-Chairmen
- i) Appointing representatives to outside bodies, unless the appointment is a Cabinet function or has been delegated by the Council)
- j) Adopting a Members' Allowances Scheme
- k) Changing the name of the area

- l) Conferring the title of Honorary Alderman
- m) Confirming the appointment of the Head of Paid Service, Section 151 Officer and Monitoring Officer
- n) Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal bills
- o) The appointment of any individual to:
  - Any office other than an office in which they are employed by the Authority
  - Any body other than the authority or a joint committee of two or more authorities
  - Any Committee or Sub-Committee, or such a body, and the revocation of any such appointment
- p) And all other matters which, by law, must be reserved to Council

3.1.3 The following functions are the responsibility of the Council and decision-making power has been delegated to specific committees as set out in the table below. The Council may choose to exercise any of these functions itself, either generally or in relation to a specific case:

<b>Committee</b>	<b>Functions</b>	<b>Delegation of Functions</b>
Alcohol, Entertainment and Late Night Refreshment Licensing Committee	To exercise functions of the licensing authority under the Licensing Act 2003 in relation to alcohol, entertainment and late night refreshment licensing	Licensing Sub-Committee
Employment Committee	Appointment of Chief Officers, Directors and equivalent posts falling within the same level as Assistant Director	
Employment Committee	Suspension of a Statutory Officer or other Chief Officer under the terms of the Joint Negotiating Committee Conditions of Service for Chief Executives or Chief Officers	

Employment Committee	To hold a capability or disciplinary hearing to determine a course of action (up to and including dismissal) within the Council's power under law and within its procedures	
Employment Committee	Dismissal of Chief Officers, the Monitoring Officer, Section 151 Officer and posts falling within the definition of Deputy Chief Officer in Section 2(1) of the Local Government and Housing Act 1989	
Employment Committee	To take decisions affecting the remuneration and terms and conditions of service of the Head of Paid Service	
Governance and Audit Committee	Appointment of the Council's internal auditors	
Governance and Audit Committee	Approval of the Internal Audit Strategy and Internal Audit Plan	
Governance and Audit Committee	Approval of the Risk Management Strategy, Risk Management Framework and the Annual Report on risk management activity	
Governance and Audit Committee	To approve the Annual Governance Statement, Code of Corporate Governance and Action Plan	
Governance and Audit Committee	To produce a Chairman's Annual Report on the activities of the Committee and present to Council	
Governance and Audit Committee	To approve the Counter Fraud, Bribery and Corruption Framework, including Whistle-blowing Policy and Anti-Money Laundering Policy	
Governance and Audit Committee	To approve the Annual Statement of Accounts	
Governance and Audit Committee	To approve the Annual Revenue and Capital Outturn Report, including the movement of reserves	

Governance and Audit Committee	To approve the Statement of Accounting Policies to be used in the financial statements	
Licensing Committee	Granting or refusal of applications relating to taxi, gaming, entertainment, food and miscellaneous licensing	Licensing Sub-Committee
Planning Committee	To carry out the Council's functions relating to town and country planning and development control legislation as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	
Planning Committee	To carry out the Council's functions relating to High Hedges pursuant to Part 8 of the Anti-Social Behaviour Act 2003	
Review Board	To consider appeals against decisions made by the Council, the Cabinet or an Officer in relation to housing benefit, council tax reduction and various matters including tenancy allocations provided for in the Housing Act 1996	Appeal Panel

3.1.4 The full Terms of Reference for specific Committees are set out in Part 2 – Articles.

## Part 3(b) – Executive Functions

- 3.2.1 All functions other than those listed in Part 3(a) (Council Functions) will be the responsibility of the Cabinet including those set out in the table below as part of the Council’s Executive Functions.
- 3.2.2 Decisions will be taken in accordance with the Executive Procedure Rules.
- 3.2.3 The Cabinet may at its discretion delegate decision-making powers for these functions, but Cabinet remains accountable to the Council for decisions taken. The Council cannot choose to exercise such functions itself.
- 3.2.4 No Executive Functions have been delegated to Committees of the Cabinet.
- 3.2.5 A number of Executive Functions have been delegated to individual Cabinet Members under Section 15 of the Local Government Act 2000.
- 3.2.6 A number of Executive Functions have been delegated to Officers of the Council. These further delegations are set out in the Officer Delegation Rules in Part 3(c) of this Constitution.

Ref	Functions	Delegation of functions within Cabinet	Delegation of functions outside Cabinet
1	The formulation, review and monitoring of the policy and budget framework, including consultation with the relevant Overview and Scrutiny Committees, members of the public and interested parties and the submission of recommendations for amending the policy and budget framework to Council		Functions delegated to the Chief Executive and other officers in accordance with the Officer Scheme of Delegation
2	Implementation of the approved policy and budget framework, except in relation to those Council Functions set out in Part 3(a) above		Functions delegated to the Chief Executive and other officers in accordance with the Officer Scheme of Delegation

3	Representing the Council and District to the public, other organisations and agencies, both within the District and at national level	Each individual Cabinet Member in respect of matters within their respective Portfolios	
4	To authorise virements to <b>revenue</b> budgets in accordance with thresholds set out in the Council's Financial Regulations	Each individual Cabinet Member in respect of matters within their respective Portfolios	Authorisation thresholds in relation to delegated powers to officers are set in the Council's Financial Procedure Rules
5	To authorise virements to <b>capital</b> budgets in accordance with thresholds set out in the Council's Financial Regulations	Each individual Cabinet Member in respect of matters within their respective Portfolios	Authorisation thresholds in relation to delegated powers to officers are set in the Council's Financial Procedure Rules
6	To authorise additions to budgets in accordance with thresholds set out in the Council's Financial Regulations		
7	To respond to consultations by the Government, Government agencies and other Local Authorities on draft guidance, policies or regulations, or similar documents	Each individual Cabinet Member in respect of matters within their respective Portfolios	
8	To approve bad debt write offs in accordance with thresholds set out in the Council's Financial Regulations		
9	To approve emergency payments under the Emergency Plan, in accordance with thresholds set out in the Council's Financial Regulations	Leader of the Council	

3.2.7 If a Cabinet Member is not available to exercise powers designated to them, then those powers may be exercised by the Leader of the Council.

- 3.2.8 No decision will be taken without it first being subject to consultation with the relevant Chief Officer.
- 3.2.9 The Section 151 Officer or Monitoring Officer, or their appointed deputies in their absence, if they regard a decision as unlawful, will direct that this not be implemented and refer it to Cabinet.
- 3.2.10 Cabinet is not permitted to determine any matter in the discharge of such a function if that determination is contrary to the Council's Budget or Policy Framework.

## **Part 3(c) – Delegated Powers to Officers**

- 3.3.1 Officers having delegated powers each have the ability to sub-delegate those powers to a nominated Officer or Officers to such extent as they shall determine, but the officer granting the sub-delegation shall remain responsible for any decision taken by the nominated officer.
- 3.3.2 Exercise of delegated powers is without prejudice to the right of the Council, Cabinet, Chief Executive or the body or person granting delegated powers to withdraw or amend any such delegation. The person with a delegated power may decline to exercise it and refer the decision to Cabinet, the appropriate Cabinet Member, Committee or other authorised Officer.
- 3.3.3 In addition to these delegated powers, powers may also be exercisable by Officers through Financial Procedure Rules, Contract Procedure Rules and as stated elsewhere in the Constitution.
- 3.3.4 Delegated powers will be exercised in accordance with the Procedural Rules set out in the Constitution and any other guidance provided by the Council, Chief Executive, Section 151 Officer and Monitoring Officer. Any expenditure will be within the appropriate budgetary provision, except for emergency expenditure.
- 3.3.5 Should it be necessary to consult with the Leader of the Council or Chairman of a Committee as part of exercising a delegated power, in their absence consultation will take place with the Deputy Leader of the Council or the Vice-Chairman of the relevant Committee.
- 3.3.6 Any variation to the proper or customary procedure will not of itself make ineffective any action or decision taken in good faith by an Officer in exercise of his or her delegated authority.
- 3.3.7 Officers should keep Ward Councillors informed of significant action proposed or taken in relation to their Ward.
- 3.3.8 The following table outlines those powers of the Council's three Statutory Officers (Head of Paid Service, Section 151 Officer and Monitoring Officer):

## Statutory Officer Powers

Ref	Function	Statutory Officer Powers	Designated Officer(s)
1	Head of Paid Service	<p>All statutory functions as Head of Paid Service and to undertake the following specific functions:</p> <ul style="list-style-type: none"> <li>a) To determine and publicise a description of the overall department structure of the Council showing the management structure and deployment of Officers</li> <li>b) To 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 those functions and the organisation of Officers</li> <li>c) To maintain and update the scheme of delegation to Officers</li> <li>d) To grant dispensations in respect of any conflict of interest declared at Cabinet meetings by any Cabinet Member</li> <li>e) To serve as the Electoral Registration Officer</li> <li>f) To serve as the Returning Officer for District and Parish/Town Council elections</li> <li>g) To maintain corporate management and operational responsibility for all officers</li> <li>h) To approve operational People and Organisational Development policies, working procedures and protocols</li> <li>i) To represent the Council on partnership and external bodies</li> <li>j) In liaison with the Leader of the Council, to authorise officers who are suitably trained and qualified to carry out delegated functions when the authorised post becomes vacant or ceases to exist and update the Constitution accordingly</li> <li>k) To act as Parish Trustee</li> <li>l) To receive Councillors' declarations of acceptance of office</li> <li>m) To receive any Councillor's resignation from office</li> <li>n) To summon a Council meeting to fill a casual vacancy for the office of Chairman</li> <li>o) To receive notice of casual vacancies for the office of Councillor</li> <li>p) To determine polling places in consultation with Ward Councillors in the event that a polling place becomes unavailable during an election period</li> <li>q) To sign any notice, order or other document on behalf of the Council including summonses to Council meetings</li> </ul>	The Chief Executive

		<ul style="list-style-type: none"> <li>r) To hold an up-to-date list of politically restricted posts</li> <li>s) To notify the auditor of the times and dates of any meeting called to consider reports made by the Section 151 Officer</li> <li>t) To carry out functions in relation to charities</li> <li>u) To hold documents on deposit and make any acknowledgements as directed</li> <li>v) To certify byelaws confirming that they were made by the authority, any copy is a true one, that the byelaw has been placed with the Secretary of State and has not been disallowed and the date on which the byelaw comes into effect</li> <li>w) To receive written notice of any address, other their home address, to which Councillors request their summons to a meeting be sent</li> <li>x) To transfer all securities on the alteration of an area</li> <li>y) To make temporary appointments of Members to Town and Parish Councils under Section 91 of the Local Government Act 1972 and report and such appointments to the next meeting of Council</li> </ul>	
2	Head of Paid Service – Emergency Powers	<p>Authorisation to take any and all actions considered appropriate in an emergency to protect and/or further the best interests of the Council, the District of South Kesteven and/or the public, subject to:</p> <ul style="list-style-type: none"> <li>a) Consultation with the Leader of the Council or in his or her absence the Deputy Leader and any appropriate Cabinet Member</li> <li>b) A report of the action taken and the reasons behind it being presented to the next meeting of the Cabinet, Council or relevant Committee</li> <li>c) Informing the Opposition Group Leader of the action that has been taken</li> </ul> <p>This delegation includes exercising the Council’s powers under Section 138 of the Local Government Act 1972 to incur expenditure and to suspend aspects of business as usual to enable the Council to comply with its duties under the Civil Contingencies Act.</p>	<p>The Chief Executive and any Officers they authorise</p> <p>(If the Chief Executive is unwell, unobtainable or unable to act or where there is no Chief Executive in post, the Deputy Chief Executive or a Director may act in their absence)</p>
3	Section 151 Officer	<p>All statutory functions as Section 151 Officer and undertake the following specific functions:</p> <ul style="list-style-type: none"> <li>a) Make arrangements for the proper administration of the Council’s financial affairs</li> <li>b) Conduct loans, finance operations and incur and repay bank overdrafts in accordance with Council policies</li> </ul>	<p>The Section 151 Officer or nominated deputy to act in their absence</p>

		<ul style="list-style-type: none"> <li>c) Write-off debts due to the Council in accordance with the Council's Financial Regulations when they are satisfied that the debt cannot be recovered</li> <li>d) Exercise powers of the Council to anticipate precepts in accordance with regulations made by the Secretary of State</li> <li>e) Report to the relevant decision-making body and the external auditor, following consultation with the Head of Paid Service and Monitoring Officer, if they consider that any proposal or decision will involve incurring unlawful expenditure, or is unlawful and likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully</li> <li>f) Provide professional financial advice and advise on systems and internal control and ensuring systems are in place to deal with fraud and corruption</li> <li>g) Ensure that there is an effective audit function and arrangements for financial scrutiny</li> <li>h) Provide advice to Councillors and Officers on: <ul style="list-style-type: none"> <li>▪ The scope of powers and authority to make decisions</li> <li>▪ Maladministration, financial impropriety and probity</li> <li>▪ Budget and policy framework issues</li> <li>▪ Corporate risk profiling and management</li> </ul> </li> <li>i) Provide financial information to the media, members of the public and the community</li> <li>j) Provide financial management arrangements that ensure: <ul style="list-style-type: none"> <li>▪ A prudential framework is in place</li> <li>▪ That any partnership arrangements or other structures for service delivery are underpinned by clear and well-documented financial controls</li> <li>▪ That the Council secures effective arrangements for prudential borrowing</li> <li>▪ That statutory and other accounts, associated claims and returns in respect of grants are prepared</li> </ul> </li> <li>k) To exercise powers under relevant legislation to service notices, enter into agreements, give receipts, make adjustments, institute proceedings and take any action available to collect or enforce the collection of non-domestic rates, council tax and the personal, standard and collective community charges from those persons liable</li> <li>l) To receive notice on behalf of the Authority in respect of appeals over whether a dwelling is a chargeable dwelling or liable for council tax and calculation made in respect of council tax</li> </ul>	
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		<ul style="list-style-type: none"> <li>m) To exercise the powers of the Council relating to the variation of the statutory instalment scheme for paying council tax</li> <li>n) To request information to identify the liable person in relation to a dwelling</li> <li>o) To manage the civil penalties schemes, including imposing and collecting penalties, in accordance with Council policies</li> <li>p) To enforce the payment of council tax</li> <li>q) To determine applications for discretionary rate relief in accordance with Council policies</li> <li>r) To administer arrangements for non-domestic rates</li> <li>s) To exercise powers in relation to the collection fund and the payment of precepts</li> <li>t) To establish and maintain the Council's General Fund</li> <li>u) To establish and maintain the Housing Revenue Account</li> <li>v) To make all calculations for the budget requirement subject to directions given by the Council</li> <li>w) To make arrangements for the proper administration of housing and council tax benefits</li> <li>x) To implement schemes for lease cars, car loans and travelling allowances as approved by the Council</li> <li>y) To authorise contributions up to a maximum of £200 towards litigation costs in cases supported by the Local Government Association</li> <li>z) To carry out all treasury management functions in accordance with the Council's Treasury Management Strategy</li> <li>aa) To maintain adequate internal controls for the procurement of goods and services for the Council by setting appropriate authorisation limits for Council Officers</li> <li>bb) To take appropriate action in respect of forfeiting, terminating or repossessing a lease between the Council and any tenant as the final part of debt recovery and breach of tenancy process where rent remains outstanding or there has been some other breach of the terms of the lease which would require the Council to obtain vacant possession of the leased premises</li> <li>cc) To make appropriate financial arrangements and/or payment to mitigate risk, including litigation or risk managing situations; taking such action as may be required for each situation/case based on appropriate professional opinion and advice</li> <li>dd) To prosecute instances of fraud under relevant legislation in consultation with Legal Services</li> </ul>	
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		<ul style="list-style-type: none"> <li>ee) To sign and serve notice seeking possession and take action for possession of any Council dwelling, land or garage due to rent arrears</li> <li>ff) To sign, serve and issue Notices to Quit and take action for possession of any Council dwelling or garage under licence, non-secure tenancy as a result of rent arrears</li> <li>gg) To authorise the sale of Council dwellings under the Right to Buy scheme</li> <li>hh) To consider and determine applications for a review of a listing and applications received for compensation from the owner of any property included on the list of assets of community value</li> <li>ii) To use powers to detect and enforce against fraud in relation to Council Tax reduction Schemes</li> <li>jj) To set fees for the licensing of scrap metal dealers in consultation with the relevant Cabinet Member</li> <li>kk) To approve the addition of other authorities to participate in the Shared Service Partnership in the future, in consultation with the Cabinet Member for Finance</li> <li>ll) To approve changes to the Building Control fees and charges, in consultation with the Cabinet Member for Finance</li> </ul>	
4	Monitoring Officer	<p>All statutory functions as the Council's Monitoring Officer and undertake the following specific functions:</p> <ul style="list-style-type: none"> <li>a) To maintain an up-to-date version of the Constitution and ensure it is widely available for inspection by Councillors, staff and the public</li> <li>b) To correct minor anomalies within the Council's Constitution and report these changes to the Governance and Audit Committee</li> <li>c) To maintain records of decisions and ensure public access to information</li> <li>d) To ensure the publication of notices relating to key decisions</li> <li>e) To exclude from agendas any report which is likely to be considered in the absence of the public</li> <li>f) To provide a summary of proceedings taken in the absence of the public when the minutes do not provide a reasonably fair and coherent record of the proceedings</li> <li>g) To supply any newspaper or media outlet with copies of any documents supplied to Councillors in connection with any item on the agenda, as long as they do not contain exempt information</li> <li>h) To ensure that a copy of any background papers material to a decision made by the</li> </ul>	Monitoring Officer or designated deputy in their absence

		<p>Cabinet or Cabinet Members are available for public inspection</p> <ul style="list-style-type: none"> <li>i) To maintain a record of any disclosable pecuniary interests declared by Councillors and make that record available for inspection</li> <li>j) To decide whether a document contains information that will exempt it from inspection by members of the Council</li> <li>k) To make reports to the Council, or Cabinet if in relation to an Executive Function, where they consider any proposal, decision or omission would give rise to unlawfulness or maladministration following consultation with the Head of Paid Service and the Section 151 Officer</li> <li>l) To receive complaints of failure to comply with the Members' Code of Conduct by District, Town and Parish Councillors and to delegate this responsibility back to the relevant Town or Parish Council where appropriate</li> <li>m) After consultation with the Council's Independent Person, determine whether a complaint against a Councillor merits formal investigation and, if necessary, to arrange the investigation</li> <li>n) To consider and determine applications for dispensation to allow a Councillor to participate and vote in any decision where they have an interest</li> <li>o) To investigate matters as referred to the Council by the Local Government Ombudsman</li> <li>p) To provide advice to all Councillors on their scope of powers and authority in respect of: <ul style="list-style-type: none"> <li>▪ Taking decisions</li> <li>▪ Maladministration</li> <li>▪ Financial impropriety</li> <li>▪ Ethics and probity</li> <li>▪ Policy Framework and budget</li> <li>▪ Public interest test to determine the release of information</li> </ul> </li> <li>q) To manage and administer petitions submitted to the Council</li> <li>r) To certify photographic copies of documents</li> <li>s) To send copies of byelaws to County, Town and Parish Councils</li> </ul>	
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3.3.9 The index and table below sets out the Officer Scheme of Delegation:

## Index

Ref	Function
1	Air Pollution
2	Animals
3	Arts, Culture and Events
4	Building Control
5	Business Grant Scheme
6	Buy back of ex-Council Properties
7	Common Seal of the Council
8	Contaminated Land
9	Court Proceedings
10	Disposal of Lost and Uncollected Property
11	Equality and Diversity
12	Fees and Charges
13	Food Safety and Food Hygiene
14	Grant Funding
15	Health and Safety
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21	Neighbourhoods
22	Neighbourhood Planning
23	Noise
24	Planning and Planning Policy
25	Private Sector Housing
26	Property (including land)
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29	Statutory Nuisance
30	Submission of Applications for Planning Permission
31	Sunday Trading
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## Officer Scheme of Delegation

Ref	Function	Delegation	Officer(s) Granted Delegation
1	Air Pollution	<p>To carry out the following functions:</p> <ul style="list-style-type: none"> <li>a) To monitor the district's air quality and develop and implement action plans to ensure that the air quality standards set by the Government are met</li> <li>b) To inspect premises and issue permits to operate under the Pollution, Prevention and Control Act 1999</li> <li>c) To enter premises, serve notices and take all necessary action under relevant legislation</li> </ul>	Chief Executive, Deputy Chief Executive, relevant Director and other officers they authorise in writing as being appropriately qualified and trained
2	Animals	<ul style="list-style-type: none"> <li>a) To approve all applications for licences or registrations when all qualifying conditions are met in respect of animal licensing</li> <li>b) To engage a veterinary officer to carry out premises inspections at a fee, if necessary</li> <li>c) To be the Appointed Officer in respect of Dogs.</li> <li>d) To enter premises, serve notices and take all necessary action under relevant legislation in respect of the following: <ul style="list-style-type: none"> <li>▪ Seizure and detention of stray dogs</li> <li>▪ Microchipping of dogs</li> </ul> </li> <li>e) To enter premises, serve notices and take all necessary action under relevant legislation in respect of the following: <ul style="list-style-type: none"> <li>▪ Animal boarding</li> <li>▪ Animal welfare</li> <li>▪ Breeding and sale of dogs</li> <li>▪ Dangerous dogs and wild animals</li> <li>▪ Day care for dogs</li> <li>▪ Keeping or training animals for exhibition</li> <li>▪ Pet animals</li> <li>▪ Riding establishments</li> <li>▪ Zoos</li> </ul> </li> </ul>	Chief Executive, Deputy Chief Executive, and relevant Director or Assistant Director and any other officers they authorise in writing as being appropriately qualified and trained

		f) Authority is given for delegation to Police Community Support Officers to serve fixed penalty notices in relation to dog fouling	
3	Arts, Culture and Events	To undertake management of the Council's art, culture and event provision	Chief Executive, Deputy Chief Executive, relevant Director and any other officers they authorise in writing as being appropriately qualified and trained
4	Building Control	<p>To carry out the following activities in order to enable the Council to carry out its statutory or discretionary functions in accordance with relevant legislation:</p> <ul style="list-style-type: none"> <li>a) To check applications for compliance with the building regulations</li> <li>b) To carry out site inspections on building work during construction to ensure compliance with building regulations</li> <li>c) To provide pre application advice to customers</li> <li>d) To have a development team approach on large projects</li> <li>e) Deal with enforcement of building regulations</li> <li>f) To provide a register for initial notices applications from approved inspectors</li> <li>g) To prepare quotes on applications for fees</li> <li>h) To maintain data from competent person register</li> <li>i) Process notices received for demolition of buildings</li> <li>j) To deal with dangerous structures</li> <li>k) To maintain a register and keep records for statutory time periods</li> <li>l) To maintain register for searches</li> <li>m) To lapse building regulations</li> <li>n) To offer additional construction fee paying services</li> <li>o) To alter or amend Building Regulation Charges by up to 10%</li> </ul>	Chief Executive, Deputy Chief Executive, relevant Director or Assistant Director and any other officers they authorise in writing as being appropriately qualified and trained

5	Business Grant Scheme	To make awards under the Council's business grant scheme in consultation with the relevant Cabinet Member	Chief Executive, Deputy Chief Executive, relevant Director and any other officers they authorise in writing as being appropriately qualified and trained
6	Buy back of ex-Council Properties	To purchase properties and agree any necessary purchase prices and/or parameters and any other property transactions or decisions required to effectively implement the Scheme to buy back ex-Council properties, with the agreement of the Section 151 Officer in consultation with the relevant Cabinet Member	Chief Executive or Director of Housing and Projects
7	Common Seal of the Council	To attest the affixing of the Common Seal	Chief Executive, Deputy Chief Executive or any Director
8	Contaminated Land	To enter premises, serve notices and take all necessary action in relation to contaminated land	Chief Executive, Deputy Chief Executive, relevant Director and any officers they authorise in writing as being appropriately qualified and trained
9	Court Proceedings	Attendance to prosecute, defend or appear in any proceedings under Sections 222 and 223 of the Local Government Act 1972	The Chief Executive and any officer of the Council authorised by them
10	Disposal of Lost and Uncollected Property	To dispose of lost and uncollected property on premises and land owned by the Council in accordance with Section	Chief Executive, Deputy Chief Executive, relevant Director and any

		41 of the Local Government (Miscellaneous Provisions) Act 1982.	other officer they authorise in writing as being appropriately qualified and trained
11	Equality and Diversity	To ensure that all officers act in accordance with relevant legislation and maintain the highest levels of consideration relating to equality and diversity in the delivery of the Council's functions and services	Chief Executive, Deputy Chief Executive, Directors and Assistant Directors
12	Fees and Charges	To submit a report to Cabinet seeking approval of a new fee or charge in circumstances when the introduction of a fee or charge is necessary and cannot reasonably be considered as part of the Council's budget setting process  If agreed by Cabinet, to provide reasonable notice to service users before they are implemented, together with clear advice on any discounts or concessions that will be available	Chief Executive, Deputy Chief Executive, relevant Director, relevant Assistant Director and any other officers they authorise in writing as being appropriately qualified and trained, in conjunction with the Section 151 Officer
13	Food Safety and Food Hygiene	To issue approvals, enter premises, serve notices and carry out all necessary action under relevant legislation	Chief Executive, Deputy Chief Executive, relevant Director and any other officers they authorise in writing as being appropriately qualified and trained
14	Grant Funding	To submit applications for external grant funding	Chief Executive, Deputy Director, any Director and any other officers they authorise in writing as being appropriately qualified and trained
15	Health and Safety	To carry out the following functions:  a) To be responsible for enforcing health and safety regulations in all	Chief Executive, Deputy Chief Executive, relevant Director and any

		<p>relevant premises to make sure they are safe for all employees and visitors</p> <p>b) To inspect, issue enforcement notices and take relevant action in respect of workplace health and safety under relevant legislation</p>	<p>officers they authorise in writing as being appropriately qualified and trained</p>
16	Housing	<p>To carry out the following functions:</p> <p>a) Undertake the management, repair, maintenance, improvement and regeneration of the Council's housing stock and ensure regulatory compliance</p> <p>b) To prepare and lead on the implementation of the Housing Strategy including the provision of new Council homes</p> <p>c) To manage all landlord functions in relation to tenancy and estate management leaseholders within the Housing Revenue Account</p> <p>d) To exercise the powers of the Council relating to tenants' rights to have repairs carried out and pay compensation for improvements in accordance with relevant legislation</p> <p>e) Prepare, maintain and administer the housing register</p> <p>f) Prepare, maintain and administer a housing allocation scheme in accordance with relevant legislation and subject to policy directions given by the Council</p> <p>g) Allocate housing to homeless applications to whom the Council owes a duty</p> <p>h) Sign and serve notice seeking possession and take action or possession of any Council dwelling, land or garage due to breach of tenancy</p> <p>i) Public information about secure tenancies</p> <p>j) Maintain arrangements for consultation with tenants on housing management matters that are likely to substantially affect them</p> <p>k) Issue yearly reports to all Housing Revenue Account tenants containing information about the functions of the Council as housing</p>	<p>Chief Executive, Deputy Chief Executive, relevant Director and any other officer they authorise in writing as being appropriately qualified and trained</p>

		<p>authority, as determined by the Secretary of State</p> <p>l) Make application to the County Court in connection with the general housing management regulation and control of the Council's stock</p> <p>m) Authorise disposal of small parcels of land held for the purposes of Housing Revenue Account land (not exceeding 0.25 acres) which is no longer required for use by the Council provided such disposals are in accordance with established policy</p> <p>n) Take all such action to undertake enquires in relation to homelessness and determine homelessness applications as appropriate</p> <p>o) To act as necessary in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014</p> <p>p) To authorise appropriate action in relation to empty homes in the district</p> <p>q) To authorise the acquisition or disposal of Housing Revenue Account Assets up to a value of £500,000, exclusive of any applicable VAT, subject to legal and valuation advice, and in consultation with the Cabinet Member responsible for Housing, the Section 151 Officer and Monitoring Officer</p>	
17	Legal Proceedings	<p>a) To institute, defend or participate in any legal proceedings where such action is necessary to give effect to decisions of the Council or where the Chief Executive considers that such action is necessary to protect the Council's interest, unless any enactment otherwise authorises or requires this</p> <p>b) To sign any document where it is necessary to any legal procedure or proceedings on behalf of the Council unless any enactment or the Council has given authority to some other person</p>	Chief Executive, Deputy Chief Executive or any officers they authorise in writing as being appropriately qualified and trained
18	Leisure	To undertake management of the Council's leisure provision, including buildings in relation to the Council's Leisure Centres	Chief Executive, Deputy Chief Executive, relevant Director and any

			other officers they authorise in writing as being appropriately qualified and trained
19	Licensing	<p>To enter premises and take relevant action in relation to any licensable activity in accordance with the relevant legislation and the Council's policies and procedures, and undertake the following functions:</p> <p>a) To act as authorised officer for the purposes of licensing hackney carriage and private hire vehicles and drivers and to exercise the powers of the Council in respect of the offences set out below which may render the application not fit to hold, or continue to hold, a licence:</p> <ul style="list-style-type: none"> <li>▪ Sex offences</li> <li>▪ Violence</li> <li>▪ Drink-driving</li> <li>▪ Reckless driving</li> <li>▪ Driving without insurance</li> <li>▪ Burglary and theft</li> <li>▪ Impersonation</li> <li>▪ Arson</li> <li>▪ Blackmail</li> <li>▪ Offences involving fraud or deception</li> <li>▪ Firearms and other weapons</li> <li>▪ Drugs</li> </ul> <p>b) To ensure that no hackney carriage or private hire driver's licence is issued to an applicant unless the criteria set out in the Hackney Carriage and Private Hire Vehicle Policy has been met</p> <p>c) To suspend or revoke a hackney carriage or private hire driver's licence with immediate effect in situations of urgency or in relation to a person's right to work in the United Kingdom, in consultation with Legal Services and the Chairman of the Licensing Committee, or Vice-Chairman in their absence</p> <p>d) To approve all applications, including applications for renewal, variation and transfer, of licences or registrations of premises and/or persons when all qualifying</p>	Chief Executive, Deputy Chief Executive, relevant Director and any officers they authorise in writing as being appropriately qualified and trained

		<p>conditions are met in respect of the following functions:</p> <ul style="list-style-type: none"> <li>▪ Alcohol, entertainment and late night refreshment licensing</li> <li>▪ Gambling licensing</li> <li>▪ Scrap metal dealer licensing</li> <li>▪ Street trading licensing</li> <li>▪ Caravan and camp site licensing</li> <li>▪ Environmental permitting</li> <li>▪ Tattooing and skin piercing</li> <li>▪ Public and house-to-house collections for charitable or other purposes</li> <li>▪ Performances of hypnotism</li> </ul>	
20	Management of Services	<p>To manage services:</p> <ol style="list-style-type: none"> <li>a) In accordance with any policy decisions made by, or guidelines issued by, the Council</li> <li>b) Within budgets made or approved by the Council</li> <li>c) In compliance with all Rules of Procedure and Codes set out in the Constitution</li> </ol> <p>And to take such decisions or actions as they are required or authorised to take in:</p> <ol style="list-style-type: none"> <li>d) Understanding orders adopted and decision made by the Council for implementation</li> <li>e) Their role as proper officers of the Council as defined in Section 270(3) of the Local Government Act 1972</li> </ol>	The Chief Executive, Deputy Chief Executive, Directors, Assistant Directors, Heads of Service and Service Managers
21	Neighbourhoods	<ol style="list-style-type: none"> <li>a) To Enter premises, serve notices and take all necessary action under relevant legislation in respect of the following: <ul style="list-style-type: none"> <li>▪ Antisocial behaviour</li> <li>▪ Waste</li> <li>▪ Fly tipping</li> <li>▪ Graffiti</li> <li>▪ Fly-posting</li> <li>▪ Abandoned vehicles</li> <li>▪ Litter</li> <li>▪ Dog fouling</li> <li>▪ Public Spaces Protection Orders</li> </ul> </li> <li>b) To delegate power to Officers and Lincolnshire Police, including Police Community Support Officers, to issue fixed penalty notices on the Council's behalf</li> </ol>	Chief Executive, Deputy Chief Executive, relevant Director and any officers they authorise in writing as being appropriately qualified and trained

22	Neighbourhood Planning	<p>Following consultation with the relevant Cabinet Member and local Ward Councillor(s), to take decisions on:</p> <ul style="list-style-type: none"> <li>a) Applications to designate a Neighbourhood Forum</li> <li>b) To accept or decline repeat proposals for a Neighbourhood Development Plan or Neighbourhood Development Order</li> <li>c) The validity and acceptance of proposals for a Neighbourhood Development Plan or Neighbourhood Development Order</li> <li>d) Appointing a person to carry out the examination of a Neighbourhood Development Plan or Neighbourhood Development Order</li> <li>e) Action to be taken in response to recommendations included within the Examiner's Report and whether to modify the Plan or Referendum Area prior to submitting it for referendum</li> </ul>	Chief Executive, Deputy Chief Executive, relevant Director and any officers they authorise in writing as being appropriately qualified and trained
23	Noise	<p>The undertake the following functions:</p> <ul style="list-style-type: none"> <li>a) To issue prior consents regarding noise and serve notice to control noise levels from construction sites</li> <li>b) To enter premises, serve notices and take all necessary action under relevant legislation</li> </ul>	Chief Executive, Deputy Chief Executive, relevant Director, Assistant Director of Operations and Public Protection and any officers they authorise in writing as being appropriately qualified and trained
24	Planning and Planning Policy	<p>To carry out the following powers under the Town and Country Planning Acts and other relevant legislation:</p> <ul style="list-style-type: none"> <li>a) All decisions, responses or determinations arising in relation to applications for planning permission, listed building consent, advertisement consent, conservation</li> </ul>	Assistant Director of Planning and any other officers they authorise in writing as being appropriately qualified and trained

		<p>area consent, certificates of lawfulness, variation of conditions applications (Section 73 Applications)</p> <p>b) Approval of reserved matters</p> <p>c) Prior approvals, consents and consultations submitted to or received by the Council in accordance with all town and country planning, listed building and associated legislation</p> <p>d) To respond to consultations for the installation of overhead electricity cables under the Electricity Acts</p> <p>e) To determine planning applications for the approval of details pursuant to conditions on planning permissions, prior approval, listed building consent, conservation area consent, hazardous substances consent or advertisement consent</p> <p>f) To make Tree Preservation Orders and to determine applications made under the Order</p> <p>g) To authorise the service of Building Preservation Notices</p> <p>h) To settle claims of awards of costs awarded against the Council following successful appeals, by an applicant, against a Council planning decision</p> <p><b>Further delegations relating to Planning are set out in the Planning Scheme of Delegation attached at Appendix 1</b></p> <p>To carry out the following functions in respect of Planning Enforcement:</p> <p>a) Administer cautions in respect of breaches of advertisement control and in other cases where, following authorisation, court proceedings are considered appropriate</p> <p>b) Serve, in consultation with Legal Services breach of notice conditions relating to the implementation of planning permission and conditions containing a precedent requirement</p> <p>c) Remove or obliterate unauthorised placards and posters</p> <p>d) Service written notice requiring information as to interests in land or, if related to a planning contravention</p>	<p>Chief Executive, Deputy Chief Executive, relevant Director and any other officers they authorise in writing as being appropriately qualified and trained</p>
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		<p>notice, activities carried out on the land</p> <p>e) To serve the following notices in consultation with Legal Services:</p> <ul style="list-style-type: none"> <li>▪ Enforcement notice</li> <li>▪ Breach of condition notice</li> <li>▪ Section 215 notice</li> <li>▪ Listed building enforcement notice</li> <li>▪ Hazardous substance notice</li> <li>▪ Stop notice</li> <li>▪ Temporary stop notice</li> <li>▪ Urgent Works Notices (Listed Buildings)</li> <li>▪ Repairs Notices (Listed Buildings)</li> </ul> <p>f) To determine uncontested street naming applications</p> <p>g) To determine applications for grant aid in relation to listed buildings and conservation areas with the following exceptions:</p> <ul style="list-style-type: none"> <li>i) New applications which would commit the District Council to expenditure in excess of £1,000</li> <li>ii) Applications for supplementary grant which would commit the District Council to further expenditure in excess of £500</li> <li>iii) Applications where an applicant has requested reconsideration of a decision</li> <li>iv) Applications which involve a matter of policy, such as grants to Churches</li> </ul>	
25	Private Sector Housing	<p>To carry out the following functions:</p> <p>a) To enter premises, serve notices and take all necessary action under relevant legislation</p> <p>b) To act as the Proper Officer in relation to the signature of documents under the Housing Act 2004 parts 1, 2 and 4 and other relevant legislation in relation to the condition of houses</p>	<p>Chief Executive, Deputy Chief Executive, relevant Director and any officers they authorise in writing as being appropriately qualified and trained</p>

		<ul style="list-style-type: none"> <li>c) To serve notices to recover expenses incurred in the service of notices under the Housing Act 2004</li> <li>d) To serve notices requiring the production of documents reasonably required to allow the enforcement function to be carried out</li> <li>e) To determine applications for mandatory disabled facilities grants and other grants provided under the Housing Grants, Construction and Regeneration Act 1996 in accordance with Council policies</li> <li>f) To arrange for the restoration of utilities if the supply has been cut off as a result of landlord failure where a building is used as a dwelling</li> <li>g) To serve notices to restrict the number of occupants in houses in multiple occupation</li> <li>h) To issue licences for houses in multiple occupation and impose conditions where appropriate</li> <li>i) serve remedial notices and penalty charge notices under the Smoke and Carbon Monoxide Alarm (England) Regulations</li> </ul>	
26	Property (including land)	<p>To carry out the following functions and issue any relevant notices:</p> <ul style="list-style-type: none"> <li>a) Responsibility for managing the Council's commercial property and development function and external consultants retained for that purpose</li> <li>b) Appointing Valuation Surveyors as appropriate and required to conduct negotiations for the sale of purchase of any land or property</li> <li>c) To purchase at auction any land within the district on the Council's behalf pursuant to agreement from Full Council or Cabinet</li> <li>d) Managing the maintenance of a property terrier and property asset register for the Council</li> <li>e) To negotiate and conclude, subject to Council policy and procedure, land, property acquisitions and disposals of housing working with relevant partners where appropriate</li> <li>f) To arrange short term (up to seven years) lettings of land and property not immediately required for other</li> </ul>	Chief Executive, Deputy Chief Executive, relevant Director and any other officers they authorise in writing as being appropriately qualified and trained

		<p>purposes at rent/licenses fees fixed by the Section 151 Officer</p> <p>g) To arrange lettings (in excess of seven years) of land and property not immediately required for other purposes at rent/license fees fixed by the Section 151 Officer, providing that the total cost of the lease in its entirety does not exceed £100,000</p> <p>h) To ensure that any lease, agreement or letting where the total value over the period exceeds £100,000 is supported by an independent valuation and undertaken in consultation with the Cabinet Member for Property.</p> <p>i) Grant, vary or discharge easements and covenants in, over or for the benefit of land owned by the Council subject to:</p> <ul style="list-style-type: none"> <li>▪ Valuation agreed by the District Valuer</li> <li>▪ Approval of the relevant Assistant Director of any service directly concerned</li> </ul> <p>j) Exercise all the Council's powers and duties, including the power to issue directions and to apply:</p> <ul style="list-style-type: none"> <li>▪ To the Magistrates Court for orders relating to unauthorised encampments of travellers</li> <li>▪ To the Civil Courts for orders against trespassers on Council land or property</li> </ul> <p>k) Serve notices and authorise repairs in relation to drainage under relevant legislation</p> <p>l) Consult with the relevant Cabinet Member to determine regulations, procedures and guidance relating to applications to list properties as assets of community value in accordance with relevant legislation</p> <p>m) Consider and determine applications nominating a property as an asset of community value in consultation with the Legal Services Team</p> <p>Disposal of General Fund Assets:</p> <p>To dispose of General Fund Assets up to a value of £2 million, exclusive of any</p>	<p>Chief Executive, Deputy Chief Executive or relevant Director, in consultation with the Cabinet Members responsible for finance and property</p>
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		applicable VAT, subject to legal and valuation advice.	
27	Public Health	<p>To act as the Proper Officer of the Council in relation to public health matters and to carry out those public health functions that are the responsibility of the Council in accordance with relevant legislation. The Proper Officer:</p> <p>a) Will notify the UK Health Security Agency of any communicable disease or condition presenting the risk of significant harm to human health on behalf of the Local Authority</p> <p>b) Will carry out the following functions without the authorisation of a Justice of the Peace:</p> <ul style="list-style-type: none"> <li>▪ Requiring that a child is kept away from school</li> <li>▪ Requiring a head teacher to provide a list of contact details of pupils attending their school</li> <li>▪ Disinfect or decontaminate premises or articles on request</li> <li>▪ Request, but not require, individuals or groups to co-operate for health protection purposes</li> <li>▪ Restrict contact with, or relocate, a dead body for health protection purposes</li> </ul> <p>c) Can apply to a Justice of the Peace for an order imposing restrictions or requirements on a person to:</p> <ul style="list-style-type: none"> <li>▪ Undergo a medical examination, not a treatment or vaccination</li> <li>▪ Be taken to hospital or other suitable establishment</li> <li>▪ Be detained in hospital or other suitable establishment</li> <li>▪ Be kept in isolation or quarantine</li> <li>▪ Be disinfected or decontaminated</li> <li>▪ Wear protective clothing</li> <li>▪ Provide information or answer questions about their or other circumstances</li> <li>▪ Have their health monitored and the results reported</li> <li>▪ Attend training or advice sessions on how to reduce the risk of infecting or contaminated others</li> <li>▪ Be subject to restrictions on where they go or who they have contact with</li> </ul>	Chief Executive, Deputy Chief Executive, relevant Director or Assistant Director and any other officers they authorise in writing as being appropriately qualified and trained

		<ul style="list-style-type: none"> <li>▪ Abstain from working or trading</li> </ul> <p>d) Can request for an order from a Justice of the Peace requiring that:</p> <ul style="list-style-type: none"> <li>▪ A thing(s) is/are seized or retained, kept in isolation or quarantine, disinfected or decontaminated or destroyed and disposed of</li> <li>▪ A body or human remains be buried or cremated, or that human remains are otherwise disposed of</li> <li>▪ Premises are closed, premises are disinfected or decontaminated, a conveyance or movable structure is detained or a building, conveyance or structure is destroyed</li> </ul> <p>e) Will receive notifications of any communicable disease or condition presenting the risk of significant harm to human health on behalf of the Local Authority</p> <p>f) May enter premises, serve notices and take all necessary action under relevant legislation in respect of the following</p> <ul style="list-style-type: none"> <li>i) Drainage, when satisfied that immediate action is necessary</li> <li>ii) Requiring works to be carried out in buildings with defective water closets capable of repair</li> <li>iii) Overflowing and leaking cesspools</li> <li>iv) Unblocking private sewers</li> <li>v) Removal of noxious matter</li> <li>vi) Closing or restricting the use of water from a polluted source of supply</li> <li>vii) Control of rats and mice</li> <li>viii) Private water supplies</li> <li>ix) Securing buildings against unauthorised entry</li> <li>x) Cleansing of filthy or verminous premises or persons</li> </ul> <p>g) Will arrange for the burial or cremation of a body of a person who has died or been found dead in the area where no other suitable arrangements have or will be made and seek to recover any costs incurred</p> <p>h) Can appoint a public analyst under Section 77 of the Food Safety Act 1990</p>	
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		<p>Authority is delegated to the Director of Public Health and all other Proper Officers of the UK Public Health Security Agency as follows:</p> <ul style="list-style-type: none"> <li>i) To apply to the Justice of the Peace for orders in relation to persons suffering from communicable diseases</li> <li>ii) To apply in emergency situations to the relevant Court for the removal to suitable premises of people in need of care and attention</li> </ul>	
28	Tendering	<p>To accept tenders and award contracts to contractors on behalf of the Council in the following circumstances:</p> <ul style="list-style-type: none"> <li>a) Following a tender process strictly in accordance with the Council's Contract Procedure Rules and Financial Regulations</li> <li>b) For carrying out works and/or the provision of goods and/or services</li> </ul>	<p>The Chief Executive, Deputy Chief Executive, Directors, Assistant Directors, Heads of Service and Service Managers</p>
29	Statutory Nuisance	<p>To carry out inspections, enter premises, serve abatement notices and carry out all necessary action in relation to statutory nuisance in accordance with relevant legislation</p>	<p>Chief Executive, Deputy Chief Executive, relevant Director, Assistant Director of Operations and Public Protection and any other officers they authorise in writing as being appropriately qualified and trained</p>
30	Submission of Applications for Planning Permission	<p>To submit applications for planning permission on behalf of the Council</p>	<p>Chief Executive, Deputy Chief Executive, relevant Director or any other officers they authorise in writing as being appropriately qualified and trained</p>
31	Sunday Trading	<p>To appoint inspectors in relation to Sunday Trading</p>	<p>Chief Executive, Deputy Chief Executive, relevant</p>

			Director, Assistant Director of Operations and Public Protection and any other officers they authorise in writing as being appropriately qualified and trained
32	Surveillance and Investigation	To undertake the following functions: a) To authorise applications for the use of directed surveillance and investigation in accordance with the Regulation of Investigatory Powers Act 2000 b) To undertake interviews and process and store evidence under the provisions of the Police and Criminal Evidence Act 1984 c) To issue Simple Cautions where there is evidence that the offender has committed an offence, the offender admits to the offence, it is not in the public interest to prosecute and the offender agrees to being given the caution	Chief Executive and any other officer they authorise in writing as being appropriately qualified and trained

## APPENDIX 1

### PLANNING SCHEME OF DELEGATION

#### Development Management

All decisions, responses or determinations arising in relation to applications, approval of reserved matters, prior approvals, certificates, consents and consultations, submitted to or received by the Council in accordance with all Town and Country Planning, Listed Building and related or associated legislation (including subordinate legislation and any consolidation, re-enactment or amendment thereto) shall be delegated to the Authorised Officer(s) as specified above, except the following:

1. In respect of any particular ward: any application for planning permission, approval of Reserved Matters, Conservation Area Consent, tree works approval or Listed Building Consent where a Councillor from that ward or an adjoining ward has requested, in writing within 21 days of being notified of the application, that the application be considered by Committee. Any request will be accompanied by a statement setting out the relevant substantive material planning reason that the application be determined by the Planning Committee and the referral is agreed by the Chairman of the Planning Committee. Any call-in request received after the initial 21-day notification period will be accompanied by a statement setting out the extenuating circumstances why the request could not have reasonably been made within the notification period; any such late requests must be agreed by the Chairman and Vice-Chairman of the Planning Committee.
2. Any application at the discretion of the Chairman and Vice-Chairman of the Planning Committee in accordance with the Local Code of Good Practice.
3. Any application which is a departure from the Local Plan must be taken to the Planning Committee where it is the Officer's recommendation to approve the application. Where the Local Plan is silent on matters, but a proposal is in conformity to the National Planning Policy Framework (NPPF), then an application can be determined through the Scheme of Delegation.
4. Applications that the Assistant Director for Planning considers that the application/notice/matter should be considered by Planning Committee.
5. Applications for Reserved Matters where the original outline planning permission was determined by the Planning Committee<sup>1</sup>
6. Applications submitted on behalf of the Council or where the Council has an interest in the development and/or land.
7. Applications submitted by (includes where they may be acting as an agent), or on behalf of a District Councillor (or his/her spouse or partner or immediate family).
8. Applications where a District Councillor lives in an adjoining property, a property opposite the application site or a property either side.
9. The applicant or agent is a member of staff within the Authority.
10. Where an Officer who is a member of the Council's Senior Management Team or a member of staff within the Planning Service or any member of staff within the Authority who could be seen as having a direct input to, and therefore influence on, application decisions, lives in the adjoining property, a property opposite the application site or a property either side.

Where there are statutory time limits for making decisions or taking action where non-determination within a set period automatically gives consent (e.g. agricultural buildings, demolitions and telecommunications determinations and notifications of works to trees in a

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<sup>1</sup> In cases where the outline planning application was not determined by the Planning Committee, Councillors will need to use the "call-in" procedure should they wish to request that the Committee makes a decision on any Reserved Matters application.

conservation area), the Assistant Director of Planning or other appropriately qualified and trained Officers authorised by them in writing, may determine the applications. The authorised Officer will consider any objections received and, at their discretion, efforts will be made to resolve the objection before the expiry period. The existence of an objection will not alter the Officer's authority to make a decision in these instances.

The Assistant Director of Planning and other appropriately trained and qualified Officers authorised by them in writing, may also exercise the following functions:

- Accepting material minor amendments (Section 73 applications) and/or non-material minor amendments (Section 96a Applications) to approved plans
- To adopt screening and scoping opinions under the Environmental Impact Assessment Regulations
- To carry out and adopt Appropriate Assessment under the Habitats Regulations.
- To make non-material additions, deletions, or amendments to the conditions to be attached to the grant of planning permission, Listed Building Consent, Conservation Area Consent, Hazardous Substances Consent or Advertisement Consent, authorised by the Planning Committee or Council
- To respond to notifications for proposed works to trees in conservation areas
- Issuing hedgerow retention notices and general discharge of duties under the Hedgerow Regulations 1997
- To determine applications relating to the High Hedge Legislation
- Authorising powers of entry in respect of complaints and appeals under Antisocial Behaviour Legislation
- Entering into a Section 106 Agreement on a delegated planning application approval where no financial contributions are required.
- Entering into planning performance agreements on behalf of the Council as the Local Planning Authority
- Entering premises for statutory purposes
- To determine the reasons for which planning permission, Listed Building Consent, Conservation Area Consent, Hazardous Substances Consent, or Advertisement Consent, would have been refused where this is relevant to appeals against the non-determination of applications
- On a without prejudice basis in relation to appeals in the event that the Secretary of State or the appointed Inspector is minded to grant permission;
  - To suggest appropriate conditions be imposed on planning permission, Listed Building Consent, Conservation Area Consent, Hazardous Substances consent or advertisement consent; and
  - To approve/make comments on the terms of Section 106 Agreements or Unilateral Undertakings

### **Planning Service: enforcement**

The Assistant Director of Planning is authorised to carry out, and authorise in writing other Officers with necessary training and qualifications, the following functions:

- Administer cautions in respect of breaches of advertisement control and in other cases where, following authorisation, court proceedings are considered appropriate.
- To make determinations that it is not expedient to take enforcement action
- To remove or obliterate unauthorised placards or posters or display structures under the Town and Country Planning Act.

- To serve Requisitions for Information requiring information as to interests in land or, if related to a planning contravention notice, activities carried out on the land
- To serve Planning Contravention Notices on owners and occupiers of land where it appears that a breach of planning control has taken place
- To serve the following notices following consultation with the Council's Legal advisors:
  - Enforcement notice
  - Breach of condition notice
  - Section 215 notice under the Town and Country Planning Act
  - Listed building enforcement notice
  - Hazardous substance Enforcement notice
  - Discontinuance Notices under the Control of Advertisement Regulations
  - Stop notice
  - Temporary stop notice
  - Urgent Works Notices (Listed Buildings)
  - Repairs Notices (Listed Buildings)
- To accept or reject such offers to remedy a breach of control as are made under the Town and Country Planning Act 1990
- To authorise the institution of legal proceedings in respect of any matter within the terms of reference of the Planning Committee and following consultation with Legal Services
- To authorise the institution of legal proceedings for failure to respond to, or to give satisfactory information required by Requisitions for Information, or Planning Contravention Notices.

Listed below are the circumstances where enforcement matters will be presented to the Planning Committee. All other matters will be dealt with by the Assistant Director of Planning, or other duly authorised Officer:

- i. Where the case involves a Member of the Council (or an immediate relative) or any employee of the Council (or an immediate relative).
- ii. Where there is a contravention of planning control involving the Council's own development that is unresolved through the planning system.
- iii. Issues of significant public interest.

### **Street Naming and Numbering**

The Assistant Director of Planning and other Officers appropriately qualified, trained and authorised by them in writing, have authority to determine uncontested street naming and numbering applications.

### **Planning Policy**

Following consultation with the relevant Cabinet Member and the local Ward Councillor(s), the Assistant Director of Planning is authorised to make decisions on the following:

- Applications to designate a Neighbourhood Forum
- To accept or decline repeat proposals for a Neighbourhood Development Plan or Neighbourhood Development Order

- The validity and acceptance of proposals for a Neighbourhood Development Plan or Neighbourhood Development Order
- Appointing a person to carry out the examination of a Neighbourhood Development Plan or Neighbourhood Development Order
- Decisions in respect of action to be taken in response to recommendations included within the Examiner's Report and whether to modify the Plan or Referendum Area prior to submitting it for referendum

The Assistant Director of Planning has delegated authority to determine applications for grant aid in relation to listed buildings and conservation areas with the following **exceptions**:

- New applications which would commit the District Council to expenditure in excess of £1,000
- Applications for supplementary grant which would commit the District Council to further expenditure in excess of £500
- Applications where an applicant has requested reconsideration of a decision by the Assistant Director of Governance.

After consultation with the appropriate Cabinet Member, to respond to policy and other planning documents relevant to the Council, prepared by other bodies.

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# PART 4

## RULES OF PROCEDURE

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Financial Regulations and Contract Procedure Rules are listed as separate documents at the end of this Part of the Constitution

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## **COUNCIL PROCEDURE RULES**

### **1. Scope of Procedure Rules**

- 1.1 All of the Rules set out in these Council Procedure Rules apply to all meetings of Full Council.
- 1.2 None of the rules set out in these Council Procedure Rules apply to meetings of Cabinet or Committees of Cabinet.
- 1.3 Rules 5 to 10 inclusive and 13 to 21 inclusive (apart from Rule 19.3 in respect of standing to speak) of these Council Procedure Rules apply to meetings of all other Committees, Sub-Committees and Panels.

### **2. Annual Meeting**

- 2.1 In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.
- 2.2 The Annual Meeting will:
  - (a) Elect a person to preside if the Chairman of the Council is not present
  - (b) Elect the Chairman of the Council for the municipal year
  - (c) Elect the Vice-Chairman of the Council for the municipal year
  - (d) Approve the minutes of the previous meeting
  - (e) Receive any disclosures of interest from Councillors
  - (f) Receive any announcements from the Chairman of the Council, Leader of the Council, individual Cabinet Members or the Head of Paid Service
  - (g) Receive questions and statements from the public in accordance with Council Procedure 11
  - (h) Elect the Leader of the Council in accordance with Paragraph 7.3 of Article 7 of this Constitution
  - (i) Receive from the Leader of the Council details of the appointments and any delegations made by them for inclusion in the Council's Responsibility for Functions at Part 3 to this Constitution
  - (j) Approve a programme of ordinary meetings of the Council for the year

- (k) Determine which committees to establish for the municipal year, their size and terms of reference
- (l) Determine the allocation of seats to political groups in accordance with the political balance rules
- (m) Receive nominations of Councillors to serve on each committee and outside bodies and appoint to those committees and outside bodies, except where appointment to those bodies has been delegated by the Council or is exercisable only by Cabinet.
- (n) Appoint Chairmen and Vice-Chairmen of Committees, according to their suitability and merit in the opinion of the Leader of the Council.
- (o) Facilitate open questions by Councillors
- (p) Consider any business set out in the notice convening the meeting

### **3. Ordinary Meetings**

3.1 Ordinary meetings of the Council will take place in accordance with a programme determined at the Council's Annual Meeting and will:

- (a) Elect a person to preside if both the Chairman and Vice-Chairman are not present
- (b) Approve the minutes of the previous meeting
- (c) Receive any disclosures of interest from Councillors
- (d) Receive any announcements from the Chairman of the Council, Leader of the Council, individual Cabinet Members or the Head of Paid Service
- (e) Receive questions and statements from the public in accordance with Council Procedure Rule 11
- (f) Deal with any business from the previous meeting
- (g) Receive reports from Cabinet and the Council's Committees and Panels and debate any of those reports
- (h) Receive reports on the business of joint arrangements and external organisations and debate any of those reports
- (i) Debate motions
- (j) Consider any other business specified in the summons to the meeting

- (k) Receive reports from the Chief Executive, Section 151 Officer or the Monitoring Officer
- (l) Facilitate open questions by Councillors

3.2 The order of the agenda at ordinary meetings will be as follows:

- Public Open Forum
- Apologies for Absence
- Declarations of Interest
- Minutes of the Previous Meeting
- Communications
- Reports for Consideration and Decision by Council
- Open Questions by Councillors
- Notices of Motion

#### **4. Extraordinary Meetings**

4.1 Those listed below may request the Chief Executive to call an extraordinary meeting of Full Council in addition to ordinary meetings:

- (a) Full Council by resolution
- (b) The Chairman of the Council
- (c) The Monitoring Officer
- (d) Any five members of the Council if they have signed a requisition presented to the Chairman of the Council and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition

4.2 The Chief Executive will liaise with the Chairman of the Council and political group leaders prior to confirming a suitable date for the extraordinary meeting and will publish a summons for the meeting in accordance with the Access to Information Procedure Rules.

4.3 The only business to be conducted at an extraordinary meeting will be restricted to the item for which the meeting was called. No consideration of minutes from the previous meeting or any other standing items for ordinary meetings will take place.

## **5. Appointment of Substitute Members of Committees and Sub-Committees**

- 5.1 The Chief Executive is authorised to give effect to the wishes of political groups, as expressed in accordance with paragraph 13 of the Local Government (Communities and Political Groups) Regulations 1990, by making appointments to committees and sub-committees in accordance with Section 16 of the Local Government and Housing Act 1989.
- 5.2 Vacancies on committees should be filled at the next available meeting of Full Council and until that meeting takes place the provision of substitutes will be permitted. If a vacancy on a committee is not filled at the next available meeting of Full Council, the provision of substitutes will not be permitted.
- 5.3 Notice of an intended substitution must be delivered to Democratic Services prior to the commencement of the meeting, confirming the name of the Councillor submitting their apologies for absence and the name of the Councillor substituting for them.
- 5.4 A Councillor acting as a substitute will have the same powers as the Councillor for whom they are substituting and their attendance will count towards the quorum for the meeting, providing they have attended any mandatory training relevant to the Committee they are attending.
- 5.5 In the event that a member of a Committee or Sub-Committee and their appointed substitute both attend prior to the commencement of the meeting, the substitution will be cancelled.
- 5.6 In the event that a member of a Committee or Sub-Committee appoints a substitute but attends after the commencement of the meeting, the substitution will be honoured.

## **6. Time and Place of Meetings**

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

## **7. Notice and Summons to Meetings and Cancellation, Postponement or Rescheduling of Meetings**

- 7.1 The Chief Executive will give notice to the public of the time and place of any meetings in accordance with the Access to Information Procedure Rules.
- 7.2 At least five clear working days before a meeting, the Chief Executive will publish a summons signed by them and send this by post to every member of the Council, leave it at their usual place of residence or send it by electronic means with consent from individual Councillors to their District Council email account.

- 7.3 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.
- 7.4 Where exceptional circumstances apply and the Chairman, following consultation with the Vice-Chairman and the Chief Executive, considers that it is necessary to cancel, postpone or reschedule a meeting for reasons such as lack of business, inability to obtain a quorum for the meeting, inclement weather, a civil emergency, health and safety grounds or similar reasons, the Chairman may take the decision to postpone a meeting.
- 7.5 Where a meeting is cancelled, postponed or rescheduled, notification must be given to all members of the Council and to the press and notice of the postponement must be posted at the Council Offices and on the Council's website.

## **8. Chairing the Meeting**

- 8.1 The person presiding at the meeting may exercise any power or duty of the Chairman. If the Chairman is present, they must chair the meeting unless they have declared an interest and is required to leave the meeting room.

## **9. Quorum**

- 9.1 The quorum of a meeting will be one quarter of the whole number of members of the Council. For other Committees or bodies of the Council, unless prescribed elsewhere in the Constitution, the quorum will be one third of the number of members of the Committee or body, or four Councillors, whichever is the greater. During any meeting, if the Chairman counts the number of Councillors and declares there is not a quorum present, then the meeting will adjourn immediately.
- 9.2 Remaining business will be considered at a time and date fixed by the Chairman. If they do not confirm a date, the remaining business will be considered at the next ordinary meeting of the Council or respective body.

## **10. Duration of meeting**

- 10.1 Unless the majority of Councillors present vote for the meeting to continue, any meeting that has lasted for three hours, excluding any temporary adjournment, will adjourn immediately.
- 10.2 Remaining business will be considered at a time and date fixed by the Chairman. If they do not confirm a date, the remaining business will be considered at the next ordinary meeting.

## **11. Public Open Forum**

- 11.1 Members of the public may make a statement or ask any question of any member of the Council, subject to paragraph 11.8, during a period of up to 30 minutes set aside at the start of the meeting.
- 11.2 In respect of extraordinary meetings, members of the public may make a statement or ask any question of any member of the Council, subject to paragraph 11.6, at the commencement of the item being considered for a period of up to 30 minutes.
- 11.3 Notice of any statement to be made or question to be asked must be given by delivering it in writing or by electronic mail to the Chief Executive at least three working days before the day of the meeting. Each notice must give the name and contact details of the speaker or questioner and must name the member of the Council to whom a question is to be put.
- 11.4 The Chairman may direct a question to another member of the Council if deemed more appropriate and they agree to accept it.
- 11.5 Questions will be asked and speeches made in the order in which notice of them was received, except that the Chairman may group together similar questions or items to be spoken on. Each question or speech will be subject to a total time limit of five minutes.
- 11.6 A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to their original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in paragraph 11.8 or if the time limit for public questions has expired.
- 11.7 At any one meeting no person or organisation may submit more than two questions or speak on more than two items on the agenda of the relevant meeting and no more than six such questions or speeches will be tabled or delivered at any one meeting. If more than six notices of intention to speak are received, the first six received will be invited to attend to speak on the agenda item. Any questions tabled for that same meeting will be dealt with by way of written response or held over until the next meeting at the request of the questioner or speaker.
- 11.8 The Chief Executive may reject a question or prevent the right to speak if it:
  - (a) Is not about a matter for which the District Council has a responsibility or which directly affects the district
  - (b) Is defamatory, frivolous, objectionable, improper or offensive
  - (c) Is substantially the same as a question which has been put by a member of the public at a meeting of the Council in the past six months

(d) Requires disclosure of confidential or exempt information

- 11.9 A record of statements and questions made and any responses to them will be recorded in the minutes of the meeting.
- 11.10 The Chairman will invite each member of the public to put the question to the Councillor named in the notice or make their statement. If the member of the public who has registered to speak is unable to be present, they may ask the Chairman to read out the question or statement on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.
- 11.11 Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer within seven working days of the meeting.
- 11.12 Unless the Chairman decides otherwise, no discussion will take place on any question or speech, but any Councillor may move that a matter raised by a question or speech be referred to the Cabinet or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

## **12. Open Questions by Councillors**

- 12.1 Time allowed for questions will be a maximum of 45 minutes.
- 12.2 Questions will only be addressed to the Leader of the Council, individual Cabinet Members, Chairmen or Vice-Chairmen of Overview and Scrutiny Committees or Opposition Political Group Leaders.
- 12.3 Questions will not be addressed to the Chairmen or Vice-Chairmen of the Planning Committee, Licensing Committee (Alcohol, Entertainment and Late Night Refreshment Licensing Committee) or Governance and Audit Committee, or any Officer.
- 12.4 Questions will be on a first come, first served basis. Councillors will join the queue through the electronic queuing system in the Council Chamber. If the electronic queuing system is unavailable questions will be taken by a show of hands on a first come, first served basis and managed by the Chairman until the time allowed has been reached or before that if no more questions are forthcoming.
- 12.5 No debate, speech or statement is to take place and Councillors are limited to one question per meeting. No supplementary questions may be asked.
- 12.6 All questions and answers must be directed through the Chairman.

- 12.7 Any question asked within the allocated time for open questions by Councillors will be answered.
- 12.8 Questions will not be recorded verbatim in the minutes of Full Council meetings. Details in the minutes will consist of the Councillor who asked the question, a brief summary of the question and the response provided.
- 12.9 A question will be rejected by the Chairman if:
- It is not about a matter for which the District Council has a responsibility, or which directly affects the district
  - It is of a defamatory, frivolous, objectionable, improper or an offensive nature
  - It is substantially the same as a question which has been put at a meeting of Full Council in the past six months
  - The answer requires disclosure of confidential or exempt information

### **13. Motions on Notice**

- 13.1 Except for motions which can be moved without notice under Rule 13.6, written notice of every motion, signed by the Councillor giving it, must be delivered to the Chief Executive at least nine working days before the date of the meeting at which it is to be moved. Delivery via electronic mail from the Councillor's District Council email account will suffice as signed, written notice.
- 13.2 Motions will be recorded in the order in which they are received and open to public inspection. Any motion which purports to contravene any current legislation, or purports to contravene the arrangement or terms of this Constitution, can be excluded by the Chief Executive in advance or at the meeting at which it is proposed to be debated.
- 13.3 Motions for which notice has been given will be listed on the agenda in the order in which they were received unless the Councillor giving notice states in writing that they propose to move it to a later meeting or withdraw it.
- 13.4 Motions must be about matters for which the District Council has a responsibility or which directly affect the District. The content of any motion on notice will consist of one single subject matter. No motion on notice will be debated in the absence of the Councillor who has proposed the motion.
- 13.5 No Councillor will have more than two notices of motion on the agenda for any meeting.
- 13.6 The following motions may be moved without notice
- (a) To appoint a Chairman or someone to preside the meeting
  - (b) In relation to the accuracy of the minutes

- (c) To change the order of business in the agenda
- (d) To refer something to an appropriate body or individual
- (e) To appoint a Committee or Councillor arising from an item on the summons for the meeting
- (f) To receive reports or adoptions of recommendations of Cabinet, Committees, Sub-Committees or Officers and any resolutions following from them
- (g) To withdraw a motion by the original proposer, prior to it being seconded
- (h) To amend a motion
- (i) To proceed to the next business
- (j) That the question be now put
- (k) To adjourn a debate
- (l) To adjourn a meeting
- (m) That the meeting continue beyond three hours in duration
- (n) To suspend a particular council procedure rule
- (o) To exclude the public and press in accordance with the Access to Information Procedure Rules
- (p) To not hear further a Councillor named under Rule 19.5 or to exclude them from the meeting under Rule 19.6
- (q) To give the consent of the Council where its consent is required by this Constitution
- (r) A motion relating to any item on the agenda of that meeting where no motion has been proposed

#### **14. Rules of Debate**

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

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

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

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

### ***Secunder's speech***

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

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

- 14.4 Speeches must be directed to the matter under discussion or to a Personal Explanation or Point of Order. No speech may exceed five minutes without the consent of the Council.

### ***When a Councillor may speak again***

- 14.5 A Councillor who has spoken on a motion may not speak again whilst it is the subject of debate except:
- (a) To speak once on an amendment moved by another Councillor
  - (b) To move a further amendment if the motion has been amended since they last spoke
  - (c) If their first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried)
  - (d) In exercise of a right of reply
  - (e) On a point of order
  - (f) On a point of information
  - (g) By way of personal explanation

### ***Amendments to motions***

- 14.6 An amendment to a motion must be relevant to the original motion and will either be:
- (a) To refer the matter to an appropriate body or individual for consideration
  - (b) To leave out words
  - (c) To leave out words and insert or add others
  - (d) To insert or add words

As long as the effect of (b) to (d) does not negate the original motion.

- 14.7 Only one amendment will be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 14.8 If an amendment is not carried, other amendments to the original motion may be moved.
- 14.9 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 14.10 If an amendment is accepted by the proposer and seconder of the original motion, the amendment does not require further debate. The motion as amended takes the place of the original motion and becomes the substantive motion to which any further amendments are moved.
- 14.11 After an amendment has been carried, the Chairman will read out the amended (substantive) motion before allowing debate to continue and accepting any further amendments.
- 14.12 The Chairman may require any amendment to a motion to be written down and handed to them before it is discussed.

#### ***Alteration of motion***

- 14.13 A Councillor may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 14.14 A Councillor may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 14.15 Only alterations which could be made as an amendment may be made.

#### ***Withdrawal of motion***

- 14.16 A Councillor may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### ***Right of Reply***

- 14.17 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.

14.18 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.

14.19 The mover of the amendment has no right of reply to the debate on their amendment.

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

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

- (a) To withdraw a motion
- (b) To amend a motion
- (c) To proceed to the next business
- (d) That the question be now put
- (e) To adjourn a debate
- (f) To adjourn a meeting
- (g) That the meeting continue beyond three hours in duration
- (h) To exclude the public and press in accordance with the Access to Information Procedure Rules
- (i) To not hear further a Councillor named under Rule 19.5 or to exclude them from the meeting under Rule 19.6

***Closure motions***

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

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

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

- 14.23 If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.
- 14.24 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### ***Point of Order***

- 14.25 A Councillor may raise a Point of Order at any time and the Chairman will hear them immediately. A Point of Order may only relate to an alleged breach of Council Procedure Rules, any other aspect of the Constitution or relevant legislation. The Councillor must indicate the rule, aspect of the Constitution or legislation and the way in which they considers it has been broken. The ruling of the Chairman on the matter will be final.

#### ***Point of Information***

- 14.26 When a Councillor is speaking, and is proceeding on the basis of information which is incorrect, or of which they are ignorant, another Councillor may properly seek to intervene to provide the correct or missing information, thereby saving the Council from being misled and saving its time.

#### ***Personal Explanation***

- 14.27 A Councillor may make a Personal Explanation at any time. A Personal Explanation may only relate to some material part of an earlier speech by the Councillor which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of the Personal Explanation will be final.

#### ***Previous Decisions and Motions***

- 14.28 No motion or amendment will be proposed which has the effect or intention of rescinding any resolution passed within the preceding six months, or has the same effect as one which has been defeated within the preceding six months, unless significant new information has been received.
- 14.29 Rule 14.28 will not apply to motions proposed in pursuance of a report or recommendation from Cabinet, a Committee, Sub-Committee or Panel.

### **15. Voting**

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

- 15.2 If there are equal numbers of votes for and against, the Chairman will have a second casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.
- 15.3 Unless otherwise provided by legislation or in these Council Procedure Rules, the vote on any motion or amendment proposed at any meeting of the Council shall be taken by means of a show of hands for, against and abstention or by using the electronic voting system in the Council Chamber. The person presiding the meeting will determine the most appropriate means of facilitating votes.
- 15.4 Where a physical restriction prevents any Councillor from making a show of hands, on notifying the Chairman of that restriction that individual Councillor may vote by voice.
- 15.5 At the request of any 10 Councillors present at the meeting of Full Council (or 20% of Councillors at any other meeting) who request it, the names of those Councillors voting for, against or abstaining from voting will be recorded in the minutes.
- 15.6 A recorded vote will be taken in respect of any decision relating to the making of calculations in accordance with the Local Government Finance Act 1992 at any budget decision meeting of the Council.
- 15.7 A recorded vote will be taken in respect of any decision to adopt the Local Plan.
- 15.8 Where any Councillor 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.
- 15.9 Subject to rule 15.7, no expression of dissent or disapproval shall be recorded in the minutes.

## **16. Voting on Appointments**

- 16.1 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the lowest 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. In the event of a tie the Chairman, or person presiding the meeting, will draw the name of a person nominated at random who will then be duly appointed.

## **17. Minutes**

- 17.1 Any Councillor may move and second that the minutes of the previous meeting be confirmed as a correct record. The only discussion permitted on the minutes is that relating to their accuracy. Any grammatical or typographical errors should have been raised with Democratic Services prior

to the commencement of the meeting at which the minutes are being considered as a correct record.

- 17.2 Minutes of Full Council will be signed by the Chairman when they are confirmed as a correct record.
- 17.3 Where in relation to any meeting, the next meeting for the purpose of confirming the minutes is an extraordinary meeting, then the minutes will be confirmed at the next ordinary meeting.
- 17.4 Minutes will contain all motions and amendments in the exact form and order the Chairman put them. Whilst outcomes and decisions will be fully recorded the preamble and debate will comprise a summary of what transpired at a meeting.

## **18. Exclusion of the Public and Press**

- 18.1 Members of the public and press may only be excluded either in accordance with Access to Information Procedure Rules in Part 4 of this Constitution or Rule 20.1 (Disturbance by Public).

## **19. Councillors' Conduct**

### ***Declaration of Interests***

- 19.1 Councillors with interests to declare in respect of any item of business to be transacted at a meeting should do so at the earliest opportunity on the agenda.
- 19.2 A Councillor who has declared a Disclosable Pecuniary Interest, or any other interest where the Code of Conduct states they are unable to participate, in any item on the agenda of a meeting must leave the meeting during the consideration of that item to which the interest relates, take no part in the debate and not vote on the item.

### ***Standing to Speak***

- 19.3 When a Councillor speaks at the Full Council meeting they must stand and address the meeting through the Chairman. If more than one Councillor stands, the Chairman will ask one to speak and the others must sit. Other Councillors must remain seated whilst another Councillor is speaking unless they wish to make a Point of Order, Point of Information or a Personal Explanation.

### ***Chairman Standing***

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

### ***Councillor not to be heard further***

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

### ***Councillor to leave the meeting***

- 19.6 Further to Rule 19.5, if the Councillor continues to behave improperly after such a motion is carried, the Chairman may move that either the Councillor leaves the meeting or that the meeting is adjourned for a specific period. If seconded, the motion will be voted on without discussion.

### ***General Disturbance***

- 19.7 If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as they think necessary.

## **20. Disturbance by the Public**

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

## **21. Suspension and amendment of Council Procedure Rules**

- 21.1 All of these Council Procedure Rules, except Rules 15.5, 15.6, 15.7 and 17.3 may be suspended by motion without notice if at least two thirds of Councillors present vote in favour of the resolution. Suspension may be for the duration of the meeting or in respect of any particular item of business.

## **22. Motions affecting Council Procedure Rules**

- 22.1 Any motion to add to, vary or revoke these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next annual or ordinary meeting of the Council after having been debated by the Governance and Audit Committee.

## **23. State of the District Debate**

- 23.1 The Leader of the Council may call a State of the District debate annually on a date and in a form to be agreed with the Chairman of the Council.
- 23.2 The Leader of the Council will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to, or during, the State of the District debate.

- 23.3 The debate will be chaired by the Chairman of the Council, the Vice-Chairman of the Council or, if neither are present, a Chairman elected by Full Council for that meeting.
- 23.4 The results of the debate will be disseminated as widely as possible within the community and to agencies and organisations in the area and considered by the Leader of the Council in proposing the budget and policy framework to Full Council for the coming year.

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## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. Scope of Procedure Rules**

- 1.1 These rules apply to all meetings of Full Council, Cabinet, Overview and Scrutiny Committees, Regulatory Committees and other Committees, Panels and Sub-Committees (known throughout these Procedure Rules as 'meetings'), other than Rules 13 to 25 which only apply to Cabinet or its Committees.

### **2. Additional Rights to Information**

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

### **3. Rights to Attend Meetings**

- 3.1 Members of the public may attend all meetings subject to the exceptions of these rules.

### **4. Notices of Meetings**

- 4.1 The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at its offices outside the Civic Building (SK House), Grantham, NG31 6PY and on its website.

### **5. Access to agenda and reports before the meeting**

- 5.1 At least five clear working days before a meeting, the Council will make copies of the following documents available for inspection by members of the public at the Civic Building (SK House) at St Peter's Hill, Grantham, NG31 6PY and publish these documents on its website:

- (a) The agenda for the meeting
- (b) Any reports which are to be made available to the public in accordance with these Procedure Rules

- 5.2 Where the meeting is convened at less than five clear working days' notice, a copy of the agenda and associated reports will be made available for inspection at the time the meeting is convened.

- 5.3 If an item is added to the agenda after it has been made publicly available, the revised agenda and any report relating to the item for consideration will be made available for inspection from the time the item was added to the agenda.

- 5.4 Where reports are prepared after the summons has been sent out, each such report will be made available to the public as soon as the report is completed and sent to Councillors.

## **6. Supply of Copies of Documents**

- 6.1 The Council will supply copies of the following documents to any person on payment of a charge for postage and any other appropriate costs, or for free via the Council's website:

- (a) Any agenda and reports that are open to public inspection
- (b) Any further statements or particulars necessary to indicate the nature of the items in the agenda that are open to public inspection
- (c) Copies of any other documents supplied to Councillors in connection with an item, should the Monitoring Officer deem it appropriate

## **7. Access to Minutes and Documents After the Meeting**

- 7.1 The Council will make available copies of the following for at least six years after the date of a meeting:

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

- 7.2 A copy of the minutes of the Council's meetings will be available for public inspection at the Council's Offices at The Picture House, St Catherine's Road, Grantham, NG31 6TT and will also be available on the Council's website.

## **8. Background papers**

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

- (a) Disclose any facts or matters on which the report or an important part of the report is based

- (b) Have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined below) and in respect of Cabinet reports, the advice of the political advisor (if any)

8.2 The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers at the Council's Offices at The Picture House, St Catherine's Road, Grantham, NG31 6TT and will also be available on the Council's website.

## **9. Summary of the Public's Rights**

9.1 A written summary of the public's rights to attend meetings and inspect and copy documents will be kept at and be available to the public at the Council's Offices at The Picture House, St Catherine's Road, Grantham, NG31 6TT.

## **10. Exclusion of Access by the Public to Meetings**

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

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

10.2 Confidential information means information given to the Council by a Government Department on terms that forbid its public disclosure, or information that cannot be publicly disclosed by order of a Court.

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

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

10.4 Any Councillor attending a meeting of a Committee or body may remain at the meeting even though the public has been excluded, unless the Committee or body, by resolution and specifying the reasons for doing so, requests them to leave.

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

10.6 Exempt information means information falling within one or more of the categories specified in the left hand column on the table below, subject to any condition specified in respect of that category in the right hand column of the table.

## Schedule 12A

Description of exempt information	Qualification
1. Information relating to any individual	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
3. Information relating to the financial or business affairs of any particular person (including the authority holding the information)	<p>Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> <p>Information falling within this paragraph 3 is not exempt by virtue of that paragraph if it is required to be registered under:</p> <ul style="list-style-type: none"> <li>(a) The Companies Act 1985</li> <li>(b) The Friendly Societies Act 1974</li> <li>(c) The Friendly Societies Act 1992</li> <li>(d) The Industrial and Provident Societies Acts 1065 to 1978</li> <li>(e) The Building Societies Act 1986</li> <li>(f) The Charities Act 1993</li> </ul>
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 officer holders under, the authority	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

<p>6. Information which reveals that the authority proposes:</p> <p>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person</p> <p>(b) To make an order or direction under any enactment</p>	<p>Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	<p>Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>

10.7 Information falling within any of paragraphs one to seven is not exempt by virtue of that paragraph if it relates to proposed development for which the Local Planning Authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

## **11. Exclusion of Access by the Public to Reports**

If the Monitoring Officer thinks fit, the Council may exclude access by the public to the whole or any part of reports which in their opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “*Not for publication*” together with the category of information likely to be disclosed.

## **12. Application of Access to Information Procedure Rules to Cabinet**

12.1 Rules 13 to 25 apply to Cabinet and its Committees.

12.2 If Cabinet or its Committees meet to take a decision then it must also comply with Rules 1 to 11 unless Rule 17 (General Exception) or Rule 18 (Special Urgency) apply.

## **13. Procedure Prior to Private Meeting of Cabinet**

13.1 Subject to Rule 13.2, before a decision is taken by Cabinet or its Committees to hold a meeting or part of a meeting in private:

- (a) A notice of intention to hold a private meeting including a statement of reasons for the meeting to be held in private will be made available at the Council's Offices at The Picture House, St Catherine's Road, Grantham, NG31 6TT and be published on the Council's website at least 28 clear days before the meeting.
- (b) A further notice of intention to hold a private meeting including a statement of reasons for the meeting to be held in private, details of any representations received by Cabinet, or its Committees, about why the meeting should be open to the public and a statement of response to any such representations must be made available at the Council's Offices at The Picture House, St Catherine's Road, Grantham, NG31 6TT and be published on the Council's website at least five clear working days before the meeting.

13.2 Where the date by which a meeting must be held makes compliance with Rule 13.1 impractical, then the decision to hold the meeting, or part of the meeting, in private may still be made. In such circumstances Cabinet or its Committees will obtain the agreement of the Chairman of the relevant Overview and Scrutiny Committee (or in their absence, the Chairman of the Council or in their absence the Vice-Chairman of the Council) that the item is urgent and cannot be reasonably deferred. As soon as reasonably practical after such consent is obtained, a notice setting out the reasons why the item is urgent and cannot reasonably be deferred must be made available at the Council's Offices at The Picture House, St Catherine's Road, Grantham, NG31 6TT and be published on the Council's website.

#### **14. Key Decisions – Definition**

- 14.1 A Key Decision is a decision taken under executive arrangements which is likely:
- (a) To result in the Council incurring expenditure which is, or the making of savings which are significant. For these purposes, South Kesteven District Council has agreed £200,000 as the threshold at which a decision will be considered significant. In respect of contracts, the £200,000 threshold for a Key Decision relates to the whole-life cost of the contract.
  - (b) To be significant as advised by the Chief Executive in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Council.
  - (c) In determining the meaning of significant for the purposes of paragraphs (a) and (b) above, the authority must have regard to any guidance issued by the Secretary of State in accordance with Section 9Q of the Local Government Act 2000.

14.2 A decision-maker will only make a Key Decision in accordance with the requirements below.

## **15. Procedure Before Taking Key Decisions**

15.1 Subject to Rule 17 (General Exception) and Rule 18 (Special Urgency), a Key Decision may not be taken unless:

- (a) A notice of the Key Decision has been published on Cabinet's Forward Plan
- (b) The notice of the Key Decision referred to in paragraph (a) above has been made available for inspection at the Council's Offices at The Picture House, St Catherine's Road, Grantham, NG31 6TT and on the Council's website for at least 28 days, and
- (c) Where the decision is to be taken at a meeting of Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (Notices of Meetings)

## **16. The Forward Plan for Key Decisions**

16.1 The Forward Plan will contain matters which will be the subject of a Key Decision to be taken by Cabinet, a Committee of Cabinet, individual Cabinet Members, Officers, or under joint arrangements in the course of the discharge of an executive function. It will state the following particulars:

- (a) That a key decision is to be made on behalf of the Council
- (b) The matter in respect of which the decision is to be made
- (c) Where the decision-maker is an individual, that individual's name and title and where the decision-maker is a body, its name and details of its membership
- (d) The date on which, or the period within which, the decision is to be made
- (e) A list of the documents submitted to the decision-maker for consideration in relation to the matter in respect of the decision being made
- (f) The address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed are available

- (g) That other documents relevant to those matters may be submitted to the decision-maker
- (h) The procedure for requesting details of those documents (if any) as they become available

16.2 The Forward Plan of Key Decisions must be made available for inspection by the public at the Council's Offices at The Picture House, St Catherine's Road, Grantham, NG31 6TT and be published on the Council's website at least 28 days before a Key Decision is made.

16.3 Exempt information need not be included in the Forward Plan and confidential information cannot be included.

## **17. General Exception**

17.1 Subject to Rule 18 (Special Urgency), where the publication of the intention to make a Key Decision under Rule 16 is impracticable, then the decision can only be made where:

- (a) The Chief Executive has informed the Chairman of the relevant Overview and Scrutiny Committee (or in their absence, the Chairman of the Council or in their absence the Vice-Chairman of the Council) of the matter about which the decision is to be made and the reasons why it is impracticable to comply with Rule 16.
- (b) The Chief Executive has made a copy of that notice available for inspection by the public at the Council's Offices at The Picture House, St Catherine's Road, Grantham, NG31 6TT and on the Council's website.
- (c) At least five clear days have elapsed since the Proper Officer complied with (b) above.

## **18. Special Urgency**

18.1 Where the date by which a decision must be made makes compliance with Rule 17 (General Exception) impracticable, the decision may only be made where the decision-maker has obtained agreement from:

- (a) The Chairman of the relevant Overview and Scrutiny Committee
- (b) Or in their absence, the Chairman of the Council or in their absence the Vice-Chairman of the Council

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

18.2 The Chief Executive will determine which is the relevant Overview and Scrutiny Committee for this purpose.

18.3 As soon as reasonably practicable after the decision-maker has obtained agreement under Rule 18.1 that the making of the decision is urgent and cannot be reasonably deferred, the decision-maker must make available at the Council's Offices at The Picture House, St Catherine's Road, Grantham, NG31 6TT and on the Council's website a notice setting out the reasons that the making of the decision is urgent and cannot reasonably be deferred.

## **19. Reports to Council**

19.1 If an Overview and Scrutiny Committee thinks that a Cabinet decision has been taken which was not treated as being a Key Decision and the Committee is of the opinion that the decision should have been treated as a Key Decision, the Committee may require Cabinet to submit a report to Full Council within such reasonable time as the Committee specifies.

19.2 The requirement will be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

19.3 The Leader will submit reports to the Council at least once a year on Cabinet decisions taken in the circumstances set out in Rule 18 (Special Urgency), if any such decisions have been taken.

## **20. Record of Decisions**

As soon as reasonably practicable after any meeting of Cabinet, or any of its Committees, the Chief Executive will ensure a written statement is produced of every decision taken at that meeting. The statement will include:

- (a) A record of the decision including the date it was made
- (b) A record of the reasons for the decision
- (c) Details of any alternative options considered and rejected
- (d) A record of any conflict of interest in relation to the matter decided which is declared by any member of the decision-making body which made the decision
- (e) In respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer

## **21. Notice of Meetings of Cabinet**

21.1 All Members of Cabinet or its Committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned unless the meeting is convened at shorter notice as a matter of urgency.

## **22. Attendance at Meetings**

- 22.1 Any Councillor may attend any meeting of Cabinet, its Committees or Sub-Committees and Sub-Committees as observers.
- 22.2 It will be at the discretion of the Leader of the Council, or the person presiding the meeting, as to whether any Councillor attending as an observer may speak on an item on the agenda for the meeting.
- 22.3 The Chief Executive, Section 151 Officer, Monitoring Officer and Chief Officers, and their nominees, are entitled to attend any meeting of Cabinet and its Committees.
- 22.4 A meeting of Cabinet to consider confidential or exempt items may only take place in the presence of the Chief Executive or their nominee with responsibility for recording and publishing the decisions.

## **23. Decisions by Individual Cabinet Members or Officers**

- 23.1 Where an individual Cabinet Member or Officer receives a report which they intend to take into account in making a Key Decision or Non Key Decision, then they will not make the decision until at least five clear working days after that report was made publicly available under Rule 23.2 below, or would have been made publicly available but for the fact that it contains confidential or exempt information.
- 23.2 Unless it contains confidential or exempt information, the Cabinet Member or Officer making the decision referred to in Rule 23.1 will ensure that the Chief Executive makes the report available for inspection by the public as soon as is reasonably practicable after the Cabinet Member or Officer receives it at the Council's Offices at The Picture House, St Catherine's Road, Grantham, NG31 6TT and on the Council's website.
- 23.3 On giving such a report to an individual decision-maker, the person who prepared the report will provide a copy to the Chairman of the relevant Overview and Scrutiny Committee as soon as reasonably practical.
- 23.4 As soon as reasonably practicable after a Cabinet decision has been taken, either by an individual Cabinet Member or by an Officer, they will arrange the preparation of a written statement of the decision which shall include a record of the decision to include:
  - (a) A record of the decision including the date it was made
  - (b) A record of the reasons for the decision
  - (c) Details of any alternative options considered and rejected

- (d) A record of any conflict of interest declared by a Cabinet Member who is consulted by the decision-maker
- (e) In respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer

23.5 The provisions of Rules 7 and 8, in respect of the inspection of documents, will also apply to the making of Cabinet decisions by individual Cabinet Members and Officers. This does not require the disclosure of exempt or confidential information or advice from a political assistant (if used).

## **24. Overview and Scrutiny Committees – Access to Documents**

24.1 Subject to Rule 24.4 below, any member of an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of Cabinet or its Committees and which contains material relating to:

- (a) Any business that has been transacted at any meeting of Cabinet or its Committees.
- (b) Any decision taken by an individual Cabinet Member of any executive decision taken by an Officer.

24.2 Overview and Scrutiny Committees will be entitled to foresight of papers in relation to decisions of Cabinet before the decision is made.

24.3 Subject to Rule 24.4 below, where a member of an Overview and Scrutiny Committee requests a document which falls under Rules 24.1(a), 24.1(b) and 24.2, this must be provided by Cabinet as soon as reasonably practicable and in any case no later than ten days after Cabinet receives the request.

24.4 No member of an Overview and Scrutiny Committee will be entitled to:

- (a) Any document that is in draft form
- (b) Any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising, or any review contained in any programme of work of the relevant Overview and Scrutiny Committee
- (c) Any part of a document that contains the advice of a political adviser (if any)

## **25. Additional Rights of Access for Councillors**

- 25.1 Subject to Rule 25.3 and Rule 25.4, any document which is in the possession of or under the control of Cabinet and contains material relating to any business transacted at a private meeting of Cabinet or its Committees, or any decision made by an individual Cabinet Member or an Officer in accordance with executive arrangements, must be available for inspection by any Councillor within 24 hours of the decision having been made.
- 25.2 Subject to Rule 25.3 and Rule 25.4, any document which is in the possession of or under the control of Cabinet and contains material relating to any business to be transacted at a public meeting of Cabinet or its Committees must be available for inspection by any member of the Council for at least five clear days before the meeting. Where the meeting is convened at shorter notice, any document must be available for inspection when the item is added to the agenda.
- 25.3 Rules 25.1 and 25.2 do not require a document to be available for inspection if it appears to the Monitoring Officer that it discloses exempt information of a description falling within any of the categories outlined in Rule 10 above, unless:
- (a) The document contains exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act (as amended), except to the extent that the information relates to any terms proposed or to be proposed to the Council in the course of negotiations for a contract
  - (b) The document contains exempt information falling within paragraph 6 of Part 1 of Schedule 12A of the Local Government Act (as amended).
- 25.4 Rules 25.1 and 25.2 do not require any document to be made available for inspection if it appears to the Monitoring Officer that it discloses the advice of a political adviser, if any.

## **26. Nature of Rights**

- 26.1 These rights of a Councillor are additional to any other right they may have whilst in office.

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

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

- 1.1 The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4 of this Constitution.
- 1.2 Once a Budget or Policy Framework is in place, it is the responsibility of Cabinet to implement it.

### **2. Process of Developing the Budget**

- 2.1 Details of Cabinet's consultation process in relation to the budget will be included in the Cabinet Forward Plan and published at the Council's Offices at The Picture House, St Catherine's Road, Grantham, NG31 6TT and on the Council's website.
  - 2.2 Cabinet will carry out consultation in accordance with its published process.
  - 2.3 Cabinet will publish initial proposals for the Budget Framework, taking into account:
    - (a) Any representations made to Cabinet as a result of its consultation.
    - (b) The outcome of any relevant review conducted by an Overview and Scrutiny Committee.
  - 2.4 Cabinet's initial proposals will be referred to the Budget Joint Overview and Scrutiny Committee, which comprises members of all Overview and Scrutiny Committees, for further advice and consideration.
  - 2.5 The Joint Budget Overview and Scrutiny Committee will respond to the initial proposals of Cabinet and report the outcome of its deliberations.
  - 2.6 Cabinet will consider the report of the Budget Joint Overview and Scrutiny Committee and, if it considers it appropriate, amend its proposals.
  - 2.7 Cabinet will submit its final proposals to Full Council for consideration.
- ### **3. Process for Developing the Policy Framework Documents**
- 3.1 Cabinet will publish, by including in its Forward Plan, a timetable for proposals to Council for the adoption, revision or amendment of any Plan or Strategy which forms part of the Policy Framework.

- 3.2 Within this timetable, the relevant Overview and Scrutiny Committees may conduct such research, consultation with stakeholders and investigations as are necessary to enable it to develop proposals for the content or amended content of the relevant Plan or Strategy.
- 3.3 The relevant Overview and Scrutiny Committee will present recommendations as to the proposed content, revision or amendment of the Plan or Strategy to Cabinet in accordance with the timetable set out in Cabinet's Forward Plan.
- 3.4 Cabinet will finalise its proposals for Full Council to consider having taken into account the proposals of relevant Overview and Scrutiny Committees.

#### **4. Approval of the Budget and Policy Framework**

- 4.1 Full Council will consider the proposals of Cabinet for the Budget and Policy Framework and may adopt, amend and refer them back to Cabinet for further consideration, or substitute its own proposals setting out any objections which it has to Cabinet's proposals requiring the Cabinet to reconsider its proposals in the light of those objections.
- 4.2 Any amendments to Cabinet's proposals, or the submission of an alternative budget, must be considered by the Chief Finance Officer five working days prior to the day of the budget meeting of Full Council to ensure that proposals are financially sound and represent a balanced budget. By exception, amendments considered as minor which the Chief Finance Officer deems as financially sound and representing a balanced budget may still be proposed.
- 4.3 A copy of the notice of Full Council's decision will be given to the Leader of the Council.
- 4.4 If the Council accepts Cabinet's proposals without amendment, the decision will be effective from the date of the decision. If the Council does not accept Cabinet's proposals, Full Council's decision will become effective on the expiry of five clear working days after the notice of the Council's decision has been given to the Leader, unless the Leader objects to the decision within that period.
- 4.5 If the Leader objects the decision of Full Council, the Leader will give written notice to the Chief Executive to that effect prior to the date upon which the decision would have become effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive will convene an extraordinary meeting of the Council to reconsider its decision and the decision will not be effective pending that meeting.

- 4.6 The Full Council meeting must take place within 15 clear working days of receipt of the Leader's written objection. At the Full Council meeting, the decision of the Council will be reconsidered, taking into account the objection of the Leader and any revised draft Budget or Policy Framework document. Full Council will make its final decision on the matter and the decision will be published and implemented immediately.
- 4.7 Full Council will at that meeting make its final decision on the matter on the basis of a simple majority. The decision will be made public and will be implemented immediately.

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

- 5.1 Subject to the provisions of Rule 7 (Virement) Cabinet, individual Cabinet Members and any Officers or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework.
- 5.2 If any of these bodies or persons wish to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by Full Council, then:
- (a) They will take advice from the Monitoring Officer and Section 151 Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget
  - (b) If the advice of either of those Officers is that the decision would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget then the decision must be referred by that body or person to Full Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 6 (Urgent Decisions Outside the Budget and Policy Framework) will apply.
- 5.3 In determining whether a decision is or would be contrary to or not wholly in accordance with the Budget, regard will be had to the rules as to virement specified in the Council's Financial Regulations.

## **6. Urgent Decisions Outside the Budget or Policy Framework**

- 6.1 Cabinet, a Committee of the Cabinet, an individual Cabinet Member or Officers, Area Committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by Full Council if the decision is a matter of urgency and:
- (a) It is not practical to convene a quorate meeting of Full Council, and

- (b) If the Chairman of the relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency, or if they are unable to act, the Chairman of the Council, or the Vice-Chairman of the Council in their absence.

6.2 The reasons why it is not practical to convene a quorate meeting of Full Council meeting and the relevant person's consent, as set out in Rule 6.1(b), will be noted on the record of the decision.

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

## **7. Virement**

7.1 The Council's Financial Regulations set out the rules for the operation of virement across the budgets allocated for particular functions of the Council.

7.2 Virements in excess of the limits prescribed in the Council's Financial Regulations will require the prior approval of Full Council.

## **8. In-year Changes to the Policy Framework**

8.1 The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by Cabinet, an individual Cabinet Member or Officers, Area Committees or joint arrangements 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:

- (a) Which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint.
- (b) Necessary to ensure compliance with the law, ministerial direction or government guidance.

## **9. Call-In of Decisions Outside of the Budget or Policy Framework**

9.1 Where a relevant Overview and Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the Policy Framework or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and Section 151 Officer.

9.2 In respect of functions which are the responsibility of Cabinet, the Monitoring Officer's or Section 151 Officer's report will be presented to Cabinet, with a copy sent to every member of the Council.

- 9.3 Regardless of whether the decision is delegated or not, Cabinet must meet to decide what action to take in respect of the Monitoring Officer's or Section 151 Officer's report.
- 9.4 If the Monitoring Officer or Section 151 Officer conclude that the decision was contrary to the Policy Framework or contrary to or not wholly in accordance with the Council's Budget and the decision has been made and implemented in whole or in part, Cabinet will submit a report to Full Council.
- 9.5 If the Monitoring Officer or Section 151 Officer conclude that the decision was either not contrary to the Policy Framework or contrary to the Council's Budget either in whole or in part, Cabinet must submit a report to the relevant Overview and Scrutiny Committee.
- 9.6 If the decision has yet to be made, or has been made but not yet implemented in whole or in part, and the advice from the Monitoring Officer or Section 151 Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the relevant Overview and Scrutiny Committee may refer the matter to Full Council. In such cases, no further action will be taken in respect of the decision or its implementation until Full Council has met and considered the matter.
- 9.7 Full Council will meet within 20 clear working days of the referral of the matter to it by Cabinet or the relevant Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer or Section 151 Officer. The Council may either:
- (a) Endorse the decision or proposal as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of Full Council be minuted, circulated to all Councillors and published in the normal way.
  - (b) Amend the Council's Policy Framework or Budget to encompass the decision or proposal and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted, circulated to all Councillors and published in the normal way.
  - (c) Or where Full 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 Policy Framework or Budget to accommodate the decision or proposal, require Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or Section 151 Officer.

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## **CABINET PROCEDURE RULES**

### **1. Cabinet Decision-Making**

- 1.1 The nature, composition and role of Cabinet is set out in Article 7 of this Constitution.
- 1.2 The arrangements for the discharge of the Council's executive functions are set out in Part 3(b) of this Constitution.
- 1.3 The Leader will decide how any functions which fall within the remit of Cabinet are to be exercised. In either case, the arrangements or the Leader may provide for executive functions to be discharged by:
  - (a) Cabinet as a whole
  - (b) A Committee of Cabinet
  - (c) An individual member of Cabinet
  - (d) An Officer
  - (e) An Area Committee
  - (f) Joint Arrangements
  - (g) Another Local Authority

### **2. Delegation by the Leader**

- 2.1 At the Annual Meeting of Full Council, the Leader will present to the Council a written record of the delegations made by them for inclusion in the Council's scheme of delegation in Part 3(b) of this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:
  - (a) The names and Electoral Wards of the people appointed to Cabinet by the Leader
  - (b) The extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority
  - (c) The Terms of Reference and Constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet Members appointed to them

- (d) The nature and extent of any delegation of Cabinet functions to Area Committees, any other Authority or any joint arrangements and the names of those Cabinet Members appointed to any Joint Committee for the coming year
- (e) The nature and extent of any delegation to Officers with details of any limitation on that delegation and the title of the Officer to whom the delegation is made

### **3. Sub-delegation of Executive Functions**

- 3.1 Where Cabinet, a Cabinet Committee or an individual Cabinet Member is responsible for an executive function, they may delegate further to an Area Committee, joint arrangements or an Officer.
- 3.2 Unless the Council directs otherwise, Cabinet may further delegate any functions that have been delegated to it by the Leader to a Cabinet Committee or to an Officer.
- 3.3 Unless the Leader directs otherwise, a Cabinet Committee to whom functions have been delegated by the Leader may delegate further to an Officer.
- 3.4 Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### **4. The Council's Scheme of Delegation and Executive Functions**

- 4.1 Subject to 4.2 below, the Council's scheme of delegation will be subject to adoption by Full Council and may only be amended by Full Council. It will contain the details required in Article 7 and set out in Part 3(b) of this Constitution.
- 4.2 The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Proper Officer and to the person, body or Committee concerned. The notice must be set out in the extent of the amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person, body, Committee or Cabinet as a whole. The Proper Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- 4.3 Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when the Leader has served it on its Chairman.

## **5. Conflicts of Interest**

- 5.1 Where the Leader of the Council or any individual Cabinet Member has a conflict of interest, this should be dealt with as set out in the Councillor Code of Conduct in Part 5 of this Constitution.
- 5.2 If the exercise of an Executive function has been delegated to a Cabinet Committee, an individual Cabinet Member or an Officer, and a conflict arises, then the function will be exercised in the first instance by the person or body to whom the delegation was made and otherwise as set out in the Councillor Code of Conduct in Part 5 of this Constitution. In particular there should be early disclosure of any interest and a written record identifying the nature of the interest.

## **6. Cabinet Meetings**

- 6.1 Cabinet will meet as and when necessary at times to be agreed by the Leader of the Council.
- 6.2 Cabinet meetings will normally be held at the Civic Building (SK House), St. Peter's Hill, Grantham, Lincolnshire NG31 6PY or another location to be agreed by the Leader.
- 6.3 The Access to Information Procedure Rules in Part 4 of this Constitution set out the requirements covering public and private meetings of Cabinet.
- 6.4 The quorum for a meeting of Cabinet, or a Committee of it, will be one third of the total number of members of Cabinet, including the Leader or Deputy Leader or three including the Leader or Deputy Leader, whichever is larger.
- 6.5 If circumstances arise whereby the Leader of the Council and Deputy Leader of the Council declare an interest which means they have to leave the meeting room for a particular item, the quorum will be one third of the total number of members of Cabinet or three, whichever is the larger.
- 6.6 Cabinet decisions which have been delegated to or are to be taken by Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.
- 6.7 Where Cabinet decisions are delegated to a Committee of Cabinet, the rules applying to Cabinet decisions taken by them will be the same as those applying to decisions taken by Cabinet as a whole.

## **7. How Cabinet Meetings are Conducted**

- 7.1 The Leader of the Council will preside. In his or her absence, the Deputy Leader will preside. In the absence of both the Leader of the Council and the Deputy Leader of the Council, a Cabinet Member will be appointed to preside.
- 7.2 Any member of the Council may attend any meeting of Cabinet and be entitled to speak.
- 7.3 At each meeting of Cabinet, the following business will be conducted:
- (a) Consideration of the minutes of the previous meeting
  - (b) Disclosures of interest, if any
  - (c) Receipt of questions or statements from the public
  - (d) Matters referred to Cabinet (whether by an Overview and Scrutiny Committee or by Full Council) for reconsideration by Cabinet in accordance with the provisions contained in the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution
  - (e) Consideration of reports from Overview and Scrutiny Committees, with the Chairman of the relevant Overview and Scrutiny Committee, or Vice-Chairman in their absence, being entitled to speak before debate of a report relevant to their Committee
  - (f) Receipt of questions from Councillors
  - (g) Matters set out in the agenda for the meeting
- 7.4 All reports to Cabinet from any Cabinet Member or Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation.
- 7.5 Reports about other matters will set out the details and outcome of consultation as appropriate, with the level of consultation required being appropriate to the nature of the matter under consideration.
- 7.6 The Leader may put on the agenda of any Cabinet meeting any matter that they wish, whether or not authority has been delegated to Cabinet, a Cabinet Committee or any Cabinet Member or Officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

- 7.7. The Monitoring Officer or Section 151 Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Monitoring Officer or Section 151 Officer are of the opinion that a meeting of Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting.
- 7.8 If there is no meeting of Cabinet soon enough to deal with those matters requested under paragraphs 7.6 and 7.7, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **8. Public Speaking**

- 8.1 Members of the public may make a statement or ask any question, subject to paragraph 8.7, during a period of up to 30 minutes set aside at the start of the meeting.
- 8.2 In respect of extraordinary meetings, members of the public may make a statement or ask any question, subject to paragraph 8.7, at the commencement of the item being considered for a period of up to 30 minutes.
- 8.3 Notice of any statement to be made or question to be asked must be given by delivering it in writing or by electronic mail to Democratic Services at least one working day before the day of the meeting. Each notice must give the name and contact details of the speaker or questioner.
- 8.4 Questions will be asked and speeches made in the order in which notice of them was received, except that the Leader, or person presiding the meeting, may group together similar questions or items to be spoken on. Each question or speech will be subject to a total time limit of five minutes.
- 8.5 A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to their original question. A supplementary question must arise directly out of the original question or the reply. The Leader, or person presiding the meeting, may reject a supplementary question on any of the grounds in paragraph 8.7 or if the time limit for public questions has expired.

- 8.6 At any one meeting no person or organisation may submit more than two questions or statements on more than two items on the agenda of the relevant meeting and no more than six such questions or speeches will be tabled or delivered at any one meeting. If more than six notices of intention to speak are received, the first six received will be invited to attend to speak. Any questions tabled for that same meeting will be dealt with by way of written response or held over until the next meeting at the request of the questioner or speaker.
- 8.7 The Chief Executive may reject a question or prevent the right to speak if it
- (a) Is not about a matter for which Cabinet has a responsibility
  - (b) Is defamatory, frivolous, objectionable, improper or offensive Part 4 – Rules of Procedure Page 43 (c)
  - (c) It is substantially the same as a question which has been put by a member of the public at a meeting of Cabinet the past six months (d) Requires disclosure of confidential or exempt information
- 8.8 A record of statements and questions made and any responses to them will be recorded in the minutes of the meeting.

## **9. Open Questions by Councillors**

- 9.1 Time allowed for questions will be at the Leader's discretion, or that of the person presiding the meeting.
- 9.2 Questions will only be addressed to the Leader of the Council, Deputy Leader of the Council or individual Cabinet Members.
- 9.3 Questions will be on a first come, first served basis.
- 9.4 Supplementary questions and the number of questions permitted by an individual Councillor will be at the discretion of the Leader, or the person presiding the meeting.
- 9.5 Questions will not be recorded verbatim in the minutes of Cabinet meetings. Details in the minutes will consist of the Councillor who asked the question, a brief summary of the question and the response provided.

9.6 A question will be rejected by the Leader, or person presiding the meeting, if:

- It is not about a matter for which the District Council has a responsibility, or which directly affects the district
- It is of a defamatory, frivolous, objectionable, improper or an offensive nature
- It is substantially the same as a question which has been put at a meeting of Cabinet in the past six months
- The answer requires disclosure of confidential or exempt information

## **10. Decisions by Individual Cabinet Members or Officers**

10.1 The Access to Information Procedure Rules in Part 4 of this Constitution set out the requirements covering decisions by individual Cabinet Members or Officers.

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## OVERVIEW AND SCRUTINY PROCEDURE RULES

### 1. Scope

1.1 These procedure rules will apply to the Council's Overview and Scrutiny Committees.

1.2 The role of Overview and Scrutiny Committees is to:

- (a) Review and scrutinise the decisions made by, and the performance of, Cabinet, individual Cabinet Members and Council Officers in relation to individual decisions
- (b) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and particular service areas
- (c) Question Members of Cabinet, its Committees and appropriate Officers about their decisions and performance targets, over a period of time, or in relation to particular decisions, initiatives or projects
- (d) Question and gather evidence from any person, with their consent
- (e) Make recommendations to Cabinet or any other appropriate body of the Council, including Full Council, arising from the outcome of the overview and scrutiny process
- (f) Review and scrutinise the performance of other appropriate public service bodies in the area and invite reports from them by requesting them to address the relevant Overview and Scrutiny Committee and local people about their activities and performance
- (g) Consider any matter affecting the area or its residents and exercise the right of Call-In for reconsideration of decisions made by Cabinet, its Committees, individual Cabinet Members or Officers that have not been implemented
- (h) Consider Councillor Calls for Action
- (i) Review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions as the Committee considers appropriate but not less than once in every twelve month period
- (j) Assist the Council and Cabinet in the development of its Budget and Policy Framework through in-depth analysis of policy issues

- (k) Conduct research, community and other consultation in the analysis of policy issues and possible options
- (l) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options
- (m) Question Cabinet Members about their views on policy proposals and receive advice and information from Officers
- (n) Liaise with other external organisations operating in the area whether national, regional or local to ensure that the interests of local people are enhanced by collaborative working

## **2. Membership of Overview and Scrutiny Committees**

- 2.1 All Councillors, except members of Cabinet, may be members of an Overview and Scrutiny Committee.
- 2.2 The membership of the Overview and Scrutiny Committees will comply with the Political Balance Rules in Section 15 of the Local Government and Housing Act 1989.
- 2.3 Co-opted Members onto Overview and Scrutiny Committees can only be approved by Full Council, for such limited period or for such specific purposes as it sees fit. Co-opted Members must be an employee, officer or member of a responsible authority or of a co-operating person or body and cannot be a member of Cabinet.
- 2.4 Co-opted Members will have no voting rights, unless they are co-opted to an Overview and Scrutiny Committee to support the scrutiny of crime and disorder.

## **3. Meetings of Overview and Scrutiny Committees**

- 3.1 Ordinary meetings of Overview and Scrutiny Committees will be held on such dates as Full Council at its Annual Meeting decides. Any variation to the published dates and times for meetings will be undertaken in accordance with the process set out in Council Rules of Procedure in Part 4 of this Constitution.
- 3.2 Overview and Scrutiny Committees may hold extraordinary meetings as they consider necessary. Extraordinary meetings of any Overview and Scrutiny Committee may be called as and when deemed appropriate by the relevant Chairman or Vice-Chairman, any three members of the Committee or by the Chief Executive.

- 3.3 No business will be transacted at an extraordinary meeting of an Overview and Scrutiny Committee unless notice of that business is included on the summons for the meeting.
- 3.4 Overview and Scrutiny Committees can appoint Working Groups as required to deal with a specific task or remit within a defined time period. Such meetings may be called by the relevant Chairman of an Overview and Scrutiny Committee or the lead member of the Working Group as appointed by the relevant Overview and Scrutiny Committee.

#### **4. Agenda Items for Meetings**

4.1 Each Overview and Scrutiny Committee will consider the following business:

- (a) Statements or Questions from members of the public
- (b) The minutes of the previous meeting
- (c) Any declarations of Councillors' interests, including political group whipping declarations
- (d) Questions on notice to relevant Cabinet Members and feedback from Cabinet or individual Cabinet Members
- (e) Consideration of any matter referred to that Committee in relation to the Call-In of a decision
- (f) Consideration of any Councillor Call for Action
- (g) Responses of Cabinet or individual Cabinet Members to reports of the Committee
- (h) Updates from individual Cabinet Members on their portfolios
- (i) Any item otherwise set out on the agenda for the meeting
- (j) The work programme for the Committee

4.2 Any member of an Overview and Scrutiny Committee, or any five members of the Council, will be entitled to give notice to the Chief Executive that they wish an item relevant to the functions of that Overview and Scrutiny Committee to be included on the Committee's work programme.

- 4.3 Before issuing notice to the Chief Executive in accordance with paragraph 4.2, Members should:
- research background information
  - consult relevant officers
  - consult the relevant Cabinet Member(s)
  - consult the relevant Chairman of the Overview and Scrutiny Committee
  - produce a written report or note outlining the potential outcomes of the item and how it could contribute to the delivery of the Council's Corporate Plan
- 4.4 Details of the request will be presented to the next scheduled meeting of the Overview and Scrutiny Committee under the work programme item to determine whether the item should be added to the work programme for consideration at a future meeting of the Committee.
- 4.5 Between meetings, the work programme for the Overview and Scrutiny Committees will be determined by the Chairman of each Overview and Scrutiny Committee.
- 4.6 Any item included on an agenda for a meeting of an Overview and Scrutiny Committee which has followed the procedure outlined in paragraphs 4.2 and 4.3 above will require the attendance of the Member(s) who submitted the request. If they are unable to attend the meeting for any reason the item will be deferred to the next scheduled meeting of the Committee, unless they are content with the item being considered in their absence.

## **5. Public Speaking**

- 5.1 Members of the public may make a statement or ask any question, subject to paragraph 5.7, during a period of up to 30 minutes set aside at the start of the meeting.
- 5.2 In respect of extraordinary meetings, members of the public may make a statement or ask any question, subject to paragraph 5.7, at the commencement of the item being considered for a period of up to 30 minutes.
- 5.3 Notice of any statement to be made or question to be asked must be given by delivering it in writing or by electronic mail to Democratic Services at least one working day before the day of the meeting. Each notice must give the name and contact details of the speaker or questioner.
- 5.4 Questions will be asked and speeches made in the order in which notice of them was received, except that the Chairman may group together similar questions or items to be spoken on. Each question or speech will be subject to a total time limit of five minutes.

- 5.5 A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to their original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in paragraph 5.7 or if the time limit for public questions has expired.
- 5.6 At any one meeting no person or organisation may submit more than two questions or statements on more than two items on the agenda of the relevant meeting and no more than six such questions or speeches will be tabled or delivered at any one meeting. If more than six notices of intention to speak are received, the first six received will be invited to attend to speak. Any questions tabled for that same meeting will be dealt with by way of written response or held over until the next meeting at the request of the questioner or speaker.
- 5.7 The Chief Executive may reject a question or prevent the right to speak if it
- (a) Is not about a matter for which the Overview and Scrutiny Committee has a responsibility
  - (b) Is defamatory, frivolous, objectionable, improper or offensive
  - (c) It is substantially the same as a question which has been put by a member of the public at a meeting of the Overview and Scrutiny Committee in the past six months
  - (d) Requires disclosure of confidential or exempt information
- 5.8 A record of statements and questions made and any responses to them will be recorded in the minutes of the meeting.

## **6. Attendance**

- 6.1 Each Overview and Scrutiny Committee or constituted Working Group may invite people, other than those referred to in rules relating to Councillors and Officers giving account to address it, to discuss issues of local concern and answer questions. It may, for example, wish to hear from residents, stakeholders and Councillors and Officers in other parts of the public sector and can invite such people to attend. Subject to any subsequent statutory provision, attendance is entirely optional.
- 6.2 All Councillors have the right to attend and speak at any Overview and Scrutiny Committee or Working Group
- 6.3 Any Councillor will have the right to make written submissions to any meeting of an Overview and Scrutiny Committee on any agenda item no later than 24 hours before the start of the meeting. Such submissions will be tabled at the meeting or circulated beforehand. A record of any submissions made and any responses to them will be recorded in the minutes of the meeting.

- 6.4 Any Councillor attending a meeting of an Overview and Scrutiny Committee may remain at the meeting even though the public has been excluded, unless the Overview and Scrutiny Committee, by resolution and specifying the reasons for doing so, requests them to leave.
- 6.5 No member of the Council will be entitled to attend a meeting of an Overview and Scrutiny Committee during the consideration of any item on the agenda should they have a Disclosable Pecuniary Interest, or any other interest, as set out in the Councillor Code of Conduct, in that item.
- 6.6 In fulfilling the Council's duties in relation to crime and disorder, an Overview and Scrutiny Committee may require the attendance before it of an Officer or employee of a responsible authority or of a co-operating person or body in order to answer questions.
- 6.7 No Overview and Scrutiny Committee may require a person to attend a meeting unless reasonable notice of the intended date of attendance has been given to that person.

## **7. Councillors and Officers giving account**

- 7.1 An Overview and Scrutiny Committee, or any constituted Working Group, as well as reviewing documentation in fulfilling the overview and scrutiny role, may reasonably require any Cabinet Member, the Chief Executive or any Officer to attend its meetings. It is their duty to attend if required and explain the following in relation to matters within their remit:
- (a) Any particular decision or series of decisions
  - (b) The extent to which the actions taken implement Council policy
  - (c) Their performance
- 7.2 Where any Councillor or Officer is required to attend an Overview and Scrutiny Committee or Working Group meeting under this provision, the Chairman of the Committee will inform the Proper Officer. The Proper Officer will then inform the Councillor or Officer in writing, giving at least five clear working days' notice of the meeting at which they are required to attend.
- 7.3 The notice will state the nature of the item on which they are required to attend and whether a report or supporting information is required to be produced for the meeting. Where a report or supporting information is required, the Councillor or Officer concerned will be given sufficient notice to allow for preparation of that document.
- 7.4 Where, in exceptional or unforeseen circumstances, the Cabinet Member, other Councillor or Officer is unable to attend a meeting on the required date,

the Committee or Working Group will, in consultation with the Councillor or Officer, arrange an alternative date for attendance.

## **8. Rights of Overview and Scrutiny Committee Members to Documents**

- 8.1 In addition to their rights as Councillors, members of the Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings, as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- 8.2 Nothing in this paragraph prevents more detailed liaison between Cabinet and the Overview and Scrutiny Committees, depending on the particular matter under consideration.

## **9. Reports by Overview and Scrutiny Committees**

- 9.1 Once an Overview and Scrutiny Committee has completed its deliberations on any matter it may forward a copy of its final report to the Proper Officer who will allocate it to either or both Cabinet and Full Council for consideration, according to whether the contents of the report have implications for the Council's Budget and Policy Framework or executive functions.
- 9.2 If the Proper Officer refers the matter to Full Council, they will also serve a copy on the Leader of the Council with notice that the matter is to be referred to Full Council. Cabinet will have up to six weeks in which to respond to the report and Full Council will not consider it within that period. When Full Council does meet to consider any referral from an Overview and Scrutiny Committee on a matter which impacts the Budget and Policy Framework, it will also consider the response of Cabinet to the proposals.
- 9.3 Where an Overview and Scrutiny Committee prepares a report for consideration by Cabinet in relation to a matter where the Leader of the Council has delegated decision-making power to another member of Cabinet, the Overview and Scrutiny Committee will submit a copy of its report to that individual for consideration. At the time of doing so, the Committee will serve a copy on the Proper Officer and the Leader of the Council.

9.4 If the Cabinet Member with individual decision-making power does not accept the recommendations of the Overview and Scrutiny Committee, they must refer the matter to the next available meeting of Cabinet for consideration before exercising their individual decision-making power and responding to the report in writing to the Overview and Scrutiny Committee. The Cabinet Member will respond to the Overview and Scrutiny Committee within six weeks of receiving the report. A copy of their written response will be sent to the Proper Officer and they will attend a future meeting to respond directly to the Committee.

## **10. Call-In**

10.1 Call-In should only be used in exceptional circumstances where there is evidence that suggests that a decision was not taken in accordance with the principles set out in Article 14 (Decision Making). Evidence may, for example, refer to inadequate consultation with stakeholders prior to a decision being made or an absence of good reasons for making the decision.

10.2 When a decision is made by Cabinet, an individual Cabinet Member or a Cabinet Committee, or a Key Decision is made by an Officer with delegated authority from Cabinet, or an Area Committee or under joint arrangements, the decision will be published as soon as is practically possible after the decision has been made. The Chairman of the relevant Overview and Scrutiny Committee and Political Group Leaders will be sent copies of the records of all such decisions within the same timescale by the person responsible for publishing the decision.

10.3 The decision notice will bear the date on which it is published and will specify when that decision will come into force and may then be implemented (on the expiration of five working days after the publication of the decision) unless it is called-in.

10.4 During that period, the Proper Officer will Call-In a decision for consideration by the relevant Overview and Scrutiny Committee if so requested by the Chairman of that Committee or any five members of the Council. Only six decisions can be called-in during a municipal year and no individual Councillor can request more than three call-ins in any one municipal year. The Proper Officer will notify the decision-maker of any Call-In received.

10.5 The Proper Officer will call a meeting of the relevant Overview and Scrutiny Committee on such a date as they may determine, following consultation with the Chairman of the Committee, or Vice-Chairman in their absence, and in any case as soon as possible after the Call-In request has been received.

10.6 If, having considered the decision, the relevant Overview and Scrutiny Committee is still concerned about it, then the Committee may refer it back to the decision-making person or body for reconsideration setting out in writing the nature of its concerns, or refer the matter to Full Council.

- 10.7 If referred back to the decision-making person or body, the decision-maker will be required to reconsider the decision as soon as is practically possible, amending the decision or not, before adopting a final decision.
- 10.8 If the matter is referred to Full Council and the Council does not object to a decision that has been made, then no further action is necessary and the decision will be effective in accordance with the provision below.
- 10.9 If Full Council does object, it has no power to make a decision in respect of any Cabinet decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the budget. Unless that is the case, Full Council will refer any decision to which it objects back to the decision-making person or body, together with its views on the decision. That decision-making body or person will then consider whether to amend the decision or not before reaching a final decision and implementing it.
- 10.10 The decision-making person or body, following the meeting of Full Council, will be required to reconsider the decision as soon as is practically possible, amending the decision or not, before adopting a final decision.
- 10.11 If Full Council decides that the decision is not within the existing Budget and Policy Framework, it may:
- (a) Amend the Financial Regulations or policy concerned to encompass that decision (in which case it can be implemented)
- Or
- (b) Agree that the decision is contrary to the Budget and Policy Framework and require the decision-maker to reconsider the matter in accordance with its findings
- 10.12 If, at any time, Area Committees with delegated powers are appointed, a procedure for Call-In of their decisions will be included as part of these Overview and Scrutiny Procedure Rules.

## **11. Call-in and Urgency**

- 11.1 The Call-In procedure set out above shall not apply where the decision being taken by Cabinet, individual Cabinet Members or Officers is urgent.
- 11.2 A decision will be urgent if any delay likely to be caused by the Call-In process would prejudice the Council's or the public interest. The record of the decision notice by which it is made public will 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 Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent will be required. In the absence of both, the Head of Paid Service and their nominee's consent will be required.

## **12. Councillor Call for Action**

- 12.1 Any Councillor can refer any local government matter relating to the functions of the authority that affect the Councillor's area, or any individual who lives or works in that area which is not an excluded matter, for consideration by the Overview and Scrutiny Committee responsible for those functions.
- 12.2 If a Councillor wishes to refer a Councillor Call for Action to the relevant Overview and Scrutiny Committee, they must complete the approved Councillor Call for Action pro-forma and submit this to the Chief Executive.
- 12.3 The Chief Executive, in conjunction with the Chairman of the Council, or Vice-Chairman in their absence, will assess whether the Councillor has completed the necessary checklist and if so, will determine to which Overview and Scrutiny Committee the matter stands referred. The issue will be placed on the agenda for the next meeting of that Committee.
- 12.4 Where approval for inclusion on the agenda is unlikely because the criteria has not been met, the Chairman of the Council, or Vice-Chairman in their absence, will liaise with the Councillor raising the Call for Action. If there is disagreement, the Call for Action will not be submitted to the Overview and Scrutiny Committee for determination.
- 12.5 Prior to considering the request, members of the relevant Overview and Scrutiny Committee will first confirm that the Call for Action is valid and meets the criteria in the checklist.
- 12.6 The Councillor raising the Call for Action will be asked to present the issue to the relevant Overview and Scrutiny Committee in person. If the Councillor raising the Call for Action is unable to attend, he or she may request another Councillor from their Ward to present it on their behalf. If no Ward Councillor is available to present the Call for Action, the item will be deferred to a future meeting. The presentation should include an indication of what the Councillor raising the Call for Action would see as a satisfactory solution.
- 12.7 The Committee will then consider the Call for Action and agree what should be done to resolve the issue.
- 12.8 It may be necessary to call witnesses to the meeting of the Overview and Scrutiny Committee, including Cabinet Members, Officers or external representatives. In making any recommendations for a solution on the matter before them, regard should be given to the resource implications for the Council.
- 12.9 Having considered and resolved the Call for Action as agreed, the relevant Overview and Scrutiny Committee will report the outcome to the Councillor raising the Call for Action.
- 12.10 The matter should not be considered separately by another Local Authority.

### **13. The Party Whip**

- 13.1 When considering any matter in respect of which a member of an Overview and Scrutiny Committee is subject to a party whip, the Councillor must declare the existence of the party whip and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration of the party whipping arrangements will be recorded in the minutes of the meeting.

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## **LICENSING PROCEDURE RULES**

### **1. Scope**

- 1.1 These procedure rules will apply to the Council's Licensing Committee and Alcohol, Entertainment and Late Night Refreshment Licensing Committee.
- 1.2 The Licensing Committee is responsible for taxi, gaming, entertainment, food and miscellaneous licensing.
- 1.3 The Alcohol, Entertainment and Late Night Refreshment Licensing Committee will undertake and exercise those functions of the Licensing Authority as prescribed under the Licensing Act 2003, together with any associated functions of the Council.

### **2. Membership**

- 2.1 The Licensing Committee will be composed of 11 Councillors.
- 2.2 The Alcohol, Entertainment and Late Night Refreshment Licensing Committee will consist of 11 Councillors of the Licensing Committee.
- 2.3 The membership of the Licensing Committee and Alcohol, Entertainment and Late Night Refreshment Licensing Committee will comply with the Political Balance Rules in Section 15 of the Local Government and Housing Act 1989.
- 2.4 Membership of the Licensing Committee and Alcohol, Entertainment and Late Night Refreshment Licensing Committee will be subject to having appropriate skill, experience and mandatory training.
- 2.5 Co-opted Members onto the Licensing Committee or Alcohol, Entertainment and Late Night Refreshment Licensing Committee can only be approved by Full Council, for such limited period or for such specific purposes as it sees fit.
- 2.6 The Sub-Committee of the Alcohol, Entertainment and Late Night Refreshment Licensing Committee will comprise of three members of that Committee.

### **3. Meetings of the Licensing Committee and Alcohol, Entertainment and Late Night Refreshment Licensing Committee**

- 3.1 Ordinary meetings of the Licensing Committee and Alcohol, Entertainment and Late Night Refreshment Licensing Committee will be held on such dates as Full Council at its Annual Meeting decides. Any variation to the published dates and times for meetings will be undertaken in accordance with the process set out in Council Rules of Procedure in Part 4 of this Constitution.

- 3.2 The Licensing Committee and Alcohol, Entertainment and Late Night Refreshment Licensing Committee may hold extraordinary meetings as they consider necessary. Extraordinary meetings of any Committee may be called as and when deemed appropriate by the relevant Chairman or Vice-Chairman, any three members of the Committee or by the Chief Executive.
- 3.3 No business will be transacted at an extraordinary meeting of a Licensing Committee or Alcohol, Entertainment and Late Night Refreshment Licensing Committee unless notice of that business is included on the summons for the meeting.
- 3.4 It is a legislative requirement that only Members of the Licensing Committee are entitled to sit on the Alcohol, Entertainment and Late Night Refreshment Licensing Committee. There is no provision for substitutions.

#### **4. Agenda items for Meetings**

- 4.1 The Licensing Committee will consider the following business:
- (a) Any declarations of Councillors' interests
  - (b) The minutes of the previous meeting
  - (c) Applications for dealing with renewals, revocations, or accumulation of points for Hackney Carriage or Private Hire drivers or vehicles
  - (d) Applications for licenses made under the Licensing Act 2003
  - (e) Any other report dealing with licensing functions
- 4.2 The Alcohol, Entertainment and Late Night Refreshment Licensing Committee will consider the following business:
- (a) Any declarations of Councillors' interests
  - (b) The minutes of the previous meeting
  - (c) Applications or reviews made under the Licensing Act 2003
  - (d) Any other report dealing with licensing functions

## **5. Attendance at Meetings**

- 5.1 All Councillors have the right to attend any meeting of the Licensing Committee or Alcohol, Entertainment and Late Night Refreshment Licensing Committee and will be entitled to speak. This does not apply in respect of the Committee's consideration of applications.
- 5.2 In respect of applications, Councillors may only speak at the Committee where the application is being determined if they have made representations as follows:
- (a) in the case of a review of a premises licence following a closure order, at any time up to and including seven days starting on the day after the day on which the authority received the notice under section 165(4) in relation to the closure order and any extension to it
  - (b) in any other case, at any time during a period of 28 consecutive days starting on the day after the day on which the application to which it relates was given to the authority by the applicant
- 5.3 Any Councillor attending a meeting of the Licensing Committee or Alcohol, Entertainment and Late Night Refreshment Licensing Committee may remain at the meeting even though the public has been excluded, unless the Committee, by resolution and specifying the reasons for doing so, requests them to leave.
- 5.4 No member of the Council will be entitled to attend a meeting of a Licensing Committee or Alcohol, Entertainment and Late Night Refreshment Licensing Committee during the consideration of any item on the agenda should they have a Disclosable Pecuniary Interest, or any other interest, as set out in the Councillor Code of Conduct, in that item.

## **6. Protocol for Considering Applications**

- 6.1 The Council's legal representative will introduce those present and confirm who is in attendance with regard to any applications before the Committee, as follows:
- (a) Introduction of Councillors and Officers
  - (b) Introduction of applicants
  - (c) Introduction of statutory authority representatives
  - (d) Confirmation of interested parties wishing to speak

- 6.2 The Licensing Officer will provide a description of the matter before the Committee and the relevant considerations and update the Committee on any matters arising on the item since the agenda was published. They can then be asked any questions by those present in the following order:
- (a) The Applicant
  - (b) Members of the Committee
  - (c) Other interested parties or statutory authority representatives
- 6.3 The applicant will then present their application and respond to questions from the following parties:
- (a) The Licensing Officer
  - (b) Members of the Committee
  - (c) Other interested parties or statutory authority representatives
- 6.4 The statutory authority representatives will then make their representation and be questioned by the following:
- (a) The Licensing Officer
  - (b) The applicant
  - (c) Members of the Committee
  - (d) Other interested parties or statutory authority representatives
- 6.5 Any other interested parties present will then make their representations and be questioned by the following:
- (a) The Licensing Officer
  - (b) Members of the Committee
  - (c) The applicant
  - (d) Any other interested parties or statutory authority representatives
- 6.6 The Licensing Officer will then give their closing statement and inform the Committee of all options available to it when determining the application before it.
- 6.7 The applicant, interested parties and statutory authority representatives will then give their closing statements.

- 6.8 All parties will then leave the meeting room whilst the Committee deliberates the application before it.
- 6.9 Once the Committee has reached a decision all parties will be invited back into the meeting room and the decision of the Committee will be read out.

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## **PLANNING PROCEDURE RULES**

### **1. Scope**

- 1.1 These procedure rules will apply to the Council's Planning Committee.
- 1.2 The Planning Committee is responsible for carrying out the Council's functions relating to town and country planning and development control legislation as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities (England) Regulations 2000 and high hedges pursuant to Part 8 of the Anti-Social Behaviour Act 2003.

### **2. Membership**

- 2.1 The Planning Committee will be composed of 13 Councillors.
- 2.2 The membership of the Planning Committee will comply with the Political Balance Rules in Section 15 of the Local Government and Housing Act 1989.
- 2.3 Membership of the Planning Committee will be subject to having appropriate skill, experience and mandatory training.
- 2.4 Co-opted Members onto the Planning Committee can only be approved by Full Council, for such limited period or for such specific purposes as it sees fit.

### **3. Meetings of the Planning Committee**

- 3.1 Ordinary meetings of the Planning Committee will be held on such dates as Full Council at its Annual Meeting decides. Any variation to the published dates and times for meetings will be undertaken in accordance with the process set out in Council Rules of Procedure as set out in Part 4 of this Constitution.
- 3.2 The Planning Committee may hold extraordinary meetings as they consider necessary. Extraordinary meetings of any Committee may be called as and when deemed appropriate by the relevant Chairman or Vice-Chairman, any three members of the Committee or by the Chief Executive.
- 3.3 No business will be transacted at an extraordinary meeting of a Planning Committee unless notice of that business is included on the summons for the meeting.

#### **4. Attendance at Meetings**

- 4.1 All Councillors have the right to attend any meeting of the Planning Committee and are entitled to speak.
- 4.2 Any Councillor attending a meeting of the Planning Committee may remain at the meeting even though the public has been excluded, unless the Committee, by resolution and specifying the reasons for doing so, requests them to leave.
- 4.3 No member of the Council will be entitled to attend a meeting of the Planning Committee during the consideration of any item on the agenda should they have a Disclosable Pecuniary Interest, or any other interest, as set out in the Councillor Code of Conduct, in that item.

#### **5. Public Speaking**

- 5.1 Any person wishing to speak at the meeting under this provision will notify Democratic Services at least one day prior to the meeting. Any person failing to make such a notification will not be allowed to speak.
- 5.2 The order of addressing the Planning Committee when considering planning applications will be:
  - (a) District Councillor for the relevant electoral ward\*
  - (b) Any representation from the relevant Town or Parish Council
  - (c) Any objectors to the application
  - (d) Any supporter of the application
  - (e) The applicant or agent for the application

\* The relevant Ward Councillor is defined as Councillors representing those wards in which a planning application falls, or adjacent wards.

- 5.3 Each person will be allowed to speak for a maximum of three minutes and may be required to answer questions of clarity.
- 5.4 Only one speaker for the applicant or for the Town or Parish Council will be allowed to speak. If there are several supporters or objectors to an application then they are encouraged to appoint a representative to present a joint case.
- 5.5 Numbers of objectors and supporters who can speak will be dependent on the time of the meeting. The Chairman, Vice-Chairman or person presiding will ensure equity of opportunity between various parties.

- 5.6 Questions may only be put by members of the Committee to the applicant, an agent and/or a specialist advisor/consultant whether speaking on behalf of the application, for the grant of any application, or against the grant of an application. Questions must be relevant to the application being considered and limited to the following matters:
- (a) Anything that they have specifically referenced in their speech
  - (b) Anything that is contained in the application, documents published with the agenda pack relating to the application or any supplementary documents published relating to the application
  - (c) Anything that has been made in a representation by the speaker in respect of the application
- 5.7 Questions can be asked of public speakers by the Chairman, Vice-Chairman or person presiding, but only to establish the source of any material facts stated by a public speaker. Questions may be suggested to the speaker if they are felt, by the Chairman, Vice-Chairman or person presiding, to be relevant.
- 5.8 Questions to individual speakers should not exceed 10 minutes in total.
- 5.9 Speakers are advised that comments should be limited to material planning matters. Any derogatory or defamatory remarks may leave speakers open to legal action.
- 5.10 Any person wishing to include photographs or any other supporting information as part of their three minute address to the Committee must ensure that this information is received by the relevant case officer at least one working day prior to the meeting. Hard copy information for circulation to members of the Committee should be submitted to the relevant case officer at least two working days prior to the meeting. Material presented after these deadlines will be accepted at the discretion of the Chairman, Vice-Chairman or person presiding.

## **6. Rules of Debate for Planning Applications**

- 6.1 The Planning Officer will commence consideration of the application by providing a brief description of the matter and relevant considerations and update the Committee on any matters arising on the item since the agenda was published.
- 6.2 The Chairman will invite those members of the public entitled to speak to address the Committee as set out in paragraph 6 above.
- 6.3 The Committee will then debate the application in accordance with Council Procedure Rules as set out in Part 4 of this Constitution.

## **7. Local Code of Practice**

- 7.1 Due consideration should be given to the Local Code of Practice as set out in Part 5 of this Constitution which set out the practices and procedures that Councillors and Officers at South Kesteven District Council should follow when determining planning applications.

## **OFFICER EMPLOYMENT, DISCIPLINARY ACTION AND DISMISSAL PROCEDURE RULES**

### **1. Recruitment and Appointment – Declarations**

- 1.1 The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor, Officers of the Council, or of the partner of such persons.
- 1.2 No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by them.

### **2. Recruitment and Appointment – Seeking Support for Appointment**

- 2.1 Subject to paragraph 2.3, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 2.2 Subject to paragraph 2.3, no Councillor will seek support for any person for any appointment with the Council.
- 2.3 Nothing in paragraphs 2.1 or 2.2 above will preclude a Councillor from giving a written reference for a candidate in connection with an application for employment.

### **3. Recruitment of Chief Officers**

- 3.1 Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:
  - (a) Draw up a statement specifying:
    - (i) the duties of the officer concerned; and
    - (ii) any qualifications or qualities to be sought in the person to be appointed
  - (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

- (c) Make arrangements for a copy of the statement mentioned in paragraph 3.1(a) to be sent to any person on request.

#### **4. Appointment, Disciplinary Action and Dismissals of Staff**

- 4.1 The function of appointing and dismissing staff and setting the terms and conditions of employment is allocated by statute to Council rather than Cabinet. The Council has adopted mandatory Standing Orders, as set out in these Procedure Rules, the effect of which is as follows:
- (a) All appointments, disciplinary action and dismissals of staff below the post of Assistant Director, must be conducted at officer level without any participation by Councillors.
  - (b) For Assistant Directors and above, Councillors can be involved in appointments, disciplinary action and dismissals. This may be through an Employment Committee, which must include at least one member of Cabinet but, where the decision relates to the appointment or dismissal of the Head of Paid Service (Chief Executive), Chief Finance Officer or Monitoring Officer, the Procedure Rules outlined below must be followed.
  - (c) Normally the appointment and discipline of Assistant Directors will be the responsibility of the Head of Paid Service. Appointment and discipline of the Head of Paid Service, Chief Finance Officer or Monitoring Officer, whilst ultimately the responsibility of Full Council will be undertaken as outlined below.
  - (d) For the appointment or dismissal of Assistant Directors and above, Cabinet is given a right of objection. The person or body taking the decision must inform Cabinet who they propose to appoint or dismiss, together with supporting information, and the Leader can then object on Cabinet's behalf. There is no right of veto, but material objections should be taken into account by the decision maker.
  - (e) In respect of the Head of Paid Service, Chief Finance Officer and Monitoring Officer, if the Council wishes to investigate any allegations of serious misconduct or incompetence, which might lead to dismissal, the Council must invite relevant independent persons to be considered for appointment to a Panel, with a view to appointing at least two such persons to that Panel. (A relevant independent person means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority Considers appropriate). This procedure does not apply to redundancy or ill health dismissals.

## **Mandatory Standing Orders**

### **1. Appointment, Disciplinary Action and Dismissal of Staff**

#### 1. In this Part-

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000;

“disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

“Cabinet” and “Cabinet leader” have the same meaning as in Part II or the 2000 Act;

“member of staff”. means a person appointed to or holding a paid office or employment under the authority; and

“proper officer” means an officer appointed by the authority for the purposes of the provisions in this Part.

2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service or by an officer nominated by him.
3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against –
  - (a) the officer designated as the head of the authority’s paid service;
  - (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
  - (e) a person appointment in pursuance of section 9 of the 1989 Act (assistants for political groups)

4. (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to him/her or, as the case may be, must approve that dismissal before notice of dismissal is given to him/her.
- (2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in subparagraph (a), (b), (c) or (d) or paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.
5. (1) In this paragraph, "appointer" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, the committee, subcommittee or officer, as the case may be.
- (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointer until:-
  - (a) the appointer has notified the proper officer of the name of the person to whom the appointer wishes to make the offer and any other particulars which the appointer considers are relevant to the appointment;
  - (b) the proper officer has notified every member of the executive of the authority of -
    - (i) the name of the person to whom the appointer wishes to make the offer;
    - (ii) any other particulars relevant to the appointment which the appointer has notified to the proper officer, and
    - (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and

- (c) either -
  - (i) the cabinet leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointer that neither he nor any other member of the cabinet has any objection to the making of the offer;
  - (ii) the proper officer has notified the appointer that no objection was received by him within that period from the cabinet leader; or
  - (iii) the appointer is satisfied that any objection received from the cabinet leader within that period is not material or is not well-founded.
  
- 6. (1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, subcommittee or other officer, as the case may be.
  
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until –
  - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - (b) the proper officer has notified every member of the executive of the authority of
    - (i) the name of the person who the dismissor wishes to dismiss;
    - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
    - (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and

- (c) either -
  - (i) the cabinet leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the dismissor that neither he nor any other member of the executive has any objection to the dismissal
  - (ii) the proper officer has notified the dismissor that no objection was received by him within that period from the cabinet leader; or
  - (iii) the dismissor is satisfied that any objection received from the cabinet leader within that period is not material or is not well-founded.

7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by -

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

## **2. Disciplinary Action**

In the following paragraphs: -

- (a) “the 2011 Act” means the Localism Act 2011
- (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 (c);
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
- (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 (d) for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;

- (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
  - (g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.
1. A relevant officer may not be dismissed by an authority unless the procedure set out below is complied with.
  2. The authority must invite relevant independent persons (to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
  3. In paragraph 2 above “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
  4. Subject to 5 below, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 2 in accordance with the following priority order
    - (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
    - (b) any other relevant independent person who has been appointed by the authority;
    - (c) a relevant independent person who has been appointed by another authority or authorities.
  5. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 4 but may do so.
  6. The authority must appoint any Panel at least 20 working days before the relevant meeting.
  7. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular:-
    - (a) any advice, views or recommendations of the Panel;
    - (b) the conclusions of any investigation into the proposed dismissal; and
    - (c) any representations from the relevant officer.

8. Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

## **TEMPORARY APPOINTMENTS TO TOWN OR PARISH COUNCILS PROCEDURE RULES**

### **1. Scope**

- 1.1 This process enables South Kesteven District Council to make an Order to appoint persons to Town or Parish Councils in accordance with Section 91 of the Local Government Act 1972.

### **2. Procedure to Make Temporary Appointments to Town and Parish Councils**

- 2.1 The Town or Parish Clerk advises the Monitoring Officer that the Council is unable to operate due to being inquorate.
- 2.2 The Monitoring Officer verifies the number of seats on the Town or Parish Council and that it is inquorate. The number of appointments required for it to become quorate is then identified.
- 2.3 The Chief Executive will offer the temporary position of Town or Parish Councillor in the following order:
- (a) District Councillor(s) for the Electoral Ward in which the Town or Parish is located
  - (b) County Councillor for the Electoral Division in which the Town or Parish is located
  - (c) District Councillor(s) for adjacent Electoral Wards to which the Town or Parish is located
  - (d) In consultation with Group Leaders, other Councillors will be considered and may include Town or Parish Councillors from adjacent Parishes
- 2.4 Any Councillor may decline the appointment, in which case the offer of appointment will continue in order until a quorum has been achieved.
- 2.5 All appointments must be made by Order under Section 91(1) of the Local Government Act 1972.
- 2.6 A report detailing the action taken will be submitted to the next meeting of Full Council, for information.
- 2.7 In the event that appointments cannot be made a report will be submitted to the next meeting of Full Council for Councillors to consider the way forward for the Town or Parish Council.

- 2.8 In accordance with Section 91(3) of the Local Government Act 1972, the Monitoring Officer will forward two copies of the Order to the Secretary of State. A copy will also be sent to the Clerk of the Town or Parish Council for information.
- 2.9 The Order is to stipulate the names of the appointed persons and the latest date their appointment will expire.

# Financial Regulations

## January 2026



**SOUTH  
KESTEVEN  
DISTRICT  
COUNCIL**

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## 1. Introduction

- 1.1 Financial Regulations provide the internal framework for managing the Council's financial affairs. They apply to every Member and officer of South Kesteven District Council and anyone in the public or private sector who acts on behalf of the Authority.
- 1.2 Throughout these Financial Regulations, the title Chief Finance Officer will be used to denote the designated Section 151 Officer of the Council. The responsibilities of the Chief Finance Officer are documented within each of the specific areas listed.
- 1.3 The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the Council for approval.
- 1.4 It is the responsibility of Directors to ensure that all officers in their directorates are aware of the existence and content of the Council's Financial Regulations, as well as other internal regulatory documents, and also confirm that they comply with them.
- 1.5 It is the responsibility of the Chief Finance Officer to provide advice and guidance to reinforce the Financial Regulations that Members, officers and others acting on behalf of the Council are required to follow.

## 2. The Medium Term Financial Strategy

### What is the Medium Term Financial Strategy?

- 2.1 The **Medium Term Financial Strategy** is the plan which sets out the Authority's commitment to provide services that meet the needs of people locally and that represent good value for money. It sets out what we aim to do over the next three years, having listened to the views of our communities and considers funds available to the Council.

### Why is the Medium Term Financial Strategy important?

- 2.2 The Strategy helps us to meet our statutory responsibilities in respect of financial planning and is critical to ensuring that the Council has a clear understanding of the level of available resources, the costs of delivering existing services and plans for new services. Financial planning facilitates strategic choices around service delivery, efficiency and service reductions.
- 2.3 The Strategy is approved by Full Council and includes information on the spending plans of all services and the intended level of Council tax.

### Key Controls

- 2.4 The strategy is reviewed every three years in line with the processes for reviewing and updating the Council's Corporate Strategy but updated annually to make sure it reflects:
  - the most recent estimate of resources available
  - the budget requirement – which may change as a result of updating estimated resources
  - updated operational plans for each Council Service

- any changes in the national Local Government Funding

### **3. Revenue Budget Plan**

#### **What is the Budget Plan?**

- 3.1 The Council's budget plan is a three-year income and expenditure plan. It details all known expected expenditure and income from the delivering of Council Services and compares these requirements to the funding available. The budget plan focuses on the priorities set by Council.

#### **Why is the Budget Plan important?**

- 3.2 The budget plan helps us to meet our statutory responsibilities for financial planning. All local authorities are required to prepare a budget annually which is then approved by Full Council. This is supported by a statement by the Chief Finance Officer regarding the robustness of the budget as proposed and the adequacy of general balances and reserves.
- 3.3 The plan also helps us ensure, at a more detailed level, that resources are allocated towards the delivery of council priorities. The process of developing the budget helps us to assess and balance any gaps between what we estimate it will cost us to deliver plans, and the money available to do this.

#### **Key Controls**

- 3.4 Budget planning begins in September of the preceding financial year and the following year's budget proposals together with an indicative two-year budget is presented to Members in February/March at full Council.
- 3.5 Detailed estimates of costs and income are developed for each service.
- 3.6 There may be additional in-year changes agreed in line with the approved levels, if so, both these costs and any ongoing costs will need to be built into the ongoing budget plan.

#### **Responsibilities of Chief Finance Officer**

- To develop the budget plan on an annual basis and to ensure a balanced budget is approved.
- To present the budget to Members for approval in February/March prior to the start of each financial year.
- To undertake the budget plan in accordance with accounting/statutory guidance.
- To ensure the impact of any additions to budgets in-year are understood and the impact of this change on the overall financial position of the Council
- To ensure any additions to budgets in-year are built into future budget planning processes.

## **Responsibilities of Directors**

- To provide information that may be requested in relation to the budget plan.
- To support the budget setting process.
- To produce an accurate business case to form part of any request for additional in-year increases to budgets (see Appendix A)

## **4. Capital Programme**

### **What is the Capital Programme?**

- 4.1 The Capital Programme is the budgeted plan of the capital schemes that the Authority is undertaking or planning to undertake. The development of the Capital Programme is in accordance with the Council's Capital Strategy. Each year, Directors consider Capital schemes to be included in the Capital Programme, which are then scrutinised through an approval process before being included in the Capital Programme for consideration by Cabinet and ultimately Council.

### **Why is the Capital Programme important?**

- 4.2 Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs. It is important that the 'Whole Life Cost' of any capital schemes are considered before approval is given, to ensure adequate funding has been identified. This is an integral part of the budget setting process.
- 4.3 The Government places strict controls on the financing capacity of the Authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.
- 4.4 Having a structured approach which reviews all capital scheme proposals helps ensure that the Capital Programme links into the Council's priorities.
- 4.5 The Capital Programme ensures the Authority takes a structured approach to the management of its assets.
- 4.6 There may be additional in-year changes agreed in line with the agreed levels, if so, both these costs and any ongoing costs will need to be built into the ongoing budget plan.

### **Key Controls**

- 4.7 All schemes included in the Capital Programme require a business case completing which would cover:
- project overview;
  - objectives and critical success factors;
  - capital expenditure;

- associated revenue expenditure to be completed;
- the source of funding to be identified.
  - These are subject to a rigorous review process, culminating in approval by full Council.
  - Where appropriate, schedules of individual projects within large schemes approved by the full Council must be submitted to Cabinet for approval.
  - The capital schemes are developed from asset management plans or invest to save schemes.
  - Accountability for each proposal is accepted by a named manager.

#### 4.8 **Responsibilities of Chief Finance Officer**

- To develop the capital programme on an annual basis for approval.
- To present the budget to Council for approval prior to the start of each financial year.
- To identify the funding sources of the proposed Capital Programme ensuring any revenue consequences are taken account of in the overall budget setting process.
- To determine the definition of 'capital' having regard to government regulations and accounting requirements.
- To ensure the impact of any additions to budgets in-year are understood and the impact of this change on the overall financial position of the Council.
- To ensure any additions to budgets in-year are built into future budget planning processes.

#### 4.9 **Responsibilities of Directors**

- Where a capital scheme is required to be included in or added to the Capital Programme, the responsible officer shall submit a capital business case for the scheme, including possible alternatives with up-to-date estimates of capital and revenue costs;
- To comply with guidance concerning capital schemes and controls.
- To ensure that adequate records are maintained for all capital contracts.
- Ensure that no capital expenditure is incurred on any scheme unless:
  - it is within the approved budget for that scheme
  - the nature of the spend is in line with the original purpose approved for the scheme

- government approval to the scheme has, where appropriate, been obtained
  - the source of funding has been identified
  - any revenue consequential expenditure which arises from the proposed capital expenditure has been accepted as a commitment by the Council
- Ensuring that the appropriate approval is obtained to incur additional capital expenditure which is to be financed wholly by additional grants or other income (see Appendix A).
  - To produce an accurate business case to form part of any request for additional in-year increases to budgets (see Appendix A)

## 5. Budget Guidance and the Budget Timetable

### What is Budget Guidance and the Budget Timetable?

- 5.1 Budget Guidance sets out what we need to do in order to prepare the Council's annual budget. The Budget Timetable outlines the timeframe against activities which will take place, including the key deadlines we ask all involved in budget preparation to follow.

### Why is Budget Guidance and the Budget Timetable important?

- 5.2 The guidance ensures that budgets are produced accurately and consistently in line with financial procedures. It also ensures that the level of detail and what is included meets legal requirements.  
The timetable ensures that the budgets are produced and approved by Council within the dates set out in legislation.

### Key Controls

- 5.3 The budget guidance and timetable are produced on an annual basis
- 5.4 The guidance and timetable will focus on the following:
- The full year effect of previous year's decisions
  - Consequences of the approved capital programme
  - Adjustments in relation to specific 'one year only' allocations and other time expired funding
  - Other specific Council decisions
  - Budget assumptions on:
    - Levels of pay and the price inflation which is to be applied
    - Council Tax increase
    - Funding allocations from Central Government
    - Superannuation contribution rates
    - Levels of Discretionary fees and charges
  - Ensuring approval of budget by full Council

- Ensuring Council Tax is set by statutory dates
- The format complies with legal requirements and reflects the accountabilities of Service Delivery

#### 5.5 **Responsibilities of Chief Finance Officer**

- To determine the format of the budget that is approved by the Council
- To set a balanced budget in order to meet the Section 151 Officers responsibilities
- To produce and distribute the guidance and timetable on an annual basis to officers and Members
- To present the timetable to Members for approval prior to the start of the process
- To ensure returns are made to central government in line with their requirements

#### 5.6 **Responsibilities of Directors**

- To comply with the accounting guidelines and timetable provided.

## 6. **Budget Control and Monitoring**

### **What is Budget Monitoring and Control?**

6.1 A budget is the planned income and expenditure for a service area or cost centre. Budgetary control and monitoring is the process used by budget managers, supported by officers within Financial Services, to review revenue and capital expenditure against their budgets, and project estimated spending to the end of the financial year. Accountability is achieved through formal reporting of the budget position, carried out at agreed times, and in line with the risk ratings referred to as RAG (red, amber, green) ratings.

### **Why is Budget Monitoring and Control important?**

6.2 Budget monitoring ensures that once the budget has been approved by the Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is the process of monitoring financial activity against the financial plan and, where necessary, taking the appropriate action in a timely manner to address any movement from the plan.

6.3 Budget monitoring and control also provides the mechanism that calls to account managers responsible for defined elements of the budget. It is therefore key that effective processes for monitoring of budgets are in place and adhered to.

6.4 To assist with the above it is essential that quality information is available to budget managers to ensure that sound financial decisions can be made, especially where spending may differ from planned expenditure.

6.5 To ensure that the Authority in total does not overspend, each Service is required to manage its own expenditure within the budget allocated to it.

6.6 **Key Controls**

- Budget managers should be responsible only for income and expenditure that they can influence.
- There is a nominated budget manager for each cost centre heading.
- Budget managers accept accountability for their budgets, the level of service to be delivered and understand their financial responsibilities.
- Budget managers follow an approved certification process for all expenditure.
- Income and expenditure are properly recorded and accounted for.
- Performance levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.

6.7 **Responsibilities of Chief Finance Officer**

- To establish an appropriate framework of budgetary management and control that ensures that:
  - budget management is exercised within annual cash limits unless the Council agrees otherwise
  - each Director has available timely information on income and expenditure which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
  - responsibilities
- To ensure compliance with the agreed virement procedures
- To prepare and submit reports on the Authority's projected income and expenditure compared to budget on a regular basis and to make recommendations to Members regarding any changes to the budget
- To submit reports to Overview & Scrutiny, in consultation with the relevant Director, where a Director is unable to balance expenditure and resources within existing approved budgets under their control

6.8 **Responsibilities of Budget Holders**

- To maintain budgetary control within their service, as outlined above and to ensure that all income and expenditure is properly recorded and accounted for
- To ensure that an accountable budget manager is identified for each item of income and expenditure under their control, grouped together in a series of cost centres. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure

- To ensure that budget spending remains within the service's overall budget, and that individual budget heads are not overspent. This may require appropriate corrective action to be taken where significant variations from the approved budget are forecast
- To ensure that a monitoring process is in place to review performance levels of service in conjunction with the budget and that it is operating effectively
- To report and obtain prior approval by Council and Cabinet, where appropriate, before incurring expenditure on schemes of whatever amounts, that:
  - create financial commitments in future years above the budget level (except where if this is wholly offset by external funding or charges for work carried out on behalf of third parties – see sections 33 and 34 respectively)
  - change existing policies, initiate new policies or cease existing policies or
  - materially extend or reduce the Authority's services
- Emergency expenditure – no proposal should be submitted to Cabinet/Council involving expenditure during a financial year where no provision has been made in the current budget. Only in the case of either urgency or on a matter in which the Council is under a legal obligation, any Council director in consultation with the Cabinet Member for Finance, the Chief Executive and Chief Finance Officer, shall have power to agree that the expenditure will be met subject to the action being reported to Cabinet (see Appendix A for limits)
- To ensure compliance with the scheme of virement
- To consult with the relevant Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area

## **7. Scheme of Virement**

### **What is a Virement?**

- 7.1 A virement is the transfer of budget from one specific area to another. This can either be a transfer within revenue budgets or capital budgets but not between revenue and capital. There are different limits depending on the reason for the change and whether or not it is a one-off transfer or a permanent one. The limits are set out in Appendix A.

### **Why is the Scheme of Virement important?**

- 7.2 The scheme of Virement is intended to enable the Budget Holders to manage budgets with a degree of flexibility within the overall framework determined by the Council, and therefore optimise the use of resources.
- 7.3 **The key controls are:**

- **Revenue and Capital**
  - Virement into a receiving budget may only occur provided that the donating cost centre will not subsequently become overspent;
  - Virements which involve a key decision should be subject to a Cabinet Report and the Council's decision-making process in line with the Council's Constitution; and
  - A record of all virements must be kept.
  
- **Revenue**
  - Permanent virements can only be processed if the donating cost centre has permanent budget provision to fund the requested virement;
  - Only in year virements can be agreed for Employee budgets unless the virement is linked to a structural change that has received the necessary approvals; and
  - All virements must be authorised in line with the delegated authority approvals.
  - Additions to any revenue or capital budget can be made in accordance with the limits set out in Appendix A.
  
- **Capital**
  - Provisional budgets into subsequent projects require Cabinet approval;
  - Transfers between schemes require Cabinet approval;
  - Capital Schemes must have a matching expenditure and financing budget; and
  - Transfers that are contained within a scheme must be authorised in line with the delegated authority approvals.

#### 7.4 **Responsibilities of Chief Finance Officer**

- To prepare virement procedures for approval by the Council;
- To monitor compliance with the agreed virement procedures; and
- To report approved virements that change an overall budget.

#### 7.5 **Responsibilities of Directors**

- To ensure compliance with the agreed virement procedures;
- No virement relating to a specific financial year should be made after 31 March in that year;
- To ensure that virements are authorised as per the delegated powers approved by Council;
- A virement that is likely to impact on the level of service activity of another Director, should be progressed only after agreement with the relevant Director; and
- To ensure that requests for virements are not split into a series of smaller virements to circumvent approval requirements.

## 8. Accounting Policies

### What are Accounting Policies?

- 8.1 Accounting policies are the accounting principles, rules and procedures selected and consistently followed by the Council, which dictate what and how financial information is accounted for and presented in the Council's Annual Statement of Accounts. The key accounting policy guidelines adopted by the Council are the *CIPFA Code of Practice on Local Authority Accounting*. These interpret International Financial Reporting Standards for local authorities.

### Why are Accounting Policies important?

- 8.2 They are important as they provide:

- a clear and open view of the financial affairs of the Council;
- a level of disclosure which is considered to be relevant, informative and appropriate;
- a consistent standard in the process of preparation and presentation of financial statements; and
- an ability to compare between local authorities as required.

### 8.3 Key Controls

- Systems of internal control are in place to ensure that financial transactions are lawful.
- Accounting policies are reviewed annually to ensure they comply with the latest developments in the CIPFA code of practice.
- Suitable accounting policies are selected and applied consistently and approved by Governance and Audit Committee.
- Proper accounting records are maintained and to the required standard.
- Financial statements are prepared which present fairly the financial position of the Authority and its expenditure and income.
- Inspection of accounts by External Audit.

### 8.4 Responsibilities of Chief Finance Officer

- To select suitable accounting policies and to ensure that they are applied consistently.
- To ensure the accounting policies are reviewed annually and are set out in the Annual Statement of Accounts, which is prepared in line with legislative requirements.
- To present any amendments to the accounting policies to the Governance and Audit Committee.

## 8.5 Responsibilities of Directors

- To comply with the accounting policies and guidelines approved by the Chief Finance Officer and to supply the Chief Finance Officer with the information when required.
- To keep proper accounting records that are in line with accounting policies.

## 9. Accounting Records and Returns

### What are Accounting Records and Returns?

9.1 All of the Council's transactions, commitments, contracts and other essential accounting information must be recorded fully, accurately and on a timely basis. Accounting Records must also provide an audit trail leading from the source of income or expenditure through to the accounting statements.

9.2 The Council's corporate financial information system is considered the prime source of financial information. The Revenue and Capital accounts, balance sheet, and other financial records, are held within the General Ledger, and its sub-systems including Debtors, Creditors and e-Procurement. Together they form the Council's financial records, from which, along with the Council Tax and Business Rates Systems and the Asset register, the financial statements and financial returns are produced.

### Why are Accounting Records and Returns important?

9.3 During the financial year, the Council completes financial returns relating to the Council either as a whole or for certain individual services. These can be for a variety of reasons and to different audiences, including Central Government Departments, Members, Auditors and the general public. The information is mainly required by legislation. Maintaining proper accounting records is one of the ways in which the Authority discharges its responsibilities for stewardship of public resources. The Authority also has to comply with legislation and statute, International Financial Reporting Standards, grant conditions and discharge its duties in line with Her Majesty's Revenue and Customs (HMRC) requirements.

9.4 The Authority has a statutory responsibility to prepare its annual accounts to present fairly the results of its operations during the year. These are subject to external audit who provide assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Authority's resources. The auditors do this by examining the accounting records of the Authority.

## 9.5

### **Key Controls**

- The key controls for accounting records and returns are:
  - all Directors, Budget Managers and Finance officers operate within the required accounting standards and timetables as outlined within the guidance issued;
  - all the Authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis;
  - procedures are in place to enable accounting records to be reconstructed in the event of systems failure;
  - reconciliation procedures are carried out to ensure transactions are correctly recorded; and
  - prime documents are retained in accordance with legislative and other requirements.

## 9.6

### **Responsibilities of Chief Finance Officer**

- To issue instructions considered necessary for carrying out the daily financial work of the Council, after consulting with Directors where needed.
- To determine the accounting procedures and records for the Authority.
- To arrange for the compilation of all accounts and accounting records under their direction.
- To ensure the proper retention of financial documents in accordance with the requirements set out in the Authority's document retention schedule.
- To stipulate the date by which all financial records for any financial year shall be completed.
- To prepare and publish the audited Statement of Accounts of the Authority for each financial year, in accordance with the statutory timetable and with the requirement for the Council to approve the Statement of Accounts before the statutory deadline.
- To make proper arrangements for the audit of the Authority's Annual Statement of Accounts in accordance with the Accounts and Audit Regulations.

- To administer the Authority's arrangements for under and overspendings to be carried forward to the following financial year,
- To comply with the following principles when allocating accounting duties:
  - separating the duties of providing information about sums due to or from the Authority and calculating, checking and recording these sums from the duty of collecting or disbursing them; and
  - officers with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- To ensure that all claims for funds, including grants, are made accurately and by the due date.

#### 9.7 **Responsibilities of Directors**

- To comply with the principles outlined above when allocating accounting duties.
- To ensure that all claims for funds including grants are made by the due date.
- To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- To be responsible for all receipts and claims in relation to salary expenses and disbursements made by staff in their service.
- To supply information required to enable the Statement of Accounts to be completed in accordance with the guidelines issued.

## 10. **Annual Statement of Accounts**

### **What is the Annual Statement of Accounts?**

- 10.1 The Annual Statement of Accounts is a financial summary of the state of the financial affairs of the Council over the course of a year. The Council is required to follow the CIPFA Code of Practice on Local Authority Accounting in the United Kingdom, supported by International Financial Reporting Standards (IFRS). The Accounts and Audit Regulations, as amended from time to time, set out the statutory dates for approval and publication of the Annual Statement of Accounts. The Statement of Accounts is made available for inspection by interested parties and is subject to external audit to ensure that it presents a fair view of the financial position of the Council.

### **Why is the Annual Statement of Accounts important?**

- 10.2 By legislation, the Council is required to produce an Annual Statement of Accounts each financial year (1 April – 31 March). The Statement of Accounts shows not only a snapshot

of the financial position as at the 31 March each year, but also provides the reader with an understanding on how the Council has performed financially during that financial year. After audit, the Statement of Accounts give assurance to key stakeholders that the financial affairs of the Council have been conducted properly and appropriately, and that they give what is considered to be a 'true and fair' view of the financial position of the Authority.

### 10.3 **Key Controls**

The key controls for the Annual Statement of Accounts are:

- The Authority is required to make arrangements for the proper administration of its financial affairs and to ensure that one of its officers has the responsibility for the administration of these affairs. In this Authority, that officer is the Chief Finance Officer;
- To manage the Authorities affairs to secure economic, efficient and effective use of resources and safeguard its assets; and
- The Authority's Statement of Accounts must be prepared in accordance with proper practices as set out in the *Code of Practice on Local Authority Accounting in Great Britain: "the code of Practice" (as amended from time to time)*.

### 10.4 **Responsibilities of Chief Finance Officer**

- To comply with the Code of Practice.
- To comply with statute and regulations.
- To draw up the timetable and guidance notes for financial accounts preparation and to advise staff and external auditors accordingly.
- To sign and date the Statement of Accounts, stating that it presents fairly the financial position of the Authority at the accounting date and its income and expenditure for the financial year ended 31 March.
- To ensure that the Statement of Accounts are approved by the Governance and Audit Committee.

### 10.5 **Responsibilities of Directors**

- To comply with accounting guidance provided by the Chief Finance Officer and to supply the Chief Finance Officer with the information when required.
- To keep proper accounting records that are up to date.

## 11. **Maintenance of Reserves**

### **What are Reserves?**

- 11.1 Reserves are amounts set aside to fund specific or unexpected expenditure. There are different reserves held by the Authority, analysed into 'usable reserves' (i.e. those that can

be applied to fund expenditure usually of a one-off nature) and unusable reserves for accounting purposes.

- 11.2 Useable reserves are analysed into discretionary reserves and governance reserves. Discretionary reserves are those reserves that can be used to fund discretionary expenditure in accordance with the specific reserve. Governance reserves are those reserves created to provide financial protection to the Council for unforeseen events or financial challenges that can arise. It is the responsibility of Council to review the allocation and levels of reserves and may put in place specific delegations with respect to their use during any financial year in accordance with the specific policy of the reserve.

### **Why is Maintenance of Reserves important?**

- 11.3 By legislation (the Local Government Act 2003), the Chief Finance Officer must report to Council, immediately prior to setting the Budget and Council Tax, on the robustness of the budget as proposed and the adequacy of general balances and earmarked reserves. The Council then agrees on the level of reserves it will maintain before it then decides on the level of Council Tax. Reserves are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes are also maintained, such as the insurance reserve, regeneration reserve and local priorities reserve.

### **11.4 Key Controls**

- Reserves are reviewed on an annual basis to ensure compliance with the Local Government Act 2003.
- To maintain reserves in accordance with the CIPFA Code of Practice on Local Authority Accounting in the United Kingdom, supported by International Financial Reporting Standards (IFRS).
- For each reserve clearly establish its purpose, usage and amount to be set aside.
- Authorisation to establish and add to a reserve is by the relevant Committee or Council following advice from the Cabinet Member for Finance and the Chief Finance Officer.

### **11.5 Responsibilities of Chief Finance Officer**

- To advise the Council on prudent levels of balances for the Authority.
- To establish guidelines on the setting up of reserves and then to advise Directors accordingly.

### **11.6 Responsibilities of Directors**

- To comply with guidance provided by the Chief Finance Officer and ensure that reserves are used only for the purpose for which they were intended.

## **12. Internal Controls**

### **What are Internal Controls?**

12.1 Internal Controls include the policies, processes, tasks, behaviours and other areas of the Council that taken together:

- enable it to react to significant risks in achieving its objectives. This includes protecting anything which is considered valuable to the organisation from misuse or loss and fraud;
- help ensure the quality of internal and external reporting. This requires the maintenance of proper records, and processes which create a flow of timely, relevant and reliable information from both within and outside the organisation; and
- help ensure relevant laws and regulations are followed, as well as internal policies with respect to the conducting of the business.

### **Why are Internal Controls important?**

12.2 The Authority is complex and beyond the direct control of individuals. It requires, therefore, internal controls to manage and monitor progress towards strategic objectives.

12.3 The Authority has statutory obligations, including those set out within the Local Government Act 1972 and Accounts and Audit (England) Regulations 2011, which require internal controls to be established to ensure compliance with these obligations.

12.4 The Authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

12.5 The system of internal controls is established in order to provide measurable achievement of:

- efficient and effective operations;
- reliable financial information and reporting;
- compliance with laws and regulations; and
- risk management.

### 12.6 **Key Controls**

- Key controls should be reviewed on a regular basis and the Authority should make a formal statement annually to the effect that the Authority has a sound system of internal control which facilitates the effective exercise of the Authority's functions and which includes arrangements for the management of risk.
- Managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance, and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities.
- Financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems.

- An effective Internal Audit function that is properly resourced. It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guidelines Guidance for Internal Auditors, CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom and with any other statutory obligations and regulations.

#### 12.7 **Responsibilities of Chief Finance Officer**

- To direct and assist the Authority to put into place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations. This will ensure compliance with Section 151 of the Local Government Act 1972 which requires every local authority to make arrangements for the proper administration of its financial affairs and to ensure that one of the officers (the Chief Finance Officer) has responsibility for the administration of those affairs.

#### 12.8 **Responsibilities of Directors**

- To establish and maintain controls as well as processes which ensure such controls are being adhered to and evaluated, in order to be confident in the proper use of resources, achievement of objectives and management of risks on an ongoing basis.
- To review existing controls in the light of changes affecting the Authority and to establish and implement new ones in line with guidance from the Chief Finance Officer.
- Ensure that officers have a clear understanding of the consequences of a lack of control or not adhering to agreed processes.

### **13. Risk Management**

#### **What is Risk Management?**

- 13.1 All organisations, whether private or public sector, face risks to people, property and the day-to-day running of the business. Risk is the chance of something going wrong, and the possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted action or event, which we have no control over. Risk can impact upon all officers within the Council as well as the Council's partners and citizens.
- 13.2 Risk Management is a planned and methodical way of identifying areas of risk, evaluating them and taking a look at how the risks can be controlled. Risk Management looks at the measures which an organisation already has in place to deal with identified risks, the adequacy of these measures and the actions required to control these risks effectively.

- 13.3 It is the overall responsibility of the Cabinet to approve the Authority's Risk Management Strategy, and to promote a culture of risk management awareness throughout the Authority.

**Why is Risk Management important?**

- 13.4 The challenges that the Authority faces, and the rate of change, puts the organisation under increasing pressure to improve the quality of management at all levels. This means that the Authority needs to make sure that risk management processes are structured, as well as being instinctive and intuitive. If management are to meet these challenges, high quality risk management needs to be at the core of decision making at all levels of the Council.

- 13.5 There is an ongoing requirement from the Accounts and Audit Regulations to produce an Annual Governance Statement (AGS) which is attached to the Annual Accounts, setting out the processes in place for managing the most significant risks to the achievement of objectives. Risk management processes are an integral part of the AGS.

- 13.6 All local authorities are increasingly being held to account by external assessors for the way in which risk management has been implemented. The Council needs to continue to demonstrate that all Services have a structured approach, which is embedded into planning and reporting cycles and decision-making processes at all levels.

13.7 **Key Controls**

The key controls for Risk Management are:

- The Council has adopted a Risk Management Strategy which has been approved by Governance and Audit Committee and is regularly updated.
- The Council maintains and reviews a register of its corporate business risks linking them to strategic business objectives and assigns named individuals to lead on the actions identified to mitigate each risk.
- Procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Authority.
- The Governance and Audit Committee receive reports on a regular basis and take appropriate action to ensure that corporate business risks are being identified and effectively managed.
- A monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls.
- Managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives.
- A Risk Register IT system is provided to assist Directors to manage their risks.

- A Risk Management Group meets regularly to co-ordinate and supports all aspects of strategic business risk management.
- Committee reports to support strategic policy decisions must include reference to the risks associated along with the decisions being taken, in both a positive and negative scenario (i.e. the risks of taking the decision as recommended and the risks of doing nothing).
- Documents for all major projects include a risk assessment which must be completed.
- The risk management process specifically considers risks in relation to significant partnerships and provides for assurances to be obtained concerning the management of those risks.

### 13.8 **Responsibilities of Chief Finance Officer**

- To prepare and promote the Authority's Risk Management Strategy.
- To develop risk management controls in conjunction with other Directors.
- To report to Members of the Governance and Audit Committee on the effectiveness of the risk management process and any changes to it in the Annual Governance Statement.

### 13.9 **Responsibilities of Directors**

- To take responsibility for risk management, having regard to advice from the Chief Finance Officer and other specialist officers.
- The Risk Management Strategy requires Directors to:
  - Identify corporate and operational risks;
  - Maintain a risk register;
  - Assess the risks for likelihood and impact;
  - Prioritise risks;
  - Identify mitigating controls; and
  - Allocate responsibility for the mitigating controls.
- To ensure that there are regular reviews of all risks within Services.
- Ensure risk management is a key area of consideration when preparing annual Service Plans.

## 14. Insurance

### What is Insurance?

- 14.1 Insurance for the Council is, in many ways, similar to the insurance that private individuals take out to protect items that they either:
- cannot replace easily; or
  - are required to insure as a condition of purchase, i.e. a house purchased via a mortgage etc.
- 14.2 The decision to insure an item or not is based on:
- its replacement cost;
  - the likelihood of it needing to be replaced; and
  - the cost of the insurance.
- 14.3 The Council has to go through a similar process for the various risks it faces, e.g. the security of physical assets or the work carried out by its officers. Where the Council believes it is not able to manage risks internally, it will take out insurance in the same way a private individual would, e.g. the Council insures its buildings, its officers (employee liability), and cover for members of the public when using Council facilities (public liability) etc.

### Why is Insurance important?

- 14.4 Insurance is a major area within risk management, enabling risks from unfortunate events to have less of a negative effect due to taking out cover policies. However, insurance is not without a cost, and risk prevention is always preferable to paying higher premiums, where this is possible.

### 14.5 Key Controls

- Adequate insurance is in place to cover assets of the organisation.
- Policies are reviewed on an annual basis to ensure that they continue to provide adequate cover for the Authority in line with current risk management strategies and to confirm exclusion clauses are being complied with.
- Procedures are in place to investigate claims within required timescales.
- Acceptable levels of risk are determined and insured against where appropriate.
- The Council has an Insurance Strategy which provides details of the Council's insurance cover and procedures for claims.

### 14.6 Responsibilities of Chief Finance Officer

- To ensure that the Authority has the appropriate insurance cover in place.

- To include all appropriate officers of the Authority in a suitable fidelity guarantee insurance.
- To arrange all insurance cover through external insurance and internal funding and negotiate any claims in consultation with appropriate Directors and outside claims agencies.
- To inform Directors of any conditions affecting insured risks.
- To review all insurances in consultation with appropriate Directors either annually or when necessary.
- To administer any self-funding arrangement set up to run alongside or replace conventional externally provided insurance.

#### 14.7 **Responsibilities of Directors**

- To ensure that all officers are aware of their responsibilities with regard to the use of insurance policies.
- To identify and report to the Chief Finance Officer and Monitoring Officer any amendments which could be required for the insurance of the Authority.
- To notify the Chief Finance Officer and Monitoring Officer immediately of any loss, liability or damage that may lead to a claim against the Authority, together with any information or explanation required by the Chief Finance Officer or the Authority's insurers.
- To ensure that any conditions affecting insured risks are met and that their actions do not invalidate any claims.
- To notify the Chief Finance Officer and Monitoring Officer promptly of all new risks, properties or vehicles that require insurance and any alterations affecting existing insurances.
- To inform the Chief Finance Officer and the Monitoring Officer of the terms of any indemnity that the Authority is requested to give.
- Do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

## 15. **Treasury Management**

### **What is Treasury Management?**

15.1 Treasury Management is defined as:

*“The management of the Council’s investments, borrowing and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”*

- 15.2 The Council is required to operate a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the Treasury Management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low risk counterparties or instruments commensurate with the Council’s low risk appetite, providing adequate liquidity initially before considering investment return.
- 15.3 The second main function of the Treasury Management service is the funding of the Council’s capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer term cash flow planning to ensure that the Council can meet its capital spending obligations. This management of longer term cash may involve arranging long or short term loans, or using longer term cash flow surpluses. Any debt previously drawn may be restructured to meet Council risk or cost objectives.
- 15.4 On an annual basis the Council approves a Treasury Management Strategy that is compiled to meet CIPFA requirements with respect to Treasury Management. During the course of each financial year, Governance and Audit Committee receive monitoring and outturn reports in order to ensure compliance with the Strategy.

#### **Why is Treasury Management Important?**

- 15.5 It is critical that financial resources are properly managed in a way that balances risk with return whilst ensuring the Council can meet its financial obligations. The scale of borrowing, the inter-relationship between capital and revenue cash management and the fact that the Council may have surplus funds for investment require the development of sound borrowing and investment strategies that encompass all of these activities in a safe, efficient and consistent manner.
- 15.6 The main objectives of the Treasury Management function are:
- To effectively manage and control risks;
  - To ensure that sufficient cash is available to enable the Council to discharge its financial obligations when they become due;
  - To undertake all borrowing at or below budgeted rates on the basis of best value, and also seek opportunities to reduce the cost of servicing existing debt;
  - To plan cash flows and minimise the cost of any temporary borrowing (which is required for day to day cash flow reasons);
  - To invest prudently having regard to the security and liquidity of Investments and the predictability of returns; and
  - To aim to achieve the optimum return on investments commensurate with the proper levels of security and liquidity.

#### **15.7 Key Controls**

The Council has adopted the recommendations of CIPFA’s Code of Practice on Treasury Management and the Prudential Code. The Council has developed its own Treasury

Management Strategy in accordance with these documents. The Strategy outlines the Council's:

- Key Treasury Management Principles;
- Scheme of Delegation and Reporting Requirements;
- Key Prudential Indicators – covering financing requirements, borrowing limits, debt maturity / type, cost of borrowing and investment income; and
- Policy for both borrowing and investments.

#### 15.8 **Responsibilities of the Chief Finance Officer**

- To prepare the Council's Treasury Management Strategy Statement in accordance with the CIPFA Code of Practice on Treasury Management in Local Authorities for approval by Cabinet and Full Council at the Annual Budget Meeting.
- To arrange for all Council borrowing and investment in such a manner as to comply with this Strategy.
- To borrow on behalf of the Council under powers contained in the Local Government Act 1972 and subsequent legislation in accordance with the agreed proactive borrowing strategy.
- To arrange for the investment or utilisation for the Council's own purposes of surplus funds in accordance with agreed creditworthiness criteria.
- To ensure that all investments of money are made in the name of the Council or in the name of nominees approved by Cabinet.
- To ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the appropriate officer.
- To undertake all borrowings in the name of the Council.
- To act as the Council's registrar of stocks, bonds and mortgages, and to maintain records of all borrowing of money by the Council.
- To ensure that there is adequate monitoring of Treasury Management activities, involving both Members and senior Finance officers.
- To report to Governance and Audit Committee at regular intervals on Treasury Management activities

#### 15.9 **Responsibilities of Directors**

- To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Council following consultation with the Chief Finance Officer.

- To inform officers with responsibility for Treasury Management of significant movements and changes in the Council's anticipated cash flows.

## 16. Internal Audit

### What is Internal Audit?

- 16.1 Internal Audit is an assurance function that provides an independent and objective opinion to the organisation on the control environment, by evaluating its effectiveness in achieving the organisation's objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources.
- 16.2 The Council is required to have an Internal Audit function in order to comply with section 6 of the Accounts and Audit (England) Regulations 2011 which requires the Authority to "undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control". Section 151 of the Local Government Act 1972 also requires every local authority to make arrangements for the proper administration of its financial affairs.
- 16.3 All Internal Audit reviews are reported to and discussed by the Governance and Audit Committee as this is the Committee charged with overall responsibility for governance within the Council.

### Why is Internal Audit important?

- 16.4 Internal Audit is a key element of the overall governance structure of the Authority which is designed to ensure that appropriate controls are in place throughout the organisation. Through the provision of a high quality independent appraisal of all of the activities of the Council, Internal Audit aims to improve operational efficiency, risk management and internal control systems, and also provide reliable and effective support to management to ensure that their objectives are achieved.
- 16.5 **Key Controls**  
The key controls for Internal Audit are:
- that it is independent in its planning and operation and determines its own priorities in providing unrestricted coverage of the Council's operations;
  - The Head of Internal Audit has direct access to the Chief Executive and all levels of management and Members; and
  - The internal auditors comply with CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom.

- 16.6 **Responsibilities of Chief Finance Officer**  
To ensure that internal auditors have the authority to:

- Access premises when required;
  - Access all assets, records, documents, correspondence and control systems;
  - Require and receive information and explanation considered necessary concerning any matter under consideration;
  - Require any employee of the Authority to account for cash, stores and any other Authority asset under the employee's control;
  - Access records belonging to third parties, such as contractors, when required;
  - Directly access the Chief Executive.
- To approve the strategic and annual audit plans prepared by the Head of Internal Audit, which take account of the current risk profile of all activities undertaken by the Authority.
- To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.
- When initial evidence suggests that a criminal offence has been committed, to consult with the appropriate Director about involving the Police, in accordance with the Council's Anti-Fraud and Corruption Policy.

16.7

#### **Responsibilities of Directors**

- To ensure that Internal Audit are provided with any documents, information and explanations they require during the course of their work;
- To consider and respond to recommendations in audit reports within one month;
- Any agreed actions arising from audit recommendations are carried out as per the agreed timetable;
- New systems for maintaining financial records, records of assets, or changes to such systems, are discussed with, and agreed by, the Head of Internal Audit before implementation; and
- To notify the Head of Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Authority's property or resources.

## **17. External Audit**

### **What is External Audit?**

17.1

External Audit provides an important contribution to the stewardship of public resources and corporate governance of public services by:

- Giving an independent opinion on whether the public bodies financial statements fairly present its financial position and its expenditure and income for the year in question; and

- Reviewing and reporting on aspects of the arrangements which are put in place by public bodies to ensure the proper conduct of their financial affairs, and for securing economy, efficiency and effectiveness in its use of resources.

17.2 The basic duties of the external auditor are defined by the Audit Commission Act 1998 and the Local Government Act 1999.

### **Why is External Audit important?**

17.3 Independent external audit is a key process of evaluation of governance processes which seek to protect the management of public money. It is, however, the responsibility of management to put arrangements in place to ensure proper governance, and to regularly review the adequacy and effectiveness of these arrangements.

17.4 The Authority's financial statements are scrutinised by external auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the Authority and its income and expenditure for the year in question and complies with all relevant legal requirements.

### **17.5 Key Controls**

- External auditors must follow the Code of Audit Practice for Local Government when carrying out their audits.
- External auditors are regulated by the Financial Reporting Council.

### **17.6 Responsibilities of Chief Finance Officer**

- To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- To ensure there is effective liaison between external and Internal Audit.
- To work with the external auditor and advise the Council, Cabinet and Officers on their responsibilities in relation to external audit.

### **17.7 Responsibilities of Directors**

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

## **18. Preventing and detecting Fraud and Corruption (including Bribery)**

### **What is Fraud and Corruption?**

18.1 The Fraud Act 2006 defines three separate ways of committing fraud:

- Fraud by false representation;
- Fraud by failing to disclose information; and
- Fraud by abuse of position.

18.2 “Dishonesty” and “intent to make gain or cause loss” are core themes involved in the committing of fraud.

18.3 Corruption is ‘the offering, giving, soliciting, or acceptance of an inducement or reward, or showing any favour or disfavour which may influence any person to act improperly.’ It is an offence under the Prevention of Corruption Acts 1889 – 1916, as amended, and Section 117(3) of the Local Government Act 1972.

18.4 Bribery can be described as giving someone a financial inducement or other form of advantage to encourage that person to perform their functions or activities improperly, or to reward that person for having already done so, in order to gain a personal, commercial, regulatory or contractual advantage.

### **Why is Fraud and Corruption important?**

18.5 There is an expectation and requirement that all Members, officers, consultants, contractors, and service users be fair, honest and act with the utmost of integrity at all times.

18.6 The Council is resolute that the culture and tone of the Authority is one of honesty and opposition to fraud and corruption.

18.7 There is an expectation and requirement that all individuals, businesses and organisations dealing in any way with the Council will act with high standards of probity, openness and integrity and that Council officers or its agent(s) at all levels will lead by example in these matters.

18.8 The Council's Codes of Conduct for Members and officers set out an approach to work that is honest, fair, accountable and, as far as possible, transparent. Members and officers must act in line with the codes at all times.

### **18.9 Key Controls**

- The Authority should maintain an effective Anti-Fraud and Corruption Strategy and a culture of zero tolerance to fraud and corruption.
- All Members and officers should act with integrity and lead by example.
- Officers should raise any concerns that they may have about fraud and corruption preferably with their line manager or another senior manager identified in the Anti-Fraud and Corruption Strategy.
- Any information reported by officers will be dealt with fairly and confidentially.
- Senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Authority or who are corrupt.

- High standards of conduct should be promoted amongst Members.
- The maintenance of a register of interests to record gifts and hospitality received in accordance with the officers' and Members' Codes of Conduct.
- Whistle blowing procedures should be in place and operating effectively.
- All relevant legislation should be complied with including the Fraud Act 2006, the Bribery Act 2010 and the Public Interest Disclosure Act 1998.
- The Authority should maintain an adequate internal control framework.

#### 18.10 **Responsibilities of Chief Finance Officer**

- To develop and maintain an effective Anti-Fraud and Corruption Strategy.
- To develop and maintain an effective Anti-Bribery Policy
- To maintain adequate and effective internal control arrangements
- To ensure that all suspected irregularities are reported to the Head of Internal Audit without delay.

#### 18.11 **Responsibilities of Directors**

- To ensure that all suspected irregularities are reported to the Head of Internal Audit without delay.
- To instigate the Authority's disciplinary procedures where the outcome of an investigation into suspected fraud or corruption indicates that improper behaviour has taken place.
- To ensure that where financial impropriety is discovered, the Chief Finance Officer is informed.
- To take advice and support from relevant parts of the Council e.g. Internal Audit, HR before referring matters to the Police for cases where it is apparent that a criminal offence may have been committed.

## 19. **Anti-Money Laundering**

### **What is Money Laundering?**

#### 19.1 Money laundering means:

- Concealing disguising, converting or transferring criminal property or removing it from the UK;

- Entering into, or becoming concerned in, an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person;
- Acquiring, using or possessing criminal property; and
- Becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer of nominees, or any other retention or control of terrorist property.

19.2 These are the primary money laundering offences and prohibited acts under the legislation.

**Why is Money Laundering important?**

19.3 Although the risk to the Council of contravening the legislation is low, it is extremely important that all officers and Members are familiar with the legislation and their legal responsibility as serious criminal sanctions may be imposed for breaches of the legislation. Potentially any officers could be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way or do nothing about it.

19.4 The Anti-Money Laundering Policy applies to all employees of the Council and aims to maintain the high standards of conduct which currently exist within the Council by preventing criminal activity through money laundering. The Policy sets out the procedures which must be followed to enable the Council to comply with its legal obligations.

19.5 **Key Controls**

- A Money Laundering Reporting Officer (MLRO) is appointed to receive disclosures from officers concerning money laundering activity.
- Implement a procedure to enable the reporting of suspicions of money laundering.
- Maintain client identification procedures in certain circumstances.
- Maintain record keeping procedures.

19.6 **Responsibilities of Chief Finance Officer**

- Appoint a Money Laundering Reporting Officer (MLRO) who is to receive disclosures from officers concerning money laundering activity.
- Implement a procedure to enable the reporting of suspicions of money laundering.
- Maintain client identification procedures in certain circumstances.
- Maintain record-keeping procedures.

19.7 **Responsibilities of Directors**

- Be aware of their roles and responsibilities in respect of Anti Money Laundering.
- Ensure they and officers within their service are aware of who is the MLRO.

## 20. Gifts, Hospitality and Register of Interests

### What are gifts, hospitality and a register of Interests?

- 20.1 During day to day work, there may be times when officers or Members are offered gifts and/or hospitality; for example, a meal, a 'thank you' gift or a trip to a sporting event.
- 20.2 A register of interests means that arrangements are in place for officers and Members to declare any interests that they have which may be seen to cause a conflict during the course of their work, or when making decisions in Committee meetings. For example:
- an officer or Member being related to a Director of a company that the Council trades or deals with; or
  - a committee where a Member serves is being asked to make a decision that would affect the Member, either personally or in relation to a project he/she is supporting.

### Why are the receipt of Gifts and Hospitality and the Register of Interests important?

- 20.3 In order to safeguard officers and Members in terms of independence (and therefore that of the Council) it is necessary for clear rules to be in place and adhered to. In relation to Register of Interest, there is the possibility of criminal liability in relation to corrupt practices by officers and Members. Under the Public Bodies Corrupt Practices Act 1889 it is an offence:

*'corruptly to solicit or receive for himself or for any other person any gift, loan, fee, reward or advantage whatever as an inducement to, or reward for, or otherwise an account of any member, officer or servant of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever in which the said public body is concerned.'*

### 20.4 Key Controls

- Small items such as chocolates, pens and diaries need not be declared unless they are offered on a regular basis by the same person or organisation.
- Items over £25 should be recorded within 14 days of the receipt of the gift or hospitality. Written notification must be provided to the Monitoring Officer of the existence and nature of that gift or hospitality.
- Officers must refuse all gifts or hospitality in excess of £100 (if received on one occasion) or in excess of a total of £100 (if received on more than one occasion in same financial year from the same individual or organisation) except with approval from the Chief Executive.
- Officers must declare any interests they have in external organisations and/or partnerships who could potentially influence and are in business with the Authority.

### 20.5 Responsibilities of Monitoring Officer

- To produce and maintain a register of gifts and hospitality received by officers.

### 20.6 Responsibilities of Directors

- To comply with the guidance as provided by the Monitoring Officer.

- To maintain an up to date list of gifts, hospitality and interests within their Service in adherence with the principles in the guidance.

## **21. Asset Management**

### **What is Asset Management?**

- 21.1 Asset Management is the system of monitoring and maintaining items of value to the Authority. Asset management is a systematic process of operating, maintaining, upgrading and disposing of assets cost-effectively.
- 21.2 Asset Management relates to land and buildings; furniture, vehicles and equipment; and stocks and stores. It covers their acquisition, disposal, security and recording.

### **Why is Asset Management important?**

- 21.3 The Authority owns a diverse portfolio of assets in the form of property, vehicles, equipment, furniture and other items. It is important that these assets are safeguarded and used efficiently and effectively in supporting the delivery of services. The development of a comprehensive and effective approach to asset management is key to ensuring that:
- utilisation of assets is maximised
  - maintenance expenditure is prioritised
  - major capital investment requirements are identified and quantified; and
  - surplus property and other assets are identified for rationalisation and/or disposal.

### **21.4 Key Controls**

- A corporate asset management strategy is in place.
- Asset Registers / inventories are in place to record all assets.
- Accounting policies are in place to control asset classification, capitalisation, depreciation and disposal.
- Assets are disposed of at the most appropriate time and only when it is in the best interests of the Council and that the best price is obtained.
- Managers are responsible for the care, protection and security of assets within their control.

### **21.5 Responsibilities of Chief Finance Officer**

- To maintain an Asset Register which contains details of all assets owned by the Council which exceed the capital de-minimis levels.
- To ensure appropriate accounting entries are made for the addition and depreciation of assets into the Authority's records.

- To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice*.

21.6 **Responsibilities of Directors**

- To maintain proper security, care and protection of all building, equipment, vehicles, stocks, stores and cash under their control.
- To inform the Chief Finance Officer and Head of Internal Audit of any missing equipment or significant shortfalls in stock as soon as possible after discovery, together with explanations for the loss, if known.

**Land & Buildings**

21.7 **Key Controls**

- Land & Buildings are acquired in accordance with the Property Asset Management Strategy.
- Land & Buildings are purchased only following appropriate authorisation and approval.
- A terrier of all land and buildings owned is maintained, with assets recorded when they are acquired and this record is updated as changes occur.

21.8 **Responsibilities of Chief Finance Officer**

- Ensuring that all acquisitions are properly recorded within accounting records.

21.9 **Responsibilities of Directors**

- The Director for Growth shall maintain a terrier of all land and buildings owned by the Council. The terrier will record the holding Service, purpose for which each property/site is held, location and purchase details.
- The Director for Growth shall arrange for condition surveys to be carried out
- Arranging for the valuation of land and buildings as necessary to meet the accounting requirements of the Chief Finance Officer.
- To ensure the proper security of all land & buildings under their control.

**Furniture, Equipment & Vehicles**

21.10 **Responsibilities of Directors**

- The Head of Street Scene will maintain appropriate records of the vehicles held by the Council.
- The Head of ICT will maintain appropriate records of the ICT equipment held by the Council.

- Directors will maintain appropriate records of all other furniture and equipment held or deployed by their service. This will include maintaining an up to date inventory of all individual items with a purchase value in excess of **£100**.
- Directors should arrange for the accuracy of the inventory to be verified periodically at a frequency appropriate to the risk of loss of the individual items recorded.
- To ensure that Council property (owned or hired) should not be removed other than in the ordinary course of the Council's business except in accordance with directions issued by the Director concerned.
- To ensure the safe custody of furniture, equipment and vehicles.

## **Stocks & Stores**

### 21.11 **Responsibilities of Directors**

- To make arrangements for the maintenance of reasonable levels of stocks and stores in their control.
- To ensure that appropriate up to date records of the level and value of stocks and stores held are maintained.
- To ensure periodical physical examinations of stocks and stores held, against the stock records, should be carried out at a frequency based on the value and vulnerability of the stock.
- To ensure proper security is maintained at all times for all stocks & stores.

## **Disposal of Assets**

### 21.12 **Responsibilities of Chief Finance Officer**

- To ensure appropriate accounting entries are made to remove the value of disposed assets from the Authority's records and to include the sale proceeds if appropriate.

### 21.13 **Responsibilities of Directors**

- Once land and buildings have been declared surplus to requirements, to arrange for the disposal of these assets in accordance with the Council's strategy.
- Details of any vehicles which are deemed surplus to requirements shall be advised to Fleet Services. Where the vehicle is considered no longer suitable for use within the Council, the Fleet Services Manager shall arrange for its suitable disposal.
- Details of any ICT equipment which a Director deems surplus to requirements shall be advised to the Head of ICT. ICT equipment can only be disposed of by ICT Services, and if it is considered redundant in accordance with the ICT Strategy.
- The Head of ICT is responsible for ensuring that the standards, policies and guidelines of decommissioning of ICT equipment are well defined and

communicated to all staff within the Council. The Data Protection Act must be a key consideration in the decommissioning of IT equipment.

- To identify assets which are deemed surplus to requirements.
- To secure the best price obtainable for the sale of assets.
- To record all disposals of assets.
- To ensure that income received for the disposal of an asset is properly banked and coded.
- To consult with the Chief Finance Officer to ensure all financial implications, including accounting for Value Added Tax, are fully considered.

## **22. Intellectual Property**

### **What is Intellectual Property?**

- 22.1 Intellectual Property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.
- 22.2 Certain activities undertaken within the Authority may give rise to items that may be patentable, for example, software development. These items collectively are known as intellectual property.

### **Why is Intellectual Property important?**

- 22.3 Like any assets, Intellectual Property is an essential factor in ensuring business continuity within the Council, and the effective delivery of Council services. It is critical, therefore that the Council puts in place adequate controls over the ownership, storage and use of all Intellectual Property.
- 22.4 The Council holds a large quantity of information for a variety of purposes. As such, it is essential that an overall strategy is in place and implemented for the management of such information to ensure consistency, value for money, accuracy and that any relevant laws are followed.
- 22.5 **Key Controls**
- In the event that the Authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the authority's approved intellectual property procedures.
  - The Data Protection Act must be considered in relation to the creation, storage and distribution of Intellectual Property.

- 22.6 **Responsibilities of Chief Finance Officer**
- To develop and disseminate good practice through the Authority's intellectual property procedures.

- 22.7 **Responsibilities of Directors**
- To ensure that controls are in place to ensure that officers do not carry out private work in Council time and that officers are aware of an employer's right with regard to intellectual property.

## **23. Staffing**

### **What are Staff?**

- 23.1 Council staff are an essential part of providing the highest level of quality services. Staff are the greatest single item on which the Council spends its budget. It therefore carries not only one of the highest degrees of risk but is also one of the most complex areas. It is therefore crucial that procedures and guidance issued by Human Resources are followed precisely. Examples of areas where procedures exist are:
- recruitment;
  - pay and rewards;
  - attendance management;
  - health and safety;
  - discipline; and
  - grievances

### **Why are Staff important?**

- 23.2 In order to provide the highest level of service, it is crucial that the Authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level within the resources available.

### **23.3 Key Controls**

- The key controls for staffing are:
  - procedures are in place for forecasting staffing requirements and cost
- controls are implemented to ensure that officer's time is used efficiently and to the benefit of the Authority
- checks are undertaken prior to employing new officers to ensure that they are appropriately qualified, experienced and trustworthy
- managers communicate all changes to staff (including starters and leavers) to Human Resources and Payroll as soon as possible to ensure financial and operational records are kept up to date

### **23.4 Responsibilities of Chief Finance Officer**

- To ensure that budget provision exists for all existing and new officers.

## 23.5 **Responsibilities of Directors**

- To produce an annual staffing budget.
- To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision.
- To monitor officers' activity to ensure adequate control over such costs as sickness, overtime, training and temporary officers.
- To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- The Head of Human Resources to act as an advisor to Directors on areas such as national insurance and pension contributions, as appropriate.
- To ensure that the Head of Human Resources and the Chief Finance Officer are informed if the staffing budget is likely to be materially over or under spent.
- To ensure that all changes to staff (including starters and leavers) are communicated to Human Resources and Payroll as soon as possible to ensure financial and operational records are kept up to date and that appropriate check lists are completed.

## 24. **Financial Systems**

### **What are Financial Systems?**

24.1 Financial systems are all computerised systems that directly or via interface are responsible for generating payments to or from the Council.

### **Why are Financial Systems Important?**

24.2 Financial Systems are where details of all transactions with the Council are held. It is important that these are accurate so that the underlying transactions are correct.

### **24.3 Key Controls**

- Access control and security of the Council's Financial systems should be maintained.
- Systems should be reconciled periodically to ensure consistency of data stored within.

### **24.4 Responsibilities of Chief Finance Officer**

- Approve any new financial systems and interfaces to be introduced.

- Ensure appropriate testing of new financial systems and testing of interfaces between systems prior to their introduction.
- Ensure appropriate reconciliation between all financial systems.
- For all corporate financial systems:
  - Ensure all input is genuine, complete, accurate, timely and not previously processed
  - All processing is carried out in a complete, accurate and timely manner
  - Output from all systems is complete, accurate and timely in an agreed format
  - Effective contingency and disaster recovery arrangements exist for all computerised systems, to include; back-up / rollback and processes to deal to an interruption to the system
  - Ensure systems are documented and staff trained in the operation of them
  - Correct any errors identified during the interfacing or reconciliation processes

#### 24.5 **Responsibilities of Directors**

- Seek approval of the Chief Financial Officer before changing any existing system or introducing any new financial system.
- For all business area specific financial systems:
  - Ensure all input is genuine, complete, accurate, timely and not previously processed
  - All processing is carried out in a complete, accurate and timely manner
  - Output from all systems is complete, accurate and timely in an agreed format
  - Effective contingency and disaster recovery arrangements exist for all computerised systems, to include; back-up / rollback and processes to deal to an interruption to the system
  - Ensure systems are documented and staff trained in the operation of them
  - Correct any errors identified during the interfacing or reconciliation processes

## 25. **Income Collection and Management**

### **What is Income Collection and Management?**

25.1 Some Services have the facility to charge for the services provided as part of their day to day operations. All charges must ensure compliance with the relevant statutes governing local authority activities. Charges may be levied in advance when a service is booked, at the point of sale or by the raising of a debtors invoice after the service has been delivered. Examples of these include:

- **Charges at point of sale:**
  - entrance fees;
  - cultural activities
  - car parking; and
  - professional fees e.g. Local Search fees and Planning Permission Fees.

- **Debtor Invoices**
  - sundry debtors.

25.2 The Council also collects income arising from local taxation, namely Council Tax and Business Rates, and income from parking penalty notices.

### **Why is Income Collection and Management important?**

25.3 The collection of income is a significant part of the Council's business and is a vulnerable asset. Effective revenue collection systems are necessary to ensure that all revenue due is identified, collected, receipted and banked securely and effectively. It is preferable to obtain revenue in advance of supplying goods or services as this improves the Authority's cash flow and also avoids the time and cost of administering debts. In order to ensure that cash flow is maximised and costs are minimised, it is essential that income is collected in as complete and timely manner as is possible. This would normally be at the point of sale or service.

### 25.4 **Key Controls**

- All debtor invoices must be raised via the Corporate Debtors system. Invoices raised need to be appropriate and legitimate and are calculated correctly.
- All income due to the Authority is legitimate, recorded and charged correctly, in accordance with an approved charging policy, which is regularly reviewed.
- Value Added Tax (VAT) at the appropriate rate must be levied and collected in line with VAT guidance.
- All income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery. Appropriate supporting documentation is retained in the event of debt recovery procedures being invoked.
- All money received by an employee on behalf of the Authority is banked in a timely manner, to the Authority's bank and is properly recorded in the Council's financial system.
- There is adequate separation in duties in identifying amounts due and the responsibility for collection, as far as is practicable.
- All debtor invoices must be raised via the Corporate Debtors system or other authorised debtor systems.
- Effective action is taken to pursue non-payment within defined timescales.
- Formal approval in accordance with the authorised limits (see Appendix A), for debt write-off is obtained.
- Appropriate accounting adjustments are made following write-off action.

- All appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule.
- Money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

#### 25.5 **Responsibilities of Chief Finance Officer**

- To agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection and accounting for VAT.
- To approve the design of controlled stationery and arrangements for its control and security.
- To agree the write-off of bad debts in accordance with the Scheme of Delegation. To develop and maintain a Corporate Debt Management Policy.
- To develop and maintain up to date procedural guidance for the collection of income due to the Council.
- To ensure that appropriate accounting adjustments are made following write off action.
- To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- To seek approval from Council on an annual basis for discretionary fees which will apply to transactions in the following financial year.

#### 25.6 **Responsibilities of Monitoring Officer**

- To provide guidance on the retention and storage of income related documents.
- To provide guidance to ensure compliance with the relevant statutes governing local authority activities.
- To arrange appropriate insurance for all Council safes, as necessary.

#### 25.7 **Responsibilities of Directors**

- To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it annually, in line with corporate policies.
- To determine where charges can be made at point of sale and where there is a need to raise a debtors invoice.
- To establish adequate procedures and controls to ensure that all staff entrusted with Council money are properly accountable.

- To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable and ensure staff are clear of their roles and responsibilities.
- To issue official receipts or to maintain other documentation for income collection. Officers must issue machine printed or official receipt forms or tickets when receiving all monies due to the Council. All official receipt forms (miscellaneous receipt books) shall be pre-printed, and Officers must sign all such receipts when issued.
- To ensure that at least two employees are present when post is opened so that money is received by post is properly identified and recorded under arrangements agreed with the Chief Finance Officer.
- To hold securely receipts, tickets and other records of income for the appropriate period.
- To order and issue all controlled stationery (receipt forms, books or tickets and similar items). The design of controlled stationery and arrangements for its control and security should be approved by the Chief Finance Officer.
- To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- To ensure that income is paid fully and promptly into the appropriate Authority bank account in the form in which it is received.
- To reconcile monies collected to evidence bankings in accordance with procedures determined by the Chief Finance Officer.
- To keep a record of all overs and shorts so that any necessary adjustments can be made by arrangement with the Chief Finance Officer.
- To ensure income is not used to cash personal cheques or other payments.
- To supply the Chief Finance Officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable a sundry debtor invoice to be raised in a form approved by the Chief Finance Officer.
- To ensure that sundry debtor invoices are raised promptly and within seven calendar days of supply and the debt is supported by sufficient documentary evidence.
- To ensure that VAT is appropriately applied and the correct VAT category is used.
- Directors have a responsibility to assist the Chief Finance Officer in collecting debts that they have originated, by providing any further information that may be requested by the debtor or by Legal Services in the event of Court action.

- To ensure that cash held on premises does not exceed approved limits and adequate insurance coverage has been obtained.
- To keep a record of every transfer of money between employees of the Authority. The receiving officer must sign for the transfer and the transferor must retain a copy.
- To recommend to the Chief Finance Officer all debts to be written off and to keep a record of all sums written off up to the approved limits. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note can only be issued in relation to a debt in order to correct a factual inaccuracy or administration error in the calculation and/or billing of the original debt.
- To obtain the approval of the Chief Finance Officer when writing off debts in excess of the approved limit, and the approval of Cabinet where required.
- To notify the Chief Finance Officer of outstanding revenue relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Chief Finance Officer.

## **26. Ordering and Payment of Works, Goods and Services**

### **What is Ordering and Payment for Goods and Services?**

- 26.1 Every day officers within the Council will order and/or authorise payments for goods and services. An order is a formal instruction requesting goods and services for which a payment will be given. An order should be electronic, represent a commitment on behalf of the Council, and form a contract with suppliers.
- 26.2 The Council has Contract Procedure Rules in place which aim to achieve value for money in the purchase of goods and services. These rules set the framework to ensure that procurement delivers value for money across all services and directly contributes to the achievement of our corporate priorities.

### **Why is ordering and payment important?**

- 26.3 Public money should be spent with demonstrable probity and in accordance with the Authority's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Contract Procedure Rules.
- 26.4 **Key Controls**
- All goods and services are ordered only by appropriate persons and are correctly recorded.

- Only authorised officers set up in the corporate finance system can authorise unless in exceptional circumstances as approved by the Chief Finance Officer.
- Goods and services received are checked to ensure they are in accordance with the order.
- Payments are not made unless a valid purchase order is provided, goods have been received by the Authority to the correct prices, quantity and quality standards unless in exceptional circumstances as agreed by the Chief Finance Officer.
- All payments are made to the correct supplier, for the correct amount and are properly recorded, regardless of payment method.
- Normal method for all payments is via BACS.
- All appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention guidelines.
- All expenditure, including VAT is accurately recorded against the right budget and any exceptions are corrected. If VAT is being re-claimed there is a need to ensure that it is appropriate to do so and a VAT invoice is provided.
- All invoices with Construction Industry Tax liability are accurately processed in accordance with the scheme.
- All invoices are addressed to South Kesteven District Council.
- In addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

#### 26.5 **Responsibilities of Chief Finance Officer**

- To ensure that the Authority's main financial systems and procedures are sound and properly administered.
- To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- To make payments from the Authority's funds on the authorisation of officers in line with the Authorised Limits (see Appendix A) that the expenditure has been duly incurred in accordance with financial regulations.
- To ensure the security, safe keeping and maintenance of blank cheques.
- To ensure that payments are authorised in accordance with the bank mandate.
- To ensure payments are processed for the correct amount.

- To make payments, whether or not provision exists within the estimate, where the payment is specifically required by statute or is made under a court order.
- To make payments to contractors based on the certification of the appropriate Director or nominated representative which must include details of the value of work, retention money, amount previously certified and amounts now certified.
- To provide advice and encouragement on making payments by the most economical means.
- To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

#### 26.6 **Responsibilities of Directors**

- To ensure that officers use e-procurement for the raising of purchase orders and details of goods/services receipted are recorded in the system unless there are exceptional circumstances as approved by the Chief Finance Officer.
- To ensure that goods and services are purchased in accordance with the Council's Contract Procedure Rules.
- To ensure orders for goods and services are correctly addressed.
- To ensure that orders are only used for goods and service provided to the department or are purchased for recharge to voluntary organisations providing services that complement those provided by the Council.
- To ensure individuals do not use official orders to obtain goods or services for their private use.
- Each order sent to a supplier must include the contract price or quotation obtained as well as the contract/quotation reference.
- All invoices are in the name of South Kesteven District Council and contain accurate information in line with the order.
- To ensure invoices are processed in a timely manner.
- To ensure that where access to the computerised ordering system is available it is used to create a commitment to be shown against the budget head. Any exemption from this requirement to be subject to the approval of the Chief Finance Officer.
- To ensure that there are sufficient officers authorised to act on the Directors behalf for approving orders and paying invoices without orders. The approval limits should not exceed the Authorised Limits (see Appendix A).

## 27. Grant Payments

### What are Grant Payments?

- 27.1 South Kesteven District Council recognises and values the contribution that community and voluntary organisations make to their communities. Accordingly, grants are given to them to deliver services and activities that are in line with the Council's priorities, aims and objectives. This funding supports a range of activities including grants to the third sector.

### Why are Grant Payments important?

- 27.2 Grant payments are important as they are designed to help and support those organisations, often those who may have access to only limited resources, who provide services and organise activities for the local community. As this funding is sourced from public sources, it is important to ensure that it is spent in an appropriate way.

### 27.3 Key Controls

- Checks are undertaken on the integrity and financial standing of organisations to be funded.
- All applications are facilitated through a standard application form which requires various information including up to date accounts, bank statements, constitution, DBS information and child protection policies (where applicable) and expected outcomes which will arise from the funding provided. The amount of information requested will be proportionate to the amount of funding granted.
- Procedures are in place for the review and approval of grant applications, ensuring that expected outcomes align with Council priorities, aims and objectives.
- Funding agreements are signed off by both parties to confirm the terms and conditions on which the provision of funding is based. This will include the outcomes expected, performance indicators, and reporting requirements.
- Monitoring arrangements are established to ensure that evidence is provided by the organisation on a periodic basis to confirm that outcomes have been achieved in line with the grant funding agreement and that systems, processes and financial controls remain appropriate.

### 27.4 Responsibilities of Chief Finance Officer

- To ensure that all grant payments are properly recorded in the Council's accounts.

### 27.5 Responsibilities of Directors

- To ensure that grant awards are consistent with Council priorities, aims and objectives.
- To ensure grants awarded are in line with available budgets.
- To ensure that appropriate monitoring arrangements are in place, thereby obtaining assurance that funding has been applied for the purposes intended.
- To ensure that all grant payments are subject to annual consideration and approval.

## 28. Purchase Cards

### What are Purchase Cards?

28.1 Purchase cards are a form of company charge card that allows goods and services to be procured. Purchase cards are issued directly to employees.

### Why are Purchase Cards important?

28.2 Purchase cards provide the Council with another method of payment for goods and services and reduces the need for cash within the Authority. Purchase cards also provide the Authority with greater visibility of ad-hoc transactions.

### 28.3 Key Controls

- All purchase card transactions must be logged on the financial system.
- All purchase card transactions must be matched to the bank transaction and authorised by the authorising manager.
- Cards must be held securely and not shared.
- Purchase cards must not be used for personal transactions.
- Purchase cards must only be used by the individual who it is assigned to.
- Purchase cards will only be issued to individuals who have received appropriate training.
- Individual transaction and monthly limits must be agreed by the authorising manager.
- Purchase cards must only be used in accordance with the prevailing policy.

### 28.4 Responsibilities of Chief Finance Officer

- To provide guidance to all officers on the proper use of Purchase Cards within the Council.
- To ensure that appropriate accounting guidelines are in place for transactions where the purchase card is used, including the accounting for VAT.
- To approve purchase cards to be issued to individual officers and approve individual and monthly transaction limits.
- To arrange cancellation of the Purchase Cards when an officer leaves the Authority.
- To provide guidance on receipt retention.

## 28.5 **Responsibilities of Directors**

- To comply with the rules and guidance provided by the Chief Finance Officer.
- To set the individual and monthly transaction limits.
- To ensure that officers who are allocated Purchase Cards and their Managers are aware of their responsibilities regarding this (and further detail contained within the Purchase Card User Guide).
- To ensure that the card is returned to the Exchequer team, in person, in the event the cardholder leaves the Authority.
- To ensure that VAT receipts are retained for the appropriate period.

## 29. **Payments to Employees and Members**

### **What are Payments to Employees and Members?**

- 29.1 As part of main Council business, the Council has to pay officers their salaries. In addition, payments can be made for other expenses which they have occurred on behalf of their duties.
- 29.2 Salaries and wages are paid in accordance with the approved Establishment List for the Council. Salaries are paid on the third Friday of each month, partly in advance and partly in arrears. All payments are made by BACS.
- 29.3 Members' allowances are paid monthly through the payroll system.

### **Why are Payments to Employees and Members important?**

- 29.4 Officer costs are the largest item of expenditure for most Councils. It is, therefore, important that payments are made accurately, timely, made only when they are due and that payments accord with individuals' conditions of services.
- 29.5 It is also important that all payments are made accurately, recorded and accounted for and that Members allowances are authorised in accordance with the scheme adopted.

### 29.6 **Key Controls**

Key controls are:

- Proper authorisation procedures are in place and that there is adherence to corporate timetables and procedures in relation to the prompt notification of all changes including:
  - Starters;
  - Leavers;
  - Variations; and
  - Enhancements.
- All payments are made in accordance with the terms and conditions of employment, and approved timesheets and claims where appropriate;
- Frequent reconciliation of payroll expenditure against approved budget and bank account;
- All appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule; and
- HMRC regulations are complied with.

#### 29.7 **Responsibilities of Chief Finance Officer**

- To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former officers, and to determine and approve the associated procedures.
- To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions complying with statutory requirements.
- To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- To make arrangements for paying Members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- To provide advice to secure payment of salaries and wages by the most economical means.

#### 29.8 **Responsibilities of Directors**

- To ensure appointments are made in accordance with the regulations of the Authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- To notify the HR Service of all matters affecting payments as soon as possible and in the required manner. In particular:

- appointments, resignations, dismissals, suspensions, secondments and transfers;
  - absences for sickness or other reason, apart from approved leave;
  - changes in pay rates, other than pay awards and agreements of general application; and
  - information necessary to maintain records of service for superannuation, income tax and national insurance.
- To ensure that adequate and effective systems and procedures are operated so that:
    - payments are authorised to bona fide officers only;
    - payments are only made where there is a valid entitlement;
    - conditions and contracts of employments are correctly applied; and
    - officer's names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
  - To ensure all officers' expenses are paid via payroll.
  - To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowance are properly payable by the Authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Chief Finance Officer is informed where appropriate.
  - Officers' claims submitted more than six months after the expenses were incurred will be assessed and determined, for payment or otherwise, by the Director. The Chief Finance Officer will provide guidance on which the assessments and determination can be made.
  - To ensure that the Chief Finance Officer is notified of the detail of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
  - To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention guidelines.

## **30. Taxation**

### **What is Taxation?**

- 30.1 There are five types of taxation which the Council will be aware of and take account of when it carries out its business. These are:
- Value Added Tax (VAT);
  - Income Tax and National Insurance;

- Construction Industry Scheme (CIS) Tax;
- Insurance Premium Tax; and
- Corporation Tax (on companies it controls)

30.2 Each has its own rules and relates to different areas of the Council's business.

**Why is Taxation important?**

30.3 Like all organisations, the Authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all Officers to be aware of their role.

30.4 Detailed consideration of future spending is required to ensure that the Council can continue to recover all the VAT it incurs, both on new schemes and on its existing expenditure. It is therefore important for all officers to be aware of their role in ensuring the Council's compliance with and adherence to HMRC's VAT Regulations and the requirements of the Council's VAT guidance.

30.5 It is important that the Council does not waste resources through under recovery of VAT, failing to identify taxable transactions and account for VAT due at the correct time, unnecessarily incurring non-UK VAT that is generally unrecoverable, or by making poor decisions due to inadequate information.

30.6 **Key Controls**

- Budget Managers are provided with the relevant information and kept up to date on tax issues.
- Budget managers are instructed on required record keeping.
- All taxable transactions are identified, properly carried out and accounted for within stipulated timescales.
- Records are maintained in accordance with instructions.
- Returns are made to the appropriate Authorities within the stipulated timescale.

30.7 **Responsibilities of Chief Finance Officer**

- To ensure that there are proper arrangements in place for the administration and accounting of the four areas of taxation.
- To ensure that all arrangements comply with the Council's statutory responsibilities.
- To complete a monthly return of VAT input and outputs to HMRC.
- To provide details to HMRC regarding the CIS Tax deduction scheme.
- To maintain up-to-date guidance for officers on taxation issues in the taxation manual on the Intranet with updates on significant changes.

- Complete the Council's annual partial exemption calculation and ensure that, as far as possible, this is not exceeded.
- Provide VAT advice, both strategically and operationally.
- To complete all HMRC returns regarding PAYE, on a timely basis.

### 30.8 **Responsibilities of Directors**

- To ensure that the correct VAT liability is attached to all income due.
- To ensure that all VAT recoverable on purchases complies with HMRC regulations.
- To ensure that all capital work and revenue development is notified to the Council's VAT Officer at the earliest opportunity where any of the following apply:
  - significant VAT is incurred;
  - any VAT-exempt income is generated; or
  - there are non-cash benefits, e.g. Land swap or provision of services at below market price.
- To fund any interest charges or penalties falling upon the Council from HMRC that result from their Directorate's failure to account for the correct VAT at the correct time.
- To retain all VAT-related documents in accordance with the Council's document retention policy.
- To ensure that, as far is possible, tax is accounted for in the correct tax accounting period.
- To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- To ensure that all persons employed by the Authority are added to the Authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised agency.
- To ensure officers are aware of and follow the guidance on taxation issued by the Chief Finance Officer in the Authority's Tax manual.
- To ensure that officers are aware of their responsibilities in relation to self-billing (see self-billing regulation).

## 31. **Document Retention**

### **What is Document Retention?**

31.1 Laws and best practice provide requirements and guidelines for the retention and maintenance of documents, along with details as to how long they should be kept. A Document Retention Policy provides a systematic way of deciding to keep or destroy documents which have been received or created in the course of business. It gives guidance on how documents should be kept and how they should be destroyed.

#### **Why is Document Retention important?**

31.2 Document Retention is important as it provides a means of supplying evidence which verifies that income and expenditure recorded in the Council's financial statements is valid, accurate and complete. External organisations also require such confidence. There are strict guidelines and legal requirements in place to satisfy bodies such as HMRC.

31.3 A document retention policy will help to simplify the running of a Service by promoting efficiency and freeing up valuable storage space. Also, a document retention policy can protect you, ensuring you have evidence for your practice when required, and help makes sure laws are being followed.

#### **31.4 Key Controls**

- An understandable and clearly communicated Document Retention Policy is in place.
- All key areas of the Councils operations are covered within the policy.

#### **31.5 Responsibilities of Chief Finance Officer**

- To ensure that a comprehensive Document Retention Policy is in place and this is in line with statutory guidance.

#### **31.6 Responsibilities of Directors**

- To ensure compliance with the guidance within their services.
- To ensure that any amendments to the guidance are reported to the Records Manager on a timely basis.

## **32. Partnerships (including Joint Ventures and Companies)**

### **What are Partnerships?**

32.1 Partnerships provide alternative arrangements for the Council to ensure services are delivered to the local community. This may be better than providing the services directly or by procuring a service from another agency.

### **Why are Partnerships, Joint Ventures and Wholly Owned Companies Important?**

32.2 The distinctive role of the Council is one of leadership to bring together the contributions of the various agencies. We therefore need to deliver a shared vision of services based on user wishes. Partnerships play a key role in delivering community strategies and in

helping to promote and improve the well-being of the area. The Council can work in partnership with others - public agencies, private companies, community groups and voluntary organisations.

- 32.3 There are many reasons to enter into partnerships including:
- Providing new and better ways of delivering services to our residents
  - Creating formal structures to bind partners to work together long-term for shared objectives
  - Sharing risk with others
  - Accessing new resources, including funding
  - Forging new relationships

32.4 **Key Controls**

- All partnerships should be appropriately constituted, with clear and unambiguous rules for decisions, expenditure, goals and responsibilities.
- All partnerships should file accurate annual returns in a timely manner, in an appropriate form to the nature of the partnership.
- The key aims of the partnership should be agreed and committed to from all partner agencies.

32.5 **Responsibilities of Chief Finance Officer**

- To ensure that the accounting arrangements to be adopted for each partnership are satisfactory.
- To ensure that corporate governance arrangements and legal issues have been considered.
- To ensure that risks are fully appraised and reported before agreements are entered with external agencies.
- To ensure that any specific insurance is considered for any officers or members acting formally as a Director to any formally constituted company.
- To ensure that the Council's share of any financial impact is appropriately fed into the financial statements, medium term financial planning and budget planning processes.

32.6 **Responsibilities of Directors**

- To develop a suitable business case setting out the purpose of each partnership proposed and why the proposed route is the best to meet the Council's objectives.
- To ensure appropriate approvals are obtained before any negotiations are concluded with external agencies.
- To ensure that appropriate processes are put in place to represent the interests of the Council, in line with their stake in any partnership arrangement.

- To monitor the Council's share of any financial impact of the partnership is incorporated into the Council's budget monitoring processes.
- To monitor all other performance aspects of the partnership.

### **33. External Funding including Grant applications**

#### **What is External Funding?**

- 33.1 Sources of external funding provide additional resources to enable the Council to deliver services to the local community. This can be provided by the in-house service, or by commissioning partners or other agencies. Care needs to be taken, to ensure that the funding conditions meet the aims and objectives of the Council.
- 33.2 Smaller organisations may be prohibited from bidding for directly accessing some sources of external funding, relying on the Council to effectively sponsor their business case. If the Council accepts, then it becomes the accountable body for the grant; making it ultimately responsible for its correct use.

#### **Why is External Funding important?**

- 33.3 External funding is a very important source of income, especially at a time when the Council's resources are limited and scarce. However, funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Authority.
- 33.4 Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other organisations and private service providers. Funds from external agencies provide additional resources to ensure that the Council objectives are achieved. By acting as Accountable Body for others, the Council may enable projects to proceed and support the achievement of wider objectives within its area.

#### **33.5 Key Controls**

The key controls for external funding are:

- to ensure that the key conditions of funding are understood and complied with; including planning and approval for any match funding and revenue costs associated with any capital grant (such as ongoing maintenance costs).
- to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Council;
- to ensure that risks associated with the funding are known and mitigated – particularly around the potential future clawback of external funding
- to ensure any long-term constraints on assets is understood, recorded and adhered to, which arise from conditions attached to accepted grants.

- to assign a service area responsible for oversight of performance of any agency where the Council is acting as Accountable Body for external funding.
- to have a developed exit strategy for when the grant concludes.

### 33.6 **Responsibilities of Chief Finance Officer**

- To ensure that all funding applications are reviewed prior to submission
- To ensure that all funding notified by external bodies is received and properly recorded in the Authority's accounts.
- To ensure that any match funding requirements are considered prior to entering into agreements and the future revenue budgets reflect these requirements.
- To ensure that the revenue implications that arise from one off capital grants are understood before the grant is applied for..
- To ensure that any necessary claims or returns are made within the deadlines set.
- To ensure that audit requirements are met.
- To include the income and expenditure in the Council's Annual Statement of Accounts.
- To advise on requirements for ensuring that the Council's duties as Accountable Body for external funding are met
- To adjust the budgets in line with appropriately approved and awarded grants.

### 33.7 **Responsibilities of Directors**

- To ensure all applications for funding are consistent with the Council's priorities and have been reviewed by the Chief Finance Officer prior to submission
- To seek appropriate approval to accept any external funding in line with the authorised limits (see Appendix A).
- To ensure risks, constraints and any ongoing funding commitments are documented and fully considered against the benefits of any grants received.
- To ensure that all claims for funds and other returns are made accurately and duly signed by the due date.
- To ensure that the project progresses in accordance with the agreed programme and that all expenditure is properly incurred and recorded.

- To ensure that the appropriate approval is obtained prior to incurring additional expenditure on schemes, projects, programmes etc. which is to be financed wholly by additional grants or other income.
- To ensure that relevant documentation is retained in accordance with the terms of the grant as per the Council's document retention scheme.
- To provide on an annual basis details of external funding which have been agreed.
- To provide a breakdown of projected income and expenditure each year so that these can be properly budgeted for in the Council's financial system.
- To ensure appropriate performance monitoring of any funding where the Council is acting as Accountable Body.

## **34. Work for External Parties**

### **What is Work for External Parties?**

- 34.1 Legislation enables the Council to provide a range of goods services to both individuals and organisations. Various pieces of legislation cover whether costs can be recovered, the extent a surplus can be earned and whether there are restrictions on the use of any income received. The requirements may be directly agreed with the Council, or it may choose to bid to provide a service via a tender process.

### **Why is Work for External Parties important?**

- 34.2 Work may be chargeable and enable a unit to maintain economies of scale and existing expertise. Depending on the service and the recipient then the income may contribute to the Council's central running costs.

### **34.3 Key Controls**

- Ensure that the work falls within the Council's statutory powers.
- Ensure all parties are clear about what services are being provided and the basis of any such provision.
- Ensure risks associated with the work are known, documented and appropriately managed.
- Ensure proposals are costed properly and any charges are within Council's statutory powers.

### **34.4 Responsibilities of Chief Finance Officer**

- Ensure that all income and expenditure relating to External parties is contained within the Council's Annual Statement of Accounts.

- Support business areas to calculate costs associated with any service offered.
- Adjust budgets in line with any agreed changes in income and expenditure resulting from any approved works for External Parties.

#### 34.5 **Responsibilities of Directors**

- Ensure that appropriate approval is sought in advance of any formal agreement to proceed in line with the Authorised Limits (see Appendix A).
- Ensure that the business area has the appropriate expertise and capacity to undertake any work before committing the Council into provision.
- Ensure that appropriate documentation is agreed between the parties including what services are being provided, charges, timing and trigger points of payments.
- Ensure risks are identified in advance and a risk management plan put in place; this could include:
  - Appropriate insurance provision
  - Appropriate timing of payments
  - Appropriate contract management
- To provide a breakdown of any projected income and any additional expenditure each year so that these can be properly budgeted for in the Council's financial system and included within the Statement of Accounts.

## Appendix A

### Authorised Limits

Operationally there are a series of decisions that are required to allow services to operate efficiently without seeking approval from Council each time (for example moving budgets, accepting grants or writing off bad debt). This Appendix sets out limits and responsibilities for these matters.

Nothing contained within this Appendix prohibits formal delegation by Full Council or Cabinet to delegate greater limits or a project, scheme or area basis.

### Virements - Revenue Budgets (sections 6, 32 and 33 of Financial Regulations)

Virements (adjustments) to revenue budgets can take place under a range of circumstances:

- Revenue (current year only) – can be between employee to employee budgets or non-employee to non-employee budget lines (see section 6 of Financial Regulations) \*
- Revenue (grant funded) – note such changes will only be for the period of the grant (see section 32 of Financial Regulations)
- Revenue (external income) – this should only be for the duration of any contract, unless there is an expectation that income will be sustainable (see section 33 of Financial Regulations)

The scheme of virements must be administered and maintained by the Council's Chief Finance Officer in accordance with the following thresholds:

Senior Officer Lead	Finance Lead	Revenue Budget expenditure, grant and income
Head of Service	Senior Accountant/Team Leader	Up to £50,000
Assistant Director / Director	Chief Finance Officer	£50,001 -£100,000
Director	Chief Finance Officer	£100,001 - £250,000
Chief Executive	Chief Finance Officer	Over £250,000

## Capital Budgets Amendments (Section 3 of Financial Regulations)

Virements and amendments to capital budgets can take place under a range of circumstances:

- Capital (grant funding and funding from reserves) – if we have successful in securing grant funding or there is approved use of a reserve to finance capital expenditure
- Capital (external contribution) – if we have received income from another external source (such as a developer contribution)
- Capital (intra-scheme transfer) – if a scheme is going to overspend and this can be contained by transferring from another scheme in the same financial year without a risk that this will lead to an overspend in that scheme

The table below sets out as a minimum the approval required from the business, finance and members depending on the size of the change:

Senior Officer	Finance Lead	Capital
Head of Service	Senior Accountant/Team Leader	Up to £100,000
Assistant Director/Director	Chief Finance Officer	£100,001 - £250,000
Director	Chief Finance Officer (in consultation with the Cabinet Member for Finance)	£250,001 - £500,000
Chief Executive	Chief Finance Officer (in consultation with the Cabinet Member for Finance)	Over £500,000

## Additions to Budgets (Sections 2 (Capital) & 3 (Revenue) of Financial Regulations)

Additions to the approved budget framework where no external funding has been secured (including creation of new service areas) can be agreed by Cabinet or Full Council as per the limits in the following table:

Approval Body	Revenue and Capital
Cabinet	Up to £250,000 per addition up to £1,000,000 cumulative per financial year
Full Council	Over £250,000 per addition and over £1,000,000 cumulative (per financial year)

## Approval to use General Fund and Housing Revenue Account Reserves with the exception of the relevant Working Balances

Accessing reserves to fund specific one-off expenditure can be agreed by the Chief Finance Officer or Cabinet Member as per the limits in the following table:

Service Area Senior Lead Proposer	Approval by Finance Lead	Consultation	Limit
Director	Chief Finance Officer		Up to £150k
Director	Chief Finance Officer	Leader, Cabinet Member for Finance and Chief Executive	Over £150k

### Authorised Signatories (Section 26 of Financial Regulations)

The following table sets out the limit per transaction for raising orders, approving invoices (without an order), approving expenses to employees and approving lease agreements; noting that no payment should be split into smaller components to circumvent these limits.

Authorised By	Authorised Limit for Orders & Invoices	Authorised Limit for Payroll & Expenses	Authorised Period for Lease Agreements
Staff below Team Leader Level	Up to £1,000	N/A	N/A
Team Leaders or equivalent	£1,001 - £25,000	Up to £1,000	Less than 12 months
Heads of Service	£25,001 - £100,000	£1,001 - £5,000	Less than 12 months
Assistant Directors/Directors	£100,001 - £250,000	Over £5,000	Less than 12 months
Director	Over £250,000 - £1,000,000		
Chief Finance Officer	Over £1,000,000	Over £5,000	12 months and over

The Chief Finance Officer can, based upon a satisfactory explanation of need, agree an increase for officer(s) within a business area, for any amount up to the Chief Finance Officer's current limit.

### Bad Debt Write-Off (Section 25 of Financial Regulations)

Any debit or credit balance under £50 per individual debt can be written-off by a Head of Service (or equivalent) without the need to be counter-signed. In all other cases, each write-off will be countersigned by the Chief Finance Officer or their deputy as appropriate as laid out in the table below.

Proposed by:	Authorised By:	Delegated Limit (per debt)
Team Leader or equivalent)	Head of Service or equivalent	£50 - £5,000
Head of Service or Equivalent	Relevant Director	£5,001 – £10,000
Director	Chief Finance Officer	£10,001 – £50,000
Chief Finance Officer	Chief Finance Officer & Cabinet for Finance	Over £50,000

## **Emergency Payments under the Emergency Plan (Section 5 of Financial Regulations)**

- Director (in consultation with Chief Executive or Chief Finance Officer) up to £100,000
- Leader and Chief Executive in excess of £100,000

## **Definition of Roles**

Throughout the document references are made to job titles and roles. During the period of the Regulations it is possible that titles will change. Therefore the updated title shall be equivalent (in terms of the management structure) to the title used in this document.

## Recommended Periods For The Retention Of Records

## Appendix B

### Type of Document

### Retention Period (Years)

#### Accountancy/Financial

Abstract of accounts	6
Audited accounts	Retain indefinitely
Budgetary control records	6
Costing records	6
Estimate working papers	2
Financial ledgers	6
Grant claim records	6
Investment records	2
Journals	6
Leasing records	2
Loans records	Retain indefinitely
Records re closing ledgers	6
Telephone call records	2
VAT claims	6
VAT records	3
Voluntary fund accounts	6

## South Kesteven District Council Financial Regulations

### **Bank Related Records**

Bank paying-in books/slips	6
Bank reconciliation	6
Bank statements	6
Cancelled cheques	2
Cheque books and counterfoils	6
Cheque lists (creditors/payrolls)	2
Loan records and correspondence	2
Paid cheques	4
Returned cheque records	2

### **Contracts**

Final accounts of contracts executed under hand	6
Final accounts of contracts executed under seal	12
Successful tenders	3 years after final payment
Unsuccessful tenders	Retain until final payment is made

### **Creditor Records**

Copy orders	2
Credit notes	6
Creditor invoices	6
Delivery notes	2
Imprest documentation	2
Periodic payment records	6

## **External Funding**

Funding documentation and associated invoice/payment details

6 years or in accordance with the terms of the individual grant requirements

## **Income Records**

Cash books

6

Correspondence (income)

2

Debtor accounts (records non-current)

2

Income posting slips and tabulations

2

Periodic income records

2

Receipt books

2

Record of receipt books issued

2

Registrar's quarterly returns

2

Sales records

2

## **Miscellaneous Records**

Annual report

Retain indefinitely

Bound copies of minutes

Retain indefinitely

Capital works tabulations

2

Car leasing and mileage records

3

Car loans

3

Computer system documentation

2

Inland Revenue documentation

6

Inventory records

6

Land searches	6
Member allowances	2
Minutes	2
Postal remittance registers	2
Stock lists	2
Travel claims	6
Valuation lists	Retain indefinitely
Vehicle logs	2

### **Insurance Records**

Expired insurance contracts	Retain indefinitely
Insurance claims	6
Insurance policy documentation	Retain indefinitely
Insurance register	Retain indefinitely

### **Payroll**

BACS amendments and output	3
Building society tabulations	3
Copy payslips	6
Correspondence	6
Life certificates (pensions)	2
Monthly BACS listing	3
NI file cashbook	2

NI number changes	2
Payroll adjustment documentation	6
Part time employees' claim forms	6
Pensions personal records	Retain indefinitely
SSP records	4
Staff transfer records	6
Starters' forms	2
Superannuation Records	Retain indefinitely
Tax and NI records	6
Tax code notifications	2
Timesheets	6
Union documentation	2
Weekly BACS listings	3

**Note:**

- The period of years shown, relates to a complete period following the end of the financial year to which the record relates.
- No documents or records should be disposed of until notification has been received from the District Auditor of the completion of the audit of accounts for the year to which the records relate.
- If a suitable period of retention is in doubt or specific records are not listed within the Financial Regulations, please refer to the Chief Finance Officer.



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SOUTH  
KESTEVEN  
DISTRICT  
COUNCIL

# **Contract Procedure Rules September 2025**

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## 1. Introduction

- 1.1 The purpose of these Contract Procedure Rules is to set out the principles, roles and processes involved in procurement at the Council. All procurements must comply with these rules, the Officer Scheme of Delegation, the Council's Financial Regulations, English law and European law in force in England.
- 1.2 All procurements must realise value for money through the optimum combination of whole life costs and quality of outcome.
- 1.3 These Rules seek to protect the Council's reputation by maximising value for money, making savings where possible, and minimising the risk of allegations of corruption, dishonesty and failure to meet legal obligations, as such they must be followed in all commercial activity undertaken on behalf of the Council and within a partnership relationship, regardless of the source of funding.
- 1.4 If there is any change to the law which affects these Rules, then that change must be observed until these Rules can be revised. If these Rules conflict in any way with the law, then the law takes precedence.
- 1.5 These Rules are supported by detailed, practical guidance available in the Procurement section of the Intranet and further supported by the Councils Procurement Lead and the Councils outsourced tendering agent which is currently Welland Procurement; [wellandprocurement@melton.gov.uk](mailto:wellandprocurement@melton.gov.uk).
- 1.6 Any values stated within these Rules are exclusive of VAT.
- 1.7 All procurement activities must be carried out in a fair, open, transparent, proportionate, and non-discriminatory manner.
- 1.8 These Rules apply to:
  - 1.8.1 Contracts or agreements with external organisations where the Council pays for:
    - 1.8.1.1. Goods and/or Services;
    - 1.8.1.2. Works of any kind; and
    - 1.8.1.3. Hire, rental or lease of equipment, material and/or plant.
  - 1.8.2 Grant money received unless the grant conditions state otherwise.
- 1.9 These Rules do not apply in the following circumstances:
  - 1.9.1. The purchase or lease of property, land acquisition, interest in land, transaction in land or disposal. This does not extend to any service, supplies or works contracts that may be required to make the land, existing buildings or immovable property ready for acquisition, disposal or leasing.
  - 1.9.2. Direct employment of permanent or fixed term employees, for the avoidance of doubt these Rules do apply to consultancy and employment agency contracts.

- 1.9.3. Instructing barristers or solicitors (as long as those costs do not exceed the relevant Public Procurement Threshold).
- 1.9.4. The lending or borrowing of money by the Council.
- 1.9.5. Contracts between Local Authorities as defined by Paragraph 2, Schedule 2 of the Procurement Act 2023 (PA23)
- 1.9.6. Contracts between Local Authorities as defined by Paragraph 2, Schedule 2 of the Procurement Act 2023 (PA23)

## **2. Roles and Responsibilities Officers**

- 2.1. The Officer responsible for the procurement must comply with these Contract Procedure Rules and the Financial Regulations. The Officer is also responsible for ensuring that any Agents acting on behalf of the Council do so in compliance with these Rules and must seek written confirmation of their agreement.
- 2.2. All procurements must realise value for money through the optimum combination of whole life costs and quality of outcome.
- 2.3. The Officer must check whether a suitable Corporate Contract or other Publicly Available Contract exists before seeking to let another Contract. Where such a contract does exist, its use should be considered.
- 2.4. Where an above Procurement Act Threshold procedure is required, the Officer must contact the Procurement Lead before embarking on the procurement. The Procurement Lead is also available to provide advice on all procurement activity.
- 2.5. Officers must take all necessary legal, financial and other professional advice. All officers are required to obtain the necessary approvals BEFORE commencing a procurement process. These approvals vary according to value and whether the procurement is considered a Key Decision.
- 2.6. Officers must ensure that the contracts for which they are responsible are effectively managed and monitored to ensure they deliver the requirement as intended.
- 2.7. Where an Officer has a potential conflict of interest within a procurement, the Officer must declare this immediately to the relevant Strategic Director and Monitoring Officer. The Officer may be required to withdraw from the procurement process. Any Officer who fails to declare such a conflict of interest may be subject to disciplinary proceedings and sanctions and also risks being prosecuted under the Bribery Act 2010.
- 2.8. A 'Conflict of Interest Declaration form' can be found on the Council's and will be monitored by tendering officers throughout any tendering process they support on.
- 2.9. As part of the service planning process Officers are expected to highlight all required procurement support through the annual Procurement Service Plan in advance of the next financial year.
- 2.10. Officers are responsible for the contracting activity, and must ensure:

- a) Continued compliance with the Council's requirements;
- b) Value for money;
- c) Compliance with these Rules as well as any legal and statutory requirements;
- d) Compliance with any relevant Council policy and Key Decision Threshold; and
- e) That contracts are signed/sealed before the commencement of any Works, Services or Good delivered.

2.11. The Officer is responsible for ensuring adequate notice is given to the Procurement Lead on new requirements, where a procurement lead will be involved in supporting the activity, taking into account the time required for mini comps, tenders and any internal approvals required.

2.12. Before beginning a commercial activity, the Officer responsible for it must carry out an appraisal and consider:

- (a) The requirements from any relevant Best Value or other review;
- (b) The need for the expenditure and its priority e.g., has a business case been developed which sets out the service objectives, the criteria for evaluation and the options for delivery;
- (c) Defining the objectives of the purchase;
- (d) The risks associated with the purchase over its life and how to manage them;
- (e) What procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, and collaboration with other purchasers;
- (f) If corporate contracts and/or suitable frameworks exist and assess their suitability;
- (g) Consulting users as appropriate about the proposed procurement method, contract standards, and performance and user satisfaction monitoring; and
- (h) Selecting the most appropriate procurement method.

The Officer's approach to the appraisal tasks should be proportionate to the complexity, risks, and value of the procurement.

2.13. Officers will need to ensure they have the relevant budget approved (as per the Constitution) and available prior to embarking upon a procurement process. Budget approval ensures you have provision to fund any commitment within your own budget, and where sufficient budget isn't available the additional required funding has been sought and approved in accordance with the Council's Constitution.

2.14. Officers will need written approval to procure and award in line with the constitution. This approval needs to be sought regardless of the procurement route i.e., Tender, Quotation, Framework Direct Award or Exception. Please see Appendix 3 for the relevant Forms.

2.15. Contract Approval and Signing

2.15.1. For contracts with a total value up to and including £49,999 the approval will be given by the relevant Service Manager (or equivalent post). This must be done in writing (email is sufficient). Contract to be signed by Service Manager

- 2.15.2. For contracts with a total value between £50,000 and £99,999 then approval will be given by Heads of Service (must be recorded via an Officer Delegated Decision (ODD). Contract to be signed by Heads of Service.
- 2.15.3. For contracts with a total value over £100,000 but up to the key decision threshold as set out in the Councils constitution then approval will be given by the Director or Assistant Director and must be recorded via an Officer Delegated Decision (ODD). Contracts to be signed by Director or Assistant Director.
- 2.15.4. For contracts with a total value above the key decision threshold constitutes a Key Decision, which must be on the forward plan. Democratic Services must be engaged prior to any procurement process commencing which is above the key decision threshold. Note that any applicable “call in” period must be observed before the Decision is implemented. Section 17 provides further information where Contracts need to be signed and sealed.
- 2.15.5. ODDs requiring comment/approval from Procurement should be sent to Procurement Lead to fill out. Officers should not fill this section out and approve under the Procurement Leads’ name without the knowledge and consent of the procurement Lead.
- 2.15.6. Copies of signed Approvals should be saved in SharePoint under the relevant departments folder
- 2.15.7. A summary of information is available at Appendix 6 Quick Reference Guide.
- 2.16. It is the Officer’s responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract.
- 2.17. Officers must ensure details of bidders and their submissions are kept confidential (subject to Freedom of Information considerations).
- 2.18. Officers shall complete the Council’s electronic Contract Register (to record all contracts with an estimated total value of £5,000 and above including any changes over the contract life e.g., extensions).
- 2.19. Officers shall notify the Procurement Lead of any contracts awarded with an estimated total value of £25,000 (ex. VAT) and above (including any changes over the contract life e.g., extensions), so that a Find a Tender Award Notices can be published.

## **Service Managers, Heads of Service, Assistant Directors and Directors (or equivalent postholders)**

- 2.20. Service Managers and Heads of Service must ensure that staff are aware of their responsibilities under these Rules, receive adequate training and guidance and that they and their Officers comply with these Rules at all times, and that sufficient budget is available and approved before procurement process begin.
- 2.21. Service Managers and Heads of Service must ensure that Value for Money is achieved in all procurements and ensure officers have obtained the necessary approvals BEFORE commencing a procurement process.
- 2.22. Service Managers and Heads of Service must ensure that they have in place a scheme of delegation that records in writing what action Officers are authorised to take under these Rules and what action needs to be referred to Cabinet or Council.
- 2.23. The relevant Service Manager or Head of Service is responsible for ensuring there is a process in place so that the Council's Contracts Register is updated as required following procurement activity.
- 2.24. Where a Service Manager or Head of Service has a potential conflict of interest within a procurement process, the officer must declare this immediately to the relevant Strategic Director and Monitoring Officer. The Head of Service may be required to withdraw from the procurement process. Any Head of Service who fails to declare such a conflict of interest may be subject to disciplinary proceedings and sanctions and also risks being prosecuted under the Bribery Act 2010.
- 2.25. A 'Conflict of Interest Declaration – Confidentiality Agreement' form can be obtained the councils intranet.

### **3. Non-Compliance with these Rules**

- 3.1. Where an Officer becomes aware of any non-compliance with these Rules (which cannot be remedied), they must declare this to the relevant Director and Monitoring Officer.

### **4. Procurement Processes – General**

- 4.1. Officers will need to ensure they have the relevant budget approved and available prior to embarking upon a procurement process. This approval will be from the Budget Holder, in accordance with budget authorisation limits (as outlined in the Financial Regulations). Officers will also need written approval to procure (email is sufficient).

#### **4.2. Estimating the Total Contract Value**

- 4.3. Total Value is the maximum potential contract value. This is an estimation of the annual value, multiplied by the maximum contract length (including any extensions).  
This calculation is to be used for contracts that fall under the Procurement Act 2023. All references to "value" within these Rules refer to Total Value.

- 4.4. Where a proposed work or provision of services may result in contracts being awarded in the form of separate lots, account shall be taken of the total estimated value of all such lots. Where the aggregate value of the lots is equal to or greater than the relevant Public Procurement Threshold, please speak to the Procurement Lead for further guidance on aggregation.
- 4.5. For works contracts, the calculation of the estimated value shall take account of both the cost of the works and the total estimated value of the supplies and services that are made available to the contractor by the Council if they are necessary for executing the works.
- 4.6. For the appointment of consultants, the Estimated Total Contract Value shall be calculated using the requisite rate for the consultant, multiplied by the total duration of the assignment required to complete all the activities and deliverables of the consultant for their entire appointment.
- 4.7. For Concessions contracts (where the supplier makes money from the right given by the Council to provide), contract values are based on what it is worth to the supplier or the cost the Council would incur to provide the contract. The Total Value for these contracts shall be the total turnover of the concessionaire generated over the duration of the contract, as estimated by the Council, taking into account:
- (a) the value of any form of option and any extension of the duration of the concession contract;
  - (b) revenue from the payment of fees and fines by the users of the works or services other than those collected on behalf of the Council;
  - (c) payments or any other financial advantages, in any form, from the Council to the concessionaire, including compensation for compliance with a public service obligation and public investment subsidies;
  - (d) the value of grants or any other financial advantages, in any form, from third parties for the performance of the concession contract;
  - (e) revenue from sales of any assets which are part of the concession contract;
  - (f) the value of all the supplies and services that are made available to the concessionaire by the Council, provided that they are necessary for executing the works or providing the services;
  - (g) any prizes or payment.
- 4.8. Officers will ensure that values are not split in an attempt to avoid the applicability of these Rules or the Procurement Act 2023.
- 4.9. Re-occurring Contracts shall not be put in place with the effect of preventing it from falling within the scope of these Rules, thresholds, or any relevant Public Procurement Act. Spend must be aggregated where it is appropriate to do so, whether that is within Council services, or across multiple services for the same scope of work; to ensure value for money is achieved and reduce the duplication of work. Examples of where aggregate spend would be appropriate includes (but is not limited to):
- (a) One service spot purchasing similar pieces of work on a regular basis throughout the financial year;
  - (b) Multiple Council services purchasing the same services under different contracts; and

- (c) Individual contracts being kept under a certain threshold to avoid procurement obligations within these Rules.
- 4.10. Where a proposed work or provision of services may result in contracts being awarded in the form of separate lots, account shall be taken of the total estimated value of all such lots. Where the aggregate value of the lots is equal to or greater than the relevant Procurement Act Threshold, the Procurement Lead must be consulted.
- 4.11. Where the Council may be contributing only part of the total value of a contract, it is nevertheless the Estimated Total Contract Value that should be applied in determining the correct procedures to be applied under these Rules. Examples of where this would be appropriate includes (but is not limited to):
- (a) Collaborations between services within the Council;
  - (b) Collaboration between the Council and at least one other Contracting Authority; and
  - (c) Where the Council is only part funding a project, in partnership with another funding source.
- 4.12. In the event that the estimated Total Contract Value is below the Procurement Act Threshold, and following a procurement process the proposed winning bidder's Total Bid Value exceeds the relevant Procurement Act Threshold, the Officer must not award the contract without consulting with the Procurement Lead as to the risks associated with awarding the contract.
- 4.13. **Tupe**
- 4.14. Where any employee of the Council or of a Supplier may be affected by any transfer arrangement (TUPE), the Officer must ensure that the Transfer of Undertaking (Protection of Employment) issues are considered and obtain relevant advice More information can be found in Appendix 7 and on the Intranet.
- 4.15. When obtaining quotes, consideration should be given to selecting SME/Local suppliers for quotes wherever possible.
- 4.16. Quotations can be submitted via email but should be PDF documents to prevent tampering or accusations thereof; the onus will be on the bidder to make this decision. Quotations are not to be "opened" prior to the deadline for return if one is given (not applicable if only one quote is being sought).
- 4.17. The quotation must be received before any order is processed and must include the following information:

<b>Under 24,999</b>	<b>Between £25,000 and £100,000</b>
A description of the goods, services or works to be supplied;	A specification (covering the goods, services or works) to be supplied; the "where" and "when" they are to be supplied; and any relevant performance and contract management details)

When and where they will be supplied;	Instructions to bidders:
The value of the requirement;	Evaluation criteria
Payment terms.	How to respond
<ul style="list-style-type: none"> <li>- If high risk (e.g Building Works, technical works, working with the public/accessing people's homes, working in areas where there is public access).</li> <li>- The short form terms and conditions to be applied (available Standard T's &amp; C's, unless using another appropriate set of terms and conditions, as agreed by Legal Services or Procurement Lead).</li> </ul>	How clarification messages are to be asked (who sent to, any deadlines for messages)
	Information bidders need to include within response
	Deadline for responses (day and time); and
	The short form terms and conditions to be applied (available Standard T's & C's, unless using another appropriate set of terms and conditions, as agreed by Legal Services or Procurement Lead).

4.18. The contract award must be authorised by the budget holder using the relevant Approval Route (ODD, etc)

4.19. Where the value of the contract is more than £5,000, the resultant contract must be added to the Contract Register (on ProContract) to ensure compliance with Transparency Regulations.

4.20. It is the Officer's responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract. This will involve requesting, obtaining and maintaining records (and asking for appropriate evidence) of relevant due diligence, annual inspections and any future expiration/renewals.

This may include (but not be limited to):

- a) Insurance certificates (new certificates to be requested upon expiry of the individual insurance policy);
- b) Details as required by the selection/suitability criteria asked as part of the procurement process (annually, upon anniversary of Contract start date):
  - i. Supplier policies
    - Quality Management
    - Environmental
    - Equality
    - Health and Safety
    - Data protection/GDPR
  - ii. Licences/certificates/registrations
  - iii. Business continuity plans
  - iv. Required training (and updates for staff (Council and supplier)
  - v. Staff certifications/qualifications (Council and staff); and

Finance can provide reports from the Council's credit check facility, and where required undertake a financial ratio analysis.

#### 4.21. Exceptions / Direct Awards

- 4.21.1. Direct Awards are not a substitute for instances where procurement planning has not been exercised, and Officers find themselves with insufficient time to undertake a competitive process. Officers must still consider commercial awareness and achieve value for money.
- 4.21.2. Officers must obtain a fully signed Approval to Direct Award form in advance of awarding a contract and must ensure that the actual spend does not exceed the total value stated in the approved form.
- 4.21.3. Officers will need to ensure they have the relevant budget approved and available prior to submitting an exception or Direct award or exemption request. This approval will be from the Budget Holder, in accordance with budget authorisation limits (as outlined in the Financial Procedure Rules).
- 4.21.4. Signed contracts that have a total value of £5,000 or more must be scanned in and saved to the central procurement SharePoint area and added to the contract register. Officers must then provide Governance with any paper copies of the Contract for the subsequent storage and safe keeping.
- 4.21.5. Direct Awards must be approved by the relevant departments' Director or secondary Director in the instance where a Director is initiating the Direct Award themselves, upon completion of the Approval to Direct Award Form subject to one of more of the following criteria being fulfilled:
  - No genuine competition: proprietary or patented goods or services; requirement of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; compatibility with existing goods or services is required and where those existing goods or services can only be sourced from the same supplier.
  - There is a sound business case and/or an independent review that there is no value for money in running a full procurement process. Supporting evidence will need to demonstrate market testing and enquiries to other suppliers. This must not be used to avoid competition or where decisions to procure have been postponed/left to the last minute and there are insufficient timelines to procure.
  - Genuine emergencies: critical preventative or remedial work where there is a real and imminent risk to the safety of people or property arising from hitherto unforeseen 'catastrophic' events or incidents, for example fire, bombing, landslide etc.
  - Urgent Situations not of the Council's own making: the urgency must have been reasonably unforeseeable (e.g., existing supplier going into liquidation) and genuinely be a case of time is of the essence. Urgency arising from the Council's own making (e.g., lack of planning) shall not justify an exception. Where this exception is used, a compliant procurement must be implemented as soon as possible.

- Collaborative/Joint Procurement: where another authority/public body is acting as the 'lead buyer' and provided that the Officer can demonstrate those arrangements comply with relevant Regulations and best practice.
- Grants which the Council may receive or make: except where the grant is the form of payment for a contract for services where the Council specifies the output or outcomes to be delivered. The awarding of grants by the Council or on behalf of the Council must be carried out under the principles of openness, fairness, non-discrimination and value for money. Officers cannot choose to treat procurement as a grant in order to avoid conducting a competitive process. **This exception cannot be used if the grant funding guidance states a procurement process must be conducted (such as ERDF funding); Officers must be fully aware of all requirements of the relevant funding body and ensure full compliance.** Please discuss with the Procurement Lead before any exception on this basis is requested.
- An award notice is required on Find a Tender for all Contracts with a total value of £25,000 or above. The Procurement Lead is responsible for such award notices. Officers must formally advise the Procurement Lead of the award details, so that they can publish the award notice.

4.22. **For all procurements, the Officer must keep the following records saved in Sharepoint under Procurement section of the Intranet, within their relevant department :**

- a) A record of all decisions from pre to post procurement.
- b) The method of obtaining tenders.
- c) Tender documents produced by the Council.
- d) Tenders received from bidders. The successful tender should be retained for at least the life of the contract. Unsuccessful tenders should be retained for the first 12 months of the contract.
- e) A written record of the evaluation.
- f) A record of the Award approval.
- g) A signed copy of the Contract which should be retained for the life of the contract and in normal circumstances for 6 years thereafter.

4.23. Communications to and from bidders during the procurement process.

4.24. **Contract management**

4.25. The named Contract Manager should be noted in the Contract Register. All contracts must have a named Contract Manager for the entirety of the contract and that Contract Manager is responsible for the application of these Rules.

4.26. During the life of the contract, the Contract Manager must monitor the overall performance of the contract closely in order to ensure any issues of underperformance are formally addressed as soon as possible.

4.27. Before the contract commences (and regularly throughout the duration of a contract), contract managers should request and inspect key health and safety records to provide assurance that controls are operating effectively. The frequency of requests and types of records to be reviewed should be agreed and outlined as part of the procurement process. Records should include but not be limited to:

- Up to date Health and safety policies
- Risk Assessments
- COSHH assessment
- Induction and training records
- Fire safety logbooks (if applicable)
- PAT certificates
- Health and Safety inspections (as well as any actions arisen, and how they are being followed up on, reviewed and regularly monitored) and whether these are carried out by the Council or the supplier
- Accident reporting

4.28. Throughout the duration of the contract, Council Officer's must keep a record (and ask for appropriate evidence) of relevant due diligence as well as any future expiration /renewals.

4.29. All contracts must contain the right to terminate the contract in the event of a contractor offering any inducement, committing fraud, or committing an offence under the Prevention of Corruption Acts.

4.30. **Contract Modifications**

4.31. Any variation to contract for a contract valued above the Threshold can only be varied if the variation is a permitted modification and not a substantial modification or a material change in accordance with Procurement Legislation (PCR 2015 and New Act – PA2023)

4.32. A material change is one which:

- Would have allowed the admission of other Bidders or the acceptance of another tender; or
- Extends the scope of the contract considerably to goods, services or works not initially covered by the Specification; or
- Changes the economic balance in favour of the contractor in a manner not provided for in the procurement documents.

4.33. All above threshold variations should be reviewed by Procurement Lead prior to the agreement of any variation.

4.34. Permitted modifications include:

- Change provided for in the contract
- Urgency and protection of life (PA 2023)
- Unforeseen circumstances (subject to the change not exceeding 50% of the value of the original contract under PCR 2015 and PA2023)
- Materialisation of a known risk (subject to the change does not increase the estimated value of the contract by more than 50% PA 2023)
- Additional goods, services or works (under PCR 2015 and PA2023 provided that any increase in price does not exceed 50% of the value of the original contract)
- 'Convertible contract' (PA 2023)

- 4.35. Variations to Relevant Below-Threshold Contracts (subject to whether it is a convertible contract) are allowed. Input from the procurement lead should be requested by Officers.
- 4.36. **PA 2023 – Above threshold**
- 4.37. Before any modification to a contract can be made, a contract change notice must be published unless there is an exception (such as if the modification increases or decreases the estimated value of the contract by 10% or less for goods or services or 15% or less for works; or the contract term by 10% or less of the maximum term provided for on award).
- 4.38. Changing the term of a contract term by more than 10% of the maximum term is considered substantial (calculated in months). Officers must therefore ensure they account for all possible extensions in all Relevant Contracts.
- 4.39. If the change increases or decrease the estimated value of the contract by 10% or less for goods or services or 15% or less for works unless the modification is permitted in relation to novation or transfer of the contract on corporate restructuring.
- 4.40. Modifications apply to the value of the contract at the time of the modification (i.e. the estimated value of the contract immediately before the modification is made) - therefore if more than 1 modification is applied to the contract, the value will be the new value (including the previous modification) rather than the old value.
- 4.41. Officers may observe a voluntary standstill period of at least 8 working days from the day of publication of the contract change notice and it is strongly recommended to do so to provide additional protection for the Council.
- 4.42. For modification of contracts over £5M a copy of the modified contract (redacted) must be published within 90 days of entering into it
- 4.43. **Public Contracts Regulations 2015 (PCR 2015)**
- 4.44. Officers must note that any changes made to Relevant Above-Threshold Contracts that started their procurement process or existed before the PA 2023 came into effect are still subject to the modification rules of the PCR 2015. It is important to check when the contract was procured and if calling off a framework agreement, check when the framework agreement was established. If they were procured with the PCR 2015 were in force, then the PCR 2015 will apply to modifications under them.
- 4.45. Permitted modifications are allowed if the value is below 10% of the initial contract value for service and supply contracts and 15% of the initial contract value for works Contract Extensions.

## **5. Procurements valued £24,999 and under**

- 5.1. Where the contract is valued £24,999 and below, Officers are required to seek at least one written quotation (email is acceptable). Value for money remains a primary objective and so Officers may decide to seek more than one quotation to ensure that objective is achieved. Officers are encouraged to seek quotations from local suppliers wherever possible.

## **6. Procurements valued between £25,000 and £99,999**

- 6.1. Where the contract is valued between £25,000 and £99,999, at least three written quotations must be sought. Those quotations can be invited from identified suppliers as no procurement advertising is needed to take place.

- 6.2. For contracts with a total value of £25,000 or more, if the Council chooses to publicly advertise a quotation, for example because:

6.2.1. The Officer cannot immediately identify three potential suppliers to invite to quote; and/or

6.2.2. The procurement opportunity is either politically sensitive or high profile

then it must be simultaneously advertised via the Procurement Lead on Contracts Finder.

- 6.3. Where the Procurement Lead is instructed to support the procurement, the Officer must complete a Procurement Initiation Document (PID), available on the intranet, prior to the commencement of the procurement process (at pre-procurement stage).
- 6.4. It is recommended that the Request for Quotation template document is used which can be found on the Intranet. In any case the criteria for selecting the most advantageous quotation must be established before the quotations are invited and be made clear in the procurement documentation.
- 6.5. At least one of the suppliers invited to submit a quotation should be local, where local means operating from a business address within the geographical boundary of the East Midlands.
- 6.6. Where fewer than three potential suppliers can be identified, the Officer must keep a written record of the reason and all potential suppliers should be invited to quote. It is accepted that the Officer may receive fewer than three quotations even where three or more suppliers have been invited to quote.
- 6.7. Quotations can be submitted via email but should be PDF documents to prevent tampering or accusations thereof; the onus will be on the bidder to make this decision. Quotations are not to be "opened" prior to the deadline for return if one is given (not applicable if only one quote is being sought).
- 6.8. The Officer must keep copies of the Council's procurement documentation as well as copies of all quotations received and any communication between the Council and the bidders.

- 6.9. As part of the procurement process (quotation), potential bidders can seek clarification on either the information published or the process itself.
- 6.10. The nature of any clarification or response from the Council must not materially change the scope/substance of the requirement. If it does, Officers may need to abandon the process and restart, using revised documentation. Please discuss this with the Procurement Lead.
- 6.10.1. All requests for clarification and questions relating to the quote (and its associated documents) must be submitted as per the instruction document (via email or ProContract).
- 6.10.2. The Council must respond to all clarifications as soon as possible (via email or ProContract).
- 6.10.3. A copy of all requests for clarifications and the responses must be anonymised and published to all potential bidders (who have either been invited to quote or have expressed an interest in the quote) where the clarification and response are not considered confidential.
- 6.10.4. If a potential bidder wishes the Council to treat a clarification as confidential and therefore not publish the response to all, it must state this when submitting the clarification. If in the opinion of the Council, the clarification is not confidential, the Council will publish it in an anonymised format.
- 6.10.5. Officers must state a deadline for receipt of clarifications.
- 6.10.6. Officers must keep a record of communications between potential bidders and the Council.
- 6.10.7. Unless it is part of a clarification and the above is observed, Officers must not:
- 6.10.7.1. Make contact with suppliers/potential bidders; or
  - 6.10.7.2. Send information to suppliers/potential bidders.
- 6.11. If a supplier/potential bidder makes contact with an Officer, they should advise them that messages must be submitted as per the instruction document; via email or ProContract.
- 6.12. Evaluation of the quotations received must be carried out using the evaluation criteria identified in the procurement documentation. Any subjective evaluation (such as quality) must be carried out independently by a minimum of two evaluators (preferably three), and then moderated by an independent moderator to reach a final agreed score. The evaluators should be fully briefed on the evaluation process.
- 6.13. Clarification questions may be asked where responses would not result in a material change of the bid received.
- 6.14. The 'Conflict of Interest Declaration – Confidentiality Agreement' on the procurement portal gives further guidance on evaluation principles and best practice; it is advisable to ask all evaluators to complete, sign and return this document to the Council lead. The procurement Lead can act

as the independent moderator but cannot undertake any scoring. Clarification questions may be asked where responses would not result in a material change of the bid received.

- 6.15. Contract award must be approved as per 2.15 of these Rules.
- 6.16. All bidders must be notified of the Award decision simultaneously in writing (via the Council's electronic tendering system or email, depending on the method of obtaining quotations) by the Officer (or the Procurement Lead), whether or not their bid was successful.
- 6.17. The contract or terms and conditions must be signed by an officer authorised in accordance with the delegation scheme. In certain circumstances the contract may require sealing, please see Section 18 below.
- 6.18. If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to Governance for advice and guidance on the use of electronic signatures.
- 6.19. The resultant contract must be added to the Council's Contract Register (on ProContract) to ensure compliance with Transparency Regulations.
- 6.20. All signed contracts must be scanned in and saved to the relevant Directorate in SharePoint and added to the Contracts Register. Officers must then provide Governance with any paper copies of the Contract for the subsequent storage and safe keeping.
- 6.21. If the contract is valued at £25,000 and over, an award notice on Find a Tender is required. Further contract management notices may also be required under the new Act. The Procurement Lead is responsible for such award notices. If an Officer has managed the procurement process without assistance from the Procurement Lead, they must formally advise them of the award details, so that they can publish the award notice full details of Notices required can be found at Appendix 3.
- 6.22. It is the Officer's responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract.

## **7. Procurements valued at £100,000 and above**

- 7.1. All Procurements with a value over £100,000 must be competed formally
- 7.2. The Procurement Lead should be notified giving at least 4 months' notice in respect of all contract requirements with a total value of £100,000 and above to allow time for tendering agent to schedule the procurement into their master service plan.
- 7.3. Where the Procurement Lead is instructed to support the procurement, the Officer must Notify the Lead who will add the requirement to Tendering Agents Service Plan. Tendering Agent will assign a procurement officer who will support with the tender.
- 7.4. In the first instance, Tendering Agent will arrange a startup meeting where they will discuss the requirement with the stakeholder and assist in filling out Section 1 of the Procurement Toolkit

Document. Once completed, stakeholder will need to get signed off to ensure approval has been sought to procure.

- 7.5. The Procurement Took Kit document can be found on the Council's intranet.
- 7.6. All required external notices up to the point of contract award will be published on Find a Tender service by Tendering Agent. All contract management notices will need to be managed by the Contract Manager.
- 7.7. Tenders valued at over £5M require at least 3 KPI's setting and performance against KPIs are to be published.
- 7.8. Once contract is awarded, service is required to circulate the contract for signing
- 7.9. Once contract is signed, Tendering Agent will add to the register and will advise of any further contract notices which may be required during the life of the contract when handing over the completed Procurement Toolkit.
- 7.10. The Contract manager is responsible for publishing any further notices required during the life of the contract. These may include;
  - 7.10.1. Contract Change Notice
  - 7.10.2. Payment compliance notice (Contracts over £5M)
  - 7.10.3. Contract performance notice (contracts over £5M)
  - 7.10.4. Contract termination notice
- 7.11. Council Officers must conduct the Tender process using the Council's tender portal (unless agreed otherwise by the Chief Finance Officer).
- 7.12. The Tender template documents must be used to ensure that the required Suitability Questions are used (available from Tendering Agent).
- 7.13. The Officer must work with Tendering Agent to ensure that all relevant procurement documents are finalised before the procurement is advertised, these will include at least the Specification, Draft Terms and Conditions of Contract, TUPE information (where applicable) and evaluation criteria.
- 7.14. The specification must cover the scope of the requirement i.e., the goods, services or works to be supplied, the "where" and "when" they are to be supplied as well as any relevant performance and contract management details. Further training on writing scopes is available by booking onto Tendering Agent training session via the Intranet
- 7.15. As part of the procurement process (tender), potential bidders can seek clarification on either the information published or the process itself.

- 7.16. The nature of any clarification or response from the Council must not materially change the scope/substance of the requirement. If it does, Officers may need to abandon the process and restart, using revised documentation. Please discuss this with the Procurement Lead.
- 7.16.1. All requests for clarification and questions relating to the tender (and its associated documents) must be submitted as per the instruction document (via ProContract).
  - 7.16.2. Tendering Agent will manage the clarifications
  - 7.16.3. The Council must respond to all clarifications as soon as possible so Tendering Agent can publish responses.
  - 7.16.4. A copy of all requests for clarifications and the responses must be anonymised and published to all potential bidders (who have expressed an interest in the tender) where the clarification and response are not considered confidential.
  - 7.16.5. If a potential bidder wishes the Council to treat a clarification as confidential and therefore not publish the response to all, it must state this when submitting the clarification. If in the opinion of the Tendering Agent and the Council, the clarification is not confidential, Tendering Agent will publish it in an anonymised format.
  - 7.16.6. Tendering Agent must keep a record of communications between potential bidders and the Council.
  - 7.16.7. Unless it is part of a clarification and the above is observed, Officers must not:
    - 7.16.7.1. Make contact with suppliers/potential bidders; or
    - 7.16.7.2. Send information direct to suppliers/potential bidders.
  - 7.16.8. If a supplier/potential bidder makes contact with an Officer, they should advise them that messages must be submitted as per the instruction document; via ProContract.
- 7.17. Tenders will be received via the electronic tendering system. The Procurement Officer will be responsible for opening tenders.
- 7.18. Tenders must be evaluated in accordance with the advertised evaluation criteria, clarification questions may be asked as long as the response would not have the effect of materially changing the tender received. Any subjective evaluation (such as quality) must be carried out independently by a minimum of two evaluators (preferably three), then moderated by an independent moderator to reach a final agreed score. The evaluators should be fully briefed on the evaluation process. The 'Conflict of Interest Assessment – Confidentiality Agreement' will be assessed as part of the Procurement Toolkit Document.
- 7.19. Further guidance on evaluation, principles and best practice can be found by booking on to the Evaluations training session via the Intranet and can also be provided by the procurement Lead.
- 7.20. The Procurement Lead officer can act as the independent moderator but cannot undertake any scoring.

- 7.21. The bidder with the highest evaluation score will be awarded the contract. If this is not case, the advice of the Procurement Lead Officer must be sought prior to award.
- 7.22. Contract award must be approved in in accordance with the approval levels set out at 2.16 of these Contract Procedure Rules.
- 7.23. All bidders must be notified of the Award decision simultaneously in writing (via the e tendering system) by the Procurement Lead Officer, whether or not their bid was successful.
- 7.24. The contract must be signed and/or sealed, please see Section 18 below.
- 7.25. The resultant contract must be added to the Council's Contract Register to ensure compliance with Transparency Regulations and saved to relevant Directorate on SharePoint. The Officer is responsible for ensuring the original signed contract is given to Governance for safekeeping.
- 7.26. Where Tendering Agent has managed the procurement on behalf of the Council, the Officer must ensure that the above documents are returned to the Council upon completion of the process.
- 7.27. An award notice is required on Find a Tender; the Procurement Lead Officer is responsible for such award notices.
- 7.28. It is the Officer's responsibility to carry out due diligence on successful suppliers, for the duration of the Contract.
- 8. Procuring via a Framework Agreement, Dynamic Purchasing System (DPS) or Dynamic Market (DM)**
- 8.1. A contract of any value can be procured via a Framework agreement DPS or Dynamic Market (DM) Providing there is a business justification for doing so.
- 8.2. Direct awards under Frameworks, where permissible under the Framework guidance must be approved by completing and signing the Approval to Direct Award' from.
- 8.3. Under the new Act (PA23), Dynamic Purchasing system (DPS) is replaced by Dynamic Markets (DMs). Currently, use of DM's only apply to above threshold requirements.
- 8.4. Frameworks and DPS's which were established before 24th February 2025 are to be used in accordance with Public Contracts Regulations 2015. Any new Frameworks created after 24th February are to be used in accordance with the new Procurement Act 2023 (PA23).
- 8.5. Compliance with these Rules and relevant national law is achieved through compliance with the framework agreement / DPS / DM terms and conditions. This will involve:
- 8.5.1. reviewing relevant Framework/DPS/DM guidance document(s);
- 8.5.2. reviewing the correct process for call off (which may be through further competition or direct award); and

- 8.5.3. following the stated call off process, as laid out in the Framework/DPS/DM documentation.
- 8.5.4. Officers must ensure they are fully conversant with the eligibility of the Council to use the framework, as stated within the Framework Agreement. If these Rules are not sufficiently detailed for the Officer to be assured of the eligibility and requisite process, they must engage with the Procurement Lead to seek advice on the validity of the Framework Agreement.
- 8.6. Mini Competitions/Further Competitions should be carried out by working with Tendering Agent
- 8.7. As part of the procurement process (call off), potential bidders can seek clarification on either the information published or the process itself.
- 8.8. For the avoidance of doubt, a framework agreement, DM or DPS is considered a compliant procurement route where:
- a) It has been entered into by the Council in compliance with these Rules; or
  - b) Another contracting authority, purchasing consortium or Central Government has tendered the framework agreement or DPS in compliance with national procurement law and the Council is named as a potential user of the arrangement.
- 8.9. All goods, services and works with a procurement total value in excess of the relevant Public Procurement threshold are enforced by the Public Contracts Regulations 2015 (before 24th February 2025) and The Procurement Act 2023 (post 24th Feb 2025). These Regulations set out strict processes which must be followed, as well as remedies available to suppliers. The principles that Officers need to comply with are:
- a) equal treatment;
  - b) non-discrimination;
  - c) mutual recognition;
  - d) proportionality; and
  - e) transparency.
- 8.10. It is recommended that the Further Competition Template documents are used which can be obtained from the Intranet or the Procurement Lead; if template documentation is provided by the Framework/DPS Owner, Officers can make use of this.
- 8.11. In any case the criteria for selecting the most advantageous submission must be established before call offs submissions are invited and be made clear in the procurement documentation. The call offs must contain (as a minimum):
- a) The goods, services or works to be supplied;
  - b) The “where” and “when” they are to be supplied; and
  - c) Instructions to bidders:
    - a. Evaluation criteria
    - b. How to respond
    - c. How clarification messages are to be asked (who sent to, any deadlines for messages)
    - d. Information bidders need to include within response
    - e. Deadline for responses (day and time); and
    - f. The terms and conditions to be applied to the call off (as per

Framework/DPS guidance document, please use the terms stated; these must be agreed by Legal Services).

In some instances, Officers may need to consider TUPE implications.

- 8.12. Submissions must be evaluated in line with the Framework/DPS/DM guidance document and the Contract award must be approved as per 2.15 of this document.
- 8.13. All bidders must be notified of the Award decision simultaneously in writing (via the method used to run the procurement process i.e., email, ProContract or other system used by the Framework/DPS/DM owner) by the Procurement Lead or the Framework/DPS owner), whether or not their bid was successful.
- 8.14. The contract must be signed/sealed in line with the appropriate Rule, dependent on the total value of the contract.
- 8.15. Where the Council is using an external framework, and the total value of the contract is £5,000 or above, the resultant contract must be added to the Contract Register to ensure compliance with Transparency Regulations.
- 8.16. Under PA23 external notices must be published for every call off
- 8.17. Where the Council has set up a framework, only the framework is necessary to be recorded on the register. It is not necessary to record the individual call-offs from the framework, however external notice must be published for every call off.
- 8.18. Where a Tendering Agent has managed the procurement on behalf of the Council, the Officer must ensure that the above documents are returned to the Council upon completion of the process.
- 8.19. These documents should be stored in the Council's central Procurement filing system in SharePoint
- 8.20. It is the Officer's responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract.

## **9. Creating an internal Framework Agreement**

- 9.1. Framework agreements set out the general terms under which specific purchases ("call offs") can be made under the agreement. The purpose of using a framework is to enable contracting authorities to award individual contracts without going through a full tender process each time. A framework agreement may be established with one supplier ("single supplier frameworks") or with more than one ("multiple supplier frameworks").
- 9.2. Under the new Procurement Act, there are now two types of frameworks. Standard Framework and Open Framework
- 9.3. A standard framework runs for a maximum of 4 Years. Once the Framework has been awarded, it is fixed, and new suppliers cannot be added at a later date.

- 9.4. An Open Framework can run up to 8 years and can be re-opened periodically throughout the 8 Year duration to allow new bidders to apply to be added.
  - 9.4.1. When running the initial tender for an Open Framework, how the framework will run, how call offs will take place and when the framework will re-open for new bidders must be set out.
  - 9.4.2. The framework must reopen at least once in the first three years of its life and at least every 5 years thereafter
  - 9.4.3. Each time the framework re-opens, there can be no substantial amendments to the scope of terms and no amendments to the award criteria.
  - 9.4.4. If only one supplier bids and is awarded either to the framework or to a specific Lot of the Framework, the Open framework can only run for a maximum of 4 years, thorough market engagement should therefore be conducted to ensure there is a likelihood of more than one bidder.
- 9.5. The minimum number of suppliers for a multiple supplier framework is two.
- 9.6. Call-off contracts based on framework agreements may be longer than four years and may extend beyond the expiry date of the framework.
- 9.7. Under the new Act, an award notice must be published for every call off.
- 9.8. Framework agreements should be set up to allow for mini competitions to run as the first option for selecting a supplier. Where this is not the case, the Procurement Lead should be consulted.
- 9.9. As Standard Framework agreements are “closed” for the term, consideration should be given to the impact of this and ensure that the benefits and length of the Framework are justified.
- 9.10. Formal advice from the Procurement Lead must be sought as early as possible and in any case before any procurement activity takes place. The relevant Rules and Regulations should be followed according to the total potential value of the Framework (the value to be taken into consideration shall be the maximum estimated value inclusive of VAT of all the contracts envisaged for the total term of the framework agreement). It is the Officer’s responsibility to monitor, and track spend against the framework.
- 9.11. Where the Council has set up a framework, details of the framework itself must be recorded on the Council’s Contract Register (on ProContract). The estimated value of the framework must be recorded and all of the suppliers associated with the framework must be listed.
- 9.12. Purchase orders raised under the framework must reference the contract reference number so spend against the framework can be monitored.
- 9.13. Where the Council has set up a framework, only the framework is necessary to be recorded on the register. It is not necessary to record the individual call-offs from the framework, however, public award notices must be published for every call off.

## **10. Setting up a Dynamic Market (DM)**

- 10.1. A Dynamic Market (DM) is similar to an electronic framework agreement, with three exceptions, new suppliers can join at any time, it is to be run as a completely electronic process and no direct awards are allowed – mini comps/quotations must be sought for each call off.
- 10.2. Dynamic Purchasing Systems are used exclusively by public sector organisations. They save time and money by being a quick and easy way to access goods, services and works through a compliant route. However, Dynamic Markets can only be used for call-off over the PA233 Threshold.
- 10.3. There is no maximum term for a DM; the period of validity of the DM should be indicated in the call for competition.
- 10.4. All bidders that meet the selection criteria shall be admitted to the DM, and the number of bidders accepted on to the DM shall not be limited.
- 10.5. Formal advice from the Procurement Lead must be sought as early as possible and in any case before any procurement activity takes place. The relevant Rules and Regulations should be followed according to the total potential value of the DPS (the value to be taken into consideration shall be the maximum estimated value net of VAT of all the contracts envisaged for the total term of the DM). It is the Officer's responsibility to monitor, and track spend against the DM.

## **11. Social Value and Sustainability**

- 11.1. Local authorities are required to consider how economic, social, and environmental wellbeing may be improved by services that are to be procured, and how procurement may secure those improvements under the provisions of the Public Services (Social Value) Act 2012.
- 11.2. Social Value and Sustainability refers to approaches which maximise the additional benefits that can be created through the delivery, and procurement of goods and services, above and beyond those directly related to those goods and services themselves.
- 11.3. This covers areas such as:
  - 11.3.1. Health and wellbeing
  - 11.3.2. The wider economy
  - 11.3.3. Tackling economic inequality
  - 11.3.4. Equal opportunity
  - 11.3.5. Climate change and the environment
  - 11.3.6. Community cohesion and empowerment
- 11.4. Before starting a procurement process, the Officer should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders.
- 11.5. All Contract with a value above the PA23 threshold must include a Social Value assessment worth 10% of the overall score.
- 11.6. For below threshold contracts, the Council must consider, in the form of a Social Value appraisal whilst recognising the principal of proportionality.
  - a) how what is proposed to be procured might improve the economic, social, and environmental well-being of the relevant area, and

- b) how, in conducting the process of procurement, it might act with a view to securing that improvement.

11.7. The Officer must consult the Procurement Lead for advice on specifying requirements under Social Value, and how to evaluate tenders against these requirements.

11.8. Further support can be provided by the Economic Development team for Social Value and the Sustainability & Climate Change Officer for Sustainability

## **12. Conflicts of Interest**

12.1. Clauses 2.8 and 2.9 define when a conflict of interest must be declared

12.2. For contracts with a total value of between £25,000 and £99,999, all Officers, Members and other stakeholders involved in procuring for the Council sign a Declaration of Interest form at the start of the procurement process. This form is available on the intranet.

12.3. For contracts with a total value of £100,000 or more, all Officers, Members and other stakeholders involved in procuring for the Council must sign a Declaration of Interest Assessment at the start of the procurement process. This process will be managed by Tendering Agent if they support the procurement.

## **13. GDPR and Data Protection Act 2018 Requirements**

13.1. The General Data Protection Regulations and Data Protection Act 2018 impose greater obligations on the Council to protect an individual's information.

13.2. Officers conducting a procurement should ensure that the GDPR screening questions, available from the Procurement Lead, are completed as early as possible in the planning stages of that procurement.

13.3. Should any of the GDPR screening questions be answered positively, further advice must be sought from the Procurement Lead and the Council's Data Protection Officer before any further action is taken. A non-disclosure data protection agreement (available from Legal Services) must be entered into either prior to or upon commencement of the Contract.

13.4. Officers shall consider the information governance requirements of the contract if they anticipate any Personal Data is to be processed as part of the contract e.g., data protection, security of information, records management.

13.5. Where Personal Data may be processed as part of the contract, a Data Protection Impact Assessment, available from the Governance Support Team, shall be completed. This will help the Council identify the most effective way to comply with their data protection obligations and meet individuals' expectations of privacy.

13.6. Where requirements are identified by the Data Protection Impact Assessment, the Officer shall ensure that any requirements of contractors are considered and built into the specification and assessed where necessary as part of the evaluation.

13.7. Any queries relating to this should be directed to the Council's Data Protection Officer.

#### **14. Freedom of Information**

14.1. The Council has specific obligations under the FOI Act 2000, regarding disclosure of information. Officers have an obligation to record and maintain accurate records relating to Contracts, as well as complying with FOI requests.

14.2. Bidders should be asked to identify any information they supply that is confidential or commercially sensitive, and detail why they consider this the case. This justification should be considered when responding to FOI requests.

14.3. Any queries relating to this should be directed to the Council's Data Protection Officer.

#### **15. Modern Slavery**

15.1. The Council is committed to ensuring that modern slavery does not exist within its supply chains.

15.2. All procurements with a total value of £100,000 or more are required to include the Standard Selection Question regarding Modern Slavery Act compliance.

15.3. Where procurement is considered high risk in terms of modern slavery, for example transport and waste related procurements, additional award questions should be considered with advice from the Procurement Lead.

15.4. Where a supplier is required to comply with the Modern Slavery Act, i.e., their turnover is above £36 million, that compliance should form part of the contract management (as per 5.1).

15.5. A Modern Slavery Helpline is available on Tel: 08000 121 700 or online (<https://www.modernslaveryhelpline.org/>). The Helpline provides information and advice about modern slavery, a 24-hour telephone reporting line and an online reporting function through the website

#### **16. Safeguarding Provisions in Contracts and Grant Arrangements**

16.1. Any service engaged by the Council should be provided on the basis of agreed terms or a contract. Safeguarding compliance should be included in all arrangements. All services commissioned by the Council must operate within the requirements of the Council's Safeguarding Policy and meet the relevant legislative standards. Where appropriate, procuring officers will need to ensure that contractors demonstrate that they meet these requirements.

- 16.2. It is expected that the lead officer on any commissioning project be responsible for ensuring that any contract includes proper provision for the safeguarding of children, young people, and adults with care and support needs; this also includes making reasonable requests for evidence from suppliers that the requirements stated in the Safeguarding Policy (where applicable) are in place or ready to be implemented. Where there is any confusion about the need for the inclusion of safeguarding in a contract arrangement clarification and/or advice should be sought from the Safeguarding Lead.

## **17. Sealing a Contract**

- 17.1. A contract must be sealed where:

- 17.1.1. The total value is over £500,000;
- 17.1.2. The Council wishes to enforce the contract for more than six years after its expiry; or
- 17.1.3. The price paid or received under the contract is a nominal price and does not reflect the value of the goods, services or works; or
- 17.1.4. There is any doubt about the authority of the person signing for the other contracting party; or
- 17.1.5. A Bond is established on behalf of the Supplier(s) or their guarantors; or
- 17.1.6. Required by the Parties to the agreement; or
- 17.1.7. Where the Monitoring Officer deems it appropriate.

- 17.2. Where contracts are completed by each side adding their common seal, the affixing must be attested by or on behalf of the Council in accordance with the Constitution. The Monitoring Officer is responsible for the process of sealing a contract.

- 17.3. If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to Legal Services for advice and guidance on the use of electronic signatures.

## **18. Bonds and Parent Company Guarantees**

- 18.1. Officers, when assessing the contractor's financial viability, shall consider whether the Council requires security for due performance of the contract.
- 18.2. Officers must consult the Section 151 Officer about whether a Bond or Parent Company Guarantee would be necessary where the total value exceeds £500,000. This must be determined prior to any procurement process, so that the requirement can be included in the terms and conditions for the contract.

## **19. Procuring with External Grant Monies**

- 19.1. Procuring contracts using external grant monies can bring about additional risks to the Council due to additional regulatory requirements in the way the money is controlled and additional scrutiny that the procurement process may receive. Therefore, Officers must be fully aware of all requirements of the relevant funding body and ensure full compliance.
- 19.2. Officers shall ensure that they engage, in advance of undertaking a procurement activity, with the Procurement Lead, providing full access to any relevant additional guidance.

## APPENDIX 1: DEFINITIONS

Agent(s)	A person or organisation acting on behalf of the Council, or on behalf of another organisation.
Award Criteria	The criteria used by the Council to evaluate a Bidder's submission against the needs identified within the specification to determine the successful tender.
Award Notice	A notice published on FTS (Find a Tender Service) which provides details of the winning bidder and the final value of the contract. Award notices are required for all procurements valued over £25,000
Bidder	An individual or organisation who submits a tender or quotation in a competitive procurement process
Bond	An insurance policy: If the provider does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the Bond (often 10% of the Total Contract Value). A Bond is intended to protect the Council against a level of cost arising from the provider's failure.
Candidate	An individual or organisation that has sought an invitation or has been invited to take part in a Quote or tender
Conflict of interest	The concept of conflicts of interest shall at least cover any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.
Constitution	The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to make sure these are efficient, transparent and accountable to local people.
Contract	A legal document that states and explains a formal agreement between two different parties.
Contracting Authority	Has the definition contained within the Procurement Act 2023. It means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but does not include Her Majesty in her private capacity
Contract management	Is the process of managing contract creation, execution and analysis to maximize operational and financial performance at an organization, all while reducing financial risk.
Contract Register	A register that stores details of the Council's Contracts, including duration and expiry dates. All Contracts with a total value of £5,000 and above must be entered onto the register.
Contract term	Is the length of the contract including the initial term and any extension periods proposed.
Corporate Contract	A contract that has already been let by the Council.
Council	South Kesteven District Council.

Dynamic Purchasing System (DPS)	Is similar to an electronic framework agreement, with two exceptions, new suppliers can join at any time and it is to be run as a completely electronic process.
Electronic Tendering (eTendering)	A secure means to store and transmit all Procurement Documentation via a secure electronic vault (ProContract).
Evaluation	<p>The process of assessing received tenders or quotations against the published criteria to identify the winning bidder, i.e. the bidder with the highest evaluation score.</p> <p>Any subjective evaluation (such as quality) must be carried out independently by a minimum of two evaluators (preferably three), and then moderated by an independent moderator to reach a final agreed score. The evaluators should be fully briefed on the evaluation process. The 'Conflict of Interest Declaration – Confidentiality Agreement' on the procurement portal gives further guidance on evaluation principles and best practice. Procurement Lead can act as the independent moderator but cannot undertake any scoring.</p>
Exception	An act or instance of waiving a right to obey PCR2015 or PA2023.
Extension (contract)	An additional period identified within the contract, beyond the initial term which may be used to lengthen the contract term.
Find a Tender (FTS)	An e-notification service used to post and view mandatory public sector procurement notices.
Framework Agreement	A framework is an agreement with suppliers to establish terms governing contracts that may be awarded during the life of the agreement. It is a general term for agreements that set out terms and conditions for making specific purchases (call-offs).
Goods	Tangible products that satisfy a need.
Initial Term	The initial period of a contract which may be subsequently extended.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead.
Personal Data	Any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person.
Procurement	Procurement is the process of finding, agreeing terms and acquiring goods, services or works from an external source, often via a tendering or competitive bidding process.
Procurement Documentation	The full suite of procurement documents required to undertake a compliant procurement process. Includes (but not limited to); Selection Questionnaire, Specification, Invitation to Tender, Terms and Conditions, TUPE information and Form of Tender.

Public Procurement Procedure	A procurement process where the total value exceeds the relevant Public Procurement Threshold and so governed by the Public Contract Regulations 2015 and the Concessions Contracts Regulations 2016.
Proportionate/ Proportionality	Operating in a way that ensures that all aspects of a tender process and contract management including; timescales, specifications, Suitability Criteria, evaluation process and Award Criteria correspond to the size, complexity, risk, and value of the requirements of the procurement and/or contract.
Public Procurement Threshold	The threshold above which a Regulated procedure must be carried out. There are thresholds for goods/services, works and concessions. The current thresholds are contained within Appendix 2.
Publicly available contract	A contract that has been let by another Contracting Authority and which is available for use by the Council. The Council must have been named specifically or generally within the procurement documentation in order to enable access.
Quotation	A formal statement setting out the estimated cost for a particular job or service.
Services	A valuable action, deed, or effort performed to satisfy a need or to fulfil a demand.
Tendering Agent	An organisation acting on behalf of the Council, or on behalf of another organisation, responsible for providing procurement support, including but limited to – <ul style="list-style-type: none"> <li>- Tendering</li> <li>- Contract Management</li> </ul> Procurement Training.

## APPENDIX 2: VARIABLE INFORMATION

The following information is subject to change during the currency of these Contract Procedure Rules and may be updated as changes occur by the relevant Strategic Director.

### Regulation changes

Potential phase out of information relating to the old regulations – Public Contracts Regulations 2015

### Public Procurement Thresholds

The Government has revised the threshold figures, which came into force on 1<sup>st</sup> January 2024. These revised thresholds will not apply to any procurement which commenced prior to the Regulations coming into force.

From 1<sup>st</sup> January 2024 onwards, the Public Procurement Thresholds are (Ex. VAT):

	Including VAT	Excluding VAT
Works	£5,372,609	£4,298,097.20
Non-Works contract (goods and or Services)	£214,904	£171,923.20

### Welland Procurement (Tendering Agent)

#### Contacts to be found in Procurement Intranet

[www.wellandprocurement.org.uk](http://www.wellandprocurement.org.uk)

### APPENDIX 3 – FTS NOTICE REQUIREMENT SUMMARY

Ref.	Transparency Notices	Requirement
K1	Pipeline notice	<ul style="list-style-type: none"> <li>• Mandatory (for organisations where spend is £100m+ Per Annum).</li> <li>• 18-month forward-look at planned procurements of £2m+ value only.</li> </ul>
K2	Preliminary market engagement notice	<ul style="list-style-type: none"> <li>• Mandatory where engagement with the market is anticipated or has taken place (or else explain in tender notice why it hasn't been published).</li> </ul>
K3	Planned procurement notice	<ul style="list-style-type: none"> <li>• Optional and Best Practice</li> <li>• Advises the market of an upcoming procurement. A qualifying planned procurement notice can reduce tender timescales.</li> </ul>
K4	Tender notice Including to establish a framework and below-threshold notices	<ul style="list-style-type: none"> <li>• Mandatory (for a competitive procedure)</li> <li>• Publish when undertaking an open or competitive flexible procedure (including to establish a framework contract and procuring using a dynamic market(1)) or procuring a regulated below-threshold contract.</li> </ul>
K5	Transparency notice	<ul style="list-style-type: none"> <li>• Mandatory (for a direct award)</li> <li>• Publish prior to award when undertaking a direct award.</li> </ul>
K6	Contract award notice	<ul style="list-style-type: none"> <li>• Mandatory</li> <li>• Publish to communicate the outcome of the procurement and to commence the standstill period prior to awarding a contract under the open or competitive flexible procedure (and voluntary standstill periods for direct awards).</li> </ul>
K7	Contract details notice	<ul style="list-style-type: none"> <li>• Mandatory</li> <li>• Publish details of the awarded contract (including the contract, for public contracts £5m+), inc. regulated below-threshold contracts above a certain value and those procured by direct award.</li> </ul>
K8	Contract payment notice	<ul style="list-style-type: none"> <li>• Mandatory</li> <li>• Publish details of payments over £30,000 made under a public contract (quarterly).</li> </ul>
K9	Contract performance notice	<ul style="list-style-type: none"> <li>• Mandatory</li> <li>• Publish KPI scores for public contracts £5m+ (at least annually). Publish within 30 days of supplier poor performance / breach of contract.</li> </ul>
K10	Contract change notice	<ul style="list-style-type: none"> <li>• Mandatory</li> <li>• Publish prior to a qualifying modification taking place.</li> <li>• for contracts £5m+, include details of the modification.</li> </ul>

Ref.	Transparency Notices	Requirement
K11	Contract termination notice	<ul style="list-style-type: none"> <li>• Mandatory</li> <li>• Publish when a public contract is terminated / comes to an end</li> </ul>
K12	Procurement termination notice	<ul style="list-style-type: none"> <li>• Mandatory</li> <li>• Publish where, after publishing a tender or transparency notice, the process is terminated without awarding a contract.</li> </ul>
K13-16	Dynamic market notices	<ul style="list-style-type: none"> <li>• Mandatory</li> <li>• Publish and update when advertising, establishing, changing or terminating a dynamic market (inc. utilities dynamic markets and qualifying utilities dynamic markets).</li> </ul>
K17	Payments compliance notice	<ul style="list-style-type: none"> <li>• Mandatory</li> <li>• Publish details of performance against 30-day payment terms (twice annually).</li> </ul>

Further information on notices and requirements can be found: [Module 2: Transparency - GOV.UK](#)

## APPENDIX 4 – APPROVAL DOCUMENTS

All templates can be found in the procurement section of the intranet under Approval Docs - <https://skdc.sharepoint.com/:f:/r/sites/Procurement/Shared%20Documents/Procurement%20Shared%20Documents/Approval%20Docs?csf=1&web=1&e=UYemJp>

### APPROVAL FOR A CONTRACT EXTENSION

#### Guidance Notes

- In normal circumstances it is only possible to extend a contract where such a provision is included in the original terms and conditions.
- In exceptional circumstances, as set out in 15.3.3 of these Rules it is possible to extend a contract even where there is no provision for such an extension within the original terms and conditions. However, advice must be sought from the Procurement Lead before taking such action.

### EXEMPTION FORM

- a) To be used for Direct Awards under single quotes for anything over the PA23 Threshold which is outside of a framework
- b) Notify Procurement Lead for advice in this instance as public notices must be published

### APPROVAL TO DIRECT AWARD

- a) To be used for Direct Awards either through a framework or without a framework for values between 25K and the relevant Procurement Act Threshold.

#### Direct Awards under an external Framework -

- a) An External framework agreement is a contract let by another contracting authority, usually another Council, or an NHS body or a central purchasing authority (e.g. Crown Commercial Service).
- b) An external framework can only be used if it was originally created by a public sector contracting authority (e.g EEM – created by Nottingham City Council).
- c) The framework agreement must have named the Council as one of its potential users, either generally or specifically.
- d) The framework agreement will have been published with rules and guidance notes; these must be followed in order for the call off contract to be compliant and valid.

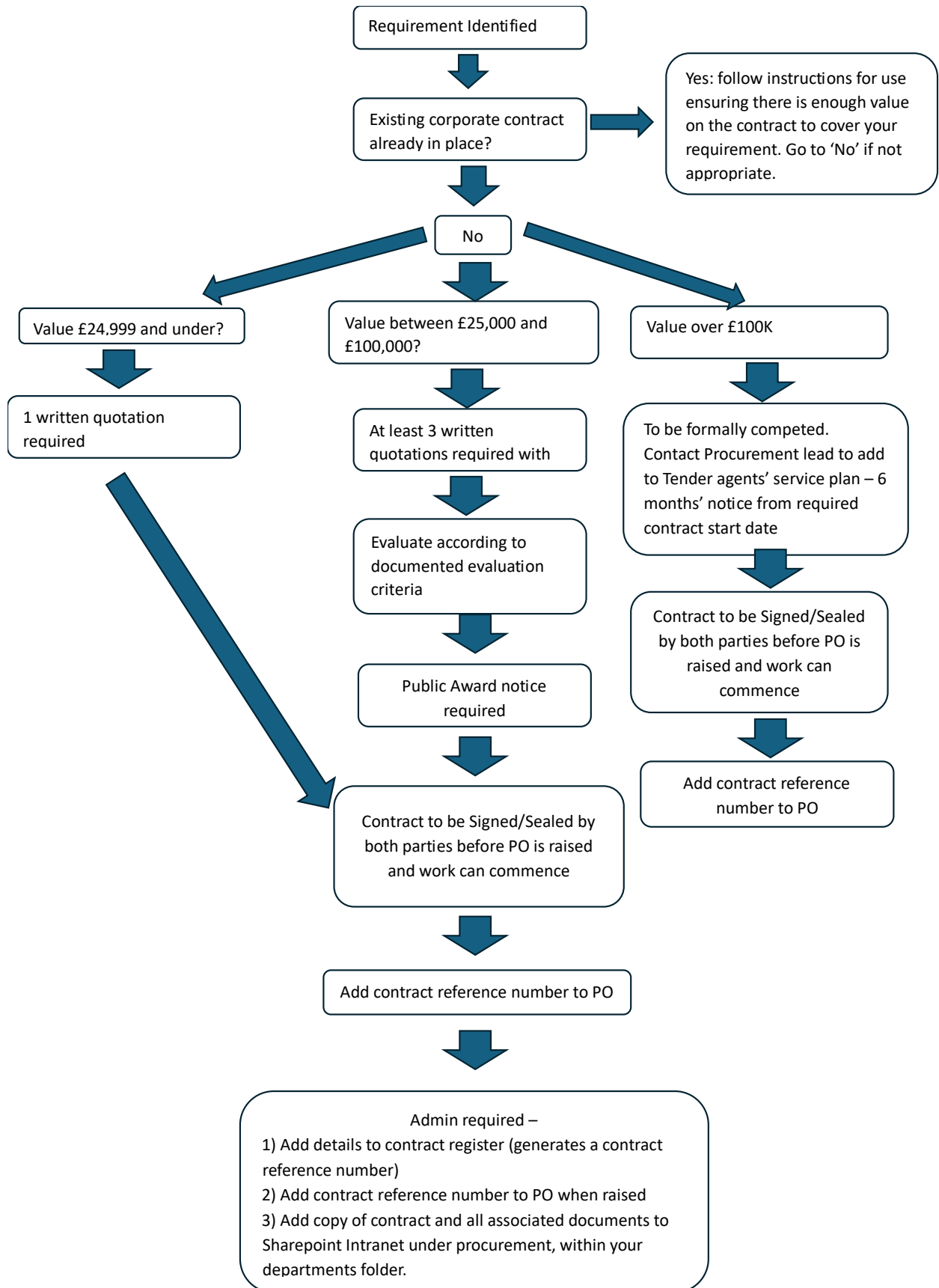
#### Direct Awards without Framework

- a) Approval must be sought before any direct award takes place between 25K and the relevant Procurement Act Threshold
- b) Following approval, please remember to –
  - Publish the contract award notice; and
  - Add your Contract to the Contracts Register.
  - Attach copy of signed contract to Contract Register
  - Save all associated documents on Sharepoint

**APPENDIX 5: ROLES OF PROCUREMENT LEAD AND TENDERING AGENT PROCUREMENT**

<b>Procurement Cycle Stage</b>	<b>Role Fulfilment</b>
Needs assessment/business case	Procurement Lead with relevant client officer (this is a key stage in the identification of possible savings, to ensure compliance and that where possible a commercial approach is being taken)
Options analysis	Procurement Lead/Tendering Agent with relevant client officer (for the same reasons as above)
Procurement Plan	Procurement Lead/Tendering Agent (with relevant Council client officer) and with input from the Procurement Lead as necessary.
Market testing/market engagement	Procurement Lead/Tendering Agent (with relevant Council client officer)
Production of procurement documentation including Specification, Request for Quotation an Invitation to Tender documents, Terms and Conditions of Contract	Procurement Lead/Tendering agent (with relevant Council client officer and Legal Services)
Advertising (Contracts Finder and where necessary FTS)	Tendering Agent
Tender Evaluation	Tendering Agent (with relevant Council client officer) Legal Services advice should be sought where any challenge under Procurement Act 2023 is anticipated.
Contract award notices	Tendering Agent
Contract award: contract signing, insertion in to Contract Register and contract management set up	Procurement Lead (with relevant client officer and Legal Services)
Contract Management support	Procurement Lead

**APPENDIX 6: QUICK REFERENCE GUIDE**



- Approval to procure is required before procurement commences (via email) AND a decision to award must be obtained before a contract is awarded.
- Contracts valued at £5,000 or more are subject to Transparency Regulations and must be entered on to the Council's Contracts Register ( ProContract).

Total Value	Procurement Guidance	Governance Guidance
<b>Under £24,999</b>	<p><b>Notices Required:</b> None</p> <p><b>Method:</b> At least <b>one written quotation</b> required.</p> <p><b>Note:</b> Budget Holders are responsible for all awards over £5,000 to be entered on the Contracts Register</p>	<p><b>Governance Process:</b> All contracts below £25,000 do not require a formal decision record unless it is deemed high risk, politically or financially sensitive or other circumstances dictate a formal record is required. Decision does not require a formal officer decision notice. The contract should be signed before PO is raised. The Purchase Order (PO) should be raised before award, and this will be deemed sufficient authority to award the contract with a copy of all documentation kept on Shrepoint for audit purposes.</p> <p><b>Finance Process:</b> Must be within budget. A Purchase Order (PO) should be raised before award and authorised in accordance with the Council's Financial Regulations.</p> <p><b>Legal Process:</b> PO Ts &amp; Cs are on the intranet. Please ensure these are fit for purpose for the contract before award. Type of contract to be used must be considered on a case by case basis, depending on the level of risk associated with it Link to Intranet should be added to PO. If bespoke terms are required, please instruct legal before procuring. PO to be approved / signed by the relevant Head of Service prior to award of the Contract once all due diligence has taken place All documentation to be stored on Sharepoint for audit purposes. All awards over £5,000 must be entered on the Contracts Register.</p> <p><b>Signing:</b> Can be signed by Head of Service.</p>
<b>Between £25,000 and £99,999</b>	<p><b>Notices Required:</b> All Contracts over £25,000 must have a formal award notice issued (on Contracts Finder)</p> <p><b>Method:</b> At least 3 quotations should be sought using RFQ template with one supplier being local</p>	<p><b>Governance Process:</b> All Contracts between £25,000 and £99,999 will require a decision record authorising the award of the contract <b>BEFORE</b> the Contract is awarded. Democratic Services can provide the relevant template(s). This decision can be made by the relevant Head of Service. If matter is high risk, politically or financially sensitive it should be made by the Director and/or relevant Portfolio Holder – please liaise with your Director for guidance). The contract should be signed before raising the PO.</p> <p><b>Legal Process:</b> Type of contract to be used must be considered on a case-by-case basis, depending on the level of risk associated with it. In most cases, all Works should have a formal contract such as JCT/NEC4 and should be signed before raising the PO.</p> <p><b>Finance process:</b> Must be within budget. A Purchase Order must be raised prior to award and signed off by the Budget Holder. Purchase Order must be authorised in accordance with the Council Financial Regulations.</p>
<b>£100,000 and over</b>	<p><b>Notices Required:</b> Contracts Finder Advertising and Award notices. Procurement Lead must be instructed.</p> <p>Method: A formal tender or mini comp is required. Tenders at this level are run via Council's etendering system and managed by Tendering Agent.</p>	<p><b>Governance Process:</b> All contracts with a combined value of £100,000 up to the key decision threshold approval must be by the relevant Assistant Director (or Director via an Officer Delegated Decision notice) and must be recorded via an Officer Delegated Decision (ODD).</p> <p><b>Finance process:</b> Must be within budget. Once awarded a Purchase Order must be raised. Purchase Orders must be authorised in accordance with the Council's Financial Regulations.</p> <p><b>Legal Process:</b> Cabinet decision required for any contract over the key decision threshold. Forward Plan timelines to be considered. Contract must be sealed for anything valued over £500,000</p> <p><b>Signing:</b> The Contract must be sealed (Rule 18) – please refer to Legal Services for sealing.</p>

## APPENDIX 7 – TUPE

The provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) apply to a relevant business transfer where the transferor (incumbent supplier) has a dedicated team of employee(s) that carry out the service activity that is to be transferred. In practice this will often apply where a Council service is:

- ‘out-sourced’
- brought back ‘in-house’ / in-sourced
- where a contract that former Council employees are undertaking comes up for renewal and is awarded again to the same supplier or to a new supplier
- transferred from one external organisation to another
- TUPE is also likely to apply where a supplier who has been awarded a contract subsequently awards or sub-contracts all or part of it to another supplier, whilst retaining the contract with the main client

TUPE can apply irrespective of whether there has been a formal procurement exercise or not. Officers must ask the current Supplier whether or not any employee of the Council or of the Supplier may be affected by any transfer arrangement (TUPE). Where this is relevant, the Officer must ensure that the Transfer of Undertaking (Protection of Employment) issues are considered and obtain relevant advice before undertaking the procurement process. This will include liaising with Lincolnshire County Council where any employee of the Council or of the Supplier is a member of the Local Government Pension Scheme (LGPS). Guidance on whether TUPE applies must be referred to Human Resources or Legal services in the first instance, before proceeding, so that the scope of any legal obligations may be identified. If TUPE does apply this must be factored into the procurement strategy / plan and timescales.

Suppliers must seek their own legal guidance on the application of TUPE; the Council must not offer any such advice. The Council’s only involvement with TUPE is to facilitate through the provision of TUPE information; it must not get involved in other TUPE related matters.

‘TUPE Information’ templates are available on the procurement portal. This information will need to be completed by the current supplier which Officers will issue to the market as part of the procurement documentation on which potential suppliers are invited to bid. This information must be gathered prior to going out to market, and Officers would need to review the information to ensure it has been anonymised (TUPE information is confidential – please discuss with the Procurement Lead whether TUPE information should be published with the tender pack, or to individual bidders, subject to the return of TUPE Confidentiality Agreement), and whether or not there are any LGPS (Local Government Pension Scheme) members. Officers can refer to the Procurement Toolkit available on the Procurement Lead portal for guidance on considerations for LGPS members.

# PART 5

## CODES AND PROTOCOLS

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**SOUTH  
KESTEVEN  
DISTRICT  
COUNCIL**

**Guidance For Members and Officers Dealing  
with Planning Matters**

**A Local Code of Good Practice**

# POSITIVE ENGAGEMENT: A GUIDE FOR COUNCILLORS INVOLVED IN MAKING PLANNING DECISIONS - GOOD PRACTICE GUIDANCE NOTE

## SUMMARY

Councillors can involve themselves in discussions with developers, their constituents and others about planning matters. Difficulties can be avoided if you follow these useful general hints.

### Do

- involve officers and structure discussions with developers
- inform officers about any approaches made to you and seek advice
- familiarise yourself with the Code of Conduct and follow it when you are representing the Council
- keep your register of interests up to date
- be aware of what fairness and impartiality mean in your role
- be prepared to hold discussions with an applicant and officers before a planning application is made, not just after it has been submitted
- preface any discussion with disclaimers; keep a note of important meetings and calls; and make clear at the outset that discussions are not binding
- be aware of what Disclosable Pecuniary Interests, personal and prejudicial interests are – refer to the Monitoring Officer or the Code of Conduct if you are unsure
- recognise the distinction between giving advice and engaging in negotiation and when this is appropriate in your role
- stick to policies included in adopted plans, but also pay heed to any other considerations relevant to planning
- use meetings to show leadership and vision
- encourage positive outcomes
- recognise that you can lobby and campaign but that this may remove you from the decision making process
- feed in both your own and your local community's concerns and issues
- be aware that you can engage in discussions, but you must have and be seen to have an open mind at the point of decision making.

### Do not

- use your position improperly for personal gain or to advantage your friends or close associates
- meet developers alone or put yourself in a position where you appear to favour a person, company or group – even a 'friendly' private discussion with a developer could cause others to mistrust your impartiality.
- attend meetings or be involved in decision-making where you have a Disclosable Pecuniary Interest or a prejudicial interest – except when speaking where the general public are also allowed to do so
- accept gifts or hospitality
- prejudge or be seen to prejudge an issue if you want to be a decision maker on a proposal
- seek to influence officers or put pressure on them to support a particular course of action in relation to a planning application
- compromise the impartiality of people who work for the Council
- invent local guides or policies

## **1. Introduction**

This Protocol sets out the practices and procedures that Members and Officers at South Kesteven District Council should follow when determining planning applications.

## **2. Basic Principles**

The basis of the planning system is to manage development in the public interest.

Planning is often very contentious because planning decisions affect the private interests of individuals, landowners and developers. Decisions are taken based on informed judgement with a firm policy basis.

The Planning process relies on transparency in decision making and Officers and Members must act fairly and with integrity.

Development proposals that are policy compliant should be approved without delay.

Members have a duty to represent their constituents but also an overriding duty to the wider community.

## **3. The role of the Planning Committee**

The role of a Planning Committee is to determine major or more complex applications that raise issues of more than immediate local importance. The intention is to allow Councillors to focus on applications needing additional scrutiny where added Member value in balancing conflicting pressures is important. This of course does not mean that minor applications cannot be referred to Committee where they raise issues of more than local importance.

Councillors are encouraged to engage with the planning process early, and often many issues can be resolved without applications needing to be referred to Committee for a decision. For example, by raising issues early it may be possible to address concerns through amendments, additional information and/or planning conditions.

Referral to Planning Committee shouldn't be used to arbitrate between competing interest groups or to put off making difficult decisions. Applications should not normally be referred to Planning Committee simply to allow an objector/applicant an opportunity to air their views in a public forum.

Householder or very minor applications should not normally be referred to Planning Committee and it is expected that Councillors will work with Officers to resolve any concerns arising from the proposal.

## **4. Your Role as a Member of the Planning Authority**

To make planning decisions openly, impartially and with sound judgement for justifiable reasons.

## **5. Relationship to the Members' Code of Conduct**

Do apply the rules within the Members' Code of Conduct first as these must always be complied with.

The guidance in this note seeks to explain and supplement the Members' Code of Conduct for the purposes of the Planning system. If you do not abide by this Code of Local Practice you may not necessarily have breached the Members' Code of Conduct but you may put the Council at risk of proceedings regarding legality or maladministration of the related decision.

## **6. Development Proposals and Interests under the Members' Code of Conduct**

Members should declare any Disclosable Pecuniary Interests (DPI) in accordance with the Council's Code of Conduct. These should be declared at the beginning of the meeting and not at the start of the discussion on any particular matter. However, if you become aware of a DPI after the start of the meeting you should declare it as soon as possible.

Where you have a DPI you should not participate, or give the appearance of trying to participate in the decision making process.

The Monitoring Officer will be able to provide you with any specific guidance or discuss any particular concerns with you ahead of any meeting.

## **7. Fettering Discretion in the Planning Process**

Members making a decision on any planning application as part of the Planning Committee must ensure that they have not already fettered their discretion. This means that you should come to any Planning Committee meeting with an open mind. Whilst you should familiarise yourself with the application and the reports ahead of the Committee, it is important that you haven't made your mind up on how you will vote at the meeting of the Planning Committee (or Full Council) until you have heard the Officer's presentation and all of the evidence and arguments on both sides.

If you have fettered your discretion, it is important that you do not speak and vote on a proposal.

The Monitoring Officer will be able to provide you with any specific guidance or discuss any particular concerns with you ahead of any meeting.

## **8. Lobbying of Councillors**

Lobbying is a normal and perfectly proper part of the political process and those who may be affected by a proposal will often seek to influence the decision by approaching their local Councillors or Members of the Planning Committee.

Members of the Planning Committee are free to listen to any point of view about a particular planning application, however they should avoid expressing an opinion which may indicate that they or the authority has reached a final conclusion until all of the relevant arguments and evidence has been put before the Planning Committee.

Advice to the public should be restricted to procedural matters, including making the relevant Officer aware so that material opinions can be reflected in the report.

Where a member of the Planning Committee goes on record in support of a particular outcome, or campaign actively for it, it will be difficult for that member to argue convincingly that they have attended the Committee with an open mind. If there is an appearance of bias or pre-determination then the decision may be vulnerable to a challenge by way of a Judicial Review.

## **9. Lobbying by Councillors**

Members will be able to speak on behalf of a body of opinion, however the Committee should be made aware as to such opinion as distinct from personal views.

There should be no party-political grouping on how to vote on applications prior to a Planning Committee meeting, or similar voting because an application is moved by a member of the same party.

Members should not lobby or trade with other Committee Members for a particular outcome.

Whilst a Member can speak on behalf of a body of opinion, they should not personally be involved in organising support for or against that opinion.

Members not serving on the Planning Committee may speak to the Committee in accordance with Standing Orders, however, the Member attending shall not take part in the voting on any item.

## **10. Public Speaking at Meetings**

Any member of the public, Parish or Town Council has the right to speak in accordance with the public speaking rules set out in the Planning Procedure Rules at Part 4 of the Constitution. Their views, insofar as they are material planning considerations, should be taken account of with other available information and evidence.

## **11. Decision Making**

Members should determine applications in accordance with advice given, including verbal updates to reports, unless they have good planning reasons to the contrary and in the knowledge of all the available information and evidence.

Decisions on planning applications have to be taken in accordance with the Development Plan unless material considerations indicate otherwise. In determining any application the Committee is not bound by the recommendation of their officers. This means that the Committee is entitled to decide the weight to be attached to the various planning considerations that are relevant to the applications. This can sometimes result in a decision which is contrary to the recommendation of Officers (an Overturn).

For example, the Committee could decide any of the following:

- To refuse planning permission where Officers have recommended approval;
- To approve planning permission where Officers have recommended refusal;
- Agree with Officers that planning permission should be refused but for different reasons; or
- Grant permission subject to different conditions or legal requirements to those recommended.

Where Members wish to determine an application contrary to the recommendation, they should indicate the material reason(s) for doing so at the meeting and these will be detailed in the minutes to the meeting. Where a motion is put forward that is contrary to the Officer recommendation, the Chairman will ensure that the planning reasons for reaching this motion are clear.

If the Committee is minded to make a decision contrary to the recommendation, the relevant Officer (including Legal) will be given the opportunity to outline the implications for the Committee of such a decision.

If the Committee wish to add or amend conditions, an Officer will be invited to draft such a condition. A detailed minute of the reasons for the Committee's action should be made.

Where a motion is proposed and seconded for a decision that would differ from the Officer's recommendation it is important that the Members voting for that motion are clear what it is. For example, in the case of an overturn where the motion is to refuse an application recommended for approval, Members must be clear as to the reasons for refusal. This means that Members are clear as to the substance of the reason(s) for refusal including the policies that the proposal is contrary to. If Members are not clear they should ask for clarification before voting.

Officers may make slight amendments to the wording of any new reasons for refusal or conditions following Committee although they will not alter their meaning.

Members should not vote on a proposal unless they have been present to hear the entire debate including the Officer's introduction and presentation on the application.

Minutes will relate to the planning reasons for the decision specifically whether:

- It is in accordance with development plan policies, or
- Other material considerations indicate otherwise (and what they are)
- In the case of an approval, the relevant matters to be addressed by planning conditions

## **12. Training**

As set out in the Constitution, Councillors can only sit on the Planning Committee where they have received the mandatory training.

Officers will ensure that annual training is provided and this will be available to all Councillors; it is each Councillor's individual responsibility to ensure that they attend this training.

In addition to the annual mandatory training session Officers will provide other training sessions throughout the year on a variety of topics. Members are encouraged to attend as many of these training sessions as possible.

Members are encouraged to identify any topics that they would like to have training on.

Annually, the Committee will visit a sample of implemented permissions to assess the quality of those decisions. These will take place at six monthly intervals.

The outcome of appeals will be reviewed by Planning Committee at six monthly intervals to outline feedback and lessons learned.

### 13. Process

All Members will be notified by email of individual applications within their wards. Where an application site straddles a ward boundary, Councillors from all of the wards concerned will be notified. Where a site is located adjacent to the boundary of a ward, the adjoining ward Councillors will be notified.

All Councillors will continue to receive the weekly list setting out applications validated by the Council. Members will also receive updates relating to enforcement cases where it has been established that there is a breach of planning control.

Members are encouraged to view the plans online and contact the Case Officer if there are any queries or matters they wish to discuss.

Officers are encouraged to contact Councillors where they feel that a matter may be contentious and this should be done as soon as possible in the process.

If a ward Councillor or adjoining ward Councillor wishes any application to be considered by the Planning Committee they should advise the Case Officer in writing and clearly state the planning issues that give them concern. The Councillor making this request must also demonstrate that the proposal would have such a prejudicial impact or effect on the area of district or its residents to warrant determination by Planning Committee. This should be done as soon as possible and within 21 days of first being notified of the receipt of the application.

Where any Councillor considers that an application not in their ward or adjoining their ward should be referred to the Planning Committee for a decision, that Councillor should first discuss this matter with the ward Councillor(s). If the ward Councillor(s) doesn't respond or disagrees with the request, then the matter can be escalated to the Chairman/Vice-Chairman of the Planning Committee however it must be demonstrated that the initial discussion has taken place along with the reasons for the escalation and any response from the ward Councillor(s).

It is understood that sometimes there may be extenuating circumstances where it was not possible to make a request to call an application to Committee within the initial 21 day notification period. For example this could be due to additional information coming to light after the notification period. If this is the case Councillors should submit their request in writing providing the reasons for the late request along with the planning reasons for the call-in. The request will need to be agreed with the Chairman and Vice-Chairman of the Committee in consultation with the Assistant Director of Planning; if they disagree with the call-in request the Member will be informed. Councillors are however encouraged to make any request to call an application to Committee as soon as possible to avoid unnecessary delays in the determination of applications.

Where a request for an application to be considered by the Planning Committee is agreed by the Chairman of the Planning Committee then the reason given for the referral will be included in the report.

Where a request for Committee referral is not agreed with, the ward Councillor(s) making the request will be informed.

It is expected that if the concerns that gave rise to the Committee referral request are addressed through amendments to the application or conditions, the referral request will be withdrawn.

## 14. Reports to Committee

The advice from the Courts and Ombudsman have determined Officer reports on planning applications must have regard to the following points:

- reports should be accurate and cover, amongst other things, the substance of any objections and the views of those consulted;
- relevant information should include a clear exposition of the development plan; site or related history; and any other material considerations;
- reports should have a written recommendation of action. Oral reporting (except to update a report) should be avoided and carefully minuted when it does occur;
- reports should contain technical appraisals which clearly justify a recommendation;
- if the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. It is particularly important to do so, not only as a matter of good practice, but because failure may constitute maladministration, or give rise to judicial review on the grounds that the decision was not taken in accordance with the provisions of the development plan and the council's statutory duty under s38A of the Planning and Compensation Act 2004

## 15. Decisions contrary to Officer Recommendations and subsequent Appeals

In determining planning applications, the Planning Committee is entitled to decide the weight to be attached to the various planning matters (benefits and harms) that are relevant to the application. This may lead to a decision that is different to the recommendation of the Officers.

In these circumstances, it is essential that reasons for the difference of opinion are clear in the minds of the Committee Members.

Where an appeal to the Secretary of State is subsequently lodged against a decision made contrary to the Officer's recommendations, Planning Officers (and other Officers as appropriate) will normally act as professional witnesses to present the Council's case at public inquiries and local hearings. However, where this would prejudice the outcome, the Assistant Director of Planning may ask Members to conduct the appeal<sup>1</sup>. In this instance the Planning Committee will need to be prepared to identify a Councillor(s) to support the case at a public inquiry or local hearing. This would normally be the Councillors who proposed and seconded the reasons for the refusal. The Assistant Director of Planning and the planning team will support the Members in the preparation of the case as appropriate.

## 16. Site Visits

Members can make site visits. However, they must avoid contact with the applicants/objectors and maintain probity during the process of determination. Members will decline invitations from developers to attend private site visits where additional information may be presented prior to Committee.

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<sup>1</sup> In public inquiries Officers can only give evidence based upon their professional beliefs. The Royal Town Planning Institute (RTPI) Code of Conduct does not allow its members to make or subscribe to any statements or reports that are contrary to their own bona fide professional opinions.

Health and Safety & Lone Working considerations are the responsibility of the Member. Members do not have rights of access upon private land and such visits must be undertaken from the public highway or via public rights of way.

Ward Members and/or members of the Planning Committee will be able to request a site visit for any application that is being referred to Planning Committee for a decision. If any other Councillor considers that a site visit should be carried out, they should discuss this with the Ward Councillor and the Chairman/Vice-Chairman of the Planning Committee. Councillors should give reasons for the site visit so that Officers and Councillors are clear what elements of a proposal or site need to be viewed. Where a request is made, site visits will be agreed for inclusion by the Assistant Director of Planning in consultation with the Chairman or Vice-Chairman of the Planning Committee; site visits will take place where it is clear that the visit will add value to the consideration of the application.

Site visits will be led by a Council Officer who will explain the proposals in the context of the site. They will also explain the reasons why the site visit has been called.

Any third party at the site visit including the applicant will not be permitted to address Councillors. On occasion, it might be necessary to ask a point of clarification or fact of a third party however this will be at the Lead Officer or Chairman's discretion.

Details of the site visit including who attended will be recorded by the lead Officer in attendance.

The purpose of the site visit is to establish facts about the site and its surroundings. No decisions will be made at the site visit.

Ideally site visits should be requested pre-committee to avoid delays in the decision-making process. However, the Committee may resolve that a decision is deferred pending a Member site visit. This must be moved and voted upon in the usual way during Planning Committee at any time after the Officer's presentation. The reasons for the site visit must be established and clearly recorded in the minutes.

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# **SOUTH KESTEVEN DISTRICT COUNCIL - COUNCILLOR CODE OF CONDUCT**

## **Purpose of the Code of Conduct**

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

## **General principles of councillor conduct**

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

Building on these principles, the following general principles have been developed specifically for the role of Councillor:

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

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

In undertaking my role:

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

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- You misuse your position as a Councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor

The Code applies to all forms of communication and interaction, including:

- At face-to-face meetings
- At online or telephone meetings
- In written communication
- In verbal communication
- In non-verbal communication
- In electronic and social media communication, posts, statements and comments

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## **General Conduct**

### **1. Respect**

As a councillor:

#### **1.1 I treat other councillors and members of the public with respect.**

#### **1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word.

Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner.

You should not, however, subject individuals, groups of people or organisations to personal attack.

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

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

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

As a councillor:

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

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

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

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

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

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

As a councillor:

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

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

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

As a councillor:

#### **4.1 I do not disclose information:**

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

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

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

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

## **5. Disrepute**

As a councillor:

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

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

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

## **6. Use of position**

As a councillor:

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

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others.

However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

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

As a councillor:

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a) **act in accordance with the local authority's requirements; and**
- b) **ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- Office support
- Stationery
- Equipment such as phones, and computers
- Transport
- Access and use of local authority buildings and rooms

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

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

As a Councillor:

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

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

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

## 9. Interests

As a councillor:

### 9.1 I register and disclose my interests.

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

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest.

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

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

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

## 10. Gifts and hospitality

As a councillor:

**10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

**10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**

**10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in

which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

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

The principles are:

### **Selflessness**

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

### **Integrity**

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

### **Objectivity**

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

### **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.

### **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.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

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

## Appendix B – Registering interests

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

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

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

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

### Non participation in case of Disclosable Pecuniary Interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a Disclosable Pecuniary Interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

## Disclosure of Other Registerable Interests

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

## Disclosure of Non-Registerable Interests

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

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

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

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

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

10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

**Table 1: Disclosable Pecuniary Interests**

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

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged</p>

<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge):  (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of
<b>Securities</b>	Any beneficial interest in securities* of a body where:  (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either: (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the

	councillor is living as if they were
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\* 'director' includes a member of the committee of management of an industrial and provident society.

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

**Table 2: Other Registrable Interests**

<p>You must register as an Other Registerable Interest:</p> <ul style="list-style-type: none"> <li>a) any unpaid directorships</li> <li>b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority</li> <li>c) any body: <ul style="list-style-type: none"> <li>(i) exercising functions of a public nature</li> <li>(ii) directed to charitable purposes or</li> <li>(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)</li> </ul> <p>of which you are a member or in a position of general control or management</p> </li> </ul>
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## **Procedure for dealing with complaints against Councillors who are alleged to have breached the Councillor Code of Conduct**

### **1. The Code of Conduct**

- 1.1 The Localism Act 2011 requires all Local Authorities to adopt a Code of Conduct setting out the standards of behaviour expected from their Councillors.
- 1.2 South Kesteven District Council has adopted a Code of Conduct for its Councillors, which is available on the Council's website and on request from the Monitoring Officer. This Code of Conduct reflects the Model Councillor Code of Conduct for Councillors as recommended by the Local Government Association.
- 1.3 Each of the Parish/Town Councils within South Kesteven may adopt their own Code of Conduct and a copy of their Code of Conduct should be available on the relevant Parish/Town Council website.
- 1.4 The Localism Act 2011 also requires Local Authorities to have in place "arrangements" under which allegations that an elected or co-opted member of the District or Parish/Town Council has failed to comply with the relevant Code of Conduct can be investigated and decisions made on such allegations.
- 1.5 These arrangements set out:
  - a) How to make a complaint about the conduct of an elected or co-opted member of South Kesteven District Council or of any Parish/Town Councils
  - b) How the Council will deal with such complaints
- 1.6 This document sets out the Council's arrangements for this purpose.

### **2. Making a complaint**

- 2.1 Complaints must be submitted in writing to the Council's Monitoring Officer and can be submitted electronically or by post using the link, email address or postal address shown below:

Online e-form: <https://www.southkesteven.gov.uk/?service=COCOFO>

By email: [legal@southkesteven.gov.uk](mailto:legal@southkesteven.gov.uk)

By post: Monitoring Officer, South Kesteven District Council, Council Offices, The Picture House, St Catherine's Road, Grantham, Lincolnshire, NG31 6TT

- 2.2 The following information will be required from anyone wishing to make a formal complaint against the conduct of a Councillor:

- name, address and other contact details (email address or telephone number)
- in which capacity they are complaining (member of the public, Councillor, Officer or any other capacity)
- name of the Councillor the complaint is about and the authority or authorities they belong to
- details of the alleged misconduct including, where possible, dates, witness details and other supporting information
- which aspect of the Councillor Code of Conduct the Councillor is alleged to have breached

2.3 The Monitoring Officer will not normally consider a complaint unless it is in writing. This is to ensure that all of the relevant information is provided and, where necessary, consent to share information has been obtained so that the complaint can be processed.

2.4 If you do not have access to the internet or have difficulty completing the form, please contact (01476 406080) for assistance.

2.5 Where a complaint is made against more than one Councillor, it must be clear in your complaint which aspects of the alleged breach of the Code of Conduct relate to each individual Councillor. Otherwise, it may be necessary to submit separate complaints.

2.6 If you are making the complaint on behalf of a number of individuals, please nominate one person as the single point of contact to whom all correspondence will be addressed.

2.7 Requests from complainants for the Monitoring Officer to withhold their identity, so that they remain anonymous to the Subject Councillor, are not ordinarily granted. The Monitoring Officer has to balance the right of the Subject Councillor to properly understand the complaint against them and respond to it, with the rights of the complainant. This normally means that the Subject Councillor will need to be told who is making the complaint.

### **3. The complaint process**

3.1 A complaint against a Councillor will progress through the following stages:

- acknowledgement of the complaint
- reporting of complaint to Subject Councillor
- assessment of complaint by the Monitoring Officer, in liaison with Independent Person
- assessment decision by the Monitoring Officer
- if necessary, formal investigation of the complaint
- consideration of complaint and final decision of outcome by the Standards Committee, a Hearing Review Panel or a meeting of Full Council

3.2 Upon receipt of a complaint the Monitoring Officer will:

- Acknowledge the complaint within five working days
- Inform the Subject Councillor that a complaint has been received against them within five working days and invite their comments, unless there is justification for not doing so

3.3 The Monitoring Officer is entitled to dismiss the complaint at the outset if:

- The Subject Councillor is no longer a Councillor or is seriously ill
- The complaint is made anonymously, unless there are exceptional circumstances which the Monitoring Officer agrees are legitimate
- The same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation against an individual Councillor and there is nothing further to be gained
- The complaint is essentially against the action of the Council as a whole and cannot properly be directed against an individual Councillor(s)
- The complaint does not relate to the conduct of a Councillor and is a service complaint or other matter
- The complaint is against an Officer of the Council
- The complaint relates to an incident that occurred over six months prior to the date of the complaint and, in the opinion of the Monitoring Officer, (in consultation with the Independent Person) is not serious enough to justify formal consideration

3.4 If the complaint identifies criminal conduct (including a failure to register Disclosable Pecuniary Interests) or breach of other regulations by any person, the Monitoring Officer will refer the complaint to the Police or other regulatory agencies. No further action will be taken in relation to such complaints until any related criminal/regulatory investigation, proceedings or processes have been concluded.

3.5 All parties are encouraged to respond promptly to any correspondence in relation to the complaint. All parties will be kept updated as to how the complaint is progressing. If at any stage in the complaint process the complainant fails to respond, the complaint may be treated as withdrawn. If the Subject Councillor fails to respond, the complaint will be determined on the basis of the information available.

## **4. Assessment of complaint**

### First Assessment Stage

4.1 The first stage of the assessment process will consist of a jurisdictional test which assesses whether:

- The complaint is against one or more named Councillors of South Kesteven District Council or of a Parish or Town Council the authority is responsible for

- The named Councillor was in office at the time of the alleged conduct
- The complaint relates to matters where the Councillor was acting as a Councillor or representative of the authority and it is not a private matter
- The complaint, if proven, would be a breach of the Code of Conduct under which the Councillor was operating at the time of the alleged misconduct

4.2 If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code of Conduct and no further action will be taken in respect of the complaint.

### Second Assessment Stage

4.3 The second stage of the assessment process will review the complaint against the following criteria to establish if there are valid grounds to refer the complaint for formal investigation:

<b>Sufficient Evidence</b>	The Monitoring Officer must be satisfied that there is sufficient evidence to demonstrate a potential breach of the Code
<b>Alternative Action</b>	<p>The Monitoring Officer must be satisfied that there are no alternative, more appropriate, remedies that should be explored first</p> <p>The Monitoring Officer will explore the possibility of an informal resolution between the respective parties and consider whether any offer from the Subject Councillor to settle the complaint informally is reasonable</p>
<b>Robust Political Debate</b>	Where the complaint is by a Councillor against another Councillor, a greater allowance for robust political debate may be given, bearing in mind the right to freedom of speech
<b>Seriousness</b>	The Monitoring Officer will consider whether the complaint is considered malicious, vexatious, politically motivated or 'tit-for-tat'
<b>Public Interest</b>	The Monitoring Officer will consider whether it would be in the public interest to refer the complaint for investigation or other action and whether it is serious enough to warrant any available sanctions

- 4.4 As part of the assessment of the complaint, the Monitoring Officer may request further information from the complainant, the Subject Councillor and any witnesses or obtain information which is readily available. The Monitoring Officer will consult with the Independent Person prior to making their decision.

### Assessment Decision

- 4.5 The Monitoring Officer will normally reach an assessment decision within 15 working days of receipt of the complaint, however, in some instances this may take longer if they are reliant on the receipt of further information. The Monitoring Officer will always, however, seek to assess complaints as soon as possible.
- 4.6 A Decision Notice setting out the Monitoring Officers decision will be produced, setting out the following:
- A summary of the complaint
  - The part(s) of the Councillor Code of Conduct alleged to have been breached
  - A summary of any response from the Subject Councillor
  - A summary of any witness statements or additional information relied upon during the assessment
  - A summary of the Independent Person's considerations
  - An overview of the Monitoring Officer's decision
  - A record of any further action required
- 4.7 The Monitoring Officer's decision will either be to:
- Take no further action
  - Agree that the complaint can be resolved through informal resolution
  - Refer the complaint for formal investigation
- 4.8 If the Subject Councillor of a complaint is a Parish or Town Councillor a copy of the Decision Notice will be sent to the Parish or Town Clerk, unless the decision is to take no further action.
- 4.9 If the Monitoring Officer decides not to investigate the complaint, the reasons for the decision will be set out in the Decision Notice. There will be no right of appeal regarding the Monitoring Officer's assessment decision, which will have been made in consultation with the Council's Independent Person.

## **5. Formal investigation**

- 5.1 The Decision Notice from the assessment stage will highlight which aspect(s) of the original complaint will be subject to formal investigation.

- 5.2 Having established the scope of the investigation the Monitoring Officer, or a person appointed as an Investigating Officer, will inform:
- The Subject Councillor
  - The complainant
  - The Council's Independent Person
  - The relevant Town or Parish Council should the Subject Councillor be a Town or Parish Councillor
- 5.3 The Monitoring Officer/Investigating Officer will undertake the investigation in accordance with the following key principles:
- Proportionality – the investigation will be proportionate to the seriousness or complexity of the matter under investigation
  - Fairness – the Subject Councillor should know what they are accused of and have the opportunity to make comments on the investigation
  - Transparency – as far as practical and having regard to an individual's right to confidentiality, investigations should be carried out as transparently as possible with all parties being kept up to date with progress on the case
  - Impartiality – an investigator should not approach an investigation with pre-conceived ideas and should avoid being involved where they have a conflict of interest
- 5.4 The formal investigation is a process the Monitoring Officer/Investigating Officer follows to gather as much information about the allegation as possible, which can then be used as evidence. This could be documentary evidence, but it may also be necessary for the Monitoring Officer to conduct interviews with the Subject Councillor, complainant and key witnesses to gain as much evidence as is deemed necessary to inform their investigation.
- 5.5 During the course of the investigation it may be necessary to reappraise if an investigation remains the right course of action, for example:
- The evidence uncovered suggests a case is less serious than was originally apparent and that a different decision might therefore have been made regarding whether to investigate, or not
  - Having examined the matter in greater detail it becomes apparent as part of the investigation that the matter under investigation was not carried out by the Subject Councillor in their capacity as a Councillor or representative of the authority but rather in a private capacity
  - Something is uncovered which is potentially more serious and may require referral to the Police
  - The Subject Councillor has died, is seriously ill or has resigned from the Council and it is considered inappropriate to continue with the investigation

- The Subject Councillor indicates that they wish to make a formal apology which the Monitoring Officer/Investigating Officer considers should draw a line under the matter

### Draft Report

- 5.6 The Monitoring Officer/Investigating Officer will produce a draft report of their findings and share this with the Independent Person so that they can be satisfied that the investigation is of an acceptable standard and meet the scope of the aspects of the complaint under investigation.
- 5.7 The Monitoring Officer/Investigating Officer, once satisfied, will send the draft report to the Subject Councillor and complainant with a deadline for providing any comments as to its content.
- 5.8 The report should be treated as an explanation of all the essential elements of the case and a justification for why the Monitoring Officer/Investigating Officer have concluded there has been a breach, or not. The report will cover:
- Agreed facts
  - Any disputed facts together with the view of the Monitoring Officer/Investigating Officer as to which version is more likely
  - Whether those facts amount to a breach of the Code, or not
  - Reasons for reaching that conclusion
- 5.9 The draft report will be treated as private and confidential by all recipients.
- 5.10 Where criticism is made of a third party, such as a witness, who will not otherwise have the opportunity to comment on the draft report, the Monitoring Officer/Investigating Officer will ensure that the third party has an opportunity to comment on that proposed criticism before the report is published.
- 5.11 The Monitoring Officer/Investigating Officer is under no obligation to accept any comments made but where they do not accept comments they should provide a written explanation as to why. By exception, it may be necessary to issue a second draft of the report if there have been significant changes.

### Final Report

- 5.12 The final report will be issued by the Monitoring Officer and must be sent to:
- The Subject Councillor
  - The complainant
  - The relevant Independent Person
  - The relevant Parish or Town Council of which the subject Councillor is a Member

- 5.13 The report must make one of the following findings on a balance of probabilities:
- That there have been one or more failures to comply with the Code of Conduct
  - That there has not been a failure to comply with the Code of Conduct

#### Findings of Investigation

- 5.14 If the Monitoring Officer considers that there has been no breach of the Code of Conduct, that will usually be the end of the matter.
- 5.15 If the Monitoring Officer considers that there has been a breach of the Code of Conduct, they will decide the appropriate course of action to take in consultation with the Independent Person and notify relevant parties. This could include:
- Seeking an informal resolution
  - Taking no further action on the basis of it being a technical breach which would not lead to any sanction
  - Referring the matter to a Hearing

#### Publication of the Final Report

- 5.16 The Final Report will not be published if the matter has been referred to a Hearing as it will be dealt with as part of the Hearing process.
- 5.17 Where the Monitoring Officer has concluded that there is no breach, that no further action is required or the matter has been resolved in some other way the report will not be published. A statement explaining the outcome and Monitoring Officer's reasoning will be published. A summary of the report will be presented to the Standards Committee, for information purposes only.

## **6. Formal Hearing**

- 6.1 A formal Hearing should, wherever possible, take place within three months of the date on which the Monitoring Officer/Investigating Officer's report was completed. Where that is not possible, the Monitoring Officer will notify the relevant parties of the reason for the delay and provide an estimated timescale.
- 6.2 The Hearing will not take place sooner than 14 days after the investigation report has been issued, unless the Subject Councillor agrees. This is to allow them sufficient time to prepare their defence and consider any witnesses they may wish to call.

- 6.3 The Hearing can be facilitated by the Council's Standards Committee, or a Sub-Committee of the Standards Committee called the Hearing Review Panel. The Monitoring Officer, in consultation with the Independent Person and Chairman and Vice-Chairman of the Standards Committee, will determine which is most appropriate.
- 6.4 If a Hearing Review Panel is selected for facilitating the Hearing, its membership will be drawn from the Standards Committee on a politically proportionate basis, unless any conflicts of interests or other circumstances prevent this being achieved. The Chairman and Vice-Chairman of the Standards Committee will agree upon the final membership of the Hearing Review Panel.
- 6.5 Once a date has been set for the Hearing, the Monitoring Officer will notify:
- The Subject Councillor
  - The Investigating Officer if the Monitoring Officer themselves did not undertake the investigation
  - The Independent Person
  - The complainant
  - The clerk of any Parish or Town Council if the complaint relates to a Parish or Town Councillor
- 6.6 The Monitoring Officer will also outline the Hearing procedure, the Subject Councillor's rights and they will additionally ask for a written response from the Subject Councillor to confirm whether they:
- Want to be represented at the Hearing by counsel, a solicitor or any other person they wish
  - Disagree with any of the findings of fact in the investigation report, including reasons for any of these disagreements
  - Want to give evidence to the Hearing either verbally or in writing
  - Want to call relevant witnesses to give evidence to the Hearing
  - Want to request any part of the Hearing be held in private
  - Want to request any part of the investigation report or other relevant documents be withheld from the public
- 6.7 The Monitoring Officer will give consideration as to any witnesses they wish to call for the Hearing or, if they did not undertake the investigation themselves, seek confirmation from the Investigating Officer.
- 6.8 Pre-hearings will be held between the Monitoring Officer and Members of the Standards Committee/Hearing Review Panel as and when deemed necessary and appropriate. The pre-meeting will not be held in public and will not be used to debate the merits of the case, but will be used to:
- Consider whether any findings of fact in the investigation report are in dispute and, if so, how relevant they will be to the Hearing

- Consider any additional evidence considered necessary for the Hearing
  - Identify any witnesses that should be invited to the Hearing if not already identified
  - Decide whether witnesses called by the Monitoring Officer/Investigating Officer and the Subject Councillor are relevant
  - Consider whether any parts of the Hearing should be held in private or any parts of the investigation report or other documents should be withheld from the public prior to the Hearing
  - Identify any potential conflicts of interest
- 6.9 The pre-meeting does not necessarily have to be held as a meeting, with some of the information able to be confirmed through correspondence.
- 6.10 The Standards Committee/Hearing Review Panel will comply with Council Procedure Rules, Access to Information Procedure Rules and Articles relating to the Standards Committee for the purpose of facilitating the Hearing as set out in the Council's Constitution.
- 6.11 The Hearing is not a court of law and will not hear evidence under oath, but it will decide factual evidence on the balance of probabilities.
- 6.12 The procedure to be followed at Hearings is set out at **Appendix 1** to this Protocol.

## **7. Sanctions**

- 7.1 The Standards Committee or Hearing Review Panel can impose the following sanctions should a breach of the Code of Conduct have occurred:
- Present a report of its findings in respect of the Subject Councillor's conduct to Full Council (or relevant Parish or Town Council)
  - Issue a formal Censure Notice (or recommend the same action to the relevant Parish or Town Council)
  - Recommend to the Subject Councillor's political group leader, or a recommendation to Full Council, that they be removed from any or all Committees and other bodies to which they are appointed (or recommend the same action to the relevant Parish and Town Council)
  - Recommend to the Subject Councillor's political group leader that they be removed from positions of responsibility (or recommend the same action to the relevant Parish or Town Council)
  - Instruct the Monitoring Officer to arrange training for the Subject Councillor (or recommend that the relevant Parish or Town Council arrange for suitable training to be held for the Subject Councillor)
  - Recommend to Full Council that the Subject Councillor be removed from all outside appointments to which they have been appointed or nominated by the Authority (or recommend the same action to the relevant Parish or Town Council)

- Recommend to Full Council that facilities provided to the Subject Councillor by the Authority be withdrawn for a specified period, such as a computer/tablet, website, email account, social media account (or recommend the same action to the relevant Parish or Town Council)
- Recommend to Full Council that the Subject Councillor be excluded from the Authority's Officer or other premises for a specified period, with the exception of meeting rooms as necessary for attending the Council's meetings or other approved duties and/or restricts contact with Officers to named Officers only (or recommend the same action to the relevant Parish or Town Council)
- Recommend to Full Council that the Subject Councillor be removed from their role as Leader of the Council, if relevant
- Recommend to the appropriate official of a political group that the Subject Councillor be removed as Political Group Leader or other position of responsibility within the Political Group, if relevant

7.2 The Council, its Monitoring Officer, the Standards Committee or a Review Panel have no power to suspend or disqualify a Councillor who is found to have breached the Councillor Code of Conduct, or withdraw or suspend allowances. It is only the above sanctions that they are able to impose.

#### Final Decision of Standards Committee or Hearing Review Panel

7.3 A Decision Notice setting out the Standards Committee/Hearing Review Panel's decision will be produced and published.

7.4 If the Standards Committee or Hearing Review Panel finds that the Subject Councillor did not fail to follow the authority's Councillor Code of Conduct and that there was no breach, the Decision Notice will state this and provide reasons for this finding.

7.5 If the Standards Committee or Hearing Review Panel finds that the Subject Councillor failed to follow the Councillor Code of Conduct and that there was a breach, but no further action is required, the Decision Notice will:

- State that the Councillor failed to follow the authority's Councillor Code of Conduct and that there was a breach but no further action needs to be taken
- Outline what happened
- Provide reasons for the decision not to take any action

7.6 If the Standards Committee or Hearing Review Panel finds that a Councillor failed to follow the Code, there was a breach and a sanction was imposed, the Decision Notice will:

- State that the Councillor failed to follow the authority's Councillor Code of Conduct and that there was a breach
- Outline what happened
- Explain what sanction has been imposed

- Provide reasons for the decision

## **8. Appeals**

- 8.1 There is no right of appeal for the complainant or for the Subject Councillor against a decision of the Monitoring Officer, the Standards Committee or the Hearing Review Panel in relation to any decision they make at the relevant stage of the above process.
- 8.2 Any complaint relating to the incorrect implementation of this procedure should be reported to the Chief Executive in accordance with the Council's Protocol for Relationships between Members and Officers.

## **9. Local Government Association Guidance**

- 9.1 This procedure will be followed in conjunction with the latest guidance published by the Local Government Association in respect of dealing with complaints against Councillors.
- 9.2 In the event that this procedure conflicts with any aspect of the Local Governance Association guidance, the Local Government Association's latest guidance will take precedence.

**Procedure to be followed at Formal Hearings**

**1. Preliminary Procedural Issues**

- a) Introductions
- b) Election of Chairman (if Hearing Review Panel)
- c) Declarations of Interests
- d) To consider any requests for the exclusion of the Press and Public

**2. Monitoring Officer, Investigating Officer or their representative**

- a) Monitoring Officer, Investigating Officer or their representative to present the report and call such witnesses as they consider necessary, and make representations to substantiate their conclusions within the report.
- b) The Standards Committee/Hearing Review Panel to raise any issues or clarify any matters with the Monitoring Officer or Investigating Officer's report and to question and clarify matters with any of the witnesses called (if any).
- c) The Subject Councillor to raise any issues or clarify any matters with the Monitoring Officer or Investigating Officer's report and to question and clarify matters with any of the witnesses called (if any).

**3. Subject Councillor or their representative**

- a) The Subject Councillor to respond to the investigation report and call such witnesses as they consider necessary (if any) and make representations.
- b) The Monitoring Officer, Investigating Officer or their representative to raise any issues and to question or clarify any matters with the Subject Councillor and to question or clarify any matters with any of the witnesses called (if any).
- c) The Standards Committee/Hearing Review Panel to raise any issues, question or clarify any matters with the Subject Councillor.

#### **4. Independent Person**

- a) The Independent Person to provide their views.
- b) The subject Councillor to seek any points of clarification from the Independent Person or ask any questions.
- c) The Monitoring Officer, Investigating Officer or their representative to seek any points of clarification from the Independent Person or ask any questions.
- d) The Standards Committee/Hearing Review Panel to seek any points of clarification from the Independent Person or ask any questions.

#### **5. Standards Committee/Hearing Review Panel Deliberations**

- a) The Review Panel to retire, along with the representative from Democratic Services/designated Legal Advisor to the Panel to determine whether there has been a breach of the Code of Conduct.
- b) The Standards Committee/Review Panel to resume the Hearing to report the decision:
  - If further information or clarification is required, this will be reported and a decision taken as to whether an adjournment or postponement is necessary
  - If no breach of the Code of Conduct, the Hearing ends
  - If there has been a breach of the Code of Conduct, the Hearing will continue

#### **6. Breach of the Code of Conduct**

- a) Monitoring Officer, Investigating Officer or their representative to outline possible sanctions.
- b) The Subject Councillor to respond with any mitigation.
- c) The Independent Person to provide their views on appropriate sanctions.
- d) The Review Panel determines appropriate sanctions.

#### **7. End of Hearing**

A Decision Notice to be produced and published to all parties within 5 working days.

## **PROTOCOL FOR RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS OF A LOCAL AUTHORITY**

*“Every local authority should have its own written statement or protocol governing relations between members and officers.”*

(Third report of the Committee on Standards in Public Life – The Nolan Committee)

### **Preamble**

1. Mutual trust and respect between members and officers is at the heart of a Council's good governance. They are essential if the partnership necessary for the effective running of a local authority is to succeed.
2. This may seem obvious. But what happens when relationships go awry? Where can members and officers turn for guidance? What mechanisms exist for addressing concerns? How can matters be improved?
3. Such questions point to the need for a written guide to the basic elements of the relationship between members and officers – a protocol:
  - to promote trust, openness, fairness and honesty by establishing some ground rules;
  - to define roles so as:
    - to clarify responsibilities (i.e. who does what),
    - to avoid conflict, and
    - to prevent duplication or omission;
  - to secure compliance with the law, codes of conduct and a Council's own practices; and
  - to lay down procedures for dealing with concerns by members and officers.
4. A protocol should be recognised both as a central element of a Council's corporate governance, and as a commitment to upholding standards of conduct in public life. It's one way of demonstrating to the public at large that local government is serious about protecting and enhancing its integrity and reputation. It should also be noted that his protocol applies to all forms of electronic communications including e-mails etc.

### **Definitions**

5. Unless the context indicates otherwise, references to the term Council include the Cabinet, Overview and Scrutiny Committees, and other committees and sub-committees.
6. For the purposes of this protocol, the term Cabinet refers to the Leader and Cabinet Members.
7. Unless the context indicates otherwise, the terms member and members include non-elected (i.e. co-opted) members as well as elected Councillors.

8. Officers and staff mean all persons employed by the Council.
9. Senior officer has the meaning of an officer of the Council appointed to a post on at Service Manager or above salary grade.
10. Designated Finance Officer means the officer exercising the duties prescribed by law for the financial administration of the Council.

## **Principles**

11. Members and officers must at all times observe this protocol.
12. The protocol has been approved by the Full Council.
13. The protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of personal conduct.
14. Members and officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.
15. Whilst members and officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to members (individually and collectively) and to carry out the Council's work under the direction of the Council.
16. The Council has adopted codes of conduct for both members and officers. Both represent best practice. The members' code follows the national code which in turn is based on the general principles governing members' conduct enshrined in law, viz:
  - Selflessness – serving only the public interest.
  - Integrity – not place themselves under any financial or other obligation to outside individuals or organizations which might seek to influence them in performing their official duties.
  - Objectivity – taking decisions on merit.
  - Accountability – to the public; being open to scrutiny.
  - Openness – giving reasons for decisions.
  - Honesty – declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.
  - Leadership – promote and support these principles by leadership and example.

17. These principals underpin this protocol.
18. Officers are bound by the Council's own code of conduct for staff and, in some cases, by the codes of their professional associations.
19. Breaches of this protocol by a member may result in a complaint to the Monitoring Officer if it appears the members' code has also been breached. Breaches by an officer may lead to disciplinary action.

### **The role of members**

20. Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.
21. Collectively, members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
22. Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
23. Every elected-member represents the interests of, and is an advocate for, his/her ward [division] and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
24. Some members have roles relating to their position as members of the Cabinet, the Overview and Scrutiny Committees or other committees and sub-committees of the Council.
25. Members of the Cabinet can have individual delegated powers. They may determine matters within their portfolios but implementation of their decisions is the responsibility of officers.
26. Members serving on the Overview and Scrutiny Committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.
27. Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Cabinet.
28. Some members may be appointed to represent the Council on local, regional or national bodies.

29. As politicians, members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as members they have a duty always to act in the public interest.
30. Members are not authorised to instruct officers other than:
  - through the formal decision-making process;
  - to request the provision of consumable resources provided by the Council for members' use;
  - where staff have been specifically allocated to give support to a member or group of member; and
  - in the case of political assistants.
31. Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council except in accordance with the Council's Financial Regulations and Standing Orders as it applies to members who are Cabinet Members.
32. Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their code of conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the designated Finance Officer.
33. Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.
34. Members have a duty under their code of conduct:
  - to promote equality by not discriminating unlawfully against any person, and
  - to treat others with respect.
35. Under the code, a member must not when acting as a member or in any other capacity:
  - bring the Council or his/her position as a member into disrepute, or
  - use his/her position as a member improperly to gain an advantage or disadvantage for his/herself or any other person.

### **The role of officers**

36. Officers are responsible for giving advice to members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.

37. Under the direction and control of the Council (including, as appropriate, the Cabinet, committees, sub-committees or panels), officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
38. Officers have a duty to implement decisions of the Council, the Cabinet, committees and sub-committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution, and duly minuted.
39. Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
40. Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
41. Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive and be aware of the implications for members, the media or other sections of the public.
42. Officers have the right not to support members in any role other than that of member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers' involvement in political activities.

#### **The relationship between members and officers: general**

43. The conduct of members and officers should be such as to instill mutual confidence and trust.
44. The key elements are recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
45. Informal and collaborative two-way contact between members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.
46. It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.
47. Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.

48. With the exception of political assistants, officers work to the instructions of their senior officers, not individual members. It follows that, whilst such officers will always seek to assist a member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, members should normally direct their requests and concerns to a senior officer, at least in the first instance.
49. Officers will do their best to give timely responses to members' enquiries. However, officers should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities.
50. Members will endeavor to give timely responses to enquiries from officers.
51. An officer shall not discuss with a member personal matters concerning him/herself or another individual employee. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward [division] member.
52. Members and officers should respect each other's free (i.e. non-Council) time.

### **The Council as employer**

53. Officers are employed by the Council as a whole.
54. Members' roles are limited to:
  - the appointment of specified senior posts,
  - determining human resources policies
  - hearing and determining appeals.
55. Members shall not act outside these roles.
56. If participating in the appointment of officers, members should:
  - remember that the sole criterion is merit (other than in the case of political consideration may apply),
  - never canvass support for a particular candidate,
  - not take part where one of the candidates is a close friend or relative,
  - not be influenced by personal preferences, and
  - not favor a candidate by giving him/her information not available to the other candidates.
57. A member should not sit on an appeal hearing if the appellant is a friend, a relative, or an officer with whom the member has had a working relationship.

## **Chairman and officers**

58. Officers will respect the position of Chairman of the Council and provide appropriate support.

## **Cabinet members and officers**

59. Cabinet members will take decisions in accordance with the Constitution and will not otherwise direct staff. Senior officers will be responsible for instructing staff to implement the Cabinet's decisions.
60. In addition to individual members of the Cabinet, senior officers (including the Monitoring Officer and the designated Finance Officer) have the right to submit papers to the Cabinet as a whole or to individual Cabinet members for consideration.
61. Senior officers and Cabinet members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Cabinet will seek appropriate professional advice including, without exception, the Monitoring Officer and designated Finance Officer, and will not require officers to undertake actions which adversely affect their reputation for impartiality. Officers have a duty to prepare reports on request of senior members and these reports will normally include recommendations. These recommendations must accord with their own impartial and professional judgment. Members must not instruct, or exert undue influence, on officers with regard to the content of recommendations.
62. Before any formal decisions with a financial implication are taken by the Cabinet, the Finance Officer and the senior officer(s) for the service(s) concerned must be consulted. This is to ensure that those officers who are budget holders:
  - are aware of the proposed decision,
  - have the opportunity to offer advice, and
  - are subsequently able properly to authorise the financial transactions needed to implement decisions.
63. An individual Cabinet member who is minded to write or commission a report or to make a decision about a matter within his/her portfolio should use their best endeavours to ensure that those other members and officers who need to know of the matter are so informed. There is a particular requirement to involve other Executive members on cross-cutting issues.
64. Cabinet members when making decisions (whether collectively or individually) must state the reasons for those decisions. The written record of the decisions must include the reasons.
65. Officers taking decisions under their delegated powers must consider the advisability of informing the relevant Cabinet member(s) and Chairmen of the Overview and Scrutiny Committee of their intentions in advance when the

matter to which the decisions relates is likely to be sensitive or contentious, or has wider policy implications.

### **Scrutiny, Policy Development and officers**

66. The Chairmen and Vice-Chairmen of the Overview and Scrutiny Committees shall maintain regular contact with the officer(s) providing the principal support to the scrutiny and policy development function. In consultation with the relevant Chairmen, it shall be the responsibility of the latter to ensure that those who need to know of matters being considered of for possible future consideration are so informed.
67. The Overview and Scrutiny Committee or their chairman acting on their behalf may require officers to attend Overview and Scrutiny Committees. Members should not normally expect junior officers to give evidence. All requests should be made to senior officers in the first instance.
68. When making requests for officer attendance, Overview and Scrutiny Committees shall have regard to the workload of officers.
69. It is recognised that officers required to appear before the Overview and Scrutiny Committees may often be those who have advised the Cabinet or another part of the Council on the matter under investigation. In these circumstances, an officer may have a conflict of interest. Both members and officers need to consider the severity of the conflict. If deemed appropriate, research and advice may be sought elsewhere – internally or externally.
70. Subject to 72 below, officers should be prepared to justify advice given to the Council, the Cabinet, or other committees and sub-committees even when the advice was not accepted.
71. Officers must also be prepared to justify decisions they have taken under delegated powers.
72. In giving evidence, officers must not be asked to give political views.
73. Officers should respect members in the way they respond to members' questions.
74. Members should not question officers in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature.
75. Overview and Scrutiny Committee proceedings must not be used to question the capability or competence of officers. Chairmen and members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not a function of the Overview and Scrutiny Committees. In exercising the right to call-in a decision of the Cabinet, members must seek officer advice they consider the decision is contrary to the Council's approved plans, policies or frameworks, or is unlawful.

## **Members of other committees or sub-committees and officers**

77. The appropriate senior officers will offer to arrange regular informal meetings with chairmen, vice-chairmen, and spokesmen of committees and sub-committees.
78. Senior officers (including the Monitoring Officer and the designated Finance Officer) have the right to present reports and give advice to committees and sub-committees.
79. Members of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to carry out their duties.
80. At some committee or sub-committee meetings, a resolution may be passed which authorises a named officer to take action between meetings in consultation with the chairman. In these circumstances it is the officer, not the chairman, who takes the action and is responsible for it. A chairman has no legal power to take decisions on behalf of a committee or sub-committee; neither should he/she apply inappropriate pressure on the officer.

## **Party groups and officers**

81. Senior officers may properly be asked to contribute to deliberations of matters concerning Council business by party groups.
82. Officers have the right to refuse such requests, and will normally not attend a meeting of a party group where some of those attending are not members of the Council.
83. Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.
84. Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.
85. Where officers provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

86. It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because he/she has attended or provided information to the meeting.
87. Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.
88. In their dealings with party groups, officers must treat each group in a fair and even-handed manner.
89. Members must not do anything which compromises or is likely to compromise officers' impartiality.
90. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
91. An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.
92. An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf.
93. An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
94. No member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.
95. At party group meetings where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not members are not bound by the members' code of conduct. They do not have the same rights to Council information as members.
96. Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Chief Executive and the relevant party group leader.
97. Where an officer prepares a report for a political group, the Chief Executive will advise all other groups that the report has been prepared and will provide a copy of that report to any group upon request. Also the Chief Executive will advise all other groups that an officer has attended a political group meeting and the subject upon which he or she did advise.

## Local members and officers

98. To enable them to carry out their ward role effectively, members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the requirement to keep local members informed, thus allowing members to contribute to the decision-making process and develop their representative role.
99. This requirement is particularly important:
  - during the formative stages of policy development, where practicable,
  - in relation to significant or sensitive operational matters,
  - whenever any form of public consultation exercise is undertaken, and
  - during a scrutiny or policy development investigation.
100. Issues may affect a single ward. Where they have a wider impact, a number of local members will need to be kept informed.
102. Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the wards affected should be invited to attend the meeting as a matter of course.
103. If a local member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant officer. Provided the meeting has not been arranged on a party political basis:
  - an officer may attend but is not obliged to do so, and the meeting may be held in Council- owned premises.
104. No such meetings should be arranged or held in the immediate run-up to Council elections (i.e. after the issue of the notice of election).
105. Whilst support for members' ward work is legitimate, care should be taken if staff are asked to accompany members to ward surgeries. In such circumstances:
  - the surgeries must be open to the general public, and
  - officers should not be requested to accompany members to surgeries held in the offices or premises or political parties.
106. Officers must never be asked to attend ward or constituency political party meetings.
107. It is acknowledged that some Council staff (e.g. those providing dedicated support to Cabinet members) may receive and handle messages for members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

108. In seeking to deal with constituents' queries or concerns, members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by members in the requested timescale, and may need to seek instructions from their managers.

### **Members' access to documents and information**

109. This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's Constitution.
110. Members may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:
- it is in the public domain, and
  - it is not barred by the Data Protection Act from being given.
  - it relates to the member's role as a ward Councillor or to any role the member has been appointed to by the Council.
111. Every member of the Cabinet, Overview and Scrutiny Committees, and/or any other committee or sub-committee has a right to inspect documents about the business of that group, committee or sub-committee or the Cabinet.
112. A member who is not a member of a specific Overview and Scrutiny Committee, other committee or sub-committee, or the Cabinet may have access to any document of that specific part of the Council provided:
- he/she can demonstrate a reasonable need to see the documents in order to carry out his/her roles as a member (the "need to know" principle), and the documents do not contain "confidential" or "exempt" information as defined by the law.
113. Disputes as to the validity of a member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek his/her advice if in any doubt about the reasonableness of a member's request.
114. A member should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information:
- where to do so is likely to be in breach of the Data Protection Act, or
  - where the subject matter is one in which he/she has a personal or prejudicial interest as defined in the members' code of conduct.
115. Information given to a member must only be used for the purposes for which it was requested.

116. It is an accepted convention that a member of one party group will not have a need to know and therefore a right to inspect a document which forms part of the internal workings of another party group.
117. Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
118. When requested to do so, officers will keep confidential from other members advice requested by a member.
119. Members and officers must not prevent another person from gaining access to information to which that person is entitled by law.

### **Media relations**

120. All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.
121. Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.
122. Officers will keep relevant members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.
123. Before responding to enquiries from the media, officers shall ensure they are authorised to do so.
124. Likewise, officers will inform the Council's public relations office of issues likely to be of media interest, since that unit is often the media's first point of contact.
125. If a member is contacted by, or contacts, the media on an issue, he/she should:
  - indicate in what capacity he/she is speaking (e.g. as ward member, in a personal capacity, as an Cabinet member, on behalf of the Council, or on behalf of a party group);
  - be sure of what he/she wants to say or not to say
  - if necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's press office [or similar] and/or relevant senior officer, except in relation to a statement which is party political in nature;
  - consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
  - never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
  - consider whether to consult other relevant members; and

- take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.

## **Correspondence**

126. Correspondence between an individual member and an officer should not be copied to another member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, i.e. there should be no “blind” copies.
127. Official letters written on behalf of the Council should normally be in the name of the relevant officer. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of a Cabinet member or the chairman of an Overview and Scrutiny Committee.
128. The Chairman may initiate correspondence in his/her own name.
129. Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a member.
130. When writing in an individual capacity as a ward member, a member must make clear that fact.

## **Use of Council resources**

131. The Council provides all members with services such as typing, printing and photocopying, and goods such as stationery and computer equipment, to assist them in discharging their roles as members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.
132. Members should ensure they understand and comply with the Council’s own rules about the use of such resources, particularly:
- where facilities are provided in members’ homes at the Council’s expense;
  - in relation to any locally-agreed arrangements e.g. payment for private photocopying; and
  - regarding ICT security.
133. Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples are:
- business which is solely to do with a political party;
  - work in connection with a ward or constituency party political meeting;
  - electioneering
  - work associated with an event attended by a member in a capacity other than as a member of the Council;
  - private personal correspondence;

- work in connection with another body or organization where a member's involvement is other than as a member of the Council; and
- support to a member in his/her capacity as a Councillor of another local authority.

### **Interpretation, complaints and allegations of breaches**

134. This part of the protocol should be read in conjunction with any "whistle blowing" policy the Council may have.
135. Members or officers with questions about the implementation of interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.
136. A member who is unhappy about the actions taken by, or conduct of, an officer should:
- avoid personal attacks on, or abuse of, the officer at all times,
  - ensure that any criticism is well founded and constructive,
  - should speak to the Chief Executive in the first instance,
  - should not make public comments on the matter before it has been investigated by the Chief Executive.
  - Complaints concerning the Chief Executive should be referred to the Monitoring Officer.
  - Formal complaints (i.e. those made in writing) concerning the Chief Executive should be referred to the Monitoring Officer and the Chairman of the Employment Committee to determine the most appropriate procedure for their consideration.
137. If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the member should raise the issue with the officer's manager or the relevant senior officer.
138. A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure.
139. An officer who believes a member may have acted other than in accordance with this protocol should raise his/her concern with the Monitoring Officer. He/she will, consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group. More serious complaints may involve alleged breaches of the members' code of conduct, and may be referred to the Standards Committee.

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## **CODE OF CONDUCT FOR COUNCIL STAFF**

### **Introduction**

All local government staff are expected to uphold the principles of impartiality, fairness, honesty, openness and integrity which are the hallmarks of public service. These virtues are put in jeopardy if the public is given any reason to suspect that action taken by a member of staff is prompted or influenced by self-interest or improper motives.

There are a variety of laws which influence and regulate our conduct as staff. These cover such matters as corrupt practices, political activity, disclosure of interest in contracts, equal opportunities and sexual/racial discrimination. This Code of Conduct is not intended to detract from those universal rules; indeed it cannot do so. Rather, it is intended to build upon them.

The Code of Conduct applies to all staff. Any employee who has difficulty in interpreting it or in knowing exactly how it affects him or her should consult a senior manager. Any senior manager who is in doubt should talk to me.

Chief Executive

### **Code of Conduct**

#### **Standards**

1. Local government staff are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to Councillors and fellow staff with impartiality. Staff will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of their senior managers any deficiency in the provision of service of which they are, or are made, aware.
2. Staff must report to the Monitoring Officer any impropriety or breach of procedure of which they are, or are made, aware

#### **Disclosure of Interest**

3. It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. Staff must be aware of which information the Council is and is not open about, and act accordingly. Staff must make themselves aware, after taking advice when necessary, of which categories or information under their jurisdiction or control must be made available or must be protected.
4. Staff must not use any information obtained in the course of their employment for personal gain or benefit or pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Council should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

## **Political Neutrality**

5. Staff serve the Council as a whole. It follows they must serve all Councillors and not just those of the controlling group and must ensure that the individual rights of all Councillors be respected.
6. Subject to the Council's conventions, staff may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality. No member of staff may agree to attend a political group meeting without seeking the consent of the Chief Executive and without offering the same facility to all other groups.
7. Staff, whether or not politically restricted, must follow every lawful policy of the Council and must not allow their own personal or political opinions to interfere with their work.
8. Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing act 1989 are exempt from the standards set in paragraph 5, 6 and 7. [At present, South Kesteven employs no political assistants.]

## **RELATIONSHIPS**

### **Councillors**

9. Staff are responsible to the Council through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the Council's work. Mutual respect between staff and Councillors is essential to good local government. Close personal familiarity between staff and individual Councillors can damage the relationship and prove embarrassing to other staff and Councillors and should therefore be avoided.

### **The Local Community and Service Users**

10. Staff should always remember their responsibilities to the community they serve and ensure that courteous, efficient and impartial service is delivered to all groups and individuals within that community as defined by the policies of the Council.

### **Contractors**

11. Any employee who has any relationship of a business of private nature with external contractors, or potential contractors, must make that relationship known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour may be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated either in favour of or against.

12. Staff who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, must declare that relationship to the appropriate manager.

### **Appointment and other Employment Matters**

13. Staff involved in appointments must ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusations of bias, staff must not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.
14. Similarly, staff should not be involved in decisions relating to discipline promotion or pay adjustments for any other employee to whom he or she is related or with whom he or she has a close personal relationship outside work.

### **Outside Commitments**

15. Staff whose salaries are in PM grades have conditions of service which require them to obtain written consent to take any outside employment. Applications for consent must be made to the Service Manager, Human Resources. All staff should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests.
16. Staff should follow the Council's rule on the ownership of intellectual property or copyright created during their employment.

### **Personal Interests**

17. Staff must declare to the Monitoring Officer any non-financial interests what they consider could bring about conflict with the Council's interests
18. If it comes to the knowledge of a member of staff that a contract in which he or she has any pecuniary interest, whether direct or indirect, (not being a contract to which he or she is a party) has been or is proposed to be entered into by the Council, he or she must, as soon as practicable, give written notice to the Monitoring Officer of the fact that he or she has that interest.
19. Staff must declare to the Monitoring Officer membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct. This includes, but is not limited to, membership of rotary clubs, lions clubs, round tables, Kiwanis and Masonic lodges.
20. Staff are prohibited from submitting planning or building regulations applications or grant applications, and from carrying out work in connection with such applications, which are not their own or those of a close relative. Plans submitted

by staff must always clearly be identified by the officer's name and relationship to the applicant.

## **Equality Issues**

21. All local government staff must ensure that policies relating to equality issues as agreed by the Council are compiled with in addition to the requirements of the law. All members of the local community, customers and other staff have a right to be treated with fairness and equity. In their interpretation of this code generally, but especially paragraphs 10 and 13, staff, must bear in mind the Council's general policy statement which is set out below:

*“So far as is reasonably practicable, the services provided by this authority will be delivered fairly to all sections of the community without discrimination”.*

## **Separation of Roles during Tendering**

22. Staff involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Senior staff who have both a client and contractor responsibility must be aware of the need for accountability and openness.
23. Staff in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers other contractors and sub-contractors.
24. Staff who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised part or organisation.
25. Staff contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.
26. Staff should ensure that no special favour is shown to current or recent former, staff or Councillors or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or managerial capacity.

## **Corrupt Practices**

27. Under various statutory provisions, staff of the Council:-
- (1) Must not, under colour of office or employment, accept any fee or reward whatsoever other than proper remuneration;
  - (2) Will be guilty of a serious offence if they corruptly solicit or accept any gift or consideration as an inducement or reward for:-

- (a) Doing or refraining from doing anything in an official capacity, or
- (b) Showing favour or disfavour to any person in an official capacity.

28. All staff must be aware of and follow, the procedures set out in Annex 2 of the Counter Fraud, Corruption and Bribery Framework document.

### **Use of Financial Resources**

29. Staff must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

### **Acceptance of Gifts or Hospitality**

30. The following paragraphs are given as guidance to staff who may be offered gifts or hospitality. In any case of doubt or uncertainty staff should consult the Chief Executive.

- 1) Staff should treat with extreme caution any offer of a gift, favour or hospitality that is made to them personally. The person or organisation making the offer may be doing or seeking to do business with the Council or may be applying to the Council for some decision to be taken in his or her favour or in favour of someone with whom he or she is connected. Examples could include (but are not limited to) planning permission, contracts, tenancies of land or buildings, and licences to operate businesses.
- 2) There are no hard and fast rules about the acceptance or refusal of hospitality or tokens of goodwill. For example, working lunches may be an appropriate way of doing business provided they are approved either by the Council or by a senior officer and provided no extravagance is involved. In the same way it may be reasonable for staff to represent the Council at a social function or event organised by outside persons or bodies.
- 3) Each member of staff is personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding risk or damage to public confidence in local government. The offer or receipt of gifts or invitations should always be reported to the Monitoring Officer so that a record can be kept.

31. When hospitality has to be declined, those making the offer should be courteously be firmly informed of the procedures and standards operated by the Council and told why hospitality cannot be accepted.

32. Staff should not accept significant personal gifts from contractors and outside suppliers, although the Council will allow staff to keep insignificant items of token value such as pens and diaries.

33. When receiving authorised hospitality staff should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
34. Acceptance by staff of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal and where the employee is satisfied that any purchasing decisions will not be compromised. Where visits to inspect equipment, supplies or services are required, staff should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

### **Sponsorship – Giving and Receiving**

35. Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntary, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
36. From time to time the Council sponsors or gives grants for exhibitions, plays or performances, games and matches and similar cultural and sporting events. The general rule is that no employee, nor any partner or relative of any employee, shall receive any benefit from such sponsorship or grant without full disclosure to, and approval of, the Monitoring Officer. However, it is common practice for the organisers of sponsored or grant aided events to provide a number of “free” tickets for distribution to members and/or staff of the Council. The proper use of such tickets can help to raise the profile of the Council and the vent and can help professional staff to monitor and evaluate the event. Acceptance of tickets in these circumstances is appropriate without notification or approval.
37. “Pressure selling” takes place when a seller, usually SELLING through sales promotional offers such as free gifts. Free holidays or vouchers which can be redeemed for money, goods or services, seeks to put pressure on “a buyer” to buy his or her goods or services irrespective of whether or not they represent best value for money for the Council. It is essential, in the interests of sound management of the Council and the maintenance of the highest standards of the service of the public which are expected of the Council’s staff that the full benefit of all such offers should accrue to the Council rather than to an individual member of staff. Consequently:
  - 1) A member of staff who is in any way responsible for buying or advising on buying for the Council must report to his or her senior officer the receipt of any promotional offer and act on any instructions which he or she may receive.
  - 2) Whenever such a promotional offer is made the “value for money” evaluation of the proposed purchase must take no account of the offer. But is, as a result of this evaluation, the goods or services on offer themselves still represent the best value to the Council they should be bought and the promotional offer accepted on behalf of the Council. At

that stage the receipt of the promotional offer must be reported to the Monitoring Officer.

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# CABINET AND OVERVIEW AND SCRUTINY PROTOCOL

## 1. Introduction

- 1.1 The Council's Cabinet Procedure Rules and Overview and Scrutiny Committee Procedure Rules, set out in Part 4 of the Constitution, outline the relationship between the Council's Executive (Cabinet and individual Cabinet Members) and its scrutiny function (Overview and Scrutiny Committees).
- 1.2 The purpose of this Protocol is to outline and confirm the principles that will be followed by the Council's Cabinet (either as a body or individual Cabinet Members) and its Overview and Scrutiny Committees. The Protocol will:
  - a) Provide Cabinet Members and Members of Overview and Scrutiny Committees with a clear understanding of their role, responsibilities and powers as part of the Council's scrutiny function
  - b) Confirm the overview and scrutiny framework and procedures to enable scrutiny to work effectively
  - c) Define and clarify the role of Cabinet and individual Cabinet Members in the scrutiny process

## 2. Role of Cabinet

- 2.1 Cabinet, operating the Council's executive function, is at the heart of the day-to-day decision-making process of the Council and has a key role in proposing the budget and policy framework to Full Council.
- 2.2 The Scheme of Delegation for Cabinet is set out in Part 3(b) of the Constitution, with financial thresholds also prescribed in Financial Regulations and Contract Procedure Rules at Part 4 of the Constitution.

## 3. Role of Overview and Scrutiny Committees

- 3.1 The Council's overview and scrutiny function has the following roles and responsibilities which are delivered by Overview and Scrutiny Committees:
  - a) Review and scrutinise the decisions made by, and the performance of, Cabinet, individual Cabinet Members and Council Officers in relation to individual decisions
  - b) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and particular service areas

- c) Question Members of Cabinet, its Committees and appropriate Officers about their decisions and performance targets, over a period of time, or in relation to particular decisions, initiatives or projects
- d) Question and gather evidence from any person, with their consent
- e) Make recommendations to Cabinet or any other appropriate body of the Council, including Full Council, arising from the outcome of the overview and scrutiny process
- f) Review and scrutinise the performance of other appropriate public service bodies in the area and invite reports from them by requesting them to address the relevant Overview and Scrutiny Committee and local people about their activities and performance
- g) Consider any matter affecting the area or its residents and exercise the right of Call-In for reconsideration of decisions made by Cabinet, its Committees, individual Cabinet Members or Officers that have not been implemented
- h) Consider Councillor Calls for Action
- i) Review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions as the Committee considers appropriate but not less than once in every twelve-month period
- j) Assist the Council and Cabinet in the development of its Budget and Policy Framework through in-depth analysis of policy issues
- k) Conduct research, community and other consultation in the analysis of policy issues and possible options
- l) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options
- m) Question Cabinet Members about their views on policy proposals and receive advice and information from Officers
- n) Liaise with other external organisations operating in the area whether national, regional or local to ensure that the interests of local people are enhanced by collaborative working

3.2 The terms of reference for each specific Overview and Scrutiny Committee, clarifying the service areas that fall under their respective remits, are outlined in the Overview and Scrutiny Procedure Rules at Part 4 of the Constitution.

#### **4. Relationship between Cabinet and Overview and Scrutiny**

4.1 The following principles set out how the working relationship between Cabinet and Overview and Scrutiny Committees should operate:

- a) Cabinet Members and Members of Overview and Scrutiny Committees recognise that the bodies they sit on and roles they have consist of different functions and responsibilities which contribute to securing the best outcomes for people who live and work in South Kesteven
- b) Cabinet Members cannot be Members of Overview and Scrutiny Committees
- c) All participation in the working relationship between Cabinet and Overview and Scrutiny Committees will following the spirit of mutual respect, constructive challenge and the principles outlined in the Councillor Code of Conduct and Councillor/Officer Relations Protocol as set out in the Council's Constitution
- d) Whilst the membership of Overview and Scrutiny Committees reflect the Council's political proportionality, their meetings should reflect the statutory guidance that scrutiny work be conducted in a non-party political manner
- e) Overview and Scrutiny Committees are able, as non-executive Members, to hold Cabinet to account as one of their principal responsibilities, which could be done through:
  - Challenging Cabinet or individual Cabinet Members about decisions which have been taken
  - Consider performance or financial information
  - Request information about items which are set out in the Cabinet Forward Plan
- f) Cabinet recognises that Overview and Scrutiny Committee have a number of rights, such as requiring the attendance of Cabinet Members at meetings, and the Overview and Scrutiny Committees will exercise those rights responsibly
- g) Cabinet recognises that Members of Overview and Scrutiny Committees have additional rights of access to documents, as prescribed in the Access to Information Procedure Rules at Part 4 of the Constitution

- h) The Leader of the Council will attend a meeting of the Overview and Scrutiny Committees at least every six months to provide an update on delivery against the objectives of the Council's Corporate Plan.
- i) Overview and Scrutiny Committees will ensure that Cabinet Members have the ability to make any announcements at their meetings.
- j) Cabinet will ensure that Overview and Scrutiny Committees have the ability to present reports and submit recommendations at its meetings.

## **5. Conduct of Meetings**

5.1 Meetings of Overview and Scrutiny Committees will be conducted as follows in support of the principles set out in paragraph 4 above:

- a) All formal meetings of Overview and Scrutiny Committees will be held in accordance with Council Procedure Rules, Access to Information Procedure Rules and Overview and Scrutiny Procedure Rules as set out in Part 4 of the Constitution
- b) Each Overview and Scrutiny Committee may request Cabinet Members to attend their meetings to present reports, discuss issues of concern or answer questions. At least five working days' notice and an indication of the business being conducted and the expected focus of questioning will be provided to any Cabinet Member requested to attend a meeting for this purpose
- c) Cabinet Members requested to attend meetings of an Overview and Scrutiny Committee have the right to be accompanied by the relevant Officer to assist with explaining complex or technical information
- d) Cabinet Members have the right to attend and speak at any Overview and Scrutiny Committee relevant to their area of responsibility

5.2 Meetings of Cabinet will be conducted as follows in support of the principles set out in paragraph 4 above:

- a) All formal meetings of Cabinet will be held in accordance with Cabinet Procedure Rules and Access to Information Procedure Rules
- b) The Chairman of the relevant Overview and Scrutiny Committee, or Vice-Chairman in their absence, will be entitled to speak before debate on any report relevant to their Committee

- c) All reports to Cabinet on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with the relevant Overview and Scrutiny Committee, together with the outcome of that consultation

## **6. Overview and Scrutiny Committee Work Programming**

- 6.1 Work programmes for Overview and Scrutiny Committees should outline the items of business scheduled for consideration by each Committee for the municipal year, based on their respective terms of reference.
- 6.2 The work programme for each Overview and Scrutiny Committee should be developed at the commencement of the municipal year and considered at each subsequent meeting. This could include key decisions scheduled for consideration by Cabinet listed on its Forward Plan, performance information, financial information, items relating to delivery of corporate objectives set out in the Corporate Plan or other items put forward for consideration.
- 6.3 Cabinet Members can suggest items for inclusion in an Overview and Scrutiny Committee work programme, however, they should not seek to try and exercise control over the work of the Committee. It is ultimately for Overview and Scrutiny Committees to determine whether to include suggestions in their respective work programmes.
- 6.4 Overview and Scrutiny Committees will endeavour to delivery their work programmes, once agreed, however, it is recognised that there needs to be sufficient flexibility to accommodate urgent, short term or emerging priorities which may arise during the municipal year.

## **7. Scrutiny Reviews**

- 7.1 Overview and Scrutiny Committees can undertake in-depth scrutiny reviews as and when deemed necessary. This can be facilitated through a Task and Finish Group, or by the whole Committee depending on the nature of the subject under review.
- 7.2 Upon conclusion of a Scrutiny Review, the final report will be presented to the Overview and Scrutiny Committee where recommendations will be agreed and submitted to Cabinet for consideration. The Chairman of the relevant Task and Finish Group or Overview and Scrutiny Committee will present the findings and recommendations of the Scrutiny Review to the next scheduled meeting of Cabinet.

7.3 Cabinet will confirm its response to the recommendations, outlining those which will be accepted and implemented, together with reasons for any recommendations not taken forward. Cabinet may delegate this response to the individual Cabinet Member and request that they provide a report back to the Overview and Scrutiny Committee.

7.4 The Overview and Scrutiny Committee has a duty to monitor progress of implemented recommendations and may therefore request the relevant Cabinet Member attends a future meeting of the Committee.

## **8. Compliance with this Protocol**

8.1 The Council's Monitoring Officer is responsible for overseeing compliance with this Cabinet and Overview and Scrutiny Protocol, ensuring that it is used to support and promote a positive culture of overview and scrutiny at South Kesteven District Council.

# **PART 6**

# **MEMBERS' ALLOWANCES SCHEME**

**From 1 April 2026**

**BASIC ALLOWANCE** £ per annum

Payable to every Councillor 6,735

**SPECIAL RESPONSIBILITY ALLOWANCES**

Leader of the Council	23,574
Deputy Leader of the Council	18,522
Cabinet Member	13,470
Planning Committee Chairman	8,082
Planning Committee Vice-Chairman	2,667
Licensing Committee Chairman	5,388
Licensing Committee Vice-Chairman	1,779
Overview and Scrutiny Committee Chairman x 5	6,735
Overview and Scrutiny Committee Vice-Chairman x 5	2,223
Opposition Group Leaders (pro rata)	6,735
Standards Committee Chairman	4,041
Standards Committee Vice-Chairman	1,335
Governance & Audit Committee Chairman	6,735
Governance & Audit Committee Vice-Chairman	2,223
Employment Committee Chairman	5,388
Employment Committee Vice-Chairman	1,779

Chairman of the Council 8,082

Vice-Chairman of the Council 2,667

Any member entitled otherwise to more than one Special Responsibility Allowance shall only be entitled to take one such Allowance that being the highest.

**INDEPENDENT PERSON ALLOWANCE**

Independent Person Special Responsibility Allowance 1,500

**Childcare and Carers Allowance**

An allowance for childcare and carers at £12.21 per hour (for over 21s) is payable, subject to a ceiling of 200 hours per annum per Councillor, payable for approved duties on presentation of a receipt/invoice or signed verification from the carer to confirm the arrangements.

## **Travelling Expenses (elected Members and non-elected co-opted Members)**

Travelling expenses are payable at the following rates:

- (i) 45 pence per mile for a motor vehicle (irrespective of the cc of the vehicle). There is a passenger supplement of 5 pence applied to **each** additional passenger carried
- (ii) 24 pence per mile for motorcycles
- (iii) 20 pence per miles for bicycles

These rates apply to the following duties:

- (i) Full Council meetings
- (ii) Cabinet, Committee or Sub Committee meetings of which a Member, or if not a member of a meeting, is attending where they have a legitimate interest in a matter that is scheduled to be discussed
- (iii) Outside bodies to which the Council makes nominations/appointments (but not representation on school governing bodies) where the Councillor is in attendance as a nominee of the Council
- (iv) Meetings in effect 'set-up' by the Council, such as working groups provided membership includes more than one political group or group leaders' meetings
- (v) Travel and subsistence expenses to be met for all Councillors on Working Groups provided that they have been appointed in a properly constituted Meeting Body comprising more than one Political Group and that the membership of the Working Group is open to all Members of that Meeting Body
- (vi) That the above principle should apply for a Councillor invited to serve on a Working Group but not on the parent Meeting Body
- (vii) Meetings of the various tiers of the Local Government Association
- (viii) Planning site visits as a rostered Member of the Planning Committee, not as a local representative pursuing constituency interests
- (ix) Seminars, conferences and similar informal meetings at the behest of Committee

- (x) Other meetings for the Council such as staff appointments, training seminars and meetings with officers in connection with a member's portfolio (not normal constituency business)
- (xi) Duties, which are undertaken in connection with being a Cabinet Member, Chairman/Vice-Chairman of an Overview and Scrutiny, Chairman/Vice-Chairman of Regulatory Committees such as briefing meetings, visits and opening tenders
- (xii) Meetings with officers to discuss items included on Council, Cabinet and Committee agendas where the Council has made a pre-arranged appointment
- (xiii) Town and Parish Council meetings, including Parish Meetings within the Members' Ward that they attend as a representative of South Kesteven District Council
- (xiv) Duties, which are undertaken in connection with being a Cabinet Member, Chairman/Vice-Chairman of an Overview and Scrutiny, Chairman/Vice-Chairman of Regulatory Committees such as briefing meetings, visits and opening tenders

### **Subsistence Expenses**

Reimbursement of actual costs incurred to a maximum of

#### *Breakfast Allowance*

An absence of at least 4 hours before 11am £6.80

#### *Lunch Allowance*

An absence of at least 4 hours including the whole of noon to 2pm £9.60

#### *Tea Allowance*

An absence of at least 4 hours including the whole of the period 3pm – 6pm £3.70

#### *Evening Meal Allowance*

An absence of at least 4 hours ending after 7pm £11.70

#### *Overnight Absence*

In the case of an absence overnight from the usual place of residence – full cost of reasonable and necessary expenses

### **Additional Guidance for Subsistence Entitlement;**

- (i) Entitlement for subsistence is determined against the same criteria as travelling expenses when claiming for duties outside the district
- (ii) Entitlement for Subsistence when attending the main Council Offices or within the district should only be when attending two separate meetings. Duties undertaken in connection with being Cabinet Members or Chairman/Vice-chairman such as briefing meetings, etc. do not count for the purposes of entitlement to subsistence
- (iii) In the case of an absence overnight from the usual place of residence, full cost of reasonable and necessary expenses is payable. With regard to meals claimed reference will be made to the normal allowances, taking account of any unavoidable captive charges. The Monitoring Officer will make a decision on any dispute on 'reasonable and necessary' expenses

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# **PART 7**

## **MANAGEMENT STRUCTURE**

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**Chief Executive**

**Director of Housing and Projects**

Housing and Developments  
Housing Improvements and repairs  
Homelessness Allocations  
Tenancy Services  
Climate Change and Sustainability  
Safeguarding  
Health & Safety  
Corporate Projects  
Corporate Policy Development and Performance  
Business Support

**Deputy Chief Executive**

Finance and Investments  
Revenues and Benefits  
Customer Service  
Information Technology  
Soft Facilities  
Property Management  
Governance and Risk  
Waste Services  
Markets  
Annual Governance Reporting  
Statement of Accounts  
Procurement

**Monitoring Officer**

Democratic and Member Services  
Land Charges  
Legal Shared Services  
FOI/SAR/GDPR  
Elections  
Environmental Health  
Neighbourhoods/CCTV  
Public Protection and Licensing

**Head of Service – HR and Organisational Development**

Human Resources  
Organisational Development  
Wellbeing

**Assistant Director – Leisure, Culture and Place**

Arts  
Leisure  
Parks and Open Spaces  
LeisureSK Ltd  
Contract Monitoring  
Communications  
Grounds Maintenance  
Street Scene  
Events  
Community Engagement

**Assistant Director of Planning and Growth**

Economic Development  
Tourism  
Building Control  
Partnership  
UK Shared Prosperity Fund  
Planning Policy  
Planning Enforcement

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