



**BOROUGH COUNCIL OF NEWCASTLE-UNDER-LYME
COUNCIL CONSTITUTION**

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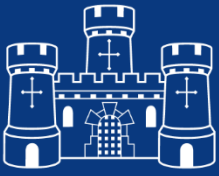
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Defined Terms

Throughout this constitution, we need to use some terms that have particular meanings. When we do this, the meaning of the term is set out the first time it is used.

The following table sets out the meanings of the terms that we use most often in this constitution. Section A1 will also assist readers in understanding the context of what follows in the rest of this constitution.

“Budget and Policy Framework” or “Framework”	Is a term we use to describe the core policies and budgets set by Council. These set out what the borough’s priorities are and how Council will use its resources to deliver those priorities.
“Council” or “Full Council”	Is shorthand for “a meeting of full council”, referring to all 44 Members operating collectively, at a meeting, to debate matters or take decisions.
“the Council”/ ”the Authority”	Are terms we use interchangeably to refer to the organisation that is Newcastle-under-Lyme Borough Council as a whole (as opposed to just the 44 Members operating collectively in decision-making mode).



“Cabinet”	The Cabinet is a small group of Members responsible for ensuring that the budget and policy Framework is implemented.
“Key Decision”	Is a term we use to describe certain types of significant decisions. The precise definition is set out in Section C3.
“Leader”	Is a term we use to refer to the Leader of the Council who is a Member elected by Council to exercise special responsibilities and to chair the Cabinet.
“Member/s”	Is shorthand for “elected Member/s of the council”. It is often used instead of or interchangeably with the word “councillor/s”.
“Officers”	Is a term we use to describe the people who work for or with the authority of the council to deliver council services. There are certain “Statutory” or “Proper” officers who have certain responsibilities (and titles) set out by law. More information is contained in Section E.



“Chief Officers”

“Chief Officers” means the Chief Executive, Deputy Chief Executive or any of the Service Directors. More information is contained in Section E.



Part A – Your Council

Section A1 – An Overview of Newcastle-under-Lyme Borough Council

In Part A:-

This Section (A1) of the constitution provides an overview of the key components of Newcastle-under-Lyme Borough Council and a brief explanation of what they do and how they operate. The key components are:-

- Council
- Cabinet
- Scrutiny
- Officers

The rest of the constitution contains more detailed information about each of these components and how they operate.

Section A2 explains the core objective of the council's approach to decision making and outlines how we achieve this objective. It sets out the principles that all decision makers must follow.

Section A3 explains some of the rights and responsibilities of the people who live and work in the borough and how they can get involved in everything that the council does. It also explains how citizens can submit a petition to the council.



Part A – Your Council

Section A1:- An Overview of Newcastle-under-Lyme Borough Council

In this Section:-

1. **Council**
2. **Cabinet**
3. **The Relationship Between Council and Cabinet**
4. **Local Authority Functions and Powers**
5. **Distribution and Delegation of Functions and Powers**
 - Council Functions
 - Council Committees and Officers
 - Cabinet Functions (known in law as Executive Functions)
6. **Scrutiny**
7. **Officers**

NEWCASTLE
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BOROUGH COUNCIL



1. Council

- 1.1 Every four years the residents of the borough of Newcastle-under-Lyme elect 44 Councillors (known as members of the council, or simply “**Members**”) to represent them.
- 1.2 The phrase “the council” refers to Newcastle-under-Lyme Borough Council as a whole. The term “**Council**” means all 44 Members acting collectively. These 44 Members are responsible for deciding what the borough’s priorities are and how to use the council’s resources to deliver those priorities.
- 1.3 You can find more information about the roles and responsibilities of Council and how it operates in Part B.

2. Cabinet

- 2.1 The Cabinet is a group of Members that meets regularly and is responsible for formulating proposals to Council about what the borough’s priorities should be, and how Council should use its resources to deliver them. Once agreed by Council, these proposals become the council’s “**Budget and Policy Framework**” (or simply the “**Framework**”). Local government legislation often refers to the Cabinet as the “Executive”.
- 2.2 The Cabinet is responsible for making all of the necessary arrangements to ensure that the priorities identified by Council are delivered within the budgets and policies that Council sets.
- 2.3 More information about the roles and responsibilities of the Cabinet, individual Cabinet Members and how they operate can be found in Part C.

3. The Relationship Between Council and the Cabinet

- 3.1 Following elections to the council, Council chooses one Member to be the Leader of the Council (“**the Leader**”). The Leader then chooses between 2 and 9 more Members to form the Cabinet.



3.2 The Cabinet recommends the Framework to Council, but Council decides whether or not to adopt it. Council may adopt the Cabinet's proposals either with or without amendments. It may also choose to formulate and adopt its own Framework.

3.3 Once the Council adopts the Framework, the Cabinet is responsible for implementing it. The Cabinet has a lot of discretion as to how it implements the Framework but it must always act in accordance with the Framework set down by Council. Ultimately, the Cabinet is accountable to Council for its performance.

4. Local Authority Functions and Powers

4.1 Local authorities have a wide range of legal powers, duties and functions. They have powers to carry out the various legal duties required of them by law ("mandatory functions"), and to engage in a wide range of other activities, either to supplement their mandatory functions, or to generally improve the wellbeing of their area ("discretionary functions").

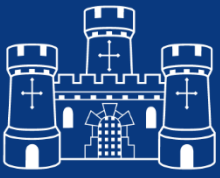
4.2 The law separates local authority functions (whether mandatory or discretionary), and any associated powers, into three main classes.

4.3 The first class of functions are functions that cannot be the sole responsibility of the Cabinet. An example of this class of function would be the process of adopting the Budget and Policy Framework. Cabinet and Council share that function as explained above.

4.4 The second class of functions are functions that cannot be the responsibility of the Cabinet. These are mainly functions that are often described as "regulatory" functions, such as deciding planning and licensing applications.

4.5 The third class of functions can be the responsibility of the Cabinet, but do not have to be. These are known as "local choice" functions. The Council has to decide whether or not the Cabinet should be responsible for discharging any or all of these functions. Section B1 sets out who is responsible for local choice functions in Newcastle-under-Lyme.

5. Distribution and Delegation of Functions and Powers



- 5.1 It would be impractical for Council (i.e. all 44 Members) to meet every time a council function needed to be discharged. For that reason, Council must arrange for the distribution and delegation of some of its functions and powers.

Council Functions

- 5.2 Council has decided which local choice functions to allocate to the Cabinet. It has also decided which of the functions, referred to in paragraphs 4.3 and 4.4 above it wants to exercise (or reserve to) itself. These functions are set out in Section B1 but generally relate to strategic matters such as setting budgets and adopting key strategic policies.

Council Committees and Officers

- 5.3 To deal with the functions which Council has not reserved to itself, and which cannot be delegated to the Cabinet, Council has delegated powers to a number of committees, and to the authority's employees, who are known as "Officers". These arrangements are explained in Section B2 and E2.

Cabinet Functions (known in law as Executive Functions)

- 5.4 The Council has decided that all other powers and functions that are not subject to the arrangements set out in paragraphs 5.2 and 5.3 above will be discharged by the Cabinet. Whilst these powers have been delegated to the Cabinet, Council has put arrangements in place to govern how the Cabinet can discharge these powers. These arrangements are explained in Part C.

6. Scrutiny

- 6.1 The Council appoints overview and scrutiny committees that are responsible for reviewing and scrutinising all of the council's work. In particular, the Scrutiny function is responsible for ensuring the effectiveness of the Cabinet.

- 6.2 Scrutiny committees have a mandate to undertake reviews and scrutinise action (or inaction) in relation to their subject areas or in respect of particular matters before, during, or after a decision is made. The scrutiny committees assist Council and the



Cabinet in developing the Budget and Policy Framework and in monitoring the performance of the authority, its committees, Members and Officers. It can make recommendations for change and has powers to intervene in the decision making process in certain circumstances.

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

6.4 More information about the roles and responsibilities of the scrutiny committees and how they operate can be found in Part D.

7. **Officers**

7.1 The term “Officers” is used to describe all the people who work for or with the council to deliver services and can include employees, contractors, consultants, agency staff and volunteers. Officers advise and support Members, implement their decisions and manage the day-to-day delivery of services. The majority of decisions and actions taken by the council will be taken by Officers under arrangements that the Council has put in place for the delegation of powers.

7.2 Some officers have specific legal duties to ensure that the council acts within the law and uses its resources wisely. These officers are known as “Statutory Officers” or “Proper Officers” and have specific legal titles in addition to their normal job titles. More information about the roles and responsibilities of Officers can be found in Part E.

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Part A – Your Council

Section A2:- The Core Objective and Principles of Decision Making

In Part A:-

Section A1 provides an overview of the key components of this authority and a brief explanation of what they do. The rest of the constitution contains more detailed information about each of these components and how they operate.

This Section (A2) explains the core objective of this authority's approach to decision making and outlines how this objective is achieved. It sets out the principles that all decision takers must follow.

Section A3 explains some of the rights and responsibilities of the people who live and work in the Borough and how they can get involved in everything that the authority does. It also explains how citizens can submit petitions to the council.





Part A – Your Council

Section A2:- The Core Objective and Principles of Decision Making

In this Section:-

1. The Core Objective in Decision Making

2. Principles of Decision Making

- The Correct Decision Taker
- Particular Considerations for Individual Decision Takers
- Best Interests of the Borough
- Compliance with the Law, Guidance and Codes of Practice
- The Budget and Policy Framework
- Considering Options and Impacts
- Consultation

3. Transparency in Decision Taking

- Meeting in Public
- Notice of Decisions and Meetings and Record Keeping

4. “Judicial” Decisions

5. Decision Reports





1. The Core Objective in Decision Making

- 1.1 The core objective in the authority's approach to decision making is to ensure that decisions are made at the most appropriate level, closest to the point of service delivery. That usually means at the level that is closest to those who will be affected by the decision in question.
- 1.2 Council has set out to achieve this by putting in place a system of delegation known as a "cascade of powers". Under this system, Council has delegated the full extent and range of its operational powers through the hierarchy of the Cabinet, the authority's committees and the authority's officer structure.
- 1.3 Under this system, power follows responsibility so powers ultimately rest where they need to be so that the decisions that need to be taken to deliver the authority's objectives can be taken at the most appropriate level.
- 1.4 This system of delegation also enables the Council and Cabinet to develop and respond quickly to new ways of working, new legislation or duties.
- 1.5 Because the authority's officers will usually be operating at the point closest to service delivery, they will tend to take the majority of operational day to day decisions and actions. For this reason, Council has decided that unless a power or function is specifically reserved by law or in this constitution to the Council, the Cabinet, or a committee, it stands delegated to officers to the full extent that is required to enable them to do everything that their role requires them to do from time to time.

2 Principles of Decision Making

- 2.1 Of course, a number of controls and principles must be observed whenever powers are exercised. These controls and principles are set out below and apply to all decision makers including Members and Officers whether or not they are discharging Cabinet functions and regardless of whether they are acting alone or in a group or committee.
- 2.2 It is the responsibility of every Member and Officer to familiarise themselves with these controls and principles and to be satisfied that they are (and can show that they are) complying with them every time they take a decision.



The Correct Decision Taker

- 2.3 The first consideration in all decision making is whether the most appropriate person or body is taking the decision. The core objective underpinning all decision taking is that decisions are to be taken at the most appropriate level closest to the point of service delivery, or at the level that is closest to those who will be affected by the decision in question.
- 2.4 Sections B1, B2 and Part C set out the matters that Council has decided must be determined either by itself, its committees, or by the Cabinet. Everything else stands delegated to Officers in accordance with Part E.
- 2.5 Whether the person or body closest to the point of service delivery or effect is the appropriate decision taker will be governed by these Sections, and by the following additional arrangements:-
- (a) The Council, Committee and Cabinet Procedure Rules in Sections B4, B5 and C3.
 - (b) The Contract and Finance Procedure Rules in Section F5
 - (c) Member and Officer Codes of Conduct in Part F
 - (d) The Principles of Decision Making set out in this Section.
 - (e) Internal Schemes of Financial Delegation
 - (f) Any Service Specific Operational Guidance on the Scheme of Delegation of Officer Powers, as published on the council's website from time to time
- 2.6 Any ambiguity that may arise as to whether a decision taker is authorised to take any particular decision is to be resolved by reference back up through the hierarchy or the "chain of cascade", and legal advice should be taken if need be.
- 2.7 There should, however, be a presumption against referring (or calling) decisions back up the chain unless it is absolutely necessary to do so. Members and Officers are to take responsibility for making all decisions commensurate with their position and role in the authority.

Particular Considerations for Individual Decision Takers

- 2.8 Individual decision takers (usually Officers) should pay particular regard to potential (or perceived) conflicts of interest and the rules on pre-determination, bias, interests, gifts and hospitality set out in Part F.



- 2.9 Individual decision takers should consider whether it would, in all the circumstances, be prudent for a decision which would otherwise fall to be taken by them to instead be taken (or ratified) by:-
- (a) in the case of a Cabinet Member, by the Cabinet collectively
 - (b) in the case of an Officer, by their manager or other officer with equivalent authority
 - (c) in the case of a decision taker under a bespoke delegation, by the person or body who made that delegation.
- 2.10 Individual decision takers should also have particular regard to whether a decision should be made in conjunction with any other Officer or Member and the need to consult and take advice as appropriate.

Best Interests of the Borough

- 2.11 All Members and Officers must act in the best interests of the communities of Newcastle-under-Lyme at all times. Decision takers should always act in accordance with best practice, take the option that will deliver the best value for money and will result in the most effective and efficient use of resources

Compliance with the Law, Guidance and Codes of Practice

- 2.12 All decisions must be taken in accordance with statutory requirements, guidance and codes of practice including any professional standards that apply to decision takers who are affiliated to professional associations that operate codes of conduct for their members.

The Budget and Policy Framework

- 2.13 All decisions must be taken in accordance with the Budget and Policy Framework set by Council. This includes Directorate and Service budgets, business plans and any other policies, arrangements, procedures, rules, practices or protocols in force from time to time. It also includes various Procedure Rules which set out the processes to be followed where certain types of decisions are being taken. These are contained in Sections B4, B5 and C3.



- 2.14 If any decision taker proposes to take a decision which is (or which the Monitoring Officer or Chief Finance Officer advise is) not in accordance with the Budget and Policy Framework then that decision must (unless any exceptions set out by Council apply) be referred to the Council. More information on the Budget and Policy Framework and taking urgent decisions which are not in accordance with the Framework is contained in Section C3.
- 2.15 Scrutiny committees also have powers in respect of decisions which have or will be taken which they consider to be contrary to the Budget and Policy Framework. These powers include requiring reports to be made in respect of decisions taken or to suspend, subject to review, such decisions that are yet to be taken. More information on the Scrutiny committees' powers is set out in Part D.
- 2.16 The Budget and Policy Framework includes the Finance and Contract Procedure rules which control who can take decisions with financial implications and how those decisions are to be taken. These are set out in Section F5.

Considering Options and Impacts

- 2.17 All decision takers must be clear about the desired aims and outcomes of the decision process. This means that before any decision is taken, they will need to be clear on what needs to be achieved and gather and use all the information that is reasonably available to them to identify and evaluate all of their options. They will need to assess the likely impacts of each option, with particular regard to human rights, equality, diversity, and sustainability issues. Ultimately, decision takers need to be satisfied that actions taken are proportionate to the desired outcome.

Consultation

- 2.18 In order to be able to properly evaluate options and impacts, all decision takers should consider very carefully whether there is a need to consult those who may be affected by their decisions, local Members, committee Chairs, or Cabinet Members. They also need to consider whether they need to take any professional or specialist advice or guidance from relevant Officers, particularly legal or financial advice.



3 Transparency in Decision Taking

- 3.1 Most meetings where decisions are taken will be held in public. Further information on meetings that are held in public and meetings that are not is contained in Sections B4, B5 and C3. Decision takers need to understand and comply with these requirements.
- 3.2 A very large number of decisions are not taken in meetings, but are taken by individuals, usually an Officer.
- 3.3 All decision takers need to ensure that the processes they follow are as transparent as possible, particularly when decisions are taken by individuals or in meetings that are not open to the public.
- 3.4 This means ensuring that it will be clear to outside observers what the aims, outcomes, options and assessed impacts were, who was consulted (and when and how they were consulted), what information was taken into account and that reasons for decisions are given.

Notice of Decisions and Meetings and Record Keeping

- 3.5 An important part of ensuring transparency in decision-making is making sure that appropriate notice is given that decisions are going to be taken, and that appropriate records are kept of decisions taken and the reasons for them.
- 3.6 The nature of any notice or decision record required will depend on the type of decision in question and is, in most cases, a matter of judgement for the decision taker. The council has standard templates for reports to Members and for important decisions taken by officers that should be used to ensure that all of the decision making principles are followed. There are also particular requirements for certain types of decisions.
- 3.7 It is important that all decision takers understand and comply with these requirements. The requirements are set out in:-
- (a) Notice requirements relating to Council and Committee meetings, publication of meeting information (B4 and B5)
 - (b) Notice requirements in relation to urgent decisions (C3)
 - (c) Cabinet decisions (C3)



- (d) Decisions not in accordance with the Framework (C3)
- (e) Key Decisions (C3)
- (f) Key Decisions taken by officers (C3)

4 “Judicial” Decisions

- 4.1 Decision takers acting in a judicial capacity, for instance when determining appeals, must pay particular regard to the requirements of this section to ensure that principles of “natural justice” are observed.
- 4.2 Natural justice requires that a fair, reasonable and transparent decision making procedure is followed which affords all involved a fair opportunity to make representations. Procedures followed should eradicate any (real or perceived) bias or conflict of interests (as far as possible) and full reasons for decisions should be given and recorded. Decision makers must ensure that they take all relevant information into account and disregard any information, considerations or circumstances that are not relevant to the matter that has to be decided.

5 Decision Reports

- 5.1 Formal reports templates will be used to draft reports on which Key Decisions, and all decisions taken by Council, Committees and the Cabinet will be based. These templates contain prompts to ensure all of the relevant matters discussed above are addressed.
- 5.2 Every such report will list those documents (called background papers) relating to the subject matter of the report which:
 - (a) disclose any facts or matters on which the report or an important part of the report is based; and
 - (b) which have been relied on to a material extent in preparing the report
- 5.3 In addition, all reports to the Cabinet on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Committees, and the outcome of that consultation.



- 5.4 Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.
- 5.5 Chief Officers, the Chief Finance Officer and the Monitoring Officer may initiate reports on any matter where they believe the Council, Cabinet, committee or sub-committee should make a decision or should be informed.
- 5.6 Where such a report affects another Service, the appropriate Service Director must be consulted. The appropriate Cabinet member shall be consulted prior to the publication of a Cabinet report which concerns their portfolio.
- 5.7 Reports shall communicate all relevant factual information and professional opinions, together with appropriate recommendations. The Cabinet Member may make suggestions as to the content and timing of the report, however the final decision on the content of the report will be that of the Officer in whose name the report is presented.
- 5.8 In exceptional circumstances, the Cabinet Member may submit their own report for consideration alongside that of the Officer.

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Part A – Your Council

Section A3:- Citizens’ Rights and Responsibilities

In Part A:-

Section A1 provides an overview of the key components of this authority and a brief explanation of what they do. The rest of the constitution contains more detailed information about each of these components and how they operate.

Section A2 explains the core objective of this authority’s approach to decision making and outlines how this objective is achieved. It sets out the principles that all decision takers must follow.

This Section (A3) explains some of the rights and responsibilities of the people who live and work in the Borough and how they can get involved in everything that the authority does. It also explains how citizens can submit petitions to the council.





Part A – Your Council
Section A3:- Citizens’ Rights and Responsibilities

In this Section:-

1. Citizens’ Rights and Responsibilities

- Citizens’ Rights
- Citizens’ Responsibilities

2. Petitions

- Submitting petitions
- What will happen to my petition?
- What should a petition include?
- What else should I know?
- Petitions about things we have no direct control over
- Petitions and Scrutiny Committees
- What can I do if I feel my petition has not been dealt with properly?

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1. Citizens' Rights and Responsibilities

- 1.1 The term "Citizen" is used to describe everyone who lives or works in the Borough of Newcastle-under-Lyme.
- 1.2 Citizens have a number of rights and responsibilities when receiving services from the council, for example, when making planning or licensing applications or seeking housing benefit.
- 1.3 These rights and responsibilities are not covered in this constitution. Citizens can get advice on those wider rights and responsibilities from the relevant council department, the Citizens' Advice Bureau or a solicitor.
- 1.4 A lot of information is also available from our website:-
www.newcastle-staffs.gov.uk

Citizens' Rights

- 1.5 In terms of engaging with the democratic processes of the council, Citizens have the right to:-
- (a) Vote at local elections if they are registered as an elector in the borough. Information on registration for and voting at elections is available on the council's website.
 - (b) Contact their local Councillor about any matters of concern to them. Contact details for your local Councillor, and Councillors with responsibilities for specific areas of the council's operations is available on the council's website.
 - (c) Obtain a copy of the constitution (or sections of it) from the council's website. It can be printed off from the website or you can contact us and ask for a copy to be sent to you.
 - (d) Be notified of most meetings that are taking place. These notifications are usually given on the council's website. More information on the notice requirements relating to meetings is available in Sections B4, B5 and C3
 - (e) Find out (from the Forward Plan) what "Key Decisions" are going to be discussed or decided and how to engage in that process. The Forward Plan sets out all the relevant information relating to Key Decisions that are going to



- be discussed or taken in the next 3 months. It is published on the council's website. More information about the Forward Plan and Key Decisions is available in Section C3.
- (f) Inspect agendas, reports, background papers and minutes relating to meetings (or parts of meetings) that are being held in public. This information is available on the council's website. It can be printed from the website or you can ask for copies to be sent to you. You can find out more about this in Section B4, B5 and C3.
 - (g) Attend meetings (or the parts of meetings) that are being held in public and speak or ask questions at those meetings in accordance with the procedure rules. More information on attending and speaking at meetings is set out in Section B4, B5 and C3.
 - (h) Require a referendum to be held on whether the Borough should have an elected mayor.
 - (i) Present petitions to require an issue to be considered or debated at Council. More information on this is set out below.
 - (j) Give the council feedback or make a complaint under its Feedback and Complaints Procedures and, if still dissatisfied, to complain to the Local Government Ombudsman. You can get more information and leave feedback or make a complaint on the council's website.
 - (k) Inspect the Council's accounts each year and make your views known to the External Auditor. You can find out more about this on the council's website.

Citizens' Responsibilities

- 1.6 Citizens are expected to conduct themselves in an appropriate and respectful manner and not to indulge in violent, abusive or threatening behaviour or language to anyone, including Members and Officers of the council. They are also expected to refrain from causing damage to council property or property owned by Members and Officers.
- 1.7 This is particularly important when attending or addressing meetings where there are likely to be a wide range of views strongly held by different sections of the community where emotions will run high. If you are going to participate in meetings, you must respect the diversity and equality of all sections of the community and the professional integrity of Members and Officers.
- 1.8 You should not use language or make statements that are racist, derogatory or offensive. Such conduct can amount to a criminal offence. You should take care in any criticism you make because the laws of defamation (slander and libel) are quite



strict and you may be at risk of legal action if you say something about a person or organisation which turns out to be untrue, even if you believed it to be true.

- 1.9 You should be aware that audio-visual recordings of many meetings are broadcast live on the internet and remain accessible on the internet for some time after the meeting has ended.
- 1.10 Respectful conduct is also particularly important when responding to consultations, because consultation responses are usually published or considered in public.
- 1.11 Respectful conduct is also important when making a complaint to the council. It is important to remember that we have a wide range of duties to lots of different people and we often have to make difficult decisions that won't be popular with everyone. Whilst we will try, we cannot always do what you want or expect. We also do make mistakes from time to time and we understand that can be upsetting but we will do everything we can to put things right.
- 1.12 In short, you are entitled to be treated with respect and that is what we will always endeavour to do. You are expected to treat Members and Officers in the same way.

2 Petitions

- 2.1 The Council welcomes petitions and recognises that petitions are one way that people can let us know their concerns about issues affecting the Borough or communities within the Borough.

Submitting Petitions

- 2.2 Petitions can be created, signed and submitted from our website (“**e-petitions**”), or you can send a paper petition to:-

Service Director Legal and Governance
Castle House
Barracks Road
Newcastle-under-Lyme
Staffordshire ST5 1BL



- 2.3 When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.
- 2.4 All e-petitions currently available for signature are on the council's web site. When someone elects to sign an e-petition, they will be asked to provide their name, address, postcode and a valid email address. A verification email will then be sent and, once responded to, their name (but not contact details) will be added to the petition.
- 2.5 Petitions usually call for the council to investigate or debate an issue of local concern. They can start processes that consume a lot of council resources, paid for by council tax payers. For these reasons, it is essential that we are able to verify that people signing petitions have a connection with the local area. We may treat a petition (whether on-line or paper) as invalid if we cannot verify that the people signing it have a local connection with the area.

What Will Happen to My Petition?

- 2.6 We will treat any communication received as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.
- 2.7 We will acknowledge receipt of the petition within 10 working days. The acknowledgement will explain what we plan to do with the petition and when you can expect to hear from us again. Unless we decline to accept the petition (for the reasons set out below), it will also be published on our website and entered into a register of petitions.
- 2.8 Any decision as to whether a petition can be accepted as valid under the petition scheme will be made by the council's Monitoring Officer. This is the officer responsible for ensuring lawfulness and fairness in decision making, as well as determining matters relating to the interpretation of the constitution. More information about the role of the Monitoring Officer can be found in section E1 of the constitution.
- 2.9 If petitions are declined, we will publish an appropriate summary of the petition along with the reason why it was declined.
- 2.10 We will also publish any representations we receive about the petition (unless the representations are declined for the reasons set out below).



- 2.11 Acknowledgements (and responses) to e-petitions will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment (and responses) will also be published on the website. Our privacy policy applies to petitions and representations relating to petitions.
- 2.12 The Mayor will decide how valid the petitions will be dealt with. It will either be referred to a Scrutiny Committee for consideration, or to an officer who will prepare a response to the Petitioner. In either case we may do any of the following to inform our response:-
- (a) meet with the petitioners
 - (b) hold an inquiry or public meeting
 - (c) undertake research
 - (d) undertake consultation
- 2.13 If a petition contains more than 1500 signatures, it will be debated by the Full Council. This is reduced to 200 signatures for petitions relating to an issue affecting no more than two electoral wards within the council's area. If the petition is asking for a senior officer to give evidence at a public meeting 750 signatures are required, reduced to 100 for petitions relating to an issue affecting no more than two electoral wards within the council's area.
- 2.14 This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the next meeting.
- 2.15 The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. Council may decide to take the action the petition requests, or not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter – for example by a relevant committee.
- 2.16 Where the issue is one on which the Council Executive (Cabinet) are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This will also be published on the website.



- 2.17 If we can do what your petition asks for, the acknowledgement will confirm this and we may not invite you to present the petition to Council.
- 2.18 To qualify under these rules the signatures in support of a petition must all be submitted to the Council at the same time (or in the case of an e-petition, before it closes).
- 2.19 If you would like to present your petition to the Council, or would like your Councillor or someone else to present it on your behalf, please contact Democratic Services at least 10 days before the meeting on 01782 742211 or email democraticservices@newcastle-staffs.gov.uk

What Should a Petition Contain?

- 2.20 Petitions must include:
- (a) A clear and concise statement covering the subject of the petition. It should state what action the petitioners want the Council to take.
 - (b) The name and address and signature of every person supporting the petition.
 - (c) The name and address of the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact the signatories to the petition and ask them to agree who should act as the petition organiser.
 - (d) E-petitioner organisers will need to select how long they want the petition to be open for signatures. Most petitions run for 6 months but you can choose a shorter or longer period of up to 12 months.

What Else Should I Know?

- 2.21 Petitions (or representations) which are considered to be defamatory, frivolous, offensive, or vexatious will not be accepted.
- 2.22 We will also decline to accept your petition if it applies to a matter which must be determined in accordance with a specified legal framework and/or where there are specific appeal procedures in place already. Examples of these types of matters include decisions on planning and licensing applications, business rates and council tax bandings, and appeals relating to school admissions and exclusions. This is



because the petition procedure is designed to stimulate debate and action on strategic issues affecting the Borough or communities within the Borough. It is not an alternative to the existing procedures for debating, determining or appealing specific applications or decisions.

- 2.23 We will also decline to accept under this procedure any statutory petition (for example requesting a referendum on having an elected mayor). This is because there are specific procedures that apply to those types of petitions. More information is available on the council's website.
- 2.24 If a petition does not follow any of the guidelines set out above we will write to the petition organiser and explain why. We will give them an opportunity to amend their petition (if appropriate) and in all cases we will confirm what we propose to do with the petition.
- 2.25 Further information on the procedures that exist to deal with the sorts of things people cannot bring a petition on under this procedure, and how they can express their views, is available on the council's website. They can also get more information and ask questions through our website contact page or by calling the Contact Centre on:- 01782 717717

Petitions about Things We Have No Direct Control Over

- 2.26 If a petition is about something which we have no direct control over, for example the local railway or hospital, we will consider what representations we can make on behalf of the community to the appropriate body. The council works with a large number of local partners and we will work with these partners to respond to a petition where possible. You can find more information about the council's partners at:- www.newcastle-staffs.gov.uk
- 2.27 If we are not able to assist for any reason, then we will tell the petition organiser why. Petitioners can find more information on the services that the council is responsible for on our website.
- 2.28 If a petition is about something that a different council is responsible for we will consider how to get the best response to your petition. This might simply be by forwarding the petition to the other council, but it could involve taking or advising on other steps. In any event, we will always let the petition organiser know what we suggest.



Petitions and Scrutiny Committees

- 2.29 Scrutiny Committees are committees of elected Members of the Council who are responsible for scrutinising the work of the council and its partners. They have the power to hold the Council's decision makers to account. More information about Scrutiny Committees is contained in Part D.
- 2.30 A petition may ask for a senior council officer to give evidence at a Scrutiny Committee meeting about something that the officer is responsible as part of their job. For example, a petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to Members on any matter that they have decided
- 2.31 If a petition contains 750 signatures, reduced to 100 for petitions relating to an issue affecting no more than two electoral wards within the council's area, then (should the petition organiser wish) the relevant senior officer will give evidence at a meeting of the appropriate Scrutiny Committee, which will usually be held in public. The officers that can be called to give evidence are the council's Chief Executive, Deputy Chief Executive and Service Directors.
- 2.32 The Scrutiny Committee may decide that it would be more appropriate for an officer other than any officer named in the petition to give evidence.
- 2.33 The Scrutiny Committee may also decide to call any relevant Member to attend the meeting. Committee members will ask the questions at this meeting, but the Petition Organiser will be able to suggest questions to the Chairman of the Committee. The Petition Organiser will be advised how to do this at the relevant time.

What Can I do if I Feel My Petition Has Not Been Dealt With Properly?

- 2.34 If the Petition Organiser feels that we have not dealt with their petition properly, they have the right to request that the council's Scrutiny Committee review the steps that we have taken in response to the petition.
- 2.35 It is helpful to everyone, and can improve the prospects for a review, if the petition organiser gives a short explanation of the reasons why our response was not considered to be adequate.



- 2.36 The Scrutiny Committee will try to consider your request at its next meeting, although on some occasions, this may not be possible and consideration will take place at the following meeting. Should the Scrutiny Committee decide that we have not dealt with your petition adequately, it may use any of its powers to deal with the matter.
- 2.37 These powers include instigating an investigation, making recommendations to the Cabinet and arranging for the matter to be considered at a meeting of the full Council. Once this review process is complete, the petition organizer will be informed of the results within 5 working days. The results of the review will also be published on our website.



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Part B – The Council
Section B1:- Council

In Part B:-

This Section (B1) of the Constitution explains the process of electing Councillors (or “Members”) to the Council and then goes on to explain about meetings of the Council. It then sets out the roles, responsibilities and functions of the Council.

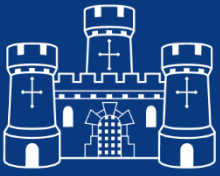
Section B2 sets out the details of the each of the authority’s committees. There is an overview of what the committee does and a detailed terms of reference section which sets out the extent of the committee’s powers. Membership details of committees are available from the Council’s website.

Section B3 sets out the roles and attributes of all Councillors, and then explains about the additional requirements of Councillors who undertake certain roles. The additional requirements in respect of Cabinet roles are set out in Section C2.

Section B4 sets out the rules that govern Council meetings.

Section B5 sets out the rules that govern Committee meetings.





Part B – The Council
Section B1:- Council

In this Section:-

- 1. Elections and Members of the Council**
- 2. Meetings of the Council**
- 3. The Roles, Responsibilities and Functions of Council**
- 4. The Budget and Policy Framework**
- 5. Functions Reserved to Council**
- 6. Appointments to Outside Bodies**
- 7. Honorary Aldermen**
- 8. Responsibility for Local Choice Functions**

NEWCASTLE
UNDER LYME
BOROUGH COUNCIL



1. Elections and Members of the Council

- 1.1 The Borough of Newcastle-under-Lyme is divided into 21 areas known as “**Wards**”. Every four years the 21 Wards elect between 1 and 3 Councillors (depending on the size of the Ward) to represent them. In total, 44 Councillors are elected to form the Council.
- 1.2 The term “**Council**” is used to refer to all 44 Councillors collectively. It is these Councillors who are responsible for deciding what the Borough’s priorities are and how to use the authority’s resources to deliver those priorities. Councillors are also referred to as “Elected Members”, or simply “**Members**”.
- 1.3 More information on Ward boundaries, elections, and the current membership and political composition of the council can be found on the authority’s website.

2 Meetings of the Council

- 2.1 Council usually meets 7 times a year. There are three types of Council meeting:-
- (a) Annual Council – The annual meeting of the Council which usually occurs in March, April or May. This meeting is usually where Members are appointed to various roles and Council agrees its priorities for the coming year.
 - (b) Ordinary Meetings – Ordinary meetings are usually held every two months to receive reports and updates on key priorities, debate issues, and make decisions that can only be made by the full Council such as adopting or amending the budget and policy framework.
 - (c) Special Meetings – Special meetings are called when urgent business arises that must be dealt with by Council before the next programmed Ordinary Meeting.
- 2.2 Council meetings are conducted in accordance with the Council Procedure Rules which can be found in Section B4.
- 2.3 More information on Council meetings and how the public can take part in those meetings can also be found in Section B4.

3 The Roles, Responsibilities and Functions of Council

- 3.1 Section A1 contains an overview of Council and its relationship with the Cabinet. That section also explains about local authority functions, and how Council has decided to:-
- (a) “reserve” certain functions that only it can exercise



- (b) establish committees to discharge certain functions
- (c) make the Cabinet responsible for certain functions
- (d) delegate everything else to officers.

3.2 Section A1 also explains how Council has put arrangements in place governing how the Cabinet and Officer delegations operate.

3.3 Section B2 contains more information on the council's committee arrangements.

3.4 Section C contains more information on the council's executive arrangements (the legal term for the way the Cabinet works).

3.5 Part F contains more information on officers and the powers delegated to officers.

4 The Budget and Policy Framework

4.1 Council is responsible for considering and adopting proposals put to it by the Cabinet in a number of policies and budgets which capture the authority's priorities and how it allocates its resources. Once adopted, the successful proposals will form the Budget and Policy Framework that the authority will work to.

4.2 The process of setting the authority's budget involves setting the level of council tax and business rates and taking decisions about investments and the level of borrowing. Taking into account projected income and any contingency funds, Council will allocate financial resources to different services areas and projects. It will also set limits on the amount of money that can be transferred between budgets (virement limits) without further approval.

4.3 The Budget and Policy Framework consists of the following core policies, plans, strategies and budgets that must be approved by Council:-

- (a) Sustainable Community Strategy
- (b) Corporate Plan and Annual Performance Report
- (c) Treasury Management Strategy
- (d) Investment Strategy
- (e) Commercial Strategy
- (f) Capital Strategy
- (g) Flexible Use of Capital Receipts Strategy
- (h) Licensing Policy Statement
- (i) Enforcement Strategy
- (j) Food Law Enforcement Service Plan
- (k) Gambling Statement of Principles



- (l) Homelessness Strategy
- (m) Local Development Plan Documents
- (n) Asset Management Plans
- (o) Any other Plan or strategy where the Council determines that any decision on its adoption or approval should be taken by it rather than the Cabinet

4.4 These plans form the core of the Budget and Policy Framework and any proposal to amend these plans, adopt policies or take decisions that are not in accordance with these plans can only be decided by Council.

4.5 There will however be a number of supplementary policies, plans, strategies, operating procedures or protocols in force from time to time which sit under these plans that do not need to be approved by the Council. Those supplementary documents can be approved by the relevant committee, Cabinet, Cabinet Member, or officer with responsibility for the area of operations concerned.

5 Functions Reserved to Council

5.1 Council can “reserve” functions to itself, that is to say it can decide that it will exercise certain functions even if the law allows those functions to be exercised by others.

5.2 The following is a list of functions that Council has reserved to itself. The following list also includes some of the more significant functions that the law says Council must undertake itself. It is not intended to be a complete list of functions that Council must, in law, undertake itself:-

Electoral

- (a) Appointing a Returning Officer for local government elections
- (b) Dividing the constituency into polling districts
- (c) Exercising powers in respect of holding elections
- (d) Appointing an Electoral Registration Officer
- (e) Making decisions concerning district boundaries, electoral divisions, wards or polling districts and the location of polling stations

Constitutional

- (f) Approving the Budget and Policy Framework
- (g) Adopting and changing the constitution (except for consequential changes to be made by the Monitoring Officer as set out in Part E)
- (h) Appointing and removing the Leader of the Council.
- (i) Appointing and removing the Mayor, Deputy Mayor, Chairs and Vice Chairs of committees.



- (j) Agreeing and/or amending the terms of reference of committees, deciding on their political composition and making appointments to them. In the event of changes to political balance, the Chief Executive shall have the authority to amend the proportionalities (to comply with the rules of political balance). The Chief Executive shall have the authority to amend appointments to committees in accordance with the wishes of Group Leaders.
- (k) Approving the Scheme of Delegation to Officers
- (l) Approving the Schedule of dates of meetings for Council
- (m) Adopting the Council's Code of Conduct for elected members and appointing Independent Persons under the Localism Act 2011
- (n) Adopting or reviewing a Members' Allowances Scheme following advice from an independent remuneration panel.
- (o) Changing the name of the area
- (p) Conferring the title of Honorary Alderman or Freedom of the Borough
- (q) Making, enacting, adopting, amending, or revoking by laws and promoting or opposing the making of local legislation or personal bills in Parliament.

Financial Provision

- (r) The adoption, approval or amendment of an annual budget, any supplementary estimates and any plan or strategy for the control of the Council's borrowing or expenditure
- (s) Setting of Council Tax
- (t) The making of decisions about any matter in the discharge of an Executive function where the decision maker is minded to make it in a manner which would be contrary to or not wholly in accordance with the budget.

Service Provision

- (u) Authorising applications to the Secretary of State for the transfer of housing land
- (v) Considering matters referred to it by Cabinet, committee or in some other manner (but matters which are by law Cabinet functions cannot be determined by Council).
- (w) To approve the adoption of Conservation Areas, Character Area Character Appraisals and Management Plans and Article 4 Directions.

Reporting

- (x) Considering a report from the Head of Paid Service in accordance with Section 4 of the Local Government and Housing Act 1989.



- (y) Considering a report from the Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989 and/or in respect of a finding of maladministration made by the Local Government and Social Care Ombudsman.
- (z) Approving any draft plans and strategies which require Ministerial approval
- (aa) Considering a report of the Chief Finance Officer in accordance with Section 115 of the Local Government and Finance Act 1988.
- (bb) Considering any public interest report brought by the external auditor.

Human Resources

- (cc) Functions relating to the Health and Safety at Work Act 1974 (Part 1)
- (dd) Functions relating to Local Government Pensions (Regulations under the Superannuation Act 1972)
- (ee) Appointment/ of the Head of the Paid Service and the Monitoring Officer and Chief Finance Officer (s151 officer)
- (ff) Dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer (s151 Officer) but always in accordance with the Officer Employment Procedure Rules.
- (gg) To designate an officer to act as Monitoring Officer and an officer to act as Chief Finance Officer
- (hh) To approve the Council's Annual Pay Statement

6 Appointments to Outside Bodies

6.1 Council has decided that it will make appointments to the following outside bodies. Ward Members will typically be appointed to represent the council on ward-based bodies. All other appointments to outside bodies shall be made by the Cabinet.

- (a) Community Centre Management Committees
- (b) Residents' Associations
- (c) Charities and Charitable Trusts or Funds
- (d) Committees and Panels of Outside Bodies
- (e) Go Kidsgrove
- (f) Stoke-on-Trent and North Staffordshire Theatre Trust Limited (New Victoria Theatre)
- (g) Aspire Housing Board
- (h) Campaign to Protect Rural England – County Branch
- (i) Local Government Association
- (j) Locality Action Partnerships
- (k) Business Improvement District
- (l) Newcastle Partnership



- (m) Enjoy Staffordshire Destination Management Partnership
- (n) Staffordshire Health and Care Overview and Scrutiny Committee
- (o) Staffordshire Health and Wellbeing Board
- (p) Staffordshire Joint Sustainability Board
- (q) Corporate Parenting Panel
- (r) Staffordshire Police, Fire and Crime Panel and associated Panels
- (s) Stoke-on-Trent and Staffordshire Local Enterprise Partnership
- (t) Staffordshire Leaders Board
- (u) Waste and Mineral Site Liaison Committees
- (v) West Midland Reserve Forces and Cadets Association
- (w) District Councils' Network
- (x) LGiU Assembly.

7 Honorary Aldermen

7.1 To be eligible for appointment as an Honorary Alderman in accordance with paragraph 5.2(p) above prospective appointees shall:-

- (a) not be a serving Member of the Council
- (b) be a person of distinction who has rendered eminent services to the Council and the community
- (c) have served a period of not less than 12 years on the Council in total (which need not have been continuous)
- (d) ordinarily have held a substantive office on the Council such as Mayor, Committee Chair, Group Leader, or Cabinet Member

7.2 Any such appointment must be made by a resolution passed by not less than two thirds of the members voting thereon at a special meeting of the Council.

8 Responsibility for Local Choice Functions

8.1 There are some functions ("local choice functions") which the Council must specify as being functions of either Council or the Cabinet (the latter are known in law as Executive functions). With the exception of making appointments to certain outside bodies, Council has decided to designate all local choice functions as Cabinet functions. Unless a local choice function is specifically reserved in this constitution to Cabinet, it stands delegated to officers in accordance with Part E.



Part B – The Council
Section B2:- Committees

In Part B:-

Section B1 of the Constitution explains the process of electing Councillors (or “Members”) to the Council and then goes on to explain about meetings of the Council. It then sets out the roles, responsibilities and functions of the Council.

This Section (B2) sets out the details of the each of the authority’s committees. There is an overview of what the committee does and a detailed terms of reference section which sets out the extent of the committee’s powers. Membership details of committees are available from the Council’s website.

Section B3 sets out the roles and attributes of all Councillors, and then explains about the additional requirements of Councillors who undertake certain roles

Section B4 sets out the rules that govern how Council meetings.

Section B5 sets out the rules that govern Committee meetings.



Part B – The Council
Section B2:- Committees

In this Section:-

- 1. Introductory Notes**
- 2. Audit and Standards Committee**
 - Audit and Standards Sub-Committee Hearing Panel
- 3. Planning Committee**
 - Conservation Advisory Working Group
- 4. Licensing and Public Protection Committee**
 - Licensing Sub-Committee
 - Public Protection Sub-Committee
- 5. Employment Committee**
 - Appointments Sub-Committee
 - Disciplinary Appeals Committee (DAC)
 - Investigation and Disciplinary Committee
 - Independent Persons Panel
 - Joint Negotiation and Consultation Committee



1. Introductory Notes

- 1.1 All functions that are not specifically reserved in this constitution to Council, a committee or the Cabinet are delegated to Officers in accordance with Section E
- 1.2 Section B5 contains the procedure rules that apply to committee meetings.
- 1.3 More information on Council and Cabinet meetings and how the public can take part in those meetings can be found in Sections B4 and C3.
- 1.4 The following committees are the regular or “standing” committees of the council. Council can create other ad-hoc committees from time to time to deal with specific issues. Committees can also convene as-hoc sub-committees to deal with specific issues from time to time. Details of any such committees will be set out on the Council’s website.
- 1.5 Sometimes the terms of reference of a committee will provide that a matter need only be referred to the committee if objections or representations have been received or if, for example, the matter or the proposed decision will have a significant, major or material impact or might represent a significant or major departure from certain plans of policies. In these instances there is discretion to be exercised as to what is major, significant, material or relevant and so whether a particular matter needs to be referred to a committee or not. That discretion is to be exercised by the relevant Director (or their authorised representative) in consultation with the relevant committee chairman.
- 1.6 Powers granted to make an order or direction (etc) include powers to vary, extend or revoke.

2. Audit and Standards Committee

Introduction and Composition

- 2.1 The Audit and Standards Committee is responsible for overseeing the council’s audit and assurance arrangements, considering audit reports and the annual statement of accounts and making appropriate recommendations to Council.



2.2 The purpose of the committee is to provide independent assurance to Members of the adequacy of the risk management framework and the internal control environment. It provides an independent review of the Council's governance, risk management and control frameworks and oversees annual governance processes. It also has other corporate governance responsibilities including promoting and maintaining high standards of conduct by Members.

2.3 The committee comprises 7 Elected Members appointed on a politically proportionate basis in line with the political composition of the Council. It also includes one "co-opted" member who is not an Elected Member. Mandatory training is required to sit on the Committee or any of its sub-committees.

Terms of Reference

Governance, Risk and Control

2.4 To review the council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.

2.5 To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.

2.6 To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.

2.7 To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.

2.8 To monitor the effective development and operation of risk management in the council.

2.9 To monitor progress in addressing risk-related issues reported to the committee.



- 2.10 To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- 2.11 To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
- 2.12 To monitor the counter-fraud strategy, actions and resources.
- 2.13 To review the governance and assurance arrangements for significant partnerships and collaborations.

Internal Audit

- 2.14 To approve the Internal Audit Charter.
- 2.15 To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- 2.16 To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- 2.17 To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- 2.18 To make appropriate enquiries of both management and the Chief Internal Auditor to determine if there are any inappropriate scope or resource limitations.
- 2.19 To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairments.
- 2.20 To consider reports from the Chief Internal Auditor on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:



- (a) Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work.
- (b) Regular reports on the results of the Quality Assurance and Improvement Programme.
- (c) Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.

2.21 To consider the Chief Internal Auditor's Annual report:

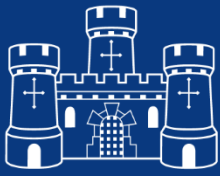
- (a) The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit.
- (b) The opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.

2.22 To consider summaries of specific internal audit reports as requested.

2.23 To receive reports outlining the action taken where the Chief Internal Auditor has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.

2.24 To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.

2.25 To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.



- 2.26 To provide free and unfettered access to the Audit Committee Chair for the Chief Internal Auditor, including the opportunity for a private meeting with the committee.

External Audit

- 2.27 To support the independence of the external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments (PSSA) or the authority's auditor panel as appropriate.
- 2.28 To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- 2.29 To consider specific reports as agreed with the external auditor.
- 2.30 To comment on the scope and depth of external audit work and to ensure it gives value for money.
- 2.31 To commission work from internal and external audit.
- 2.32 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

Financial Reporting

- 2.33 To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- 2.34 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Accountability Arrangements

- 2.35 To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of



their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions.

- 2.36 To report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
- 2.37 To publish an annual report on the work of the committee
- 2.38 To maintain an overview to ensure compliance with the Council's Constitution in respect of Procedure Rules in relation to Contracts and Financial Regulations and make recommendations to Council in consultation with the Monitoring Officer and Section 151 Officer for any amendments

Other Areas

- 2.39 To consider reports from external inspectors (for example Office of the Surveillance Commissioner, Health and Safety Executive)
- 2.40 To receive reports from the Corporate Health and Safety Officer
- 2.41 To receive reports in respect of the Council's Treasury Management arrangements.

Standards

- 2.42 To promote and maintain high standards of conduct by Members
- 2.43 To monitor the operation of the Members' Code of Conduct
- 2.44 To advise the Council on the adoption or revision of the Members' Code of Conduct
- 2.45 To oversee the effectiveness of the Council's procedures for investigating and responding to complaints of breaches of the Members' Code of Conduct
- 2.46 To interview and make recommendations to Council on the appointment of Independent Person(s) in accordance with the requirements of the Localism Act



2011

- 2.47 To advise, train or arrange to train Members and Independent Person(s) on matters relating to the Members' Code of Conduct
- 2.48 To consider requests from Members to grant dispensations from being precluded from participation in a meeting see Appendix 18 Annex 4 Dispensations Process & Form)
- 2.49 To appoint a sub-committee to act as a Hearing Panel of 3 Members drawn from the committee on a politically proportionate basis to conduct hearings and make decisions on allegations under the Code of Conduct. (Terms of Reference for the Hearings Panel are below.)
- 2.50 To maintain an overview of complaints handling and Local Government Ombudsman investigations.

Audit and Standards Sub-Committee Hearing Panel

- 2.51 The Hearing Panel may be convened by the Monitoring Officer when required to conduct local hearings and make decisions on allegations following investigation of a complaint under the Code of Conduct
- 2.52 The Panel will seek and take into account the views of an Independent Person appointed under the Localism Act 2011 before making a decision on any allegation which has been investigated

3. Planning Committee

Introduction and Composition

- 3.1 Planning Committee is responsible for determining the applications for planning permission that are not determined by the Service Director Planning.
- 3.2 Planning Committee comprises of 12 Members constituted on a politically proportionate basis in line with the political composition of the Council. Mandatory training is required to sit on the Committee or any of its sub-committees.



Terms of Reference

Development Control

- 3.3 To determine applications for planning permission in connection with large scale major development as defined by the Government from time to time (as refined or amended in these Terms of Reference) currently being:-
- (a) residential developments of 200 dwellings or more or where the built site area is to be 4 hectares or more
 - (b) non-residential developments where the floor space to be built is 10,000 square metres or more or where the built site area is to be 2 hectares or more
- 3.4 To determine all applications for planning permission in connection with small scale major development as defined by the Government from time to time (as refined or amended in these Terms of Reference) currently being:-
- (a) residential developments of between 10-199 dwellings inclusive or where the built site area is between 0.5 and 4 hectares
 - (b) non-residential developments where the floor space to be built is between 1,000 and 9,999 square metres inclusive or where the built site area is between 1 and 2 hectares;
- where there is a recommendation for approval which would, in the opinion of the Service Director Planning, constitute a significant departure from planning policy.
- 3.5 “applications for planning permission”, for the purposes of paragraph 3.3 and 3.4 above shall include applications for outline planning permission, reserved matters approval and/or applications to vary or extend the time for implementation of the same.
- 3.6 To determine applications for planning permission:
- (a) called-in for determination in accordance with the Planning Committee Members’ Call-in Procedure set out in Section B5.



- (b) made by or on behalf of any Member or by a member of their immediate family, or in respect of land within their ownership or control.
- (c) made by or on behalf of any Officer holding a post at or equivalent to Chief Executive, Deputy Chief Executive, Service Director or a Statutory Officer, by a member of their immediate family, or in respect of land within their ownership or control.
- (d) made by or on behalf of any officer directly involved in determining planning applications or by a member of their immediate family, or in respect of land within their ownership or control.
- (e) made by or on behalf of the Council (except those matters which the Service Director Planning considers to be of a minor or routine nature and where the decision proposed is in accordance with the planning policy).
- (f) that the Service Director Planning, in consultation with the Chair of the Planning Committee, considers should be determined by the Committee.
- (g) Made in connection with national infrastructure projects

Policy Development

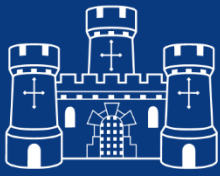
- 3.7 To act as consultee on the development of planning policy, guidance documents and national consultations/significant infrastructure projects.

Building Regulations

- 3.8 To determine applications to relax building regulations
- 3.9 To authorise legal action under Sections 35 and 36 of the Building Act 1984

Conservation Advisory Working Party (CAWP)

- 3.10 CAWP is a sub-committee of the Planning Committee whose purpose is to provide advice on matters within its remit to the Planning Committee and, where appropriate, to Cabinet or Council.
- 3.11 Its function is to provide a view to the Planning Committee/Service Director Planning on applications for planning permission, listed building consent, and advertisement consent which are capable of affecting either the character and appearance of a Heritage Asset or its setting, whether designated or not (meaning a part of the historic



environment that is seen to have significance because of its historic, archaeological, architectural or artistic interest.

- 3.12 Its function is also to provide a view to the Planning Committee, Cabinet and/or Council on proposals which may affect the historic environment and in particular on conservation policy, the preparation of schemes of enhancement and the production of design guides for Conservation Areas.
- 3.13 CAWP will also provide a view on applications for any historic buildings grants that are available from time to time.

4. Licensing and Public Protection Committee

Introduction and Composition

- 4.1 The Licensing and Public Protection Committee is responsible for determining licensing policy and applications across a wide range of local authority licensing functions in accordance with the following terms of reference.
- 4.2 The Committee comprises 15 Members and is constituted on a politically proportionate basis in line with the political composition of the Council. Mandatory training is required to sit on the Committee or any of its sub-committees.
- 4.3 Members of the Licensing and Public Protection Committee will sit as a statutory Licensing Committee as defined by the Licensing Act 2003 and the Gambling Act 2005 when carrying out the functions of and ancillary to those Acts.
- 4.4 Members of the Licensing Committee and Public Protection Committee will sit as a Public Protection Committee when dealing with any other licensing functions of the Council.

Terms of Reference

- 4.5 Sitting as the full Licensing Committee, to:-



- (a) with the exception of matters specifically reserved by statute to Council or the Cabinet, approve licensing policy which shall include the setting of fees, charges and standard licence conditions
- (b) exercise an advisory role in relation to Cabinet functions, such cultural, economic and tourism functions that are impacted by or may have an impact on licensing functions.

4.6 Sitting as the full Public Protection Committee, to:-

- (a) approve other (non Licensing Act 2003 and the Gambling Act 2005) licensing and registration policies which shall include the setting of fees, charges and standard licence conditions
- (b) exercise an advisory role in relation to Cabinet functions, such as the fixing of fares for hackney carriages and cultural, economic and tourism functions that are impacted by or may have an impact on licensing and registration functions

4.7 Sitting as a Licensing Sub Committee comprising 3 Members (drawn from the full Committee):-

- (a) to hold hearings to determine licensing matters where such hearings are required by the Licensing Act 2003 or the Gambling Act 2005 and associated regulations

4.8 Sitting as a Public Protection Sub Committee comprising not less than 3 Members (drawn from the full Committee):-

- (a) to determine all matters relating to the grant, renewal or review of taxi licences (which, for the avoidance of doubt, in these Terms of Reference shall include hackney carriage and private hire vehicle driver and operator licences) where evidence exists as to whether the applicant is a fit and proper person and to suspend or revoke taxi licences in accordance with legislation
- (b) to hold hearings to determine sex establishment licensing matters where such hearings are required by law.

5. Employment Committee

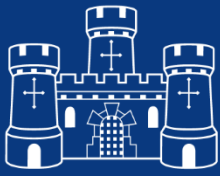


Introduction and Composition

- 5.1 The Employment Committee deals with the Council's human resources strategies and policies that apply to all of its employees. It is also responsible for employment matters relating to the Council's most senior officers. Its members will be appointed (by group leaders) to employment sub-committees or joint committees (i.e. the JNCC) to deal with various employment related issues from time to time.
- 5.2 The Committee comprises 7 Members and is constituted on a politically proportionate basis in line with the political composition of the Council. Mandatory training is required to sit on the Committee or any of its sub-committees.

Terms of Reference

- 5.3 To develop and approve the Council's strategies and policies in respect of human resources, health and safety, organisational development and terms and conditions of employment. These functions are subject to the approval of any budget implications by the Cabinet and/or Council.
- 5.4 To review organisational structure where the changes involve compulsory redundancies that do not have the agreement of existing staff and/or where any such changes require budgetary approval from Cabinet and/or Council.
- 5.5 To make recommendations to Council in relation to the annual Pay Policy Statement.
- 5.6 To make recommendations to full Council in relation to decisions affecting the remuneration of any new post where the remuneration is, is proposed to be, or would become £100,000 p.a. or more.
- 5.7 To make decisions in relation to proposed severance packages with a value of £95,000 or more as appropriate (excluding contractual and holiday pay), subject to any requirement to obtain approval from full Council and/or Government.
- 5.8 Excluding national agreements, to approve "in year" salary or other benefit increases to the Head of Paid Service provided that this is within the agreed annual pay policy.



Appointments Sub-Committee

- 5.9 This sub-committee comprises not less than 3 Members of the Employment Committee, appointed by Group Leaders. Its purpose is to deal with the appointment of the Council's Designated Statutory Officers ("DSOs"), the Deputy Chief Executive and Service Directors. More information on the Council's DSOs can be found in Section E3.
- 5.10 To undertake the recruitment and selection process, in accordance with the Employment Procedure Rules (Section E3) and, in respect of DSOs only, to make a recommendation to Council to approve the proposed appointment before an offer of appointment is made.
- 5.11 In respect of the Deputy Chief Executive and Service Directors, to make offers of appointment following the recruitment and selection process.

Disciplinary Appeals Sub-Committee (DAC)

- 5.12 This sub-committee comprises not less than 3 Members of the Employment Committee, appointed by Group Leaders. Its purpose is to deal with appeals against disciplinary action taken when required to do so under the Council's disciplinary policies. In respect of DSOs only, it deal with appeals against disciplinary action short of dismissal.

Investigation and Disciplinary Sub-Committee (IDC)

- 5.13 The IDC comprises not less than 5 Members of the Employment Committee, appointed by Group Leaders. Its purpose is to operate the disciplinary procedures that apply to the DSOs in accordance with the Model Disciplinary Procedure (MDP) contained in the JNC Handbook and the Council's IDC Handbook.
- 5.14 For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Councillors shall comprise the IDC (and any adjournment of it) over the course of the full consideration of the IDC's business (and any related matter), until such time as the business is completed. Should any Councillor become conflicted or indisposed over the course of the matter, any substitution shall be at the Chair's discretion in conjunction with the IDC's legal adviser.



- 5.15 All papers issued to the IDC members must be returned to the IDC Co-ordinator (committee clerk) at the end of each IDC meeting.
- 5.16 In accordance with the MDP, an IDC shall be convened by the Monitoring Officer (in consultation with the Chair of Employment Committee).
- 5.17 Should the Monitoring Officer be unable to act, then the “Substitute” (who shall be, in the following order, the Head of Paid Service, the Deputy Chief Executive, Section 151 Officer or the Service Director Strategy, People & Performance) can also convene an IDC. In that event, references to the Monitoring Officer that follow should be taken as references to the Substitute.
- 5.18 The Monitoring Officer shall, in consultation with the Chair of the Employment Committee filter out and deal with allegations of misconduct which are clearly unfounded, trivial or can best be dealt with under some other procedure. The Monitoring Officer will also consider whether informal resolution is appropriate.
- 5.19 If a matter passes the filter stage, an IDC will be convened and it will, in conjunction with its legal adviser, consider allegations/issues regarding disciplinary matters (as defined in The Local Authorities (Standing Orders) (England) Regulations 2001 as amended) relating to the DSOs.
- 5.20 The IDC will, after taking advice from its legal adviser decide, whether
- (a) any further formal action under this procedure is required
 - (b) to appoint an Independent Investigator (“II”) to investigate the issues and produce a report
 - (c) it is appropriate to reach an agreement with the DSO on a formal sanction (short of dismissal) without the need to appoint an II
 - (d) to alter the duties of a DSO or suspend a DSO for the duration of any process a (e) review such decisions at a frequency to be determined by the IDC (f) what action should be taken against a DSO following an investigation.
- 5.21 The actions referred to at 5.21 (e) above include holding a hearing, taking no further action, informal resolution or other appropriate sanction short of dismissal. The IDC



shall have delegated authority to impose disciplinary action short of dismissal in these circumstances.

- 5.22 If, following a hearing, the IDC recommends dismissal then that recommendation shall be referred to the Independent Persons Panel prior to being referred to full Council for a determination in accordance with the IDC Handbook.
- 5.23 With the exception of a decision to recommend to full Council that a DSO be dismissed, there shall be a right of appeal to the DAC in respect of any sanction imposed on a DSO by the IDC.

Independent Persons Panel (IPP)

- 5.24 The Independent Persons Panel is an advisory panel appointed under section 102(4) of the Local Government Act 1972. Its purpose is to advise the authority on matters relating to the dismissal of DSOs in accordance with Schedule 3 to The Local Authorities (Standing Orders) (England) Regulations 2001, the MDP and the IDC Handbook.
- 5.25 The IPP shall consist of at least two (preferably three) of the Independent Persons appointed by the Council under section 28(7) of the Localism Act 2011. Where there are fewer than two such persons, attempts shall be made to appoint to the IPP such independent persons as have been appointed by another authority or authorities as the Council considers appropriate. The Monitoring Officer shall invite the Independent Persons, as necessary/appropriate.
- 5.26 The advice of the Independent Persons Panel must be sought in accordance with the Employment Procedure Rules (Section E3) where the IDC proposes to recommend the dismissal of a DSO.
- 5.27 The advice of the IPP may (but need not) be sought by the IDC at any other point in an investigation under the IDC process or (if not conflicted) by the DAC in respect of an appeal against a decision of the IDC.
- 5.28 For the avoidance of doubt, the IPP may commission and have access to external legal and professional advice and may meet concurrently with an IDC hearing.



Joint Negotiation and Consultation Committee (JNCC)

- 5.29 The JNCC shall comprise of 3 elected members of the Employment Committee Members appointed to the JNCC by Group Leaders, and a representative of each recognised Trade Union in accordance with recognition agreements in force from time to time.
- 5.30 The purpose of the committee is to provide a forum through which negotiations and consultations can take place on matters within the remit of paragraphs 5.3 and 5.4 of the Employment Committee and in respect of:-
- (a) terms and conditions of employment and physical conditions of work
 - (b) engagement or non-engagement or termination or suspension of employment or the duties of employment, of one or more workers
 - (c) allocation of work or the duties of employment as between workers or groups of workers
 - (d) matters of discipline
 - (e) a worker's membership or non-membership of a trade union
 - (f) facilities for union representatives
 - (g) machinery for negotiation or consultation and other procedures (including grievance procedures) including recognition of the right of a trade union to represent workers in such negotiation or consultation.
- 5.31 The JNCC will also receive briefings on external factors effecting or likely to affect employment matters within the Council.
- 5.32 For the avoidance of doubt, whilst agreement by negotiation will always be the objective, the JNCC has no powers to approve or veto matters. Its recommendations shall be given full consideration by the relevant decision taker.



Part B – The Council

Section B3:- The Roles, Responsibilities and Attributes of Councillors

In Part B:-

Section B1 of the Constitution explains the process of electing Councillors (or “Members”) to the Council and then goes on to explain about meetings of the Council. It then sets out the roles, responsibilities and functions of the Council.

Section B2 sets out the details of the each of the authority’s committees. There is an overview of what the committee does and a detailed terms of reference section which sets out the extent of the committee’s powers. Membership details of committees are available from the Council’s website.

This Section (B3) sets out the roles and attributes of all Councillors, and then explains about the additional requirements of Councillors who undertake certain roles. The additional requirements in respect of Cabinet roles are set out in Section C2.

Section B4 sets out the rules that govern Council meetings.

Section B5 sets out the rules that govern Committee meetings.





Part B – The Council

Section B3:- The Role, Responsibilities and Attributes of Councillors

In this Section:-

- 1. All Members**
- 2. Mayor and Deputy Mayor of the Council**
- 3. Regulatory Committee Members**
- 4. Regulatory Committee Chairs**



NEWCASTLE
UNDER LYME
BOROUGH COUNCIL



1. The Role and Responsibilities of all Members

Introduction

- 1.1 Collectively, elected Members make the policies and take decisions that shape the future of the Borough and determine its priorities. Members have a special duty to represent the constituents of their Ward, including those who did not vote for them, but their overriding duty is to act in the interests of the Borough as a whole.
- 1.2 Elected Members are accountable to full Council, and ultimately to the communities that they are elected to represent.

Representing and Supporting Communities

- 1.3 Operating in this capacity, it is the role of all Members to:-
 - (a) provide community leadership and promote active citizenship by promoting equality, tolerance and democracy in their communities and helping their communities to understand and participate in the Council's decision making processes
 - (b) be a visible, recognisable and accessible presence in the community by taking measures such as holding ward surgeries, engaging with and supporting local partnership organisations
 - (c) recognise and balance the different interests within their wards and represent the ward as a whole fairly and constructively whilst providing a voice for all sectors of their communities
 - (d) represent the views of their communities wherever possible in the Council's decision-making processes by liaising with other Members, Officers and partner organisations to ensure that the needs of the local communities are identified, understood and supported
 - (e) represent individual constituents and local organisations, undertaking casework on their behalf as necessary and serving all fairly and equally

Representing the Council

- 1.4 Operating in this capacity, it is the role of all Members to:-



- (a) be an advocate for the Council in the communities they serve and act as a channel of communication to the community on council strategies, objectives, policies, services and procedures
- (b) engage fully in Council business and meetings including meetings of any committee, board, task group or external organisation that they may be appointed to serve on from time to time. This includes a requirement to fully engage in any preparatory or follow up work or tasks such as undertaking training and site visits or participating in any study, research, review or scrutiny exercises.
- (c) To observe and apply the authority's core objectives and principles of decision making set out in section A2 and any other codes, procedures, or rules that might also apply from time to time to ensure that all decisions reached are informed and balanced.
- (d) To monitor, promote and ensure the efficient, effective, and transparent governance of the Council and delivery of all of the services delivered by the Council and its partners by engaging in the processes that exist to challenge and improve the work of the Council, Cabinet and its partners.

Relationships, Communication and Personal Development

1.5 It is the responsibility of all Members to:-

- (a) foster and maintain effective working relationships with Officers based on mutual support, trust and respect
- (b) promote and maintain the highest standards of conduct and ethics in public life by observing the requirements of the Member Code of Conduct and the Protocol for Member and Officer Relations in Part F
- (c) proactively and continually identify, seek out and participate in opportunities for personal development in their roles as elected Members
- (d) make effective use of modern electronic communication including email, the internet and intranet, to aid efficient communication with officers, other members and the community
- (e) provide support and encouragement to new Members



Values, Skills and Attributes of all Elected Members

- 1.6 To be effective in their role as an elected Member, all Councillors must possess the following attributes and be committed to promoting the following values in public office:-
- (a) Openness and transparency
 - (b) Honesty and integrity
 - (c) Tolerance and respect
 - (d) Equality and fairness
 - (e) Appreciation of cultural differences
 - (f) Sustainability

Attributes required of all Elected Members

- 1.7 Knowledge or and commitment to the Council's values, objectives and aspirations
- 1.8 A sound understanding of the requirements of community leadership, empowerment, and working in partnership
- 1.9 Respect for, and desire to work with, different groups, individuals, partners, agencies, organisations and points of view.
- 1.10 The ability to approach debates and decision making with an open mind, impartiality and integrity and to leave aside personally held views where necessary; and the ability to encourage others to do the same.
- 1.11 The ability to constructively challenge ideas and contribute positively to policy development and improved ways of working
- 1.12 The ability to identify, understanding and apply all relevant laws, rules, protocols, procedures and conventions and particularly the rules relating to predetermination and bias and declarations of personal and prejudicial interests in the decision-making process, which are most important when sitting on regulatory committees
- 1.13 A sound understanding and appreciation of the importance of strategy and policy considerations in decision taking.
- 1.14 The ability to recognise the need for, seek out and take on board any necessary advice or assistance



- 1.15 Good advocacy skills – the ability to present relevant and well- reasoned written and oral arguments
- 1.16 Good communication skills – the ability to impart and absorb information in both written and oral form including the ability to articulate sound reasons for decisions, deliver effective presentations and public addresses
- 1.17 Good interpersonal skills – the ability to interact effectively with a variety of different people
- 1.18 Understanding of and respect for the different roles of Officers and Members
- 1.19 An ability and desire to recognise, seek out and participate in opportunities for personal development

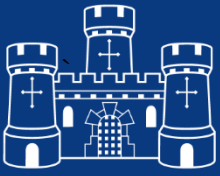
2. The Mayor and Deputy Mayor of the Council

Introduction

- 2.1 The Mayor of the Council is the Council's ceremonial figurehead.
- 2.2 The Deputy Mayor of the Council is responsible for assisting and supporting the Mayor and discharging the duties of the Mayor in his or her absence.
- 2.3 Those acting in the capacity of Mayor or Deputy Mayor must remain apolitical and act as an ambassador for the Council and for the area of Newcastle-under-Lyme.
- 2.4 The Mayor and Deputy Mayor are accountable to full Council, and ultimately to the communities that they are elected to represent.

Roles and Responsibilities

- 2.5 In addition to the roles and responsibilities that apply to all Elected Members, the following roles and responsibilities shall be discharged by the Mayor and Deputy Mayor:-
 - (a) to represent the Council at civic and ceremonial functions
 - (b) to promote public involvement in the Council's activities
 - (c) to preside over Council meetings and ensure that business is carried out efficiently, in accordance with the Council Procedure Rules and in the interests of the Borough
 - (d) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community



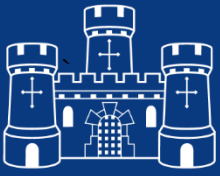
Values, Skills and Attributes of the Mayor and Deputy Mayor of the Council

- 2.6 In addition to the values, skills and attributes required by all Elected Members to be effective in their role, the following skills and attributes are particularly important for an effective Mayor and Deputy Mayor of the Council.
- (a) An in-depth understanding of role of the ambassadorial role of Mayor and Deputy Mayor of the Council, to lead by example, and to remain apolitical in carrying out that role
 - (b) An in-depth understanding of the Council's values, objectives and aspirations
 - (c) The ability to win the confidence of the Council
 - (d) Excellent public speaking skills
 - (e) The ability to network effectively with a wide variety of people and organisations at different types of functions and events
 - (f) A sound understanding of the Council Procedure Rules and the constitution and the ability to preside over Council meetings to ensure business is carried out effectively

3. Members of Regulatory Committees

Introduction

- 3.1 The following committees are regulatory committees:-
- (a) Planning Committee
 - (b) Licensing and Public Protection Committee
 - (c) Standards Hearing Panels of Audit and Standards Committee
- 3.2 Because of the specialist and often sensitive nature of the business considered by these committees, and the impacts that decisions of these committees can have on individuals and their rights and wellbeing, special considerations apply to committee members.
- 3.3 Committee Members are accountable to their Chair, Council and ultimately to the communities that they are elected to represent.



Roles and Responsibilities

3.4 In addition to the roles and responsibilities that apply to all Elected Members, the following responsibilities apply to all members of regulatory committee:

- (a) To be aware of the quasi-judicial nature of regulatory committee decision making and the potential impacts and consequences of decisions taken for those affected by decisions and the Council.
- (b) To have a sound understanding of the technical, legal and procedural issues that relate to any given matter and any professional advice given and to have the commitment and ability to absorb and apply the same in order to participate thoroughly, effectively and appropriately in the work of the committee.
- (c) To ensure that the rules of natural justice are applied with particular regard to the requirement to be prepared to take account of all aspects of the issue in question, to approach decisions with an open mind in order to make informed decisions properly balancing local considerations with legal, constitutional and policy requirements.
- (d) To have a thorough understanding of and scrupulous regard at all times to the requirements in the Member Code of Conduct and Planning Protocols in relation to interests, bias, pre-determination and when it is and is not appropriate to take part in the work of the committee
- (e) Not to take part in any political whip process when discharging the responsibilities of the committee

3.5 In order to effectively discharge the responsibilities set out in paragraph 3.4 (a) to (e), all committee members (and Substitute Members) are required to undertake any relevant training arranged by officers, and to be personally and collectively responsible for identifying and seeking out from officers any additional training that they may require from time to time.

4. Chairs and Vice Chairs of Regulatory Committees

Introduction

4.1 Chairs and Vice Chairs must provide leadership and direction in the work of their committees and act as ambassadors for the work of their committee both within and beyond the Council to develop its standing and the integrity of its decision making.



- 4.2 They must have a sound understanding of the relevant subject matter, laws, procedures codes of conduct and protocols and the ability to champion them with committee members and inspire and enthuse committee members for the work of the committee.
- 4.3 Chairs and Vice Chairs are accountable to their committee members, Council and ultimately to the communities that they are elected to represent.

Roles and Responsibilities

- 4.4 In addition to the roles and responsibilities that apply to all Members and all Members of Regulatory Committees, the following responsibilities apply to all Chairs and Vice Chairs of regulatory committees:
- (a) To be a focal point of knowledge, leadership and advice for members of their committee on all of the matters set out under paragraphs 3.4(a) to (e) and 3.5 above.
 - (b) To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making
 - (c) To ensure that applicants and other interested parties are as satisfied as they reasonably can be with the transparency and quality of the regulatory decision making process.



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Part B – The Council
Section B4:- Council Procedure Rules

In Part B:-

Section B1 of the Constitution explains the process of electing Councillors (or “Members”) to the Council and then goes on to explain about meetings of the Council. It then sets out the roles, responsibilities and functions of the Council.

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This Section (B4) sets out the rules that govern Council meetings.

Section B5 sets out the rules that govern Committee meetings.





Part B – The Council
Section B4:- Council Procedure Rules

In this Section:-

1. Annual Council

2. Ordinary and Special Meetings

- Rescheduling Ordinary Meetings and Calling Special Meetings
- Notice of Council Meetings

3. Conduct of Meetings

- Mayor and Deputy Mayor
- Respect for Mayor and Deputy Mayor
- Quorum
- Matters for Decision
- Duration of Meetings
- State of the Borough Debates
- Disorderly Conduct and Disturbance

4. Motions

- Motions Without Notice
- Motions During Debate
- Notice of Motions
- Repeat Motions and Rescinding Resolutions
- Amendments and Alterations to Motions
- Withdrawing Motions and Notices of Motion
- Closure of Motions

5. Members' Speeches

- Content and Length of Speeches
- Only One Member to Speak at a Time
- Order of Speeches
- When a Member May Speak Again
- Rights of Reply
- Points of Order and Personal Explanations



- Departing Scrutiny Chairs

6. Voting

- Method of Voting
- Casting Vote
- Recording Votes
- Elections to Offices

7. Questions from Members

- Questions without Notice
- Questions on Notice
- Replies and Supplementary Questions
- Time for Questions

8. Minutes Records and Disclosure of Information

- Minutes and Records of Decisions
- Records of Attendance
- Confidential and Exempt Matters

9. Urgent Business

10. Public Access to Meetings

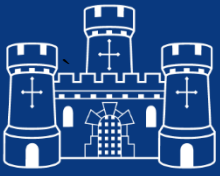
11. Notices and Information Relating to Meetings

- Information Generated for Meetings
- Information about Future Meetings
- Information about Past Meetings
- Exempt Information

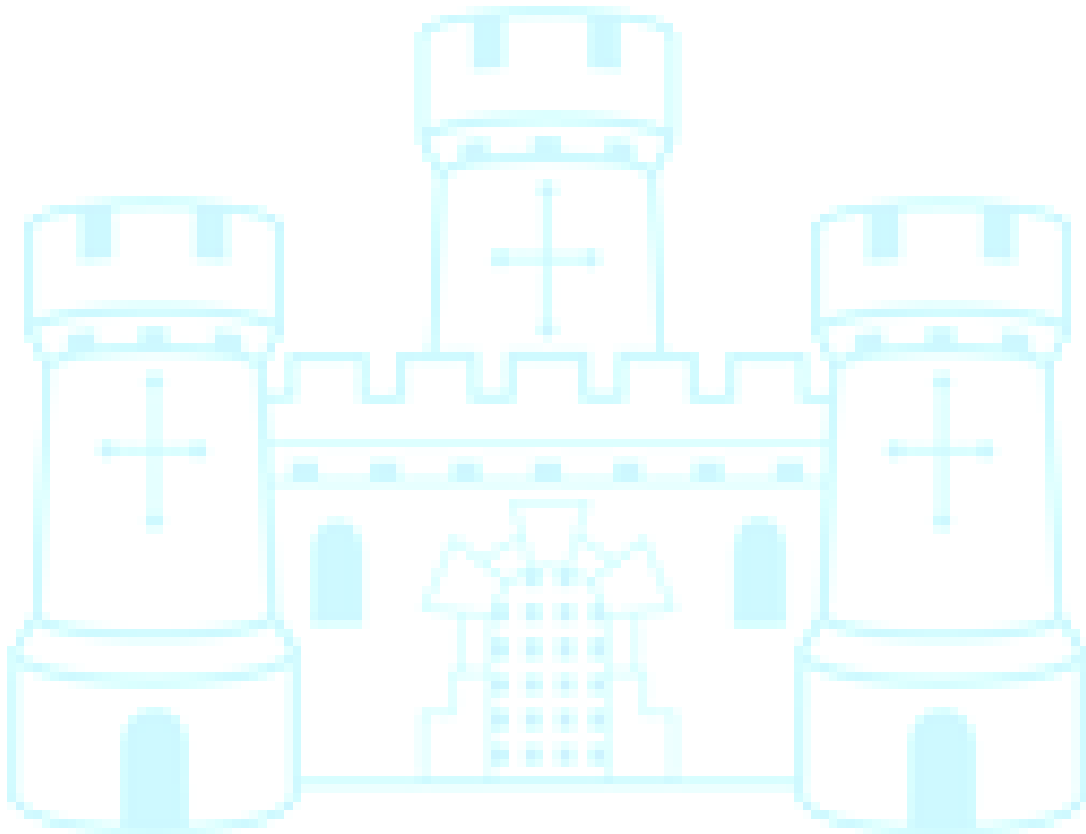
12. Public Speaking and Questions

13. Miscellaneous Matters

- Officer Advice
- Suspending the Procedure Rules
- Interpretation of Procedure Rules

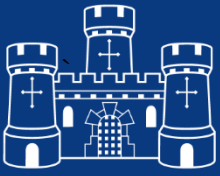


- Notice Requirements
- Example Time Calculation in Respect of Notice Periods



NEWCASTLE
UNDER LYME

BOROUGH COUNCIL



1. Annual Council

1.1 In a year where there is an ordinary election of Members to the Council, the Annual Council meeting will take place within 21 days of the retirement of the existing Members. In any other year, Annual Council will take place in March, April or May.

1.2 The Annual Council will:-

- (a) elect a Mayor
- (b) elect a Deputy Mayor
- (c) if necessary, elect a Leader of the Council
- (d) receive the Leader's appointments to the Cabinet and the allocation of portfolio responsibilities
- (e) constitute committees and appoint Members, Chairs and Vice Chairs in line with political proportionality requirements
- (f) if necessary, make any appointments to any of the offices, positions or outside bodies that the Council is responsible for appointing to
- (g) receive any announcements from the Mayor and/or the Chief Executive
- (h) approve the minutes of the last meeting
- (i) transact any other business specified in the meeting summons

1.3 No Member shall be nominated for election to the office of Mayor or Deputy Mayor, nor to a position of Chair or Vice Chair of any committee, without consent first having been obtained from the Member being nominated.

2. Ordinary and Special Meetings

Rescheduling Ordinary Meetings and Calling Special Meetings

2.1 Council will approve and publish a programme of Council meetings ("Ordinary Meetings") and committee meetings for the ensuing year.

2.2 A resolution may be passed at an Ordinary Meeting requiring that:-

- (a) any subsequent Ordinary Meeting be held at a different date, time or place; or,
- (b) an additional meeting (a "Special Meeting") be held at a specific date, time or place

provided in either case that the date proposed is not less than 10 days away from the date of the meeting at which a resolution under this paragraph is carried.

2.3 Between Ordinary Meetings the Mayor may:-



- (a) following consultation with the Deputy Mayor, alter the date, time or place of an Ordinary Meeting; or,
- (b) call a Special Meeting

by giving not less than 6 days' notice of the proposed date to the Monitoring Officer. There will be a presumption against making changes to the agreed timetable of meetings.

2.4 A notice given by not less than 5 Members to the Mayor and the Monitoring Officer may request that the Mayor calls a Special Meeting. The Mayor shall, within 7 days of receipt of such a notice, give notice of the calling of a Special Meeting in accordance with paragraph 2.3(b) above.

2.5 The Monitoring Officer, in consultation with the Mayor, may also call a Special Meeting.

3. Conduct of Meetings

Mayor and Deputy Mayor

3.1 The Mayor will preside over Council meetings.

3.2 If the Mayor is absent then the Deputy Mayor will preside.

3.3 If the Mayor and the Deputy Mayor are absent then the Chief Executive will preside and the first item of business shall be the appointment of another Member (other than a Cabinet Member) to preside over the meeting in question.

3.4 Persons presiding over meetings in the place of the Mayor shall have the same powers and duties as the Mayor.

Respect for the Mayor and Deputy Mayor

3.5 Where able, Members and Officers will stand whilst the Mayor and the Deputy Mayor enter and leave the room.

3.6 Whenever the Mayor rises during a debate, any Member then standing shall sit down and the Council shall be silent.

Quorum

3.7 No business shall be transacted at a meeting where less than 15 Members are present.



- 3.8 If a meeting becomes inquorate after it has commenced then it shall be adjourned. Remaining business will be considered at the next Ordinary Meeting.

Matters for Decision

- 3.9 All matters for decision by the Council shall be included within the agenda.
- 3.10 There shall be an early item on every agenda requiring Members to declare any relevant interests in any item appearing on the agenda. Members are required to observe the requirements in the Member Code of Conduct (Section F1) and withdraw from the meeting room at the appropriate point during the meeting where they have an interest which requires them to do so.
- 3.11 The Mayor may agree that an item of business which is urgent shall be dealt with at a meeting even if it is not on the agenda for that meeting. The Mayor shall give the reason for the urgency.
- 3.12 Business shall be dealt with in the order in which it is set out in the agenda unless the Mayor decides otherwise.

Duration of Meetings

- 3.13 Unless a resolution is passed for the meeting to continue, any meeting that has lasted for 3 hours will adjourn immediately. Remaining business will be considered at the next Ordinary Meeting.

Disorderly Conduct and Disturbances

- 3.14 The person presiding may direct (or a Member may move), in respect of any Member considered to be misconducting themselves, that the Member shall not be heard further.
- 3.15 The person presiding may direct (or a Member may move), either following a direction (or resolution) under paragraph 3.14 above, or directly in the case of gross misconduct, either:-
- (a) that the Member in question leaves the meeting; or,
 - (b) that the meeting is adjourned
- 3.16 The person presiding, in the event of a general disturbance at any meeting which they consider to be disrupting the orderly transaction of business, may adjourn the meeting for as long as is considered necessary.



3.17 The person presiding shall be at liberty to warn any member of the public in respect of their conduct at a meeting. In the case of persistent or gross misconduct, the Mayor shall be at liberty to direct any person to be removed from the meeting.

3.18 In the event of a general disturbance in any part of the meeting room open to the public, the person presiding shall be at liberty to direct that part of the room to be cleared.

4. Motions

4.1 Motions may be moved by any Member but they shall not be discussed unless proposed and seconded.

4.2 Unless Notice of a Motion has already been given, the Mayor may require Motions to be handed up in writing before they are further discussed or put to the meeting.

Motions Without Notice

4.3 The following Motions may be moved without notice:-

- (a) to appoint a Chair and/or Vice Chair for the meeting
- (b) in relation to the accuracy of the minutes of the Council
- (c) to change the order of business on the agenda
- (d) to give the consent of the Council where the consent of the Council is required by these Procedure Rules
- (e) any Motion relating to any item currently under discussion
- (f) to refer the matter to an appropriate body, individual or subsequent Council meeting
- (g) to withdraw a Motion
- (h) to amend a Motion
- (i) to proceed to the next business
- (j) to put the question
- (k) to adjourn the debate
- (l) to adjourn the meeting
- (m) to continue the meeting beyond the time limit in paragraph 3.13
- (n) to extend the time allowed for speeches
- (o) to suspend a particular Procedure Rule(s)
- (p) to exclude the press and public
- (q) that a Member who misconducts themselves should not be heard further
- (r) that a Member should leave the meeting

Motions Which May Be Moved During Debate



- 4.4 Only Motions listed at paragraph 4.3 (d) to (r) inclusive may be moved whilst another Motion is already under debate.

Notice of Motions

- 4.5 Any Member may place a Motion relating to a matter that the Council is responsible for, or which affects the Borough, on a meeting agenda.
- 4.6 Notice of every Motion (in respect of which notice is required) shall be given to the Monitoring Officer at least 10 days prior to the meeting at which the Motion is intended to be heard.
- 4.7 If Notice is given of any Motion which, in the opinion of the Mayor (and on the advice of the Monitoring Officer) is deemed to be inappropriate or illegal, the Mayor shall be at liberty to decline to include it on the agenda. If a Motion is declined, the Member(s) who gave Notice will be informed why.
- 4.8 The order in which Motions shall be placed on meeting agendas will be determined by reference to any other business required to be transacted and in accordance with the order in which Notices of Motion are received.
- 4.9 The Mayor may alter the order in which Motions are placed on agendas where it is considered that there is good reason to do so (whether or not upon the request of the prospective Mover).
- 4.10 At the appropriate point in the meeting, the Mayor shall invite the Mover of a motion to briefly introduce the Motion to Council. Where applicable, the introduction shall include reasons for why the Motion should be debated by Council, as opposed to being referred to the Cabinet or a Committee in accordance with paragraph 4.11 below. The Mayor will then invite a Secunder for the Motion. The right of a Secunder to speak to a Motion is dealt with below. Any motion not moved and seconded will be treated as withdrawn and may not be moved again without fresh notice.
- 4.11 Following the introduction and seconding of any Motion under paragraph 4.10 above which comes under the remit of the Cabinet or a Committee, the motion will be referred to the Cabinet or Committee without debate. The Cabinet or Committee will consider the motion and report to a future meeting of Council. Notwithstanding the provisions of this rule, the Mayor may allow the motion to be dealt with at the Council meeting where it is first moved, if the Mayor considers it appropriate to do so.



- 4.12 When a Motion is debated under paragraph 4.11 above, then the rules relating Members' speeches at paragraph 5 below shall apply with the first entitlement to speak resting with the Mover.
- 4.13 If the Motion is referred to Cabinet, or a Committee under paragraph 4.11 above, then the Mover and Secunder shall be given the right to speak at the forum to which the Motion is referred.
- 4.14 If a Motion relates to a matter that requires a decision of the Cabinet, then the Council must refer the Motion to the Cabinet either before or after any debate at Council.
- 4.15 A Motion requiring notice which has not been duly given in accordance with this section may nevertheless be dealt with at the meeting if the Mayor is of the opinion that there are special circumstances justifying its consideration as a matter of urgency. The Mayor may be asked for reasons for his or her decision.

Repeat Motions and Rescinding Resolutions

- 4.16 Subject to paragraph 4.17 below no Motion shall be moved which would have the effect of rescinding any resolution of the Council passed within the preceding six months, or which is to the same effect as a Motion which has been rejected within that period.
- 4.17 A Motion of the type prohibited under paragraph 4.16 above may be moved if:-
- (a) brought upon a minuted recommendation of the Cabinet or a Committee; or,
 - (b) Notice of the Motion signed by at least 12 Members has been given and accepted under paragraphs 4.6 and 4.7 above.

Amendments and Alterations to Motions

- 4.18 An amendment must be relevant to the Motion under discussion and shall have the effect of deleting, substituting or adding words to the original Motion.
- 4.19 Amendments may not be moved if they will have the effect of negating the Motion before the Council.
- 4.20 Only one amendment may be moved at a time. No further amendment shall be moved until the amendment under discussion has been disposed of, although the Mayor may allow two or more amendments to be discussed (but not voted on) together if this would facilitate the proper conduct of the business before the meeting.



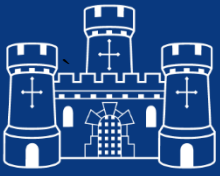
- 4.21 If an amendment is lost, another amendment may be moved on the original Motion.
- 4.22 If an amendment is carried, the Motion as amended shall take the place of the original Motion and shall become the Motion upon which any further amendment may be moved.
- 4.23 After an amendment had been carried, the Mayor will read out the amended Motion before accepting any further amendments, or if there are none, putting it to the vote.
- 4.24 A Member may alter a Motion which they have given notice of with the consent of Council, or in the case of a Motion proposed and seconded, with the consent of the seconder and the Council. In either case, the Council's consent shall be signified without discussion.
- 4.25 Any alteration proposed must be of the type permitted to be moved as an amendment.

Withdrawal of Motions and Notices of Motion

- 4.26 A Member may withdraw their Notice of Motion at any time.
- 4.27 A Member may withdraw a Motion which they have moved with the consent of both the meeting and any Secunder. The meeting's consent will be signified without discussion. No Member may speak on the Motion after the Mover has asked permission to withdraw it unless permission is refused.

Closure of Motions

- 4.28 At the conclusion of a Member's speech, another Member may move (without comment) any of the Motions set out in paragraph 4.3(i) to (l) inclusive.
- 4.29 Upon the seconding of a Motion under 4.3(i) above (to proceed to the next business), the Mayor shall (unless of the opinion that the matter has not been sufficiently discussed) invite the right of reply to be exercised in respect of the Motion under discussion and then put it to the vote before proceeding to the next business.
- 4.30 Upon the seconding of a Motion under 4.3(j) above (to put the question), the Mayor shall (unless of the opinion that the matter has not been sufficiently discussed) put the Motion under 4.3(j) above to the vote and, if it is passed, invite the right of reply to be exercised in respect of the Motion under discussion before putting it to the vote.
- 4.31 Upon the seconding of a Motion under 4.3(k) or (l) above (to adjourn the debate or meeting), the Mayor shall (unless of the opinion that the matter has not been sufficiently



discussed) put the adjournment Motion to the vote without inviting the right of reply to be exercised in respect of the Motion under discussion.

5. Members' Speeches

Content and Length of Speeches

5.1 Members will confine speeches to the question under discussion, a personal explanation or a point of order. No speech will exceed 5 minutes, without the consent of the Council. The 5 minute time limit will exclude any time lost as a result of other Members rising on a point of order or personal explanation.

Only One Member to Speak at a Time

5.2 Whilst a Member is speaking, the other Members will remain seated and quiet, unless rising on a point of order or in personal explanation.

Order of Speeches

5.3 The Proposer of a Motion shall speak first, followed by the Secunder. When seconding a Motion a Member may advise the Mayor that they reserve their right to speak until later in the debate.

5.4 Members shall, where able, indicate their intention to speak during a debate by raising their hand.

5.5 If two or more Members indicate their intention to speak, the Mayor shall determine the order of speeches. The Mayor may draw up and then close a list of speakers if he or she considers that necessary to manage the amount of time afforded to a debate.

5.6 Notwithstanding any other provisions in these rules, the Leader of the Council shall have the right to sum-up/reply immediately before any vote is taken.

When a Member May Speak Again

5.7 A Member who has spoken on any Motion shall not speak again whilst it is the subject of debate except:-

- (a) Subject to rule 5.8 below, to speak once on an amendment moved by another Member
- (b) to move a further amendment if the Motion has been amended since they last spoke



- (c) if the Member's first speech was on an amendment moved by another Member, then they may speak on the main issue whether or not the amendment on which they previously spoke was carried
- (d) in exercise of a right of reply
- (e) on a point of order
- (f) by way of personal explanation
- (g) to move one of the Motions specified in paragraph 4.4 above.

Right of Reply

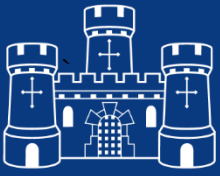
- 5.8 The Mover of the Motion shall have a right to reply at the close of the debate on the Motion, before it is put to the vote.
- 5.9 If an amendment is moved, the Mover of the original Motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on it.
- 5.10 The Mover of the amendment shall have a right of reply to the debate on the amendment immediately before the Mover of the original Motion exercises their right of reply at the close of the debate on the amendment.

Points of Order and Personal Explanations

- 5.11 After a Member has raised a point of order or personal explanation, the Mayor shall rule on its admissibility. The Mayor's ruling shall be final and not open to discussion.
- 5.12 A point of order shall relate only to an alleged breach of a Procedure Rule or statutory provision and the Member shall specify the Procedure Rule or statutory provision and the way in which they consider it to have been breached.
- 5.13 A personal explanation shall be confined to some material part of a former speech by the rising Member which appears to them to have been misunderstood in the current debate.
- 5.14 The ruling of the Mayor a point of order or on the admissibility of a personal explanation shall be final and not open to discussion.

Departing Scrutiny Chairs

- 5.15 The Chairs of the Scrutiny Committees shall be entitled to make a personal statement at the next Ordinary Meeting following their resignation or removal from office.



6. Voting

Method of Voting

- 6.1 Unless otherwise provided elsewhere in this constitution, all matters will be decided by a simple majority of those Members present and voting in the room at the time the question is put.
- 6.2 Members must be in their designated seats for their vote to be counted.
- 6.3 Voting will be by a show of hands, or if there is no dissent and no call for a vote, by the Mayor being satisfied of the unanimous approval of the meeting.

Casting Vote

- 6.4 Where there are equal votes cast for a Motion the Mayor may exercise a second or casting vote.

Recording Votes

- 6.5 If 13 Members so request (by rising in their places before the vote has begun to be taken) the vote will be recorded to show whether and how each Member voted.
- 6.6 A Member may require, after a vote is completed, that the Minutes of the meeting record whether and how they voted.
- 6.7 A Member may, immediately after the item of business is voted upon, request that a lost Motion be recorded in the Minutes
- 6.8 Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

Election to Offices

- 6.9 Members shall not be eligible for appointment to the position of Chair or Vice Chair of a committee unless they are a Member of the Committee in question.
- 6.10 Cabinet Members shall not be eligible for appointment to the position of Mayor or Deputy Mayor of the Council.



- 6.11 Where a vacancy occurs in any office, an election will be held at the next Ordinary Meeting unless the Council decides otherwise.
- 6.12 Unless the Council decides otherwise, elections to office will be conducted by a show of hands and a single election may take place in respect of any number of offices.
- 6.13 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. This process will continue until there is a majority of votes for one person.

7. Questions from Members Questions without Notice

- 7.1 Questions may be asked about any business on the agenda when that business is under discussion.

Questions on Notice

- 7.2 Subject to paragraphs 7.3 and 7.4 below, any Member may ask (as appropriate) the Mayor, a committee Chair or a Cabinet Member any question about a matter in respect of which the Council has powers or duties or which affects the Borough.
- 7.3 A Member may only ask a question under paragraph 7.2 above if they have either:-
- (a) given notice to the Monitoring Officer at least 24 hours before the meeting or,
 - (b) if the question relates to an urgent matter, they have the consent of the Mayor to ask it and they have given notice containing the text of the question to be asked to the Monitoring Officer before the start of the meeting
- 7.4 Upon receipt of a Notice of Question under paragraph 7.3(a) or (b) the Mayor on the advice of the Monitoring Officer may determine that the question shall not be asked if it:-
- (a) does not relate to a matter in respect of which the Council has powers or duties
 - (b) can, with the agreement of the proposed questioner, be more properly asked in another forum
 - (c) is defamatory, frivolous, offensive or vexatious
 - (d) is substantially the same as a question that has been asked by a Member (whether at Council or in another forum) within the last 3 months, which has been adequately answered or actioned, and there has been no material change in circumstances since that time.



Replies and Supplementary Questions

- 7.5 Questions will be asked and answered without discussion. The Member responding will use their reasonable endeavours to address all of the matters raised in the question. The Member responding may:-
- (a) decline to answer any question
 - (b) reply directly
 - (c) reply by reference to a publication
 - (d) reply by written answer with a copy to such other Members of the Council as the Council agrees
 - (e) refer the question to an appropriate Committee or to the Cabinet
- 7.6 Following the answer to each question, the questioner may ask a supplementary question which must relate to the initial answer. A reply will not be given (at the answering Member's discretion) if the question is:-
- (a) not related to the initial answer
 - (b) unduly lengthy
 - (c) inappropriate

Time for Questions

- 7.7 The period of time allocated to Members to ask questions under this section (including any permitted supplementary questions) will be determined by the Mayor.
- 7.8 A written response to any questions which are not answered at the meeting will be sent to the questioner and published on the Council's website within two days of the meeting (where practical).

8. Minutes Records and Disclosure of Information

Minutes and Records of Decisions

- 8.1 At each Ordinary Meeting, the Mayor will move that the Minutes of the last meeting be confirmed as an accurate record.
- 8.2 Only matters relating to the accuracy of the Minutes can be raised by way of a Motion proposed, seconded and voted upon. Where no issues are raised, or after any Motion has been dealt with, the Mayor shall sign the Minutes.



Records of Attendance

- 8.3 Members of the Council attending the whole or part of a meeting must sign their name on the attendance sheet provided.

Exempt Matters

- 8.4 No Member shall disclose to any person the whole or any part of the contents of any agenda, report or other document which is marked “confidential” or “not for publication” unless and until the document has been made available to the public or the press by or on behalf of the Council, the Cabinet or a Committee.
- 8.5 No Member shall disclose the content of any discussions in the confidential part of a meeting.
- 8.6 No Member shall disclose to any person (other than a Member of the Council with a need to know) any matter arising during the proceedings of the Council, the Cabinet or any Committee and which comes to their attention by virtue of their office as a Member where such disclosure would prejudice the interest of the Council or would be contrary to law. If in any doubt, advice should be sought from the Monitoring Officer.
- 8.7 Other than in accordance with paragraphs 3.17 to 3.18 above (disturbances), the press or public shall only be excluded from a meeting during the consideration of any item of business which would be likely to disclose Exempt Information as defined in these Rules.

9. Urgent Business

- 9.1 Any item of urgent non-Cabinet business which has to be decided before the next Council meeting may be determined by the Chief Executive in accordance with this part.
- 9.2 The Chief Executive may take any necessary action after consulting the relevant Chair, the Leader of the Council and the Leader of the Opposition (or where absent their Deputies). The relevant Portfolio Holder shall also be advised and consulted where practical.
- 9.3 The Chief Executive is authorised to take any action necessary during any gaps in governance that arise such as the period during a year of elections to the Council between the day 4 days after the date of the elections and the date of Annual Council.
- 9.4 A report of any action taken under this part shall be made available by electronic means to all Council Members.



10. Public Access to Meetings

- 10.1 Council meetings will ordinarily be held in public, unless the information to be discussed:-
- cannot be discussed in public without risk of breaching a duty of confidence that the authority is under (usually because the information to be discussed was supplied in confidence or is subject to a court order prohibiting its disclosure); and/or
 - is exempt from disclosure under Schedule 12A of the Local Government Act 1972 or any other legislation relating to the prevention of disclosure of information.
- 10.2 If all (or upon resolution part) of any Council meeting is held with the exclusion of the press and public, reasons for the need for such exclusion will be given by reference to any or all of the relevant circumstances set out in paragraph 10.1(a) and/or (b) above.

11. Notices and Information Relating to Meetings Information Generated for Meetings

- 11.1 Council meetings will require the production and publication of the following written information ("Meeting Information"):-
- meeting agendas ("Agendas"), setting out the business to be decided at a meeting
 - reports ("Reports"), (including any appendices or supplementary information) containing all of the information that the meeting needs to debate or decide a matter on the agenda
 - background documents ("Background Documents"), which are documents (that have not already been published) containing information that a report or a material part of a report is based on. These are listed in reports but are not usually presented to the meeting.
 - approved minutes, records of decisions or (where Exempt Information is discussed) a summary of proceedings and any decisions reached ("Minutes")

Information about Future Meetings

- 11.2 The Monitoring Officer will normally give not less than 5 days' notice of all meetings stating the nature of the meeting and the time and place where it will be held. If a meeting must be convened on shorter notice, such notice will be given at the time the meeting is convened.
- 11.3 The Monitoring Officer will give notice under paragraph 11.2 above:-
- to all members of the body to which the notice relates; and, in respect of all meetings which are ordinarily held in public, by:-



- (b) displaying a copy of the notice at the Council's principle office; and,
- (c) making details of the meeting available on the Council's website

11.4 The Monitoring Officer will normally provide, not less than 5 days prior to a meeting, Agendas and Reports by:-

- (a) providing the same to all members of the body in question; and, in respect of all meetings which are ordinarily held in public, by:-
- (b) publishing the same on the Council's website; and,
- (c) ensuring that copies are available at the meeting in question

11.5 Where a report to be considered at a meeting is not available for publication with an agenda, the agenda item will be marked "Report to Follow" and the report (or any other updates or supplementary information) will be provided when available in accordance with paragraph 11.4 above.

Information about Past Meetings

11.6 The authority will retain:-

- (a) Background Documents for a period of 4 years after the date of the meeting; and,
- (b) all other Meeting Information for a period of 6 years from the date of the meeting.

11.7 This information will usually be available on the authority's website but will also be provided in print on request. There may be a fee payable to cover the cost of providing printed information.

Exempt Information

11.8 Meeting Information relating to the parts of meetings described in paragraphs 10.1(a) and (b) above is referred to as "Exempt Information" in this constitution.

11.9 Exempt Information provided to Members shall be marked "Not for Publication" and/or "Confidential" and/or "Restricted" and shall have written on it, reference to any or all of the relevant circumstances referred to in paragraph 10.1(a) and/or (b) above, the reason why it is Exempt Information.

11.10 Exempt Information will not be provided to the public.



12. Public Speaking and Questions

- 12.1 Members of the public may speak or ask a question at Council meetings on any subject which is relevant to matters on the agenda.
- 12.2 Persons wishing to speak or ask a question are requested to give notice to the Monitoring Officer at least 2 days before the meeting in question. This is to ensure that:-
- (a) the topic is appropriate for the meeting in question;
 - (b) the time allotted for public speaking and questions can be properly managed; and,
 - (c) any information needed to answer a question can be provided to the meeting
- 12.3 The Mayor will retain sole discretion as to the management of public speaking and questions but normally a total period of 15 minutes will be permitted with speakers being allowed to speak for up to 5 minutes each.
- 12.4 Questions will be asked and answered without debate.
- 12.5 In responding to questions Members may:-
- (a) decline to answer
 - (b) agree to answer at or by a later (specified) date (whether or not in writing)
 - (c) refer the question to a more appropriate forum, Member or Officer
- 12.6 Questions will not be answered if they:-
- (a) are about a matter that the Council is not responsible for or does not affect the borough
 - (b) are defamatory, frivolous, offensive or vexatious
 - (c) require the disclosure of Exempt Information
 - (d) make or relate to allegations against, or compromise comments about the conduct of individual Councillors or Officers.
- 12.7 Those speaking or asking questions must comply with the standard of conduct required of them under Section A3 of the constitution.



13. Miscellaneous Matters

Officer Advice

- 13.1 The Mayor may request an appropriate Officer to offer advice or draw the attention of the Council to any relevant factors where a debate involves questions of a technical, legal, financial or operational/administrative nature.

Suspending the Procedure Rules

- 13.2 With the exception of paragraphs 6.6 and 8.1 above, any or all of these Procedure Rules may be suspended for the duration of a meeting either:-
- (a) in the case of their being more than one third of all Members of the Council present, by a Motion without notice; or,
 - (b) in all other cases by a Motion on notice

Interpretation of Procedure Rules

- 13.3 The Mayor (who shall be entitled to take advice from the Monitoring Officer) shall determine all matters relating to the interpretation or application of these Procedure Rules which arise during a meeting. The Mayor's decision shall be final.
- 13.4 The Monitoring Officer shall determine all matters relating to the interpretation or application of these Procedure Rules which arise between meetings. The Monitoring Officer's decision shall be final.
- 13.5 Any requirement to make a notice or information available to anyone shall be fulfilled by publishing that information on the Council's website such that it is readily available to be viewed or printed off from the website and, if necessary, printed off at Council offices to be given to personal callers in hard copy.
- 13.6 References in these Procedure Rules to an Officer shall include references to any duly authorised representative of that Officer.
- 13.7 References in these Procedure Rules to Motions, shall include (where the context so requires or admits) references to amendments to Motions.
- 13.8 References in these Procedure Rules to Committees shall be taken to include all Committees, Sub-Committees, panels and boards constituted by Council which exercise



delegated powers but shall exclude any Committee, Sub-Committee, panel or board that operates solely in an advisory capacity.

13.9 Reference in these Procedure Rules to a day or days shall be taken to mean between the hours of 9.00 and 17.00 on any day that is not a Saturday, Sunday or public holiday.

13.10 References in these Procedure Rules to a period of days that is to elapse between the occurrence of two specified events shall be taken to mean clear days calculated by excluding the day upon which both of the specified events occur.

Notice Requirements

13.11 All Notices given by Members under these Procedure Rules will be treated as having been given to the recipient by any of the following means:-

- (a) post properly addressed to the recipient at their usual address
- (b) leaving it properly addressed for the recipient at their usual address
- (c) e-mail sent to an email address designated by the recipient for this purpose from an email account registered with the Council in the Member's name
- (d) submitting a form on the Council's website designated for this purpose

13.12 All Notices given to Members under these Procedure Rules shall be treated as having been given to the recipient by any of the following means:-

- (a) post properly addressed to the recipient at their usual address (being their usual place of residence or any other address which the Member has given notice to the Monitoring Officer of for these purposes)
- (b) leaving it properly addressed for the recipient at their usual address or, if requested (by notice given to the Monitoring Officer) either in addition or substitution for the methods set out in paragraphs 13.12(a) and (b) above, by:-
- (c) e-mail sent to an email account registered with the Council in the Member's name from an email account registered to the Council

13.13 All Notices given under these Procedure Rules must be given in writing, contain all of the information that is reasonably required in order to properly communicate the purpose and effect of the notice, and be signed (which shall include electronic signatures) by the person or persons required to give the notice in question.

13.14 If more than one signatory is required to give valid notice, any single notice given must bear all the signatures of all of necessary signatories and be given in accordance with



paragraph 13.11(a) or (b) above. In the alternative, each of the required signatories may give individual notices in accordance with paragraph 13.11(c) or (d) above.

13.15 Notices shall be deemed to have been given:-

- (a) in the case of 13.11(a) or 13.12(a) above, on the day upon which delivery would ordinarily occur in the normal course of the method of post chosen (provided proof of posting is available)
- (b) in the case of 13.11(b) or 13.12(b) above, on the day upon which the notice is left
- (c) in the case of 13.11(c) and (d) and 13.12(c) above, on the day upon which message is received save where acknowledged by any automated “out of office” message

Example Calculation of Time in Respect of Notice Periods

13.16 The following example is provided to demonstrate the effect of paragraphs 13.9 and 13.10 above. In the following example, it is assumed that none of the weekdays referred to are public holidays.

13.17 If a notice is required to be given 5 days before a meeting, then giving the notice and the meeting are the two specified events for the purposes of paragraph 13.10.

13.18 Assuming the meeting is to be held on a Monday, then the latest a notice may be given is on the first of the two preceding Fridays, between 09.00 and 17.00 hours.

13.19 If so given, the Friday upon which the notice is given ranks as the day upon which the first event occurs for the purposes of paragraph 13.10. The 5 week days in the ensuing week then rank as the required 5 “clear days” between giving the notice and day upon which the meeting is being held.

FRIDAY	Notice Given
SATURDAY	Not Counted
SUNDAY	Not Counted
MONDAY	Clear Day 1
TUESDAY	Clear Day 2
WEDNESDAY	Clear Day 3
THURSDAY	Clear Day 4
FRIDAY	Clear Day 5
SATURDAY	Not Counted
SUNDAY	Not Counted
MONDAY	Meeting

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Part B – The Council
Section B5:- Committee Procedure Rules

In Part B:-

Section B1 of the Constitution explains the process of electing Councillors (or “Members”) to the Council and then goes on to explain about meetings of the Council. It then sets out the roles, responsibilities and functions of the Council.

Section B2 sets out the details of each of the authority’s committees. There is an overview of what the committee does and a detailed terms of reference section which sets out the extent of the committee’s powers. Membership details of committees are available from the Council’s website.

Section B3 sets out the roles and attributes of all Councillors, and then explains about the additional requirements of Councillors who undertake certain roles. The additional requirements in respect of Cabinet roles are set out in Section C2.

Section B4 sets out the rules that govern Council meetings.

This Section (B5) sets out the rules that govern Committee meetings.





Part B – The Council
Section B5:- Committee Procedure Rules

In this Section:-

1. Constituting and Appointing to Committees

- The Role of Council
- Meeting Dates
- Reviewing Arrangements

2. Substitute Members

- Substitute Member Lists
- Using Substitute Members
- Powers and Duties of Substitute Members

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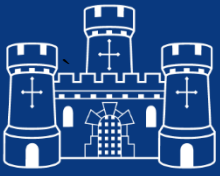
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12. Public Speaking at Planning Committees

- Entitlement to Speak
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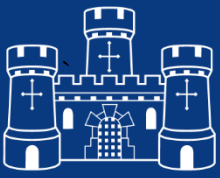
13. Public Speaking and Questions at Other Committees

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15. Miscellaneous Matters

- Officer Advice
- Suspending the Procedure Rules
- Interpretation of Procedure Rules
- Notice Requirements
- Example Time Calculation in Respect of Notice Periods

NEWCASTLE
UNDER LYME
BOROUGH COUNCIL



1. Constituting and Appointing to Committees

The Role of Council

- 1.1 At each Annual Council, the Council will constitute any committees that it considers appropriate to deal with matters which are not reserved to the Council, allocated to the Cabinet, or delegated to Officers.
- 1.2 The Council will set out the terms of reference for each committee and appoint Members to its committees in accordance with any rules that apply to political proportionality or composition of the committee in question.
- 1.3 The Council will also appoint a Chair and Vice Chair to each of its committees from the Members of the committee in question. If a Chair or Vice Chair has not been appointed by Council by the time the committee first meets, then the committee will appoint a Chair and Vice Chair from its membership.

Meeting Dates

- 1.4 Council will approve and publish a calendar of meetings each year.
- 1.5 There will be a presumption against alterations to the calendar but the relevant Chair may, in consultation with Group Leaders and the Monitoring Officer alter the time, date or location of any meeting or convene a special meeting if necessary.

Reviewing Arrangements

- 1.6 These arrangements (and so the Term of Office of committee Members) are usually reviewed at each Annual Council, but the Council may review or alter any of its committee arrangements at any Ordinary or Special Council Meeting.

2. Substitute Members

Substitute Member Lists

- 2.1 Each political group may, in respect of any committee to which Council has appointed Members from within their Group (“**Appointed Members**”), identify other Members (“**Substitute Members**”) from within their political group who may attend committee meetings in the place of the Appointed Members.



- 2.2 Each political group may keep a list (“**Substitute Members List**”) containing the name of each Substitute Member and, in respect of each Substitute Member, which committee(s) they may serve on. Such lists must be notified to the Monitoring Officer.

Using Substitute Members

- 2.3 A Substitute Member may only be drawn from the most recent Substitute Members List; such List having been notified to the Monitoring Officer not less than 5 days before the date of the meeting in question.
- 2.4 Where a political group intends to vary its representation on a committee the Substitute Member will, at the start of the meeting and through the Chair, inform the meeting which Appointed Member the Substitute Member will be substituting for.
- 2.5 Once a meeting is informed of the substitution, the Substitute Member will take the place of the Appointed Member and the Appointed Member’s entitlement to sit on the committee will cease.
- 2.6 The Substitute Member will take the place of the Appointed Member only for the duration of the meeting in question, or any adjournment of it, following which the Appointed Member will resume their position on the Committee.

Powers and Duties of Substitute Members

- 2.7 Substitute Members will have all the powers and duties (including compliance with any mandatory training requirements) of any Appointed Member but will not be able to exercise any special powers or duties exercisable by the Appointed Member.

3. Conduct of Meetings

Chair and Vice Chair

- 3.1 The Chair of a committee will preside over committee meetings.
- 3.2 If the Chair is absent then the Vice Chair will preside.
- 3.3 If the Chair and the Vice Chair are absent then the committee will appoint one of its Members to preside.
- 3.4 Persons presiding over meetings in the place of the Chair will have the same powers and duties as the Chair.



Respect for the Chair

- 3.5 Whenever the Chair rises during a debate, the meeting will be silent.

Quorum

- 3.6 Where the total membership of a committee is 12 Members or less, the quorum will be 3 members.
- 3.7 Where the total membership of a committee is more than 12 Members, the quorum will be one quarter of the total membership.
- 3.8 No business will be transacted at a meeting that is inquorate.
- 3.9 If a meeting becomes inquorate after it has commenced then it will be adjourned. Remaining business will be considered at the next meeting.

Matters for Decision

- 3.10 All matters for decision by the committee will be included within the agenda.
- 3.11 There will be an early item on every agenda requiring Members to declare any relevant interests in any item appearing on the agenda. Members are required to observe the requirements in the Member Code of Conduct (Section F1) and withdraw from the meeting at the appropriate point during the meeting where they have an interest which requires them to do so.
- 3.12 The Chair may agree that an item of business which is urgent will be dealt with at a meeting even if it is not on the agenda for that meeting. The Chair will give the reason for the urgency.
- 3.13 Business will be dealt with in the order in which it is set out in the agenda unless the Chair decides otherwise.



Disorderly Conduct and Disturbances

- 3.14 The Chair may direct (or a Member may move), in respect of any Member considered to be misconducting themselves, that the Member will not be heard further.
- 3.15 The Chair may direct (or a Member may move), either following a direction (or resolution) under paragraph 3.14 above, or directly in the case of gross misconduct, either:-
- (a) that the Member in question leaves the meeting; or,
 - (b) that the meeting is adjourned
- 3.16 The Chair, in the event of a general disturbance at any meeting which they consider to be disrupting the orderly transaction of business, may adjourn the meeting for as long as is considered necessary.
- 3.17 The Chair will be at liberty to warn any member of the public in respect of their conduct at a meeting. In the case of persistent or gross misconduct, the Chair will be at liberty to direct any person to be removed from the meeting.
- 3.18 In the event of a general disturbance in any part of the meeting room open to the public, the Chair will be at liberty to direct that part of the room to be cleared.

4. Motions

Motions Without Notice

- 4.1 Only Motions relating to business on the agenda of the committee may be proposed, however Members of the committee may propose Motions relating to the inclusion of business (that is within the remit of the committee) on future meeting agendas.
- 4.2 A committee Member may propose Motions without notice but they will not be discussed unless seconded.
- 4.3 The Chair may require Motions to be handed up in writing before they are further discussed or put to the meeting.



Motions During Debate

4.4 The following Motions may be moved whether or not another Motion is already under debate:-

- (a) to give the consent of the committee where the consent of the committee is required by these Procedure Rule
- (b) any Motion relating to any item currently under discussion
- (c) to refer the matter to an appropriate body, individual or subsequent committee meeting
- (d) to withdraw a Motion
- (e) to amend a Motion
- (f) to proceed to the next business
- (g) to put the question
- (h) to adjourn the debate
- (i) to adjourn the meeting
- (j) to extend the time allowed for speeches
- (k) to suspend a particular Procedure Rule(s)
- (l) to exclude the press and public
- (m) that a Member who misconducts themselves should not be heard further
- (n) that a Member should leave the meeting

Motions and Rescinding Decisions

4.5 Unless brought upon recommendation in a report before the committee, no Motion will be moved which would have the effect of rescinding any decision of the committee passed within the preceding six months, or which is to the same effect as a Motion which has been rejected within that period.

Amendments and Alterations to Motions

4.6 An amendment must be relevant to the Motion under discussion and will have the effect of deleting, substituting or adding words to the Motion.

4.7 Amendments may not be moved if they will have the effect of negating the Motion before the committee.



- 4.8 Only one amendment may be moved at a time. No further amendment will be moved until the amendment under discussion has been disposed of, although the Chair may allow two or more amendments to be discussed (but not voted on) together if this would facilitate the proper conduct of the business before the meeting.
- 4.9 If an amendment is lost, another amendment may be moved on the original Motion.
- 4.10 If an amendment is carried, the Motion as amended will take the place of the original Motion and will become the Motion upon which any further amendment may be moved.
- 4.11 After an amendment had been carried, the Chair will read out the amended Motion before accepting any further amendments, or if there are none, putting it to the vote.
- 4.12 A Member may alter a Motion which they have proposed but if seconded, the consent of the seconder and the committee is required.
- 4.13 Any alteration proposed must be of the type permitted to be moved as an amendment.

Withdrawal of Motions

- 4.14 A Member may withdraw a Motion which they have proposed.

Closure of Motions

- 4.15 At the conclusion of a Member's speech, another Member may move (without comment) any of the Motions set out in paragraph 4.4(f) to (i) inclusive.
- 4.16 Upon the seconding of a Motion under paragraph 4.4(f) above (to proceed to next business), the Chair will (unless of the opinion that the matter has not been sufficiently discussed) invite the right of reply to be exercised in respect of the Motion under discussion and then put it to the vote before proceeding to the next business.



4.17 Upon the seconding of a Motion under paragraph 4.4(g) above (to put the question), the Chair will (unless of the opinion that the matter has not been sufficiently discussed) put the Motion under paragraph 4.4(g) above to the vote and, if it is passed, invite the right of reply to be exercised in respect of the Motion under discussion before putting it to the vote.

4.18 Upon the seconding of a Motion under paragraphs 4.4(h) or (i) above (to adjourn the debate/meeting), the Chair will (unless of the opinion that the matter has not been sufficiently discussed) put the adjournment Motion to the vote without inviting the right of reply to be exercised in respect of the Motion under discussion.

5. Members' Speeches

Content and Length of Speeches

5.1 Members will confine speeches to the question under discussion, a personal explanation or a point of order. No speech will exceed 5 minutes, without the consent of the committee. The 5 minute time limit will exclude any time lost as a result of other Members rising on a point of order or personal explanation.

Only One Member to Speak at a Time

5.2 Whilst a Member is speaking the other Members will remain silent, unless intervening on a point of order or in personal explanation.

Order of Speeches

5.3 The proposer of a Motion will speak first, followed by the seconder. When seconding a Motion a Member may advise the Chair that they reserve their right to speak until later in the debate.

5.4 If two or more Members indicate their intention to speak, the Chair will determine the order of speeches

Right of Reply

5.5 The Mover of the Motion will have a right to reply at the close of the debate on the Motion, immediately before it is put to the vote.



- 5.6 If an amendment is moved, the Mover of the original Motion will have a right of reply at the close of the debate on the amendment.
- 5.7 The Mover of the amendment will have a right of reply to the debate on the amendment immediately before the Mover of the original Motion exercises their right of reply at the close of the debate on the amendment.

Points of Order and Personal Explanations

- 5.8 A Member may intervene on a point of order or in personal explanation and will be entitled to be heard immediately.
- 5.9 A point of order will relate only to an alleged breach of a Procedure Rule or statutory provision and the Member will specify the Procedure Rule or statutory provision and the way in which they consider it to have been breached.
- 5.10 A personal explanation will be confined to some material part of a former speech by the intervening Member which appears to them to have been misunderstood in the current debate.
- 5.11 The ruling of the Chair on a point of order or on the admissibility of a personal explanation will be final and not open to discussion.

6. Voting

Method of Voting

- 6.1 All matters will be decided by a simple majority of those Members present and voting at the time the question is put.
- 6.2 Members must be in their designated seats or present via a remote meeting for their vote to be counted.
- 6.3 Where all Members are in attendance in person at the meeting, voting will be by a show of hands, or if there is no dissent and no call for a vote, by the Chair being satisfied of the unanimous approval of the meeting.

Casting Vote

- 6.4 Where there are equal votes cast for a Motion the Chair may exercise a second or casting vote.



Recording Votes

- 6.5 A Member may require, after a vote is completed, that the Minutes of the meeting record whether and how they voted.
- 6.6 If one third of the Members present so request the vote will be recorded to show whether and how each Member voted.
- 6.7 A Member may, immediately after the item of business is voted upon, request that a lost Motion be recorded in the Minutes.

7. Rights of Other Council Members

Attendance at Meetings

- 7.1 Notwithstanding their rights as a member of the public, Members who are not Appointed Members (“**Visiting Members**”) may attend any meeting of a committee (even if considering Exempt Information) if required for the purposes of performing their duties as Members. Advice should be taken where meetings will be considering personal information of a sensitive or confidential nature.
- 7.2 Visiting Members:-
- (a) may not vote on committee business
 - (b) attending a meeting will notify the Chair at least 15 minutes prior to the start of the meeting if they wish to speak on a particular item. If advance notice is not given visiting members will not be allowed to speak (unless agreed by the Chair).
 - (c) will, at the discretion of the Chair, be invited to speak at the beginning of the debate on any item notified under paragraph 7(b) above, and be invited to sum up at the end of a debate.
 - (d) will not, other than as provided for in paragraph 7(c) above or by the Chair, be permitted to participate in any debate at the meeting.

Placing Items on Agendas

- 7.3 Any Member may give not less than 14 days’ notice to the Monitoring Officer requesting that an item of business be included on the agenda of an ordinary meeting of a relevant committee.



- 7.4 Notice may be given to the Monitoring Officer by a Visiting Member at a committee meeting in respect of an item of business that the Visiting Member would like to be included on the agenda of the next ordinary meeting of that committee.
- 7.5 Any notice given under paragraphs 7.3 or 7.4 above will clearly state the nature of the business in question.
- 7.6 A Member may not (unless a Scrutiny Member acting under Section 21(8) of the Local Government Act 2000) give notice(s) under this part requesting the inclusion of more than one item of business on the same meeting agenda

8. Minutes Records and Disclosure of Information

Minutes

- 8.1 At each ordinary meeting, the Chair will move that the Minutes of the last meeting be confirmed as an accurate record.
- 8.2 Only matters relating to the accuracy of the Minutes can be raised by way of a Motion proposed, seconded and voted upon. Where no issues are raised, or after any Motion has been dealt with, the Chair will sign the Minutes
- 8.3 Signed minutes of each committee meeting will be submitted to the next meeting of that committee's parent body.
- 8.4 Any question about the accuracy of any Minute of a body must be considered and determined by that body at its next meeting

Records of Attendance

- 8.5 Council Members attending the whole or part of a meeting in person must sign their name on the attendance sheet provided.

Exempt Matters

- 8.6 No Member will disclose to any person the whole or any part of the contents of any agenda, report or other document which is marked "confidential" or "not for publication" unless and until the document has been made available to the public or the press by or on behalf of the Council, the Cabinet or a Committee.



- 8.7 No Member will disclose the content of any discussions in the confidential part of a meeting.
- 8.8 No Member will disclose to any person (other than a Member of the Council with a need to know) any matter arising during the proceedings of the Council, the Cabinet or any Committee and which comes to their attention by virtue of their office as a Member where such disclosure would prejudice the interest of the Council or would be contrary to law. If in any doubt, advice should be sought from the Monitoring Officer.
- 8.9 Other than in accordance with paragraphs 3.17 and 3.18 above (disturbances), the press or public will only be excluded from a meeting during the consideration of any item of business which would be likely to disclose Exempt Information as defined in these rules
- 9. Urgent Business**
- 9.1 Any item of urgent business which has to be decided before the next ordinary meeting of a committee, or before a special meeting can be convened under paragraph 1.6 above, may be determined by the Chief Executive.
- 9.2 The Chief Executive may take any necessary action after consulting the relevant Chair.
- 9.3 A report of any action taken will be made available by electronic means to all committee Members.
- 10. Public Access to Meetings**
- 10.1 Committee meetings will ordinarily be held in public unless the information to be discussed:-
- (a) cannot be discussed in public without risk of breaching a duty of confidence that the authority is under (usually because the information to be discussed was supplied in confidence or is subject to a court order prohibiting its disclosure); and/or,
 - (b) is exempt from disclosure under Schedule 12A of the Local Government Act 1972, the Freedom of Information Act 2000, the Data Protection Act 1998, the Human Rights Act 1998 or any other legislation relating to the prevention of disclosure of information.
- 10.2 If all (or by decision, part) of any committee meeting is held with the exclusion of the press and public, reasons for the need for such exclusion will be given by reference



to any or all of the relevant circumstances set out in paragraph 10.1(a) and/or (b) above.

11. Notices and Information Relating to Meetings

Information Generated for Meetings

11.1 Committee meetings will require the production and publication of the following written information (“**Meeting Information**”):-

- (a) meeting agendas (“**Agendas**”), setting out the business to be decided at a meeting
- (b) reports (“**Reports**”), (including any appendices or supplementary information) containing all of the information that the meeting needs to debate or decide a matter on the agenda
- (c) background documents (“**Background Documents**”), which are documents (that have not already been published) containing information that a report or a material part of a report is based on. These are listed in reports but are not usually presented to the meeting.
- (d) approved minutes, records of decisions or (where Exempt Information is discussed) a summary of proceedings and any decisions reached (“**Minutes**”)

Information about Future Meetings

11.2 The Monitoring Officer will normally give not less than 5 days’ notice of all meetings stating the nature of the meeting and the time and place where it will be held. If a meeting must be convened on shorter notice, such notice will be given at the time the meeting is convened.

11.3 The Monitoring Officer will give notice under paragraph 11.2 above:-

- (a) to all members of the body to which the notice relates; and, in respect of all meetings which are ordinarily held in public, by:-
- (b) displaying a copy of the notice at the Council’s principle office; and
- (c) making details of the meeting available on the Council’s website

11.4 The Monitoring Officer will normally provide, not less than 5 days prior to a meeting, Agendas and Reports by:-



- (a) providing the same to all members of the body in question; and, in respect of all meetings which are ordinarily held in public, by:-
- (b) publishing the same on the Council's website; and,
- (c) ensuring that copies are available at the meeting in question

11.5 Where a report to be considered at a meeting is not available for publication with an agenda, the agenda item will be marked "Report to Follow" and the report (or any other updates or supplementary information) will be provided when available in accordance with paragraph 11.4 above.

Information about Past Meetings

11.6 The authority will retain:-

- (a) Background Documents for a period of 4 years after the date of the meeting; and;
- (b) all other Meeting Information for a period of 6 years from the date of the meeting.

11.7 This information will usually be available on the authority's website but will also be provided in print on request. There may be a fee payable to cover the cost of providing printed information.

Exempt Information

11.8 Meeting Information relating to the meetings or parts of meetings described in paragraphs 10.1(a) and (b) above is referred to as "**Exempt Information**" in this constitution.

11.9 Exempt Information provided to Members will be marked "Not for Publication" and/or "Confidential" and/or "Restricted" and will have written on it, by reference to any or all of the relevant circumstances referred to in paragraph 10.1(a) and/or (b) above, the reason why it is Exempt Information.

11.10 Exempt Information will not be provided to the public.

BOROUGH COUNCIL



12. Public Speaking at Planning Committees

Entitlement to Speak

- 12.1 Members of the public, elected representatives of town and parish councils and applicants for planning permission (or their agents) may speak at the council's Planning Committee in support of or in opposition to any application being determined (whether or not following deferral) by the committee.
- 12.2 Members of the public may only speak if they have submitted representations on the application in question in writing to the Service Director Planning not less than 14 days before the date of the committee meeting.

Registering to Speak

- 12.3 Those entitled to speak under paragraph 12.1 above will not be permitted to speak unless they have given notice of their desire to do so to the Service Director Planning:
- (a) in the case of attendance in person before 12.00 noon on the day before the committee meeting, or
 - (b) in the case of attending remotely 2 days before the start of the meeting.

Procedure at Committee

- 12.4 The Chair retains full discretion to manage public speaking as they see fit, but ordinarily the following rules will apply.
- 12.5 The Chair will invite one person only from each of the following categories of speaker to address the committee in the following order:-
- (a) Objector
 - (b) Supporter
 - (c) Town or Parish Council Representative
 - (d) Applicant

Content and Length of Speeches

- 12.6 Each speaker will be permitted to speak for a maximum of 5 minutes.
- 12.7 Speakers must confine their speeches solely to the material planning considerations and merits of the application in question. More information on what ranks as a material planning



consideration and what does not is available on the council's website or from the Service Director Planning.

12.8 Speakers are not permitted to ask questions.

12.9 Those speaking must comply with the standard of conduct required under Section A3 of the constitution.

Circulating Additional Materials

12.10 Other than materials which have been registered on the planning application file during the statutory consultation period (or any extension of the same), speakers will not be permitted to circulate, display or refer to any plans, photographs or other materials at the committee meeting.

13. Public Speaking and Questions at Other Committees

13.1 This section does not apply the Planning Committee.

13.2 Members of the public may speak or ask a question at Committee meetings on any subject which is relevant to matters on the agenda.

13.3 Persons wishing to speak or ask a question are required to give notice to the Monitoring Officer at least 2 days before the meeting in question. This is to ensure that:-

- (a) the topic is appropriate for the meeting in question;
- (b) the time allotted for public speaking and questions can be properly managed; and,
- (c) any information needed to answer a question can be provided to the meeting.

13.4 The Chair will retain sole discretion as to the management of public speaking and questions normally a total period of 15 minutes will be permitted with speakers being allowed to speak for up to 5 minutes each.

13.5 Questions will be asked and answered without debate.

13.6 In responding to questions, Members may:- decline to answer

- (a) agree to answer at or by a later (specified) date (whether or not in writing)
- (b) refer the question to a more appropriate forum, Member or Officer

13.7 Questions will not be answered if they:-



- (a) are about a matter that the committee is not responsible for or does not affect the borough
- (b) are defamatory, frivolous, offensive, or vexatious
- (c) require the disclosure of Exempt Information
- (d) make or relate to allegations against, or comprise comments about the conduct of individual Members or Officers

13.8 Those speaking or asking questions must comply with the standard of conduct required of them under Section A3 of the constitution.

14. Planning Committee Members' Call-In Procedure

Notice of Planning Applications

14.1 All Members will receive email notification of Planning Applications¹ affecting land in their ward ("Application Notification"). Members have a period of 21 days in which to request that an application be called in to Planning Committee.

Requesting a Committee Call-in

14.2 If, upon receipt of an Application Notification, a Member has any queries or concerns about the application, or requires more time to consider their position in respect of the same he or she shall, at the earliest opportunity but in any event within 21 days of the date of Application Notification, send a written request ("a Call-in Request Notice") to the Planning Case Officer stating that the Member ("the Requesting Member"):-

- (a) Has concerns about the application in question and setting out what those concerns are; and
- (b) Requesting that the application be referred to Planning Committee and that the use of delegated powers is removed.

14.3 Upon receipt of a Call-In Request Notice, the Service Director Planning, will consider the merits of the Request, and if minded to decline the Request, shall refer the matter to the Planning Committee Chairman along with a précis of the Request.

¹ "Planning Applications" in the Planning Committee Members' Call-in Procedure embraces all applications for planning permission required in connection with controls that are in force from time to time over the use and development of land and buildings/structures.



- 14.4 Upon receipt of the referral from the Service Director Planning under paragraph 14.3 above, the Planning Committee Chair shall consider the Call in Request and shall, having due regard to the advice of the Service Director Planning and any advice from the Service Director Legal and Governance, determine the Call-in Request in light of:-
- (a) the matters referred to in paragraph 14.2 above; and,
 - (b) the extent to which the planning application and/or Call-in Request raise matters of wider public interest such that the matter should properly be debated and decided at Planning Committee.
- 14.5 In the event that the Call-in Request is granted, the matter shall be referred for determination to the Planning Committee. The Committee report will record that the matter has been called-in, who by and the reasons for the same. The Requesting Member shall also attend the Planning Committee meeting to explain why he or she has called the application in. If the Requesting Member is unable to attend the Committee meeting, he or she shall arrange for another Member to address the Committee in his or her absence, or provide a written statement to be read to the Committee as an alternative.
- 14.6 In the event that the Call-in Request is declined, the Chair's decision will be notified to the Requesting Member and Case Officer.
- 14.7 The Chair's determination on Call-in Requests shall be final.
- 14.8 In the event that a Requesting Member whose Call-in Request has been granted decides that he or she no longer requires the matter to be determined by the Planning Committee, he or she may give notice to the Chair and Service Director Planning of the same before the date of the meeting at which the application is due to be determined. Whether the matter is then removed from the meeting agenda is a matter for the Chair.
- 14.9 In the event that:
- (a) no Call-In Request Notice is received within 21 days of the date of the Application Notification; or
 - (b) A Call-in Request is declined; or
 - (c) a Requesting Member whose Call-in Request has been granted decides that he or she no longer requires the matter to be determined by the Planning Committee (the Chair having decided not to keep it on the agenda)



the Case Officer shall proceed to determine the application under delegated powers.

15. Miscellaneous Matters

Officer Advice

- 15.1 The Chair may request an appropriate Officer to offer advice or draw the attention of the committee to any relevant factors where a debate involves questions of a technical, legal, financial or operational/administrative nature.

Suspending the Procedure Rules

- 15.2 With the exception of paragraphs 6.5 and 8.1 above, any or all of these Procedure Rules may be suspended for the duration of a meeting either:-
- (a) In the case of there being more than one third of all Members of the Committee present, by a Motion without notice; or,
 - (b) In all other cases by a Motion on notice.

Interpreting the Procedure Rules

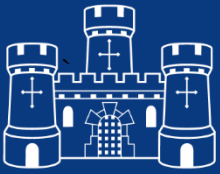
- (c) The Chair (who will be entitled to take advice from the Monitoring Officer) will determine all matters relating to the interpretation or application of these Procedure Rules which arise during a meeting. The Chair's decision will be final.
- (d) The Monitoring Officer will determine all matters relating to the interpretation or application of these Procedure Rules which arise between meetings. The Monitoring Officer's decision will be final.
- (e) Any requirement to make a notice or information available to anyone will be fulfilled by publishing that information on the Council's website such that it is readily available to be viewed or printed off from the website and, if necessary, printed off at council offices to be given to personal callers in hard copy.
- (f) References in these Procedure Rules to an Officer will include references to any duly authorised representative of that Officer.
- (g) References in these Procedure Rules to Members will (unless the context requires otherwise) be taken to mean references to Members of the committee in question.



- (h) References in these Procedure Rules to Motions, will include (where the context so requires or admits) references to amendments to Motions.
- (i) References in these Procedure Rules to Committees will be taken to include all committees, sub-committees, panels and boards constituted by Council which exercise delegated powers but will exclude any other type of committee, sub-committee, panel or board.
- (j) Reference in these Procedure Rules to a day or days will be taken to mean between the hours of 9.00 and 17.00 on any day that is not a Saturday, Sunday or public holiday.
- (k) References in these Procedure Rules to a period of days that is to elapse between the occurrence of two specified events will be taken to mean clear days calculated by excluding the day upon which both of the specified events occur.

Notice Requirements

- (l) All Notices given by Members under these Procedure Rules will be treated as having been given to the recipient by any of the following means:-
 - (a) post properly addressed to the recipient at their usual address
 - (b) leaving it properly addressed for the recipient at their usual address
 - (c) e-mail sent to an email address designated by the recipient for this purpose from an email account registered with the Council in the Member's name
 - (d) submitting a form on the Council's website designated for this purpose
- (m) All Notices given to Members under these Procedure Rules shall be treated as having been given to the recipient by any of the following means:-
 - (a) post properly addressed to the recipient at their usual address (being their usual place of residence or any other address which the Member has given notice to the Monitoring Officer of for these purposes)
 - (b) leaving it properly addressed for the recipient at their usual address or, if requested (by notice given to the Monitoring Officer) either in addition or substitution for the methods set out in paragraphs 15.12(a) and (b) above, by:-
 - (c) e-mail sent to an email account registered with the Council in the Member's name from an email account registered to the Council
- (n) All Notices given under these Procedure Rules must be given in writing, contain all of the information that is reasonably required in order to properly communicate



the purpose and effect of the notice, and be signed (which shall include electronic signatures) by the person or persons required to give the notice in question.

- (o) If more than one signatory is required to give valid notice, any single notice given must bear all the signatures of all of necessary signatories and be given in accordance with paragraph 15.11(a) or (b) above. In the alternative, each of the required signatories may give individual notices in accordance with paragraph 15.11(c) or (d) above.
- (p) Notices shall be deemed to have been given:-
 - (a) in the case of 15.11(a) or 15.12(a) above, on the day upon which delivery would ordinarily occur in the normal course of the method of post chosen (provided proof of posting is available)
 - (b) in the case of 15.11(b) or 15.12(b) above, on the day upon which the notice is left
 - (c) in the case of 15.11(c) and (d) and 15.12(c) above, on the day upon which message is received save where acknowledged by any automated "out of office" message

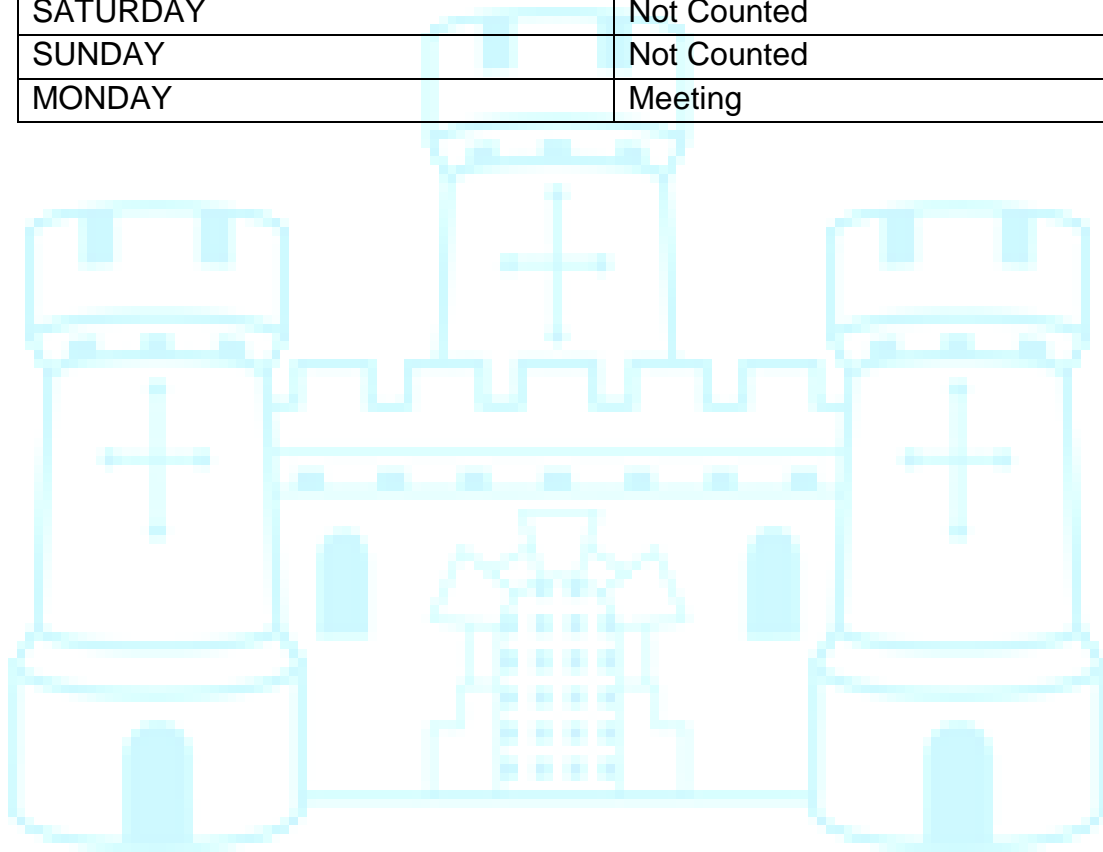
Example Calculation of Time in Respect of Notice Periods

- (q) The following example is provided to demonstrate the effect of paragraphs 15.9 and 15.10 above. In the following example, it is assumed that none of the weekdays referred to are public holidays.
- (r) If a notice is required to be given 5 days before a meeting, then giving the notice and the meeting are the two specified events for the purposes of paragraph 15.10.
- (s) Assuming the meeting is to be held on a Monday, then the latest a notice may be given is on the first of the two preceding Fridays, between 09.00 and 17.00 hours.
- (t) If so given, the Friday upon which the notice is given ranks as the day upon which the first event occurs for the purposes of paragraph 15.10. The 5 week days in the ensuing week then rank as the required 5 "clear days" between giving the notice and day upon which the meeting is being held.

FRIDAY	Notice Given
SATURDAY	Not Counted
SUNDAY	Not Counted
MONDAY	Clear Day 1
TUESDAY	Clear Day 2



WEDNESDAY	Clear Day 3
THURSDAY	Clear Day 4
FRIDAY	Clear Day 5
SATURDAY	Not Counted
SUNDAY	Not Counted
MONDAY	Meeting



NEWCASTLE
UNDER LYME
BOROUGH COUNCIL

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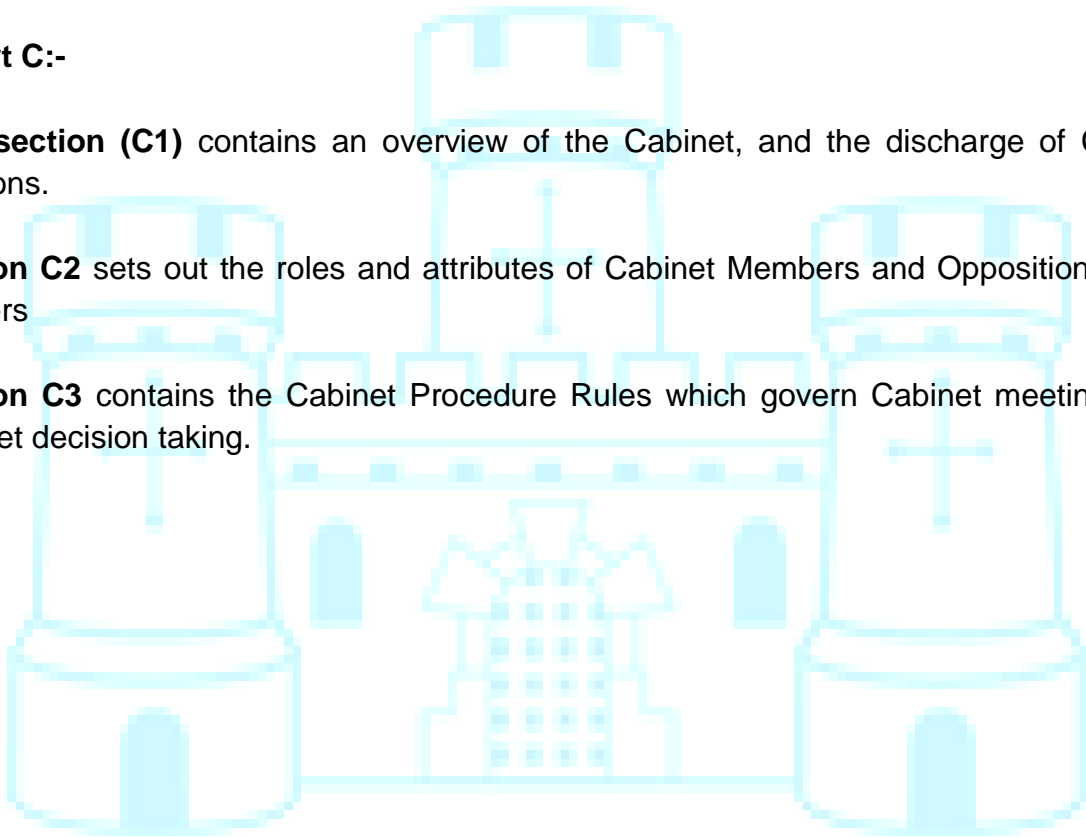
Part C – The Cabinet
Section C1:- The Cabinet

In Part C:-

This section (C1) contains an overview of the Cabinet, and the discharge of Cabinet functions.

Section C2 sets out the roles and attributes of Cabinet Members and Opposition Group Leaders

Section C3 contains the Cabinet Procedure Rules which govern Cabinet meetings and Cabinet decision taking.



NEWCASTLE
UNDER LYME
BOROUGH COUNCIL



Part C – The Cabinet Section
C1:- The Cabinet

In this Section:-

- 1. Introduction**
- 2. Appointing the Cabinet**
- 3. Cabinet Responsibilities**
- 4. Appointments to Outside Bodies**
- 5. Discharging Cabinet Functions**
 - Discharge by Officers
 - Discharge by the Cabinet Collectively
 - Compliance with the Cabinet Procedure Rules

NEWCASTLE
UNDER LYME
BOROUGH COUNCIL



1. Introduction

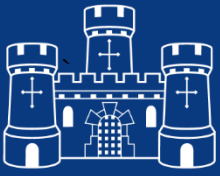
- 1.1 Collectively, elected Members make the policies and take decisions that shape the future of the Borough and determine its priorities. Members have a special duty to represent the constituents of their Ward, including those who did not vote for them, but their overriding duty is to act in the interests of the Borough as a whole.
- 1.2 The Cabinet is a group of Members who are responsible for making proposals to Council about what its priorities should be and how it should use its resources. Once agreed by Council, these proposals become the Council's Budget and Policy Framework ("the Framework").
- 1.3 The Cabinet is then responsible for making all of the necessary arrangements to ensure that the priorities identified by the Council are delivered within the budgets and policies that the Council sets.

2 Appointing the Cabinet

- 2.1 Council will appoint a Leader (the "Leader"). The Leader appoints between 2 and 9 more Members who, together with the Leader, form the Council's Cabinet.
- 2.2 The Leader will assign a range (or "Portfolio") of Services areas to each Cabinet Member. Each Cabinet Member (or "Portfolio Holder") will be responsible for overseeing the Cabinet's responsibilities in respect of the Services within their Portfolio.
- 2.3 The Leader can alter the composition of the Cabinet and Portfolios as required from time to time. The current composition of the Cabinet and Portfolios can be found on the Council's website.

3 Cabinet Responsibilities

- 3.1 Sections A1 and B1 of this constitution set out which functions are not Cabinet functions, either by operation of law, or because they are "local choice" functions which Council has decided not to allocate to the Cabinet. Council has decided that all other functions of the authority will be carried out by the Cabinet.
- 3.2 This means that the Cabinet will be responsible for deciding how to implement Council budgets and policies, for monitoring and reviewing the effectiveness of all budgets and



policies, any joint working, area working and localism arrangements, corporate and community governance arrangements, and all services provided by, for and to the Council.

3.3 The Cabinet is empowered to do anything it considers necessary or appropriate to deliver the Council's priorities so long as it does not take any action or adopt any policy which is contrary to the Budget and Policy Framework. It will make recommendations to the relevant body in respect of any matters that are not within its remit, which includes any suggested alterations to the Budget and Policy Framework.

3.4 If the Cabinet or individual Cabinet Members are minded to make a decision notwithstanding advice from Officers that the proposed decision is not within the adopted Budget and Policy Framework, the matter must be referred to Council to decide.

4 Appointments to Outside Bodies

4.1 Council has decided which outside bodies that it will make appointments to. These are set out in Section B1. Council has decided that the Cabinet will appoint to all other outside bodies.

5 Discharging Cabinet Functions

Discharge by Officers

5.1 The core objective of this Council's approach to decision making is to ensure that decisions are taken at the most appropriate level closest to those who will be affected by the decision in question.

5.2 In accordance with this core objective, Council has decided that unless a power or function is specifically reserved to Members under this constitution or by operation of law, it stands delegated to Officers in accordance with the Scheme of Delegation set out in Section E2.

5.3 Council has also agreed a set of Contract and Finance Procedure Rules which impose limits on the amount of financial expenditure that Officers can authorise. These are set out in Section E4.

Discharge by Cabinet Collectively

5.4 Council has decided that all decisions which fall to be taken by the Cabinet will be taken collectively by all Cabinet Members present at a quorate meeting of the Cabinet. With the

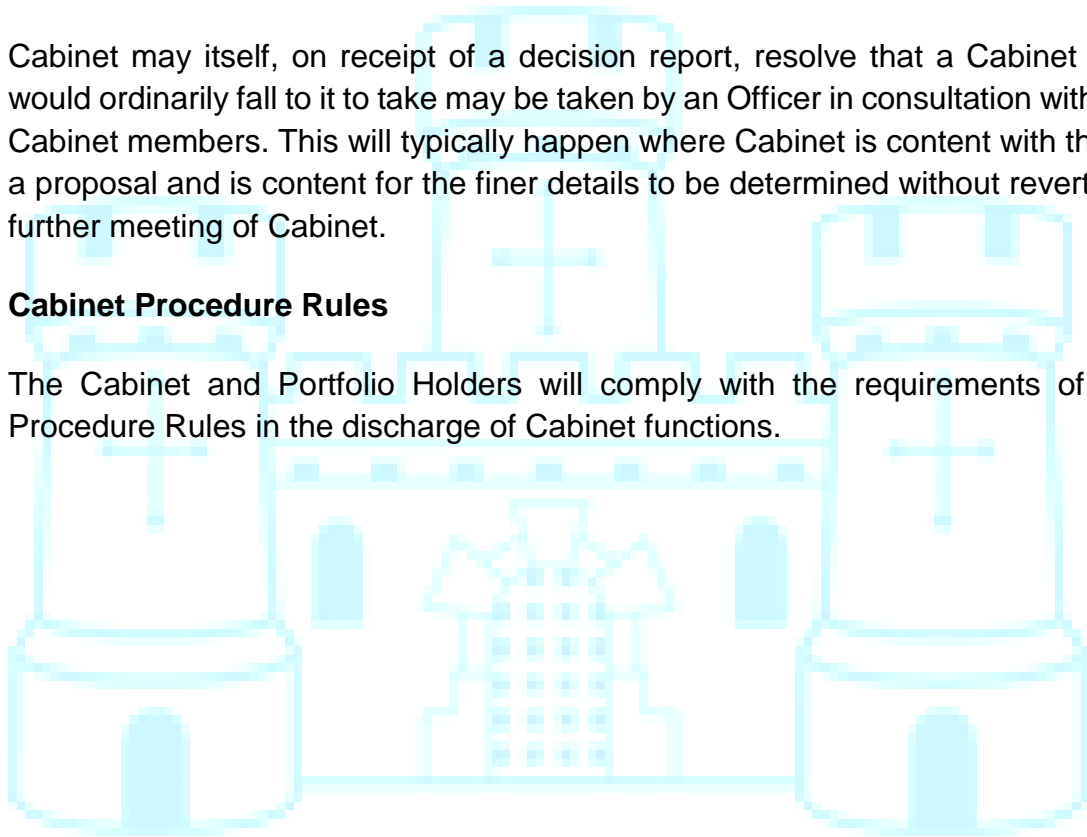


exception of urgent Cabinet decisions, Council has not delegated any decision making powers to individual Cabinet Members. More information on urgent Cabinet Decisions is set out in Section C3.

5.5 Cabinet may itself, on receipt of a decision report, resolve that a Cabinet decision that would ordinarily fall to it to take may be taken by an Officer in consultation with one or more Cabinet members. This will typically happen where Cabinet is content with the principal of a proposal and is content for the finer details to be determined without reverting back to a further meeting of Cabinet.

6 Cabinet Procedure Rules

6.1 The Cabinet and Portfolio Holders will comply with the requirements of the Cabinet Procedure Rules in the discharge of Cabinet functions.



NEWCASTLE
UNDER LYME
BOROUGH COUNCIL

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Part C – The Cabinet

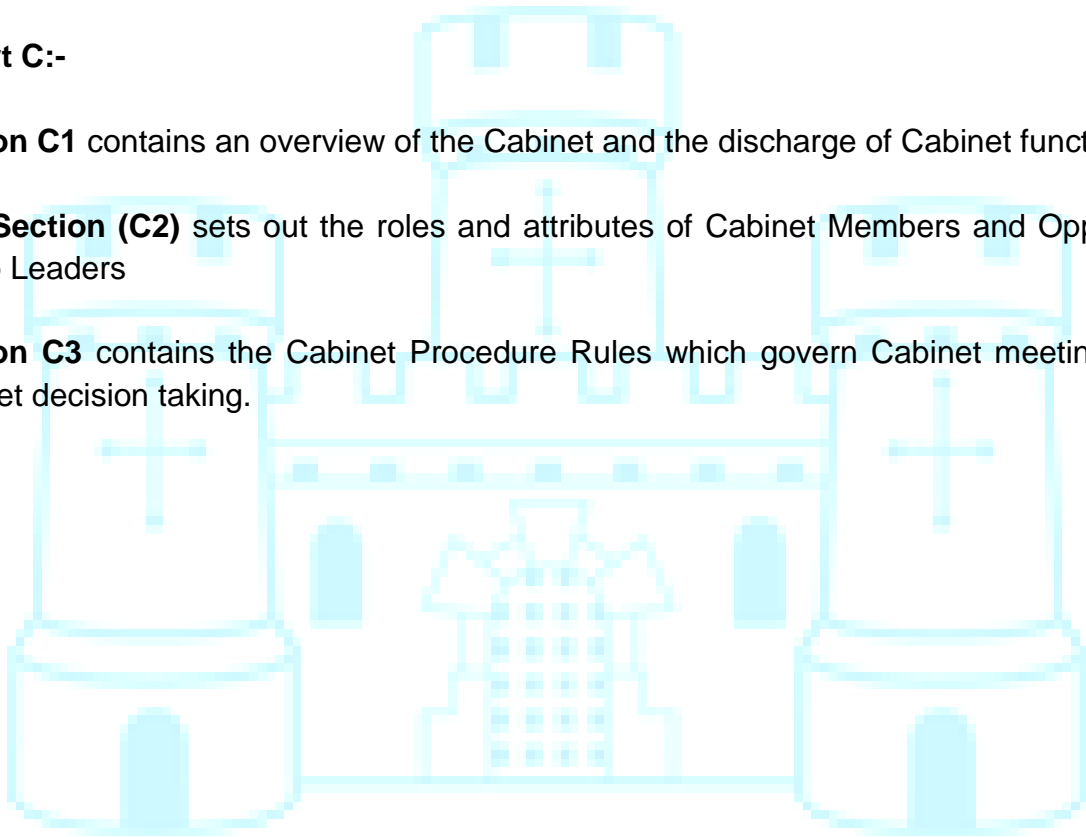
Section C2:- The Roles, Responsibilities and Attributes of Cabinet Members

In Part C:-

Section C1 contains an overview of the Cabinet and the discharge of Cabinet functions.

This Section (C2) sets out the roles and attributes of Cabinet Members and Opposition Group Leaders

Section C3 contains the Cabinet Procedure Rules which govern Cabinet meetings and Cabinet decision taking.



NEWCASTLE
UNDER LYME
BOROUGH COUNCIL



Part C – The Cabinet

Section C2:- The Roles, Responsibilities and Attributes of Cabinet Members

In this Section:-

1. **Cabinet Members**

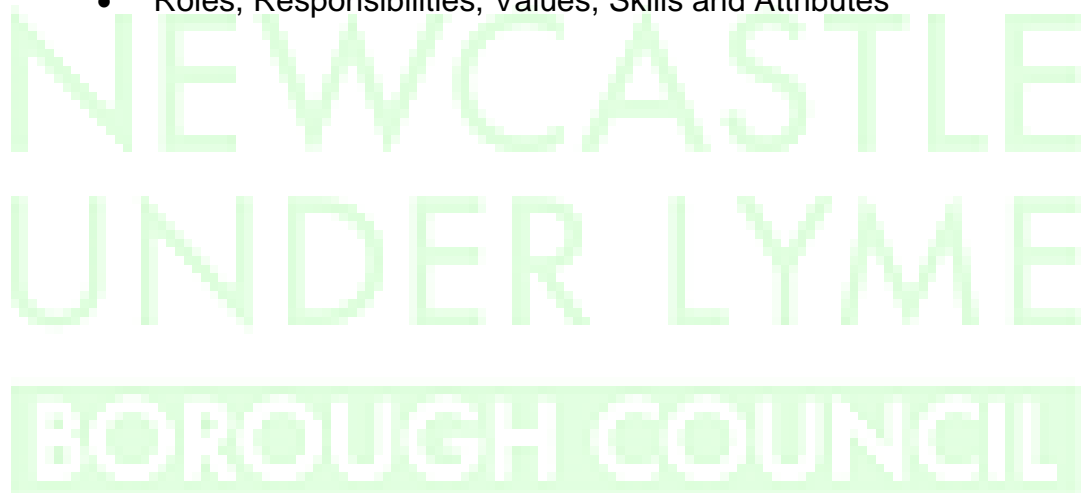
- Introduction
- Member of the Cabinet
- Portfolio Holder
- Accountability
- Skills and Attributes

2. **Leader and Deputy Leader of the Council**

- Introduction
- Leading the Council
- Representing the Council
- Skills and Attributes

3. **Leader and Deputy Leader of Opposition Political Groups**

- Introduction
- Shadowing the Cabinet
- Building Consensus and Informed Alternative Views
- Roles, Responsibilities, Values, Skills and Attributes





1. Cabinet Members

Introduction

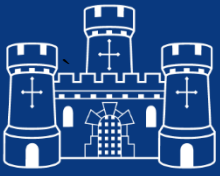
- 1.1 The roles, responsibilities, values, skills, and attributes expected of all Members set out in Section B3 of the Constitution also apply to the Cabinet Members. Cabinet Members should demonstrate a higher level of aptitude commensurate with their role as a Cabinet Member.
- 1.2 The additional role of the Cabinet Member is principally to be a figurehead or champion for all matters falling within their Portfolio. They are responsible for providing political leadership, oversight and accountability for all matters within their Portfolio.
- 1.3 Cabinet Members also have collective responsibilities and must take an interest in each other's Portfolios so that they can support each other, recognise and contribute to issues which cut across different Portfolios, and take an active part in meetings of the Cabinet and collective decision taking.
- 1.4 Cabinet Members are accountable to the Cabinet, the Leader, Council, and ultimately to the communities that they are elected to represent.

Member of the Cabinet

- 1.5 Operating in this capacity, it is the role of all Cabinet Members to work with Officers and to formulate strategic and statutory policy documents which ensure that the priorities and objectives set by Council are carried to and delivered through the Cabinet

Portfolio Holder

- 1.6 Operating in this capacity, it is the role of all Cabinet Members to:-
 - (a) provide assistance and direction in working up and carrying through a strategic work plan for the Portfolio embracing the requirements of Council and statute undertaking appropriate consultation with stakeholders as required, and ensuring the Portfolio's forward work plan is accurate and up to date.
 - (b) be a strong, competent, knowledgeable and persuasive spokesperson to represent the Portfolio and give political direction to Officers on Portfolio matters



- (c) act as a figurehead in meetings with stakeholders providing leadership and brokering differences of opinion and competing priorities particularly when working with partners to achieve common aims.
- (d) operate as an inclusive and adaptive leader on Portfolio matters within the community showing vision and foresight and encouraging community empowerment, engagement and participation.

Accountability

1.7 One of the key responsibilities of all Cabinet Members is to be ultimately accountable for the discharge of their Portfolio responsibilities. This requires all Cabinet Members to:-

- (a) have a sound overview of the performance management, efficiency and effectiveness of the Portfolio and participate fully in the setting of strategic agendas and work programs.
- (b) report as appropriate to the Leader, Council, Cabinet, and relevant regulatory bodies.
- (c) liaise with the appropriate Scrutiny Chairmen in discharging Portfolio responsibilities, appear before Scrutiny Committees as and when required and receive Scrutiny reports.

Skills and Attributes

1.8 In addition to the skills and attributes of all Members set out in Section B3 of the constitution, the following skills and attributes are particularly important for an effective Cabinet Member:-

- (a) Sound current knowledge of issues and objectives at national and local levels and of the Council's objectives, strategies, policies and operations in order to be able to constructively challenge decisions, suggest alternatives and contribute to discussion and resolution of cross cutting and collective issues.
- (b) Well developed and demonstrable adaptive and inclusive leadership, advocacy, communication, negotiation and interpersonal skills.
- (c) The ability to gain the respect of Officers within the Portfolio and provide support to Officers in the implementation of Portfolio programmes.
- (d) The ability to exercise foresight, strategic awareness and judgement, to think laterally and creatively, excellent knowledge of decision making processes, protocols, policies, codes of conduct and who to involve in decision making.



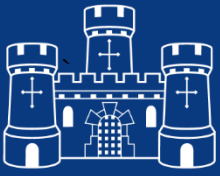
2. Leader and Deputy Leader of the Council

Introduction

- 2.1 References in this section to the Leader of the Council include the Deputy Leader unless the context suggests otherwise.
- 2.2 The roles, responsibilities, values, skills, and attributes expected of all Members set out in Section B3 and of Cabinet Members as set out above also apply the Leader of the Council. The Leader should demonstrate a higher level of aptitude commensurate with their role as Leader.
- 2.3 The Leader of the Council is elected to that office by all of the other Members of Council. The Leader appoints the Deputy and other Cabinet Members and is Chair of the Cabinet and the political figurehead for the Council.
- 2.4 The Leader provides political leadership to the Council by forming a political consensus around Council policies and forming a vision for the Council and the community.
- 2.5 The Leader is responsible for providing strong, clear leadership in the co-ordination of policies, strategies and service delivery and acts as the principal political spokesperson for the Council.
- 2.6 The Deputy Leader of the Council is responsible for assisting and supporting the Leader and discharging the duties of the Leader in his or her absence.
- 2.7 The Leader is accountable to Council, and ultimately to the communities that they are elected to represent.

Leading the Council

- 2.8 Operating in this capacity, it is the Leader's role to:-
- compile Portfolio responsibilities and allocate them to the other Cabinet Members having regard to their abilities.
 - fulfil the role of a Portfolio holder and advise and mentor other Cabinet Members.
 - lead and manage the work and continual development of the Cabinet to ensure that it meets national and local policy objectives through the forward plan, effective leadership, effective management, chairmanship of meetings /briefings and appropriate liaison and co-ordination with Senior Officers.



- (d) work closely with other Cabinet Members to ensure the development of an effective Budget and Policy Framework and the delivery of high quality services.
- (e) accept collective responsibility and support decisions made by the Cabinet once they have been made.
- (f) liaise with the Chief Executive and other appropriate Officers on a regular basis to lead the organisation, develop the strategic vision and direction of the Council, the management roles of Officers and the development of policy.
- (g) promote inclusive leadership, fulfil the role of mediator and to seek to resolve difficulties and build consensus when differences arise between Members or Members and Officers.

Representing the Council

2.9 Operating in this capacity, it is the Leader's role to:-

- (a) provide strong, competent and eloquent representation and leadership for the Council at national, regional and local levels.
- (b) act as the public sector champion and provide leadership and support local partnerships and organisations in the pursuit of common aims and priorities.

Skills and Attributes

2.10 In addition to the skills and attributes of all Members and Cabinet Members, the following skills and attributes are particularly important to be an effective Leader:-

- (a) knowledge of community strengths, areas of improvement, and key issues facing the Council.
- (b) a good working knowledge of all Portfolios.
- (c) a good understanding of the relationship between national and local politics and policy objectives.
- (d) a good understanding and awareness of and ability to promote the Council's strategies, policies and operations.
- (e) the ability to recognise talent amongst Members and to appraise, guide and mentor senior Members.
- (f) the ability to negotiate the most advantageous appointments within and across political groups.
- (g) enhanced adaptive and inclusive leadership style, advocacy, communication, negotiation and interpersonal skills to enable the ambassadorial role to be undertaken



and to communicate effectively with the media, local community and a wider variety of audiences.

- (h) enhanced chairing skills, a sound understanding of the constitution, procedure rules, codes and practices to effectively manage the work of the Cabinet, chair meetings to encourage full participation and engagement from the public and all Members
- (i) the ability and desire to seek consensus and compromise when in the best interests of the Council and the whole electorate of Newcastle-under-Lyme.
- (j) a good understanding of the roles and responsibilities of the Chief Executive and other Officers and the ability to foster good working relationships.

3. Leader and Deputy Leader of Opposition Political Groups

Introduction

- 3.1 Opposition Political Groups (“Group(s)”) are those political groups that do not, as a group, hold a majority of the seats on the Council. Each Group will elect a leader. This section relates to the roles and responsibilities of Group leaders within the Council and does not cover the role of Group leaders within their Groups.
- 3.2 References in this section to Group leaders include any deputy leader of those Groups unless the context suggests otherwise.

Shadowing the Cabinet

- 3.3 The role of a Group leader is to provide a political figurehead, point of contact and spokesperson for their Group. Group leaders effectively assume the role of “shadow” Leader of the Council. Group leaders do not exercise any executive powers and do not operate as spokespersons on behalf of the Council. They discharge a representational/spokesperson role from the perspective of their own group in parallel to that of the Leader of the Council.
- 3.4 Opposition Groups may, if they wish, also appoint “Shadow” Cabinet Members usually aligned to the Portfolio appointments made by the Leader of the Council. Much like Group leaders, Shadow Cabinet Members do not exercise any executive powers and do not operate as spokespersons on behalf of the Council. They discharge a representational/spokesperson role from the perspective of their own Group in parallel to that of the Cabinet Member that they shadow.



- 3.5 Group leaders and any Shadow Cabinet Members are accountable to their group and ultimately to the communities that they are elected to represent.

Building Consensus and Informed Alternative Views

- 3.6 Group leaders and any Shadow Cabinet Members have an important role to play as mediators who seek to resolve difficulties or differences of opinion which may arise between Groups, between Members of their Group or between Members of their Group and Officers.
- 3.7 The overriding objective of this role is to build consensus amongst Members as to what is in the best interests of the Borough. There may be circumstances when it is appropriate for Group leaders and/or any Shadow Cabinet Member to offer an informed alternative view on matters which fall to the Leader and Cabinet to be determined or undertaken.
- 3.8 The role of providing appropriate and informed alternative views is part of the informal Scrutiny process that is essential to open and transparent governance arrangements that is to be exercised in a constructive manner and not solely for party political purposes.

Roles, Responsibilities, Values, Skills and Attributes

- 3.9 The roles, responsibilities, values, skills, and attributes expected of all Members set out in Section B3 of the Constitution apply to all Group leaders and any Shadow Cabinet Members.
- 3.10 With the exception of functions relating to the administration or discharge of Cabinet functions, the roles, responsibilities, values, skills and attributes expected of the Leader of the Council and Cabinet Members also apply to Group leaders and any Shadow Cabinet Members.
- 3.11 In particular, the following skills and attributes are particularly important to be an effective Group leader or Shadow Cabinet Member:-
- (a) The ability and desire to be pragmatic, seek consensus and to compromise in the best interests of the Council and the Borough
 - (b) The ability to constructively challenge decisions and suggest alternatives.



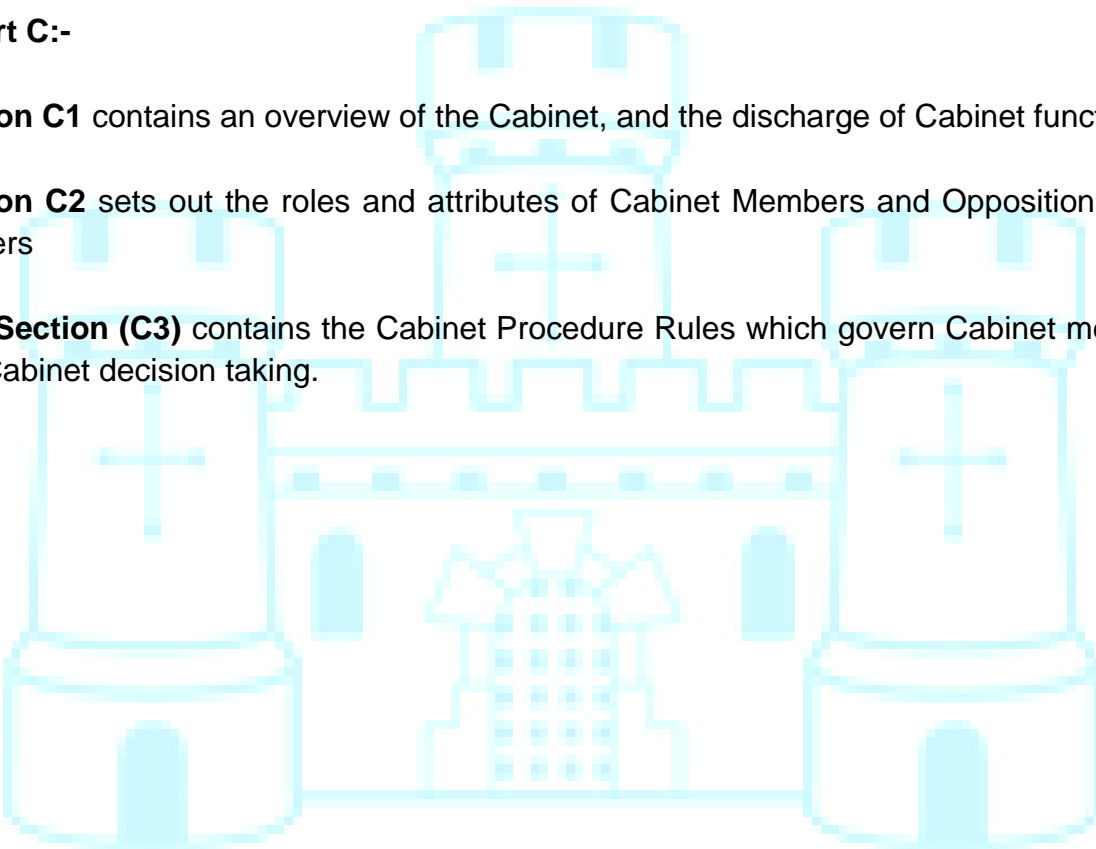
Part C – The Cabinet
Section C3- Cabinet Procedure Rules

In Part C:-

Section C1 contains an overview of the Cabinet, and the discharge of Cabinet functions.

Section C2 sets out the roles and attributes of Cabinet Members and Opposition Group Leaders

This Section (C3) contains the Cabinet Procedure Rules which govern Cabinet meetings and Cabinet decision taking.





Part C – The Cabinet
Section C3:- Cabinet Procedure Rules

In this Section:-

1. Constituting and Appointing to Cabinet

- Appointing the Leader
- Other Cabinet Members
- Portfolio Responsibilities
- Term of Office
- Removal from Office
- Information Required from the Leader

2. Advisory Bodies, Cabinet Committees and Joint Arrangements

- Powers to Appoint Advisory Bodies, Committees and enter into Joint Arrangements
- Information Required from the Leader

3. Cabinet Meetings

- Meeting Dates
- Chairmanship
- Quorum
- Conduct of Debate
- Voting
- Matters for Decision and Placing Items on the Agenda
- Attendance at Meetings

4. Key Decisions and the Forward Plan

- Definition of Key Decision
- The Forward Plan

5. Taking Decisions

- Decisions Taken in Public and Private
- Information Generated for Cabinet Meetings and Decisions



- Notice and Information about Future Meetings and Decisions
- Information about Past meetings and Decisions
- Exempt Information

6. Urgent Decisions

- Urgent Key Decisions
- Urgent Decisions Contrary to the Budget and Policy Framework
- Reporting Urgent Decisions and Taking Advice

7. Recording and Implementing Cabinet Decisions

- Recording Decisions
- Implementing and Calling-in Decisions
- Waiving Call-in

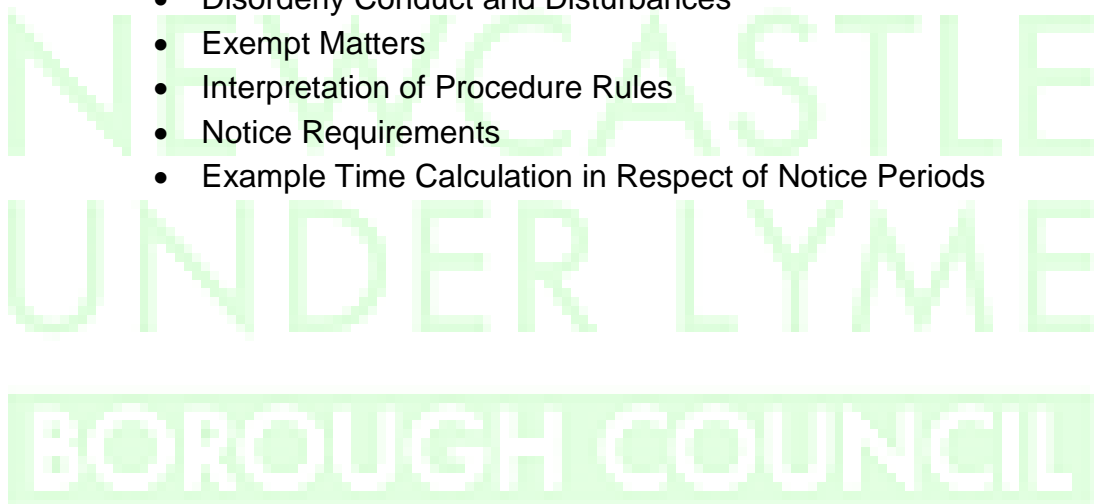
8. Budget and Policy Framework Setting Procedures

9. Public Speaking and Questions

10. Visiting Members

11. Miscellaneous Matters

- Officer Advice
- Disorderly Conduct and Disturbances
- Exempt Matters
- Interpretation of Procedure Rules
- Notice Requirements
- Example Time Calculation in Respect of Notice Periods





1. Constituting and Appointing to the Cabinet

Appointing the Leader

- 1.1 In a year where there is an ordinary election of Members to the Council, Annual Council will elect a Member to the office of Leader of the Council (“the Leader”) and that Member shall be the lead Cabinet Member.

Other Cabinet Members

- 1.2 The Leader will (usually at Annual Council) appoint between 2 and 9 more Members to the Cabinet and together this group of Members will form the Council’s Cabinet. The Leader will appoint one of the Cabinet Members to act as Deputy Leader.

Portfolio Responsibilities

- 1.3 The Leader will assign a range (or “Portfolio”) of Services areas to each Cabinet Member. Each Cabinet Member (or “Portfolio Holder”) will be responsible for overseeing the Cabinet’s responsibilities in respect of the Services within their Portfolio.

Term of Office

- 1.4 Subject to paragraph 1.7 below, the Leader will hold office from the date of their appointment as Leader until the Annual Council following the next ordinary elections to the Council (usually a period of 4 years).
- 1.5 Subject to paragraph 1.7 below, the other Cabinet Members will hold office from the date of their appointment until the next Annual Council.
- 1.6 The office of the Leader and other Cabinet Members may come to an end (otherwise than provided for under paragraphs 1.5 and 1.6 above) if they:-
- resign their Cabinet position
 - cease to be an Elected Member of the Council (including for the duration of any period of suspension under Part 3 of the Local Government Act 2000)
 - are removed from Cabinet

Removal from Office

- 1.7 The Leader can be removed from office by a resolution of the Council.



- 1.8 Other Cabinet Members can be removed by the Leader giving written notice to the Member concerned and, at the same time, sending a copy of the notice to the Monitoring Officer.
- 1.9 Notice given under paragraph 1.8 above will take effect on the date specified in the notice which, in the case of Cabinet Members, cannot be less than 2 days after the date upon which the notice is received by the Monitoring Officer.

Information Required from the Leader

- 1.10 As soon as is reasonable practicable, the Leader shall inform the Monitoring Officer (for publication on the Council's website) and Council of (or changes to) the names and Portfolio responsibilities of each Cabinet Member.

2. Advisory Bodies, Cabinet Committees and Joint Arrangements

Powers to Appoint Advisory Bodies, Committees and enter into Joint Arrangements

- 2.1 The Cabinet may constitute such advisory bodies (often called Cabinet Panels) that it considers necessary without any limitation on who may be a Member of the Advisory body. Advisory bodies cannot exercise Cabinet (Executive) powers.
- 2.2 The Cabinet may arrange for any of the decisions that it is responsible for to be taken by a committee of the Cabinet (on which only cabinet members shall have voting rights) or jointly with another authority's cabinet or a joint cabinet committee.

Information Required from the Leader

- 2.3 As soon as is reasonable practicable, the Leader shall inform the Monitoring Officer (for publication on the Council's website) and Council of (or changes to) any arrangements made under paragraphs 2.1 and 2.2 above and in particular:-
- (a) the name of the advisory body constituted
 - (b) its membership (including any Chair or Deputy)
 - (c) terms of reference
 - (d) in respect of any cabinet delegation, the limitations on the exercise of powers including any prohibition on onward delegation
 - (e) reporting and governance arrangements (if these procedure rules are expressly dis-applied to the body in question)



3. Cabinet Meetings

Meeting Dates

- 3.1 Council will approve and publish a calendar of meetings on a municipal year basis.
- 3.2 There will be a presumption against alterations to the calendar but the Leader may, in consultation with the Monitoring Officer, alter the time, date or location of any meeting or convene a special meeting if necessary.
- 3.3 The Chief Executive, Monitoring Officer or Chief Finance Officer may require a special meeting of the Cabinet to be held in pursuance of their statutory duties.

Chairmanship

- 3.4 The Leader will chair meetings of the Cabinet or in his/her absence, the Deputy Leader will preside. Where both the Leader and Deputy Leader are absent the Cabinet will appoint one of its Members to preside.

Quorum

- 3.5 No business shall be transacted at a meeting where less than one half of all Cabinet Members are present.
- 3.6 If a meeting becomes inquorate after it has commenced then it shall be adjourned. Remaining business will be considered at the next meeting.

Conduct of Debate

- 3.7 All matters relating to motions and speeches shall be determined by the Chair.

Voting

- 3.8 All matters will be decided by a simple majority of those present and voting.
- 3.9 Members must be in their designated seats for their vote to be counted.
- 3.10 Voting will be by a show of hands, or if there is no dissent and no call for a vote, by the Chair being satisfied of the unanimous approval of the meeting.
- 3.11 Where there are equal votes cast the Chair may exercise a second or casting vote.



- 3.12 A Member may require, after a vote is completed, that the Minutes of the meeting record whether and how they voted.
- 3.13 If one third of the Members present so request the vote will be recorded to show how each Member voted.
- 3.14 A Member may, immediately after the item of business is voted upon, request that a lost Motion be recorded in the Minutes.

Matters for Decision and Placing Items on the Agenda

- 3.15 All matters for decision by the Cabinet shall be included within the agenda. Urgent items may be considered at the Leader's discretion subject to compliance with the rules relating to notice of decisions set out below.
- 3.16 Any Cabinet Member may place an item on a specified meeting agenda by notice given to the Monitoring Officer not less than 6 days prior to the date of the meeting in question.
- 3.17 The Leader may (at his or her sole discretion) exercise the power under paragraph 3.16 above at the request of any Council Member.
- 3.18 The Chief Executive, Monitoring Officer and Chief Finance Officer may all include items on agendas.
- 3.19 The Cabinet is obliged to consider all matters referred to it under the Scrutiny Procedure Rules or the Budget and Policy Framework Setting Procedure below.
- 3.20 Whilst the order of business at Cabinet meetings is a matter for the Leader to determine, there shall be an early item on every agenda requiring:-
- (a) Members to declare any relevant interests in any item appearing on the agenda. Members are required to observe the requirements in the Member Code of Conduct (Section F1) and withdraw from the meeting at the appropriate point during the meeting where they have an interest which requires them to do so.
 - (b) the Cabinet to confirm the record of decisions taken at its last meeting. Attendance at Meetings

Attendance at Meetings

- 3.21 The attendance of Cabinet Members at the whole or part of a meeting will be recorded by the clerk.



- 3.22 Council Members on whose behalf the power under paragraph 3.16 above has been exercised may attend the relevant meeting and address the Cabinet at the appropriate point in the meeting.
- 3.23 The Cabinet may invite any person it considers appropriate to its meetings for the purpose of discussing matters of mutual interest or concern or to advise the Cabinet. Such persons may only be given access to confidential or exempt information on terms to be decided by the Monitoring Officer.
- 3.24 The Chief Executive, Chief Financial Officer and the Monitoring Officer (and their nominees) are entitled to attend any meeting of the Cabinet, The Cabinet may not meet unless the Monitoring Officer has been given reasonable notice that a meeting is to take place.

4. Key Decisions and The Forward Plan

Definition of Key Decision

- 4.1 A Key Decision is any Cabinet Decision (regardless of who takes it) which is likely to:-
- result in the Council incurring expenditure or making savings of £100,000 or more (revenue), and/or £250,000 or more (capital); and/or
 - have a significant effect on communities living or working in an area comprising two or more wards.

The Forward Plan

- 4.2 On the first working day of each month, the Council shall publish a plan (the "Forward Plan") covering up to 4 calendar months from the date of publication. The Forward Plan shall contain, as far as can be reasonably ascertained at the time of publication, the following information:-
- all Cabinet and Key decisions that are proposed to be taken during the period covered by the Forward Plan
 - which of those decisions are likely to be Key Decisions
 - the likely decision taker
 - when the decisions are likely to be taken
 - how and when representations can be made to the decision taker
- 4.3 The Forward Plan shall also indicate which of the Key Decisions will be considered with the press and public excluded, and why. It will invite representations, to the Monitoring



Officer, about the reasons for taking a decision in private. Any representations received and the Monitoring Officer's response to representations will be published as part of the item on the agenda at least five days before the meeting.

- 4.4 Except in cases of urgency, Key Decisions cannot be taken unless at least 28 days' notice has been given in the Forward Plan.

5. Taking Decisions

- 5.1 All Cabinet decisions will be taken in accordance with the Principles of Decision Making set out in Section A2.

Decisions taken in Public and Private

- 5.2 Under the arrangements put in place by Council, Cabinet decisions can be taken by the "Collective Cabinet" (being the Cabinet, or any committee formally appointed by the Cabinet), individual Cabinet Members (in the case of urgency) or by Officers exercising delegated powers.
- 5.3 Decisions taken by individual Cabinet Members or Officers do not have to be taken in public, but are subject to requirements to give notice of decisions, keep records and provide access to information as set out below.
- 5.4 Decisions taken by the Collective Cabinet, will be taken at meetings which will be held in public, unless the information to be discussed:-
- (a) cannot be discussed in public without risk of breaching a duty of confidence that the authority is under (usually because the information to be discussed was supplied in confidence or is subject to a court order prohibiting its disclosure); and/or,
 - (b) is exempt from disclosure under Schedule 12A of the Local Government Act 1972, the Freedom of Information Act 2000, the Data Protection Act 1998, the Human Rights Act 1998 or any other legislation relating to the prevention of disclosure of information.
- 5.5 If all (or upon decision part) of any Cabinet meeting is held in with the exclusion of the press and public, reasons for the need for such exclusion will be given by reference to any or all of the relevant circumstances referred to in paragraph 5.4(a) and/or (b) above. In respect of Key Decisions, this information will be provided on not less than 28 days' notice given in the Forward Plan.



Information Generated for Cabinet Meetings and Decisions

- 5.6 Cabinet meetings will require the production and publication of the following written information (“**Decision Information**”):-
- (a) meeting agendas (“**Agendas**”), setting out the business to be decided at a meeting
 - (b) reports (“**Reports**”), (including any appendices or supplementary information) containing all of the information that the meeting needs to debate or decide a matter on the agenda
 - (c) background documents (“**Background Documents**”), which are documents (that have not already been published) containing information that a report or a material part of a report is based on.
 - (d) approved minutes, record of decisions or (where Exempt Information is discussed) a summary of proceedings and any decision reached (“**Minutes**”)

Information about Future Meetings and Decisions

- 5.7 The Monitoring Officer will normally give not less than 5 days’ notice of all meetings stating the nature of the meeting and the time and place where it will be held. If a meeting must be convened on shorter notice then notice shall be given at the time the meeting is convened.
- 5.8 The Monitoring Officer will give notice under paragraph 5.7 above:
- (a) to all Members of the body to which the notice relates; and, in respect of all meetings which are ordinarily held in public, by:-
 - (b) displaying a copy of the notice at the Council’s principal office; and,
 - (c) making details of the meeting available on the Council’s website
- 5.9 The Monitoring Officer will normally provide, not less than 5 days prior to a meeting, Agendas and Reports by:-
- (a) providing the same to all Members of the body in question; and, in respect of all meetings which are ordinarily held in public, by:-
 - (b) publishing the same on the Council’s website; and,
 - (c) ensuring that copies are available at the meeting in question.
- 5.10 Where a report to be considered at a meeting is not available for publication with an agenda, the agenda item will be marked “to Follow” and the report (or any other updates or supplementary information) will be provided when available in accordance with paragraph 5.9 above.



Information about Past Meetings and Decisions

5.11 The authority will retain:-

- (a) Background Documents for a period of 4 years from the date of the meeting; and,
- (b) all other Decision Information for a period of 6 years from the date of the meeting.

5.12 This information will usually be available on the Council's website but will also be provided in print on request. There may be a fee payable to cover the cost of providing printed information.

Exempt Information

5.13 Decision Information relating to the types of information described in paragraph 5.4(a) and (b) above is referred to as "Exempt Information" in this constitution.

5.14 Exempt Information provided to Members shall be marked "Not for Publication" and/or "Confidential" and/or "Restricted" and shall have written on it, by reference to any or all of the relevant circumstances referred to in paragraph 5.4 (a) and/or (b) above the reason why it is Exempt Information.

5.15 Exempt Information will not be provided to the public.

6. Urgent Decisions

Urgent Key Decisions

6.1 Where a Key Decision must be taken at a time which renders compliance with the notice requirement in paragraphs 4.4 and (if applicable) 5.5 above (28 days' notice) impracticable:-

- (a) notice must be given to the Chair of the relevant Scrutiny Committee (or failing that to every Member of the relevant Scrutiny Committee) setting out the decision to be taken and why 28 days' notice cannot be given
- (b) the notice must be published on the Council's website or at its offices
- (c) at least 5 days must have elapsed following the actions required at (a) and (b) of this paragraph.

6.2 Where the urgency is such that the requirements of paragraph 6.1 cannot be followed, written agreement that the decision is urgent and cannot reasonably be deferred (to allow



compliance with these procedural rules) is required from any of the following (to be sought in the following order):-

- (a) the Chair of the relevant Scrutiny Committee
- (b) the Mayor
- (c) the Deputy Mayor
- (d) the Chief Executive or their nominee

6.3 Unless to do so would involve the disclosure of Exempt Information, decisions taken by Cabinet in accordance with paragraphs 6.1 and 6.2 above must be taken in public, i.e. at a scheduled cabinet meeting or a special meeting convened in accordance with paragraph 3.2 or 3.3 above.

6.4 If a decision which falls to be taken by the Cabinet needs to be taken before a quorate meeting can be convened, the relevant Portfolio Holder may take the decision provided that s/he has first consulted the Leader (or if, absent, or if the relevant Portfolio Holder is the Leader, then the Deputy Leader) and the Chief Executive, S151 Officer and Monitoring Officer.

Urgent Decisions Contrary to the Budget and Policy Framework

6.5 Cabinet or an individual Cabinet Member may take an urgent decision which is contrary to or not wholly in accordance with the Budget and Policy Framework if it is not practicable to convene a quorate meeting of full Council before the decision must be taken.

6.6 Additionally, prior to taking any such decision, the decision taker must have the agreement of one of the following (to be sought in the following order) that the decision is urgent:-

- (a) the Chair of Overview and Scrutiny Committee
- (b) the Mayor
- (c) the Deputy Mayor
- (d) the Chief Executive or their nominee

Reporting Urgent Decisions and Taking Advice

6.7 A report of all decisions taken under these urgency provisions, outlining the decision taken, the reasons for urgency, the procedure followed and any consultation responses sought and received will be submitted to the next Council meeting.

6.8 The reason for urgency and the consents obtained must be noted in the decision record. The decision taker will provide a full report to the next Council meeting.



6.9 In dealing with urgent matters under these rules, advice must be taken from the Chief Executive, Section 151 Officer and the Monitoring Officer.

7. Recording and Implementing Cabinet Decisions

Recording Decisions

7.1 The Monitoring Officer will keep a record of every Key Decision taken and every decision taken by the Collective Cabinet (the “Decision Record”).

7.2 The Decision Record will, in respect of each decision recorded under paragraph 7.1 above (the “Recorded Decision”), be the formal record the decision made, set out the date of the decision, the reasons for the decision and any alternative options considered.

7.3 The Monitoring Officer will normally publish every Decision Record on the Council’s website within 2 days of the date on which the decision was taken.

Implementing and Calling-in Cabinet Decisions

7.4 Subject to paragraph 7.6 below, Recorded Decisions shall only be implemented if:-

- (a) Notice of Call-in is not validly given under paragraph 7.5 below; or,
- (b) where Notice of Call-In is validly given, if the Call-In Procedure under the Scrutiny Procedure Rules (Section D3) has been completed (without unreasonable delay) and Overview and Scrutiny Committee is not offering any advice or any advice that needs to be considered before the Decision is implemented
- (c) where Notice of Call-In is validly given, if the Call-In Procedure under the Scrutiny Procedure Rules (Section D3) has been completed (without unreasonable delay) and the Decision taker has considered the advice offered

7.5 A Recorded Decision may be called-in by not less than 5 non-Cabinet Members serving notice in the prescribed form on the Monitoring Officer within 3 days of the date on which the Recorded Decision was published under paragraph 7.3 above.

Waiving Call-in

7.6 Recorded Decisions may be implemented immediately where any of the following (to be sought in the following order) agree that the delay inherent in the call-in procedure would be likely to seriously prejudice the interests of the Council or the public:-



- (a) the Chair of the relevant Scrutiny Committee
- (b) the Mayor
- (c) the Deputy Mayor
- (d) The Chief Executive or their nominee

7.7 The serious prejudice and the consent obtained under 7.6 above must be noted in the decision record. The decision taker will provide a full report to the next Council meeting.

8. Budget and Policy Framework Setting Procedures

8.1 The Cabinet will publish a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework. The timetable will include a period of not less than 6 weeks during which consultation on its proposals will take place.

8.2 The Cabinet will notify the Chair of the relevant Scrutiny Committee of any timetable published under paragraph 8.1 above so that they may respond to the consultation should they choose to do so.

8.3 At the end of the consultation period the Cabinet will then draw up and report firm proposals to Council which shall have due regard to any consultation responses received.

8.4 The Council may then resolve:-

- (a) to refer, with direction and timescales, the matter back to the Cabinet for further consideration
- (b) adopt the plan, strategy or budget in the form proposed by the Cabinet
- (c) that it is minded to adopt the plan, strategy or budget in a different form from that proposed by the Cabinet

8.5 If the Council is minded to adopt resolution under paragraph 8.4(c) above then it shall give notice of the same setting out its different proposals and the reasons for them to the Monitoring Officer.

8.6 Upon receipt of a notice duly given under paragraph 8.5 above, the Leader will have a period of 5 days to consider whether to give notice on the Monitoring Officer stating either:-

- (a) that s/he does not object to the minded to adopt resolution; or
- (b) with reasons, that s/he objects to Council's minded to adopt resolution



- 8.7 If the Leader gives notice under paragraph 8.6(a) above then the minded to adopt resolution referred to in paragraph 8.4(c) above will crystallise as a decision of the Council.
- 8.8 If the Leader does not give a notice under paragraph 8.6(b) above within the 5 day period referred to then upon expiry of the 5 day period the minded to adopt resolution referred to in paragraph 8.4(c) above shall crystallise as a decision of the Council.
- 8.9 If the Cabinet gives (and does not withdraw) a notice under paragraph 8.6(b) above then a meeting of the Council shall be convened within 10 days at which the Council will hear or receive written representations from the Leader before deciding whether (and in what form) to adopt the plan, strategy or budget in question.
- 8.10 In approving the Budget and Policy Framework, the Council will also set out the extent to which any virement or in-year policy changes may be undertaken by the Cabinet. Any other changes to the Budget and Policy Framework are reserved to the Council.

9. Public Speaking and Questions

- 9.1 Members of the public may speak or ask a question at a Cabinet meeting on any subject which is relevant to matters on the agenda.
- 9.2 Persons wishing to speak or ask a question are required to give notice to the Service Director Legal and Governance at least 2 days before the meeting in question. This is to ensure that:-
- (a) the topic is appropriate for the meeting in question.
 - (b) the time allotted for public speaking and questions can be properly managed.
 - (c) any information needed to answer a question can be provided to the meeting.
- 9.3 The Chair will retain sole discretion as to the management of public speaking and questions but the maximum limit is three public questions at any one Cabinet meeting. A maximum limit of three minutes is provided for each person to ask an initial question or make an initial statement to the Cabinet.
- 9.4 Questions will be asked and answered without debate.
- 9.5 In responding to questions Members may:-
- (a) decline to answer
 - (b) agree to answer at or by a later (specified) date (whether or not in writing)
 - (c) refer the question to a more appropriate forum, Member or Officer



9.6 Questions will not be answered if they:-

- (a) are about a matter that the Cabinet is not responsible for or does not affect the Borough
- (b) are defamatory, frivolous, offensive or vexatious,
- (c) require the disclosure of Exempt Information
- (d) make or relate to allegations against, or comprise comments about the conduct of individual Councillors or Officers.

9.7 Those speaking or asking questions must comply with the standard of conduct required of them under Section A3 of the constitution.

10. Visiting Members

10.1 Notwithstanding their rights as a member of the public, Members who are not Cabinet Members (“**Visiting Members**”) may attend any decision making meeting of a Cabinet, (even if considering Exempt Information) if required for the purposes of performing their duties as Members. Advice should be taken where meetings will be considering personal information of a sensitive or confidential nature.

10.2 Visiting Members:-

- (a) may not vote on committee business
- (b) attending in person will notify the Chair at least 15 minutes prior to the start of the meeting if they wish to speak on a particular item. If advance notice is not given visiting members will not be allowed to speak (unless agreed by the Chair)
- (c) will, at the discretion of the Chair, be invited to speak at the beginning of the debate on any item notified under paragraph 9.9(b) above, and be invited to sum up at the end of a debate.
- (d) will not, other than as provided for in paragraph 9.9(c) above or by the Chair, be permitted to participate in any debate at the meeting.

11. Miscellaneous Matters

Officer Advice

11.1 The Chair may request an appropriate Officer to offer advice or draw the attention of the Cabinet, to any relevant factors where a debate involves questions of a technical legal, financial or operational/administrative nature.



Disorderly Conduct and Disturbances

- 11.2 The Chair may direct (or a Member may move), in respect of any Member considered to be misconducting themselves, that the Member shall not be heard further.
- 11.3 The Chair may direct (or a Member may move), either following a direction (or resolution) under paragraph 10.2 above, or directly in the case of gross misconduct, either:
- (a) that the Member in question leaves the meeting; or,
 - (b) that the meeting is adjourned
- 11.4 The Chair, in the event of a general disturbance at any meeting which they consider to be disrupting the orderly transaction of business, may adjourn the meeting for as long as is considered necessary.
- 11.5 The Chair shall be at liberty to warn any member of the public in respect of their conduct at a meeting. In the case of persistent or gross misconduct, the Chair shall be at liberty to direct any person to be removed from the meeting.
- 11.6 In the event of a general disturbance in any part of the meeting room open to the public, the Chair shall be at liberty to direct that part of the room to be cleared.

Exempt Matters

- 11.7 No Member shall disclose to any person the whole or any part of the contents of any agenda, report or other document which is marked “confidential” or “not for publication” unless and until the document has been made available to the public or the press by or on behalf of the Council, the Cabinet or a Committee.
- 11.8 No Member shall disclose the content of any discussions in the confidential part of any meeting.
- 11.9 No Member shall disclose to any person (other than a Member of the Council with a need to know) any matter arising during the proceedings of the Cabinet and which comes to their attention by virtue of their office as a Cabinet Member where such disclosure would prejudice the interest of the Council or would be contrary to law. If in any doubt, advice should be sought from the Monitoring Officer.



Interpretation of Procedure Rules

- 11.10 The Chair (who shall be entitled to take advice from the Monitoring Officer) shall determine all matters relating to the interpretation or application of these rules which arise during a meeting. The Chair's decision shall be final.
- 11.11 The Monitoring Officer shall determine all matters relating to the interpretation or application of these rules which arise between meetings. The Monitoring Officer's decision shall be final.
- 11.12 Any requirement to make a notice or information available to anyone shall be fulfilled by publishing that information on the Council's website such that it is readily available to be viewed or printed off from the website and, if necessary, printed off at Council offices to be given to personal callers in hard copy.
- 11.13 References in these rules to an Officer shall include references to any duly authorised representative of that Officer.
- 11.14 References in these rules to Motions, shall include (where the context so requires or admits) references to amendments to Motions.
- 11.15 References in these rules to Committees shall be taken to include all Committees, Sub-Committees, Panels and Boards constituted by the Cabinet which exercise powers but shall exclude any Committee, Sub-Committee, Panel or Board that operates solely in an advisory capacity.
- 11.16 Reference in these Procedure Rules to a day or days shall be taken to mean between the hours of 9.00 and 17.00 on any day that is not a Saturday, Sunday or public holiday.
- 11.17 References in these Procedure Rules to a period of days that is to elapse between the occurrence of two specified events shall be taken to mean clear days calculated by excluding the day upon which both of the specified events occur.

Notice Requirements

- 11.18 All Notices given by Members under these Procedure Rules shall be treated as having been given to the recipient by any of the following means:-
- (a) post properly addressed to the recipient at their usual address
 - (b) leaving it properly addressed for the recipient at their usual address



- (c) e-mail sent to an email address designated by the recipient for this purpose from an email account registered with the Council in the Member's name
- (d) submitting a form on the Council's website designated for this purpose

11.19 All Notices given to Members under these Procedure Rules shall be treated as having been given to the recipient by any of the following means:-

- (a) post properly addressed to the recipient at their usual address (being their usual place of residence or any other address which the Member has given notice to the Monitoring Officer of for these purposes)
- (b) leaving it properly addressed for the recipient at their usual address or if requested (by notice given to the Monitoring Officer) either in addition or substitution for the methods set out in paragraphs 10.19(a) and (b) above, by:-
- (c) e-mail sent to an email account registered with the Council in the Member's name from an email account registered to the Council

11.20 All Notices given under these Procedure Rules must be given in writing, contain all of the information that is reasonably required in order to properly communicate the purpose and effect of the notice, and be signed (which shall include electronic signatures) by the person or persons required to give the notice in question.

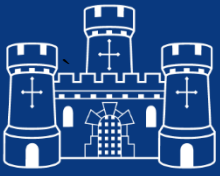
11.21 If more than one signatory is required to give valid notice, any single notice given must bear the signatures of all the necessary signatories and be given in accordance with paragraph 11.18(a) or (b) above. In the alternative, each of the required signatories may give individual notices in accordance with paragraph 11.18(c) or (d) above.

11.22 Notices shall be deemed to have been given:-

- (a) in the case of 11.18(a) or 11.19(a) above, on the day upon which delivery would ordinarily occur in the normal course of the method of post chosen (provided proof of posting is available)
- (b) in the case of 11.18(b) or 11.19(b) above, on the day upon which the notice is left
- (c) in the case of 11.18(c) and (d) above, on the day upon which receipt is acknowledged otherwise than by any automated process
- (d) in the case of 11.19(c) above, on the day upon which notice is sent

Example Time Calculation

11.23 The following example is provided to clarify the effect of paragraphs 11.16 and 11.17 above. In the following example, it is assumed that none of the weekdays referred to are public holidays.



- 11.24 If a notice is required to be given 5 days before a meeting, then the giving of the notice and the meeting are the two specified events for the purposes of paragraph 11.17.
- 11.25 Assuming the meeting is to be held on a Monday, the latest a notice may be given is on the first of the two preceding Fridays, between 09.00 and 17.00 hours.
- 11.26 If so given, the Friday upon which the notice is given ranks as the day upon which the first event occurs for the purposes of paragraph 10.17. The 5 weekdays in the ensuing week then rank as the required 5 “clear days” between giving notice and day upon which the meeting is being held.

FRIDAY	Notice Given
SATURDAY	Not Counted
SUNDAY	Not Counted
MONDAY	Clear Day 1
TUESDAY	Clear Day 2
WEDNESDAY	Clear Day 3
THURSDAY	Clear Day 4
FRIDAY	Clear Day 5
SATURDAY	Not Counted
SUNDAY	Not Counted
MONDAY	Meeting

NEWCASTLE
UNDER LYME
BOROUGH COUNCIL



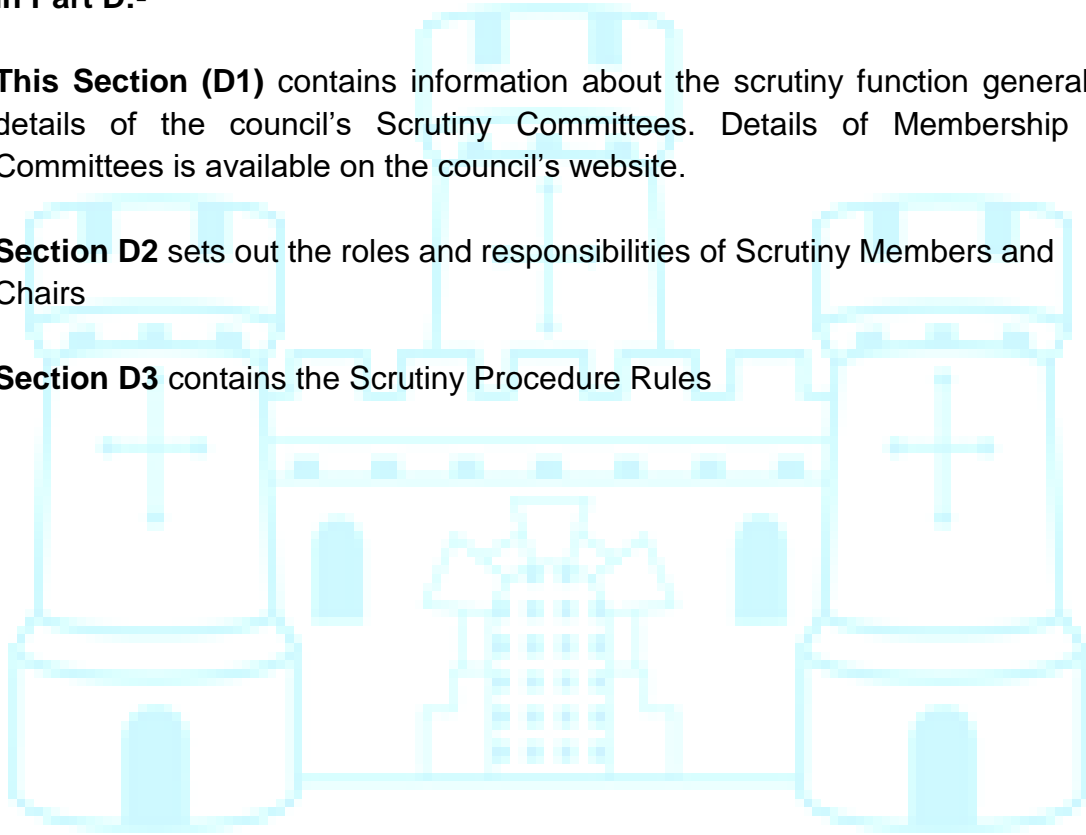
Part D – Scrutiny
Section D1 – Scrutiny Committees

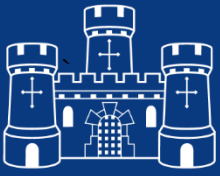
In Part D:-

This Section (D1) contains information about the scrutiny function generally, and details of the council's Scrutiny Committees. Details of Membership of the Committees is available on the council's website.

Section D2 sets out the roles and responsibilities of Scrutiny Members and Chairs

Section D3 contains the Scrutiny Procedure Rules





PART D - Scrutiny
Section D1 – Scrutiny Committees

In this Section:-

1. Introduction

- Core Values
- General Functions
- Powers
- Joint Working

2. Finance Assets and Performance Scrutiny Committee

- Introduction and Composition
- Terms of Reference

3. Economy and Place Scrutiny Committee

- Introduction and Composition
- Terms of Reference

4. Health Wellbeing and Environment Scrutiny Committee

- Introduction and Composition
- Terms of Reference





1. Introduction

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

Core Values

1.2 The council's scrutiny arrangements aim to reflect the following core values:

- (a) Holding the Cabinet and our partners to account
- (b) Working to make a difference to outcomes for the public of Newcastle-under-Lyme
- (c) Ensuring the greatest possible public engagement in scrutiny

1.3 Council has appointed three Scrutiny Committees:

- (a) Finance, Assets and Performance Scrutiny Committee
- (b) Economy and Place Scrutiny Committee
- (c) Health, Wellbeing and Environment Scrutiny Committee

1.4 These Committees are responsible for reviewing and scrutinising the work of the authority at large (which includes the organisations that we work in partnership with). In particular, the scrutiny function is responsible for ensuring the effectiveness of the Cabinet.

1.5 The Cabinet Members with Portfolios of direct relevance to the remit of the Committee shall attend committee meetings when requested and will hold regular meetings with the Chair and Vice Chair to promote close working relationships between the cabinet and the committee.

1.6 The Scrutiny Committees have a mandate to undertake reviews and scrutinise action (or inaction) in relation to general subject areas or in respect of particular matters before, during, or after a decision is made. They assist Council and the Cabinet in developing the Budget and Policy Framework and in monitoring the performance of the authority. They can make recommendations for change and have powers to intervene in the decision making process in certain circumstances.

General Functions

1.7 General functions of the Scrutiny Committees include to:-



- (a) review and scrutinise the performance of the council, its partners and any appropriate external organisations against any relevant plan or target
- (b) review and scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions
- (c) review and scrutinise the provision and performance of services
- (d) review and scrutinize current policies and assist and advise on future policy development
- (e) make reports and/or recommendations to Council, the Cabinet, or an outside organisation in connection with the discharge of any functions
- (f) consider any matter affecting the council, its area or the people who work or live in the borough
- (g) exercise the right to call-in for reconsideration decisions made but not yet implemented by the Cabinet
- (h) To respond to direct requests from the Council or the Cabinet when appropriate

Powers

- 1.8 The Scrutiny Committees may hold scrutiny enquiries and set up Scrutiny Task and Finish Groups on a time-limited basis, although there shall be no more than three active Task and Finish Groups at any one time.
- 1.9 Scrutiny Committees may appoint or co-opt advisors or assessors, undertake site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.
- 1.10 Scrutiny Committees may ask witnesses to attend to address them on any matter under consideration and may question members of the Cabinet and Chief Officers about their performance in relation to significant and/or major projects.

Joint Working

- 1.11 The Borough Council is a signatory to Joint Working Arrangements between the Borough and District Councils in Staffordshire and Staffordshire County Council whereby scrutiny activity is based on three levels of responsibility:
 - (a) The County Council may lead on matters that can best be dealt with at a county level.



- (b) For some matters, the County Council may ask a lead District/Borough Council to carry out the scrutiny, and this may be singly or jointly with other District/Borough Councils.
- (c) District and Borough Councils will lead on those matters that can be best dealt with at a district level.

1.12 Under the Joint Working Arrangements, one member representative of the Borough Council shall be entitled to attend, with full voting rights, meetings of the County Council's Health and Care Overview and Scrutiny Committee. In addition, a named Substitute member is permitted to attend when the full member is unavailable. The member and the substitute member shall be appointed at each Annual Council meeting.

2 Finance Assets and Performance Scrutiny Committee

Introduction and Composition

- 2.1 This Scrutiny Committee is concerned with how the council plans and then uses its resources to deliver services against the objectives set out in the various Council plans and strategies objectives.
- 2.2 The committee comprises 11 members constituted on a politically proportionate basis in line with the political composition of Council

Terms of Reference

- 2.3 This committee is concerned with how the council, as a whole, performs. It scrutinises how the council develops and implements its various plans and strategies. It scrutinises how the council plans for and uses its finances (including income generation) and other assets including plant and machinery, equipment, vehicles, land and buildings and staff. In scrutinising the council's performance, it will also consider how the council performs alongside the organisations in works in partnership with. More information on this committee's remit is available on the council's website.

3 Economy and Place Scrutiny Committee

Introduction and Composition

- 3.1 This Scrutiny Committee is concerned with how the council interacts with and influences the borough of Newcastle-under-Lyme as a place.



- 3.2 The committee comprises 11 members constituted on a politically proportionate basis in line with the political composition of Council

Terms of Reference

- 3.3 This committee scrutinises how the council influences, affects and interacts with the natural and built environment. It also scrutinises how the council influences, affects and interacts with the local, regional and national economy. More information on this committee's remit is available on the council's website.

4 Health, Wellbeing and Environment Scrutiny Committee

Introduction and Composition

- 4.1 This scrutiny committee is concerned with how the council interacts with and influences all factors that impact on the health and wellbeing of those who live and work in the borough.
- 4.2 The committee comprises 11 members constituted on a politically proportionate basis in line with the political composition of Council. In addition, Staffordshire County Council may appoint one member from its Health and Care Overview and Scrutiny Committee to sit as a co-opted member on this committee. That member may contribute to all of the discussions at this committee but may only vote on matters relating to health and wellbeing
- 4.3 In addition, there there shall also be 2 non-voting co-opted members, representing the young people of the Borough drawn from the Student's Union at Keele University and the Student Representative Body at Newcastle College. Both establishments are to be invited to nominate a co-opted member at each Annual Council.

Terms of Reference

- 4.4 This committee scrutinises policies, strategies and initiatives that are intended to improve health and wellbeing outcomes for the people who work and live in the borough. It scrutinises things such as leisure, open-space and cultural provision, crime and anti-social behaviour, homelessness, health and other behaviours or environmental factors that affect health and well-being. More information on this committee's remit is available on the council's website.



Part D – Scrutiny

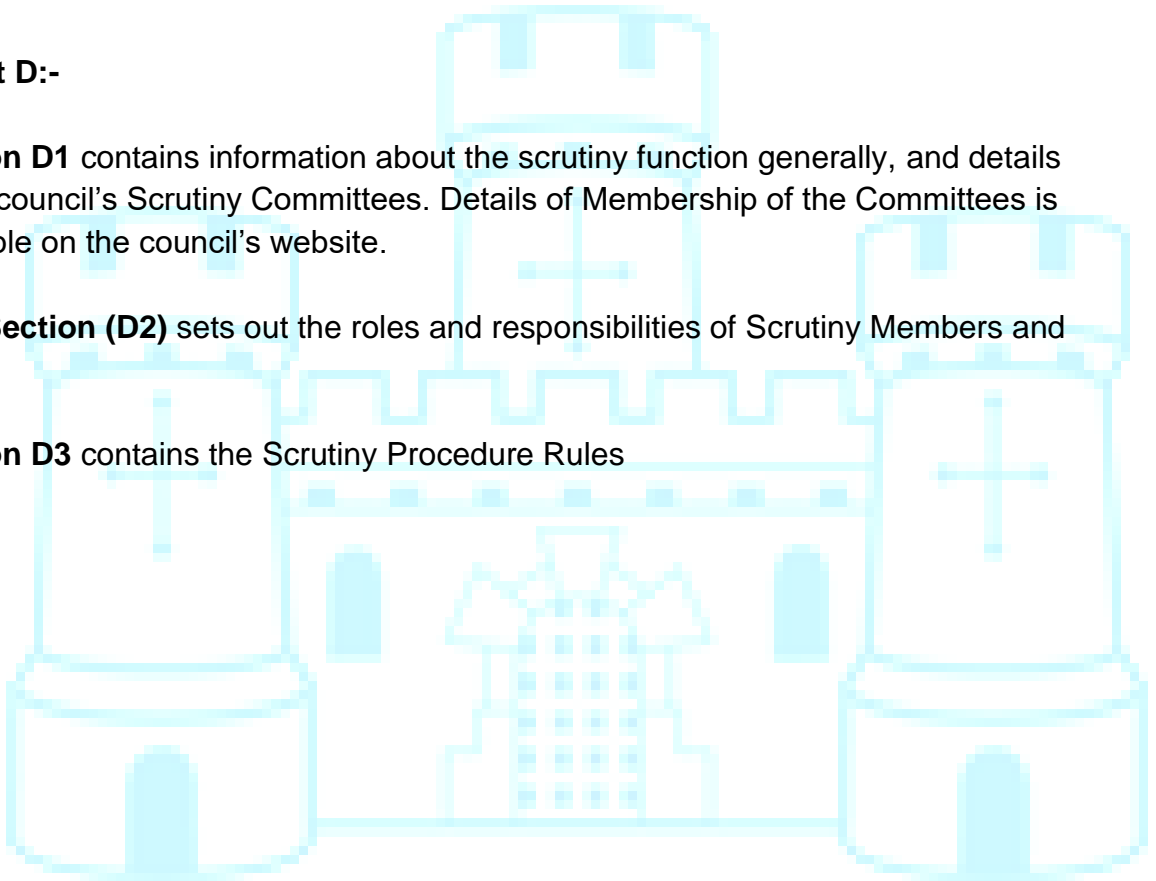
Section D2 – The Roles, Responsibilities and Attributes of Scrutiny Members

In Part D:-

Section D1 contains information about the scrutiny function generally, and details of the council's Scrutiny Committees. Details of Membership of the Committees is available on the council's website.

This Section (D2) sets out the roles and responsibilities of Scrutiny Members and Chairs

Section D3 contains the Scrutiny Procedure Rules



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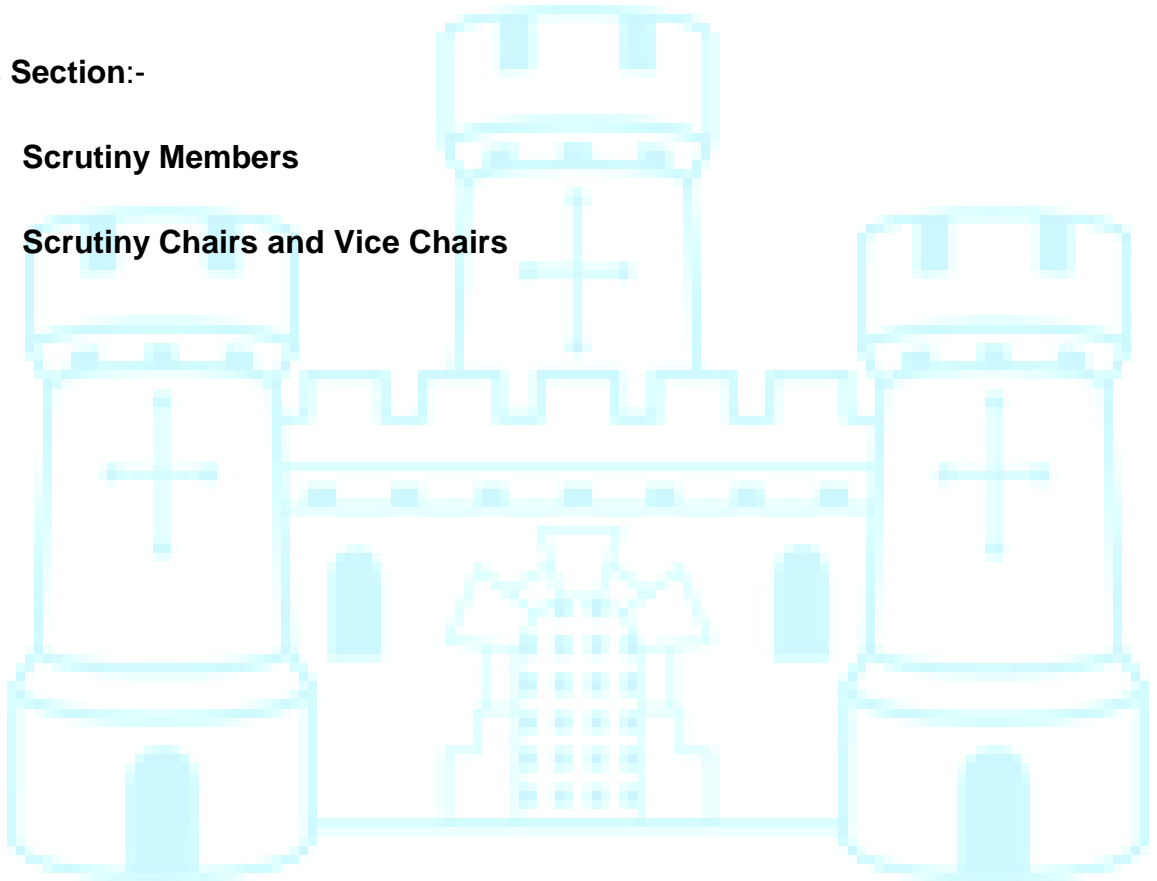


Part D – Scrutiny

Section D2:- Roles, Responsibilities and Attributes of Scrutiny Members

In this Section:-

- 1. Scrutiny Members**
- 2. Scrutiny Chairs and Vice Chairs**



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1. Scrutiny Members

Introduction

- 1.1 Scrutiny Members are responsible for scrutinising the work of the authority at large (which includes the organisations that we work in partnership with) and, in particular, for ensuring the effectiveness of the Cabinet.
- 1.2 Scrutiny Members are accountable to their Chairs, Council, and ultimately to the communities that they are elected to represent.

Roles and Responsibilities

- 1.3 In addition to the roles and responsibilities that apply to all Elected Members (Section B3), Scrutiny Members will:-
- (a) participate fully in the scrutiny function in an evidence based, objective, proactive, informed and effective manner taking account of all relevant codes, rules and statutory requirements.
 - (b) participate fully in the activities of the Scrutiny Committee or Sub Committee, delivery of its work programme and any associated task and finish groups
 - (c) challenge and assist in the assessment, creation, development, improvement and refinement of Council policy.
 - (d) Monitor performance and service delivery and investigate and address the causes of under performance.
 - (e) contribute to the identification and mitigation of risk.
 - (f) promote the role of scrutiny within and outside the council, developing effective internal and external relationships and building a dialogue around priorities, objectives and performance among communities and stakeholders.
 - (g) evaluate the validity of Cabinet decisions and challenge inappropriate decisions through call-in.

Values, Skills and Attributes

- 1.4 In addition to the values, skills and attributes required of all Members, the following qualities are required in effective Scrutiny Members:-
- 1.5 In particular, Scrutiny Members must have:-



- (a) the appetite, ability and commitment to prepare sufficiently to engage effectively in the scrutiny function by undertaking research, investigations and attending relevant meetings and briefings.
- (b) a sound understanding of the Scrutiny function's remit and role as a whole, member support functions, relevant policies, best practice, guidance, codes, rules, statutory requirements, performance management principles and the provisions of this constitution including call-in procedures.

2. Scrutiny Chairs and Vice Chairs

Introduction

- 2.1 References in this section to Chairs include references to Vice Chair unless the context requires otherwise.
- 2.2 Scrutiny Chairs must provide leadership and direction in the work of their committees and act as ambassadors for the work of their committee both within and beyond the Council to develop its standing and the integrity of its role.
- 2.3 They must have a sound understanding of the relevant subject matter, laws, procedures codes of conduct and protocols and the ability to champion them with committee members and inspire and enthuse committee members for the work of the committee
- 2.4 Chairs are accountable to their committee members, Council and ultimately to the communities that they are elected to represent.

Roles and Responsibilities

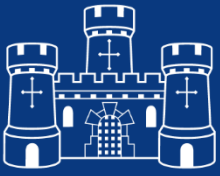
- 2.5 In addition to the roles and responsibilities that apply to all Members and all Scrutiny Members the following responsibilities apply to all Scrutiny Chairs:-
 - (a) To be a focal point of knowledge, leadership, advice and development for Scrutiny Members support them, assessing their performance and identify any training and development needs and procuring appropriate learning and development.
 - (b) To promote the role of Scrutiny within and outside the council, liaising effectively both internally within the Council and externally with the Council's partners to build understanding and ownership of scrutiny.



- (c) To develop a balanced work programme for the committee which includes appropriate topics for pre-decision scrutiny, policy development and review, investigative scrutiny, and performance monitoring.
- (d) To ensure the programme takes account of relevant factors such as the work programmes of the Cabinet and other committees, strategic priorities and risks, and relevant community issues.
- (e) To liaise with officers, other Members and community representatives to resource and deliver the work programme and to report on progress against the work programmes to a variety of different audiences as required.
- (f) To evaluate the impact and added value of scrutiny activity and identify areas for improvement.
- (g) To fully involve relevant stakeholders, partners, service users and experts and ensure that all participants have an opportunity to make an appropriate contribution.
- (h) To provide confident and effective management of their committee meetings and work effectively managing projects, resources, people and priorities and facilitating effective questioning, listening and discussion.

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Part D – Scrutiny
Section D3 – Scrutiny Procedure Rules

In Part D:-

Section D1 contains information about the scrutiny function generally, and details of the council's Scrutiny Committees. Details of Membership of the Committees is available on the council's website.

Section D2 sets out the roles and responsibilities of Scrutiny Members and Chairs

This Section (D3) contains the Scrutiny Procedure Rules

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Part D - Scrutiny
Section D3 – Scrutiny Procedure Rules

In this Section:-

1. Constituting and Appointing Scrutiny Committee

2. Substitute Members

- Substitute Members list
- Using Substitute Members
- Powers and Duties of Substitute Members

3. Task and Finish Groups

4. The Scrutiny Management Group

5. Work Programmes

6. Meetings and Conduct of Meetings

- Meeting Dates and Calling Meetings
- Chair and Vice Chair
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14. Public Speaking

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- Party Whip
- Officer Advice
- Suspending the Procedure Rules
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- Time Calculation Example



1. Constituting and Appointing Scrutiny Committees

- 1.1 Council will constitute the scrutiny committees, appoint members to them and set out their terms of reference. These matters will be recorded in Section D1 of this constitution.
- 1.2 Any Member who is not also a Cabinet Member may be a member of a Scrutiny Committee. Committee Members may not take part in scrutinising a decision that they have been involved in making.

2. Substitute Members

Substitute Member Lists

- 2.1 Each political group may in respect of the Members appointed by Council to the Scrutiny Committees or from within their Group (“**Appointed Members**”), identify other Members (“**Substitute Members**”) from within their political group who may attend Committees meetings in the place of the Appointed Members.
- 2.2 Each political group may keep a list (“**Substitute Members List**”) containing the name of each Substitute Member and, in respect of each Substitute Member, which Scrutiny Committees they may serve on. Such lists must be notified to the Monitoring Officer.

Using Substitute Members

- 2.3 A Substitute Member may only be drawn from the most recent Substitute Members List; such list having been notified to the Monitoring Officer not less than 5 days before the date of the meeting in question.
- 2.4 Where a political group intends to vary its representation on a scrutiny committee the Substitute Member will, at the start of the meeting and through the Chairman, inform the meeting which Appointed Member the Substitute Member will be substituting for.
- 2.5 Once a meeting is informed of the substitution, the Substitute Member will take the place of the Appointed Member and the Appointed Member’s entitlement to sit on the scrutiny committee will cease.
- 2.6 The Substitute Member will take the place of the Appointed Member only for the duration of the meeting in question, or any adjournment of it, following which the Appointed Member will resume their position on the Scrutiny Committee.

Powers and Duties of Substitute Members

- 2.7 Substitute Members will have all the powers and duties (including compliance with any mandatory training requirements) of any Appointed Member but will not be able to exercise any special powers or duties exercisable by the Appointed Member.

3. Task and Finish Groups



- 3.1 The Scrutiny Committees may constitute such Task and Finish Groups that they consider necessary to undertake development and scrutiny functions including undertaking investigations and making recommendations.
- 3.2 Subject to the prohibition in paragraph 1.2 above, there will be no limitation on who may be appointed to a Task and Finish Group. The Scrutiny Committees will endeavour to publish on the Council's website details of the membership and terms of reference of each Task and Finish Group. Task and Finish Groups will periodically report progress to their parent scrutiny committee who will be responsible for approving any recommendations of a Task and Finish Group.
- 3.3 Task and Finish Groups will be entitled to exercise all of the powers exercisable by their parent Scrutiny Committees.

4. The Scrutiny Management Group

- 4.1 The Chairs of the Scrutiny Committees will form a Scrutiny Management Group to manage and direct the Scrutiny process. The Group will meet 4 times a year. The lead Service Director for each scrutiny committee will be invited to the meetings.
- 4.2 The Scrutiny Management Group shall provide operational and strategic management of the scrutiny function and as such it is not required to meet in public. Its purpose is to:
- (a) oversee and co-ordinate the work of the scrutiny committees;
 - (b) ensure effective liaison across the work of the Committees;
 - (c) be the strategic leader of the scrutiny function with a focus on developing the function and identifying best practice;
 - (d) develop the Scrutiny Member role and identify training needs;
 - (e) encourage appropriate community involvement in the scrutiny function.

5. Work Programmes

- 5.1 The Scrutiny Committees will be responsible for setting their own work programmes, in consultation with the Scrutiny Management Group and appropriate Service Directors and with regard to any relevant consultation work that has been undertaken.
- 5.2 If a Scrutiny Committees wants to respond to any consultation notified to it by the Cabinet under the Budget and Policy Framework Setting process in Section C3 of the constitution, it will be responsible for taking any action considered necessary in order to be able to respond within the timescales set by the Cabinet.

6. Meetings and Conduct of Meetings



Meeting Dates and Calling Meetings

- 6.1 The Scrutiny Committees will meet a minimum of twice each year. The meetings will be programmed into the Council's meeting calendar.
- 6.2 Additional "special" meetings may be called by the Chair or by any 5 Members of the Committee serving not less than 6 days' notice on the Monitoring Officer.
- 6.3 The Monitoring Officer may also call a special meeting if he/she considers it necessary to do so.

Chair and Vice Chair

- 6.4 The Chair will preside over meetings.
- 6.5 If the Chair is absent then the Vice Chair will preside.
- 6.6 If the Chair and the Vice Chair are absent then the committee will appoint one of its Members to preside.
- 6.7 Persons presiding over meetings in the place of the Chair will have the same powers and duties as the Chair.
- 6.8 Whenever the Chair rises during a debate the meeting will be silent.

Quorum

- 6.9 No business will be transacted at a meeting of the Committee where there are less than 4 Members present.
- 6.10 If a meeting becomes inquorate after it has commenced then it will be adjourned. Remaining business will be considered at the next meeting.

Matters for Decision

- 6.11 All matters for decision will be included within the agenda.
- 6.12 There will be an early item on every agenda requiring Members to declare any relevant interests in any item appearing on the agenda. Members are required to observe the requirements in the Member Code of Conduct (Section F1) and withdraw from the meeting room at the appropriate point during the meeting where they have an interest which requires them to do so.
- 6.13 The Chair may agree that an item of business which is urgent will be dealt with at a meeting even if it is not on the agenda for that meeting. The Chair will give the reason for the urgency.



- 6.14 Business will be dealt with in the order in which it is set out in the agenda unless the Chair decides otherwise.

Disorderly Conduct and Disturbances

- 6.15 The Chair may direct (or a Member may move), in respect of any Member considered to be misconducting themselves, that the Member will not be heard further.
- 6.16 The Chair may direct (or a Member may move), either following a direction (or resolution) under paragraph 6.15 above, or directly in the case of gross misconduct, either:-
- (a) that the Member in question leaves the meeting; or
 - (b) that the meeting is adjourned
- 6.17 The Chair, in the event of a general disturbance at any meeting which s/he considers to be disrupting the orderly transaction of business, may adjourn the meeting for as long as is considered necessary.
- 6.18 The Chair will be at liberty to warn any member of the public in respect of their conduct at a meeting. In the case of persistent or gross misconduct the Chair will be at liberty to direct any person to be removed from the meeting.
- 6.19 In the event of a general disturbance in any part of the meeting room open to the public, the Chair will be at liberty to direct that part of the room to be cleared.

Requesting and Requiring Attendance by Others

- 6.20 The Scrutiny Committees may invite individuals who are not Members or Officers to discuss issues of local concern and/or answer questions. It may, for example wish to hear from residents, stakeholders, partners or members and officers of other public bodies.
- 6.21 The Scrutiny Committees may require the attendance of representatives of organisations in accordance with the provisions of the Local Government Act 2000.
- 6.22 The Scrutiny Committees may require any Member, the Chief Executive, Deputy Chief Executive or any Service Director to attend meetings of the Committee to answer questions and be held to account in relation to:
- (a) any particular decision or series of decision
 - (b) the extent to which any actions taken implement Council policy
 - (c) their performance
- 6.23 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, the Chair will try to arrange an alternative date.
- 6.24 Cabinet Members will not be expected to attend meetings of the Scrutiny Committees, or Task and Finish Groups unless invited.



6.25 Members attending Scrutiny meetings must have regard to Member Code of Conduct in relation to interests which arises in scrutinising any decision that they have been involved in, and in relation to the circumstances in which they may nevertheless be able to address the Scrutiny Committee.

7. Rules of Debate

7.1 The following rules of debate will apply but the Chair will be at liberty to apply a more informal style of debate to suit any particular meeting. The Chair will ultimately determine all matters relating to the conduct of the debate when any informal style of debate is applied.

Motions Without Notice

7.2 Only Motions relating to business on the agenda of the committee may be proposed.

7.3 A committee Member may propose Motions without notice but they will not be discussed unless seconded.

7.4 The Chair may require Motions to be handed up in writing before they are further discussed or put to the meeting.

Motions During Debate

7.5 The following Motions may be moved whether or not another Motion is already under debate:-

- (a) to give the consent of the committee where the consent of the committee is required by these Procedure Rules
- (b) any Motion relating to any item currently under discussion
- (c) to refer the matter to an appropriate body, individual or subsequent committee meeting
- (d) to withdraw a Motion
- (e) to amend a Motion
- (f) to proceed to the next business
- (g) to put the question
- (h) to adjourn the debate
- (i) to adjourn the meeting
- (j) to extend the time allowed for speeches
- (k) to suspend a particular Procedure Rule(s)
- (l) to exclude the press and public
- (m) that a Member who misconducts themselves should not be heard further
- (n) that a Member should leave the meeting

Motions and Rescinding Decisions



- 7.6 Unless brought upon recommendation in a report before the committee, no Motion will be moved which would have the effect of rescinding any decision of the committee passed within the preceding six months, or which is to the same effect as a Motion which has been rejected within that period.

Amendments and Alterations to Motions

- 7.7 An amendment must be relevant to the Motion under discussion and will have the effect of deleting, substituting or adding words to the original Motion.
- 7.8 Amendments may not be moved if they will have the effect of negating the Motion before the committee.
- 7.9 Only one amendment may be moved at a time. No further amendment will be moved until the amendment under discussion has been disposed of, although the Chair may allow two or more amendments to be discussed (but not voted on) together if this would facilitate the proper conduct of the business before the meeting.
- 7.10 If an amendment is lost, another amendment may be moved on the original Motion.
- 7.11 If an amendment is carried, the Motion as amended will take the place of the original Motion and will become the Motion upon which any further amendment may be moved.
- 7.12 After an amendment had been carried, the Chair will read out the amended Motion before accepting any further amendments, or if there are none, putting it to the vote.
- 7.13 A Member may alter a Motion which they have proposed but if seconded, the consent of the seconder and the committee is required.
- 7.14 Any alteration proposed must of the type permitted to be moved as an amendment

Withdrawal of Motions

- 7.15 A Member may withdraw a Motion which they have proposed

Closure of Motions

- 7.16 At the conclusion of a Member's speech, another Member may move (without comment) any of the Motions set out in paragraph 7.5(f) to (i) inclusive.
- 7.17 Upon the seconding of a Motion under paragraph 7.5(f) above (to proceed to next business), the Chair will (unless of the opinion that the matter has not been sufficiently discussed) invite the right of reply to be exercised in respect of the Motion under discussion and then put it to the vote before proceeding to the next business.
- 7.18 Upon the seconding of a Motion under paragraph 7.5(g) above (to put the question), the Chair will (unless of the opinion that the matter has not been sufficiently discussed) put the Motion



under paragraph 7.5(g) above to the vote and, if it is passed, invite the right of reply to be exercised in respect of the Motion under discussion before putting it to the vote.

- 7.19 Upon the seconding of a Motion under paragraphs 7.5(h) or (i) above (to adjourn the debate or meeting), the Chair will (unless of the opinion that the matter has not been sufficiently discussed) put the adjournment Motion to the vote without inviting the right of reply to be exercised in respect of the Motion under discussion.

Content and Length of Member Speeches

- 7.20 Members will confine speeches to the question under discussion, a personal explanation or a point of order. No speech will exceed five minutes, without the consent of the committee. The five-minute time limit will exclude any time lost as a result of other Members rising on a point of order or personal explanation.

Only One Member to Speak at a Time

- 7.21 Whilst a Member is speaking the other Members will remain silent unless intervening on a point of order or in personal explanation.

Order of Speeches

- 7.22 The proposer of a Motion will speak first, followed by the Secunder. When seconding a Motion a Member may advise the Chair that they reserve their right to speak until later in the debate.
- 7.23 If two or more Members indicate their intention to speak, the Chair will determine the order of speeches

Right of Reply

- 7.24 The Mover of the Motion will have a right to reply at the close of the debate on the Motion, immediately before it is put to the vote.
- 7.25 If an amendment is moved, the Mover of the original Motion will have a right of reply at the close of the debate on the amendment.
- 7.26 The Mover of the amendment will have a right of reply to the debate on the amendment immediately before the Mover of the original Motion exercises their right of reply at the close of the debate.

Points of Order and Personal Explanations

- 7.27 A Member may intervene on a point of order or in personal explanation and will be entitled to be heard immediately.



- 7.28 A point of order will relate only to an alleged breach of a Procedure Rule or statutory provision and the Member will specify the Procedure Rule or statutory provision and the way in which they consider it to have been breached.
- 7.29 A personal explanation will be confined to some material part of a former speech by the intervening Member which appears to them to have been misunderstood in the current debate.
- 7.30 The ruling of the Chair a point of order or on the admissibility of a personal explanation will be final and not open to discussion.

8. Voting

Method of Voting

- 8.1 All matters will be decided by a simple majority of those Members present and voting in the room at the time the question is put.
- 8.2 Members must be in their designated seats for their vote to be counted.
- 8.3 Voting will be by a show of hands, or if there is no dissent and no call for a vote, by the Chair being satisfied of the unanimous approval of the meeting.

Casting Vote

- 8.4 Where there are equal votes cast for a Motion, the Chair may exercise a second or casting vote.

Recording Votes

- 8.5 A Member may require, after a vote is completed, that the Minutes of the meeting record whether and how they voted.
- 8.6 If one third of the Members present so request the vote will be recorded to show whether and how each Member voted.
- 8.7 A Member may, immediately after the item of business is voted upon, request that a lost Motion be recorded in the Minutes.

9. Minutes Records and Disclosure of Information

Minutes

- 9.1 At each ordinary meeting the Chair will move that the Minutes of the last meeting be confirmed as an accurate record.



- 9.2 Only matters relating to the accuracy of the Minutes can be raised by way of a Motion proposed, seconded and voted upon. Where no issues are raised, or after any Motion has been dealt with, the Chair will sign the Minutes
- 9.3 Signed minutes of each committee meeting will be submitted to the next meeting of that committee's parent body.
- 9.4 Any question about the accuracy of any Minute of a body must be considered and determined by that body at its next meeting.

Records of Attendance

- 9.5 The attendance of Members at the whole or part of a meeting will be recorded by the committee clerk.

Exempt Matters

- 9.6 No Member will disclose to any person the whole or any part of the contents of any agenda, report or other document which is marked "confidential" or "not for publication" unless and until the document has been made available to the public or the press by or on behalf of the Council, the Cabinet or a Committee.
- 9.7 No Member will disclose the content of any discussions in the confidential part of a meeting.
- 9.8 No Member will disclose to any person (other than a Member of the Council with a need to know) any matter arising during the proceedings of the Council, the Cabinet or any Committee and which comes to their attention by virtue of their office as a Member where such disclosure would prejudice the interest of the Council or would be contrary to law. If in any doubt advice should be sought from the Monitoring Officer.
- 9.9 Other than in accordance with paragraphs 6.18 and 6.19 above (disturbances), the press or public will only be excluded from a meeting during the consideration of any item of business which would be likely to disclose Exempt Information as defined in these rules.

10. Rights of Other Council Members

Attendance at Committee

- 10.1 Notwithstanding their rights as a member of the public, Members who are not Appointed Members of the Committee ("**Visiting Members**") may attend any meeting of a committee (even if considering Exempt Information) if required for the purposes of performing their duties as Members. As in 6.24 Cabinet Members will not be expected to attend, unless invited. Advice should be taken where meetings will be considering personal information of a sensitive or confidential nature.
- 10.2 Visiting Members:-



- (a) may not vote on committee business
- (b) will notify the Chair before the start of the meeting, if they wish to speak on a particular item
- (c) will, at the discretion of the Chair, be invited to speak at the beginning of the debate on any item notified under paragraph 10.2(b) above, and be invited to sum up at the end of a debate
- (d) will not, other than as provided for in paragraph 10.2(c) above or by the Chair, be permitted to participate in any debate at the meeting.

Placing Items on the Agenda

- 10.3 Any Member of the Council (having due regard to any relevant guidance) will be entitled to have a matter relevant to the remit of the Scrutiny Committee placed on its next available meeting agenda by serving not less than 14 days' notice on the Monitoring Officer.
- 10.4 Notice may be given to the Monitoring Officer by a Visiting Member at a Scrutiny Committee meeting in respect of an item of business that the Visiting Member would like to be included on the agenda of the next ordinary meeting of that Scrutiny Committee.
- 10.5 Any notice given under paragraphs 10.3 or 10.4 above will clearly state the nature of the business in question.
- 10.6 A Member may not (unless a Scrutiny Member acting under Section 21(8) of the Local Government Act 2000) give notice(s) under this part requesting the inclusion of more than one item of business on the same meeting agenda
- 10.7 Council or the Cabinet may require a Scrutiny Committee to consider a matter and report.
- 10.8 If a matter referred to it under paragraph 10.3, 10.4 or 10.7 above cannot be dealt with at the meeting in question, the Scrutiny Committee, will schedule the matter into their Work Programme as soon as is reasonably practicable.

11. Reports from the Scrutiny Committee

- 11.1 Once it has formed recommendations as a result of a scrutiny review, a Scrutiny Committee may prepare a formal report and submit it for consideration by the cabinet/individual Portfolio Holder (if the proposals are consistent with the existing budgetary and policy framework), or to the Council (or Cabinet and Council) as appropriate (e.g. if the recommendation would require a departure from, or a change to, the agreed budget and policy framework) or to relevant partner organisations.
- 11.2 If the Scrutiny Committee cannot agree on one single final report then one minority report may be prepared and submitted for consideration with the majority report.
- 11.3 Scrutiny reports will be considered by the receiving body within two months of being submitted. Where a report relates to, and makes recommendations about or to an external organisation, the report will be sent to that organisation asking for comments on the recommendations.



- 11.4 Responses from receiving bodies will be given to the Scrutiny Committees. The Committees will arrange for any follow up work required as necessary.
- 11.5 The Scrutiny Committees will produce annual reports which together will form the overall Overview and Scrutiny Annual report presented to the final Council meeting of each municipal year.
- 11.6 The Chair or any 5 Members of the relevant Scrutiny committee may, by resolution or by notice given to the Monitoring Officer, require the Leader to submit a report to the next reasonably proximate Council meeting, if it is considered that a Key Decision has been taken otherwise than in accordance with the Cabinet Procedure Rules.
- 11.7 Reports required under paragraph 11.6 above will set out the particulars of the decision taken, who made the decision, and an explanation for the non-compliance including why (if it was the case) that the decision was not considered to be a Key Decision.

12. Public Access to Meetings

- 12.1 Committee meetings will ordinarily be held in public unless the information to be discussed:-
- (a) cannot be discussed in public without risk of breaching a duty of confidence that the authority is under (usually because the information to be discussed was supplied in confidence or is subject to a court order prohibiting its disclosure); and/or,
 - (b) is exempt from disclosure under Schedule 12A of the Local Government Act 1972, the Freedom of Information Act 2000, the Data Protection Act 1998, the Human Rights Act 1998 or any other legislation relating to the prevention of disclosure of information.
- 12.2 If all (or upon decision part) of any committee meeting is held in with the exclusion of the press and public, reasons for the need for such exclusion will be given by reference to any or all of the relevant circumstances referred to in paragraph 12.1(a) and/or (b) above.

13. Notices and Information Relating to Meetings

Information Generated for Meetings

- 13.1 Committee meetings will require the production and publication of the following written information (“**Meeting Information**”):-
- (a) meeting agendas (“**Agendas**”), setting out the business to be decided at a meeting
 - (b) reports (“**Reports**”), (including any appendices or supplementary information) containing all of the information that the meeting needs to debate or decide a matter on the agenda
 - (c) background documents (“**Background Documents**”), which are documents (that have not already been published) containing information that a report or a material part of a report is based on. These are listed in reports but are not usually presented to the meeting.



- (d) approved minutes, record of decisions or (where Exempt Information is discussed) a summary of proceedings and any decisions reached ("**Minutes**")

Information about Future Meetings

- 13.2 The Monitoring Officer will normally give not less than 5 days' notice of all meetings stating the nature of the meeting and the time and place where it will be held. If a meeting must be convened on shorter notice such notice will be given at the time the meeting is convened.
- 13.3 The Monitoring Officer will give notice under paragraph 13.2 above:-
- (a) to all members of the body to which the notice relates; and, in respect of all meetings which are ordinarily held in public:-
 - (b) by displaying a copy of the notice at the Council's principal office; and,
 - (c) making details of the meeting available on the Council's website
- 13.4 The Monitoring Officer will normally provide, not less than 5 days prior to a meeting, Agendas and Reports by:-
- (a) providing the same to all members of the body in question; and, in respect of all meetings which are ordinarily held in public, by:-
 - (b) publishing the same on the Council's website; and,
 - (c) ensuring that copies are available at the meeting in question
- 13.5 Where a report to be considered at a meeting is not available for publication with an agenda, the agenda item will be marked "Report to Follow" and the report (or any other updates or supplementary information) will be provided when available in accordance with paragraph 13.4 above.

Information about Past Meetings

- 13.6 The authority will retain:-
- (a) Background Documents for a period of 4 years after the date of the meeting; and,
 - (b) all other Meeting Information for a period of 6 years from the date of the meeting.
- 13.7 This information will usually be available on the authority's website but will also be provided in print on request. There may be a fee payable to cover the cost of providing printed information.

Exempt Information

- 13.8 Meeting Information relating to the parts of meetings described in paragraphs 12.1(a) and (b) above is referred to as "**Exempt Information**" in this constitution.
- 13.9 Exempt Information provided to Members will be marked "Not for Publication" and/or "Confidential" and/or "Restricted" and will have written on it, by reference to any or all of the



relevant circumstances referred to in paragraph 12.1(a) and/or (b) above, the reason why it is Exempt Information.

13.10 Exempt Information will not be provided to the public.

14. Public Speaking

14.1 Members of the public may speak or ask a question at committee meetings on any subject that relates to the agenda and within the terms of reference of the committee.

14.2 Persons wishing to speak or ask a question are requested to give notice to the Service Director Legal & Governance at least two clear days' before the meeting in question. This is to ensure that:-

- (a) the topic is appropriate for the meeting in question;
- (b) the time allotted for public speaking and questions can be properly managed; and,
- (c) any information needed to answer a question can be provided to the meeting

14.3 The Chair will retain sole discretion as to the management of public speaking and questions but in most cases a total period of 15 minutes will be permitted with speakers being allowed to speak for up to 5 minutes each.

14.4 Questions will be asked and answered without debate.

14.5 In responding to questions Members may:-

- (a) decline to answer
- (b) agree to answer at or by a later (specified) date (whether or not in writing)
- (c) refer the question to a more appropriate forum, Member or Officer

14.6 Questions will not be answered if they:-

- (a) are about a matter that the committee is not responsible for or does not affect the borough
- (b) are offensive, defamatory or frivolous
- (c) require the disclosure of Exempt Information
- (d) make or relate to allegations against, or comprise comments about the conduct of individual Members or Officers.

14.7 Those speaking or asking questions must comply with the standard of conduct required of them under Section A3 of the constitution.

15. Calling in Decisions Contrary to the Budget and Policy Framework

15.1 If at least five members of the Scrutiny Committee consider that a decision contrary to the Budget and Policy Framework has been or will be taken, it may give notice (with reasons) on the Monitoring Officer requiring ad on the matter to be given.



- 15.2 Upon receipt of a notice given under paragraph 15.1 above, the Monitoring Officer will provide a report to the decision taker (copied to every Member of the Council) advising that the decision either:
- (a) is; or,
 - (b) is not
- in accordance with the Budget and Policy Framework.
- 15.3 In the case of paragraph 15.2(a) above, no further action is required.
- 15.4 In the case of paragraph 15.2(b) above, if the decision has been implemented then the person or body that took the decision will decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council
- 15.5 In the case of paragraph 15.2(b) above, if the decision is yet to be made or implemented then the decision taker will give notice on the Monitoring Officer stating that they either:-
- (a) are not minded to proceed with the decision (in which case no further action is required); or,
 - (b) are minded to proceed with the decision notwithstanding the advice contained in the report.
- 15.6 In the event of paragraph 15.5(b) above, and subject to the urgency procedures set out in paragraph 7.3 of Section C3, no further action will be taken in respect of the decision or its implementation until Council has met and considered the matter.
- 15.7 Council will meet to consider the matter as soon as is reasonably practicable and may:-
- (a) endorse the decision or proposal as falling within the Budget and Policy Framework
 - (b) endorse the decision or proposal (either with or without amendment) notwithstanding it is considered to be contrary to the Budget and Policy Framework (and make any amendments to the Budget and Policy Framework considered appropriate)
 - (c) veto the decision (with or without recommending or deciding on an alternative course of action)
- 15.8 In the case of paragraph 15.7(a) or (b) above the decision may then be implemented (with any amendments proposed in the case of paragraph 15.7(b))
- 16. Call-In Procedures Relating to Cabinet Decisions**
- 16.1 Where a Notice of Call-in has been validly given under Section C3, the Monitoring Officer will refer the matter to a Scrutiny Committee for the call-in to be heard.



Timing of Call-in Hearings

- 16.2 The Scrutiny Committee will endeavour to hold hearings as soon as is reasonably practicable, and in the case of collective Cabinet decisions, in good time to report to the next scheduled meeting of the Cabinet. A special meeting(s) of the Committee will be convened for these purposes if required.

Pre-Hearing Meeting

- 16.3 The Scrutiny Committee may invite those exercising the right of call-in (the “Call-in Members”) and any or all of the decision taker, Leader, Portfolio Holder(s) and any advising officer(s)(the “Respondent”) to attend an initial informal meeting to consider matters relating to the conduct of the call-in hearing including:-

- (a) the scope of the call-in;
- (b) the number and identity of any witnesses required;
- (c) the scope or nature of documents to be considered;
- (d) the likely number and duration of any meetings required to properly consider the matter.

General Principles for Call-In Hearings

- 16.4 The Chair will retain full discretion to conduct a Call-In as s/he sees fit, however the following procedure will ordinarily apply (and shall be published in the meeting agenda).
- (a) Call-in Members are requested to nominate a single spokesperson to outline the reasons for the call-in and the desired outcome. Any other Member calling in the decision who wishes to add any additional information may also address the meeting. However, Call-In Members will make every effort to avoid repetition. A maximum of five Call-In Members will be permitted to speak.
 - (b) The timings set out in the procedure are for guidance only and the Chair may at his or her discretion change the timings, depending on the subject matter of the Call-In and the level of public interest.
 - (c) Where questions are permitted within the procedure, they will be asked and answered succinctly and will not be used as an opportunity to deliver speeches. Officers may be invited to attend with the Respondent, who will usually be the Cabinet Member, and may also address the meeting on technical issues (if requested to do so by the Cabinet Member).
 - (d) Visiting Members:-
 - i) may not vote on committee business;
 - ii) will notify the Chair before the start of the meeting, if they wish to speak on a particular item;
 - iii) will, at the discretion of the Chair, be invited to speak at the beginning of the Call-In and may be invited to sum up at the end of a debate, at the Chair’s discretion.
 - iv) will not, other than as provided for in paragraph 16.4(c) above or by the Chair, be permitted to participate in any debate at the meeting.
 - (e) The Call-In Members or the Respondent will confirm their attendance at the Call-In hearing and must notify the Chair at least 3 working days prior to the date scheduled for



the Call-In hearing if they propose to call witnesses or introduce documentary or other evidence in support of their case, including details of the proposed format of the evidence. The Chair will, in consultation with the Monitoring Officer consider the appropriateness of the proposals to the subject matter of the Call-In and the impact on arrangements for the hearing itself, including the indicative timescales set out in the procedure.

Hearings Procedure

16.5 Subject to the Chair's discretion, the procedure for hearings will be as follows:-

Opening statements

- (a) The Lead Call-in Member will address the meeting outlining (a) the reasons for the call-in; and (b) the desired outcome from the call-in. The reasons given will be consistent with those set out in the Notice of call-in (or any changes agreed under Paragraph 16.3). The Call-in Members as a group to be allocated a maximum of 30 minutes speaking time in total.
- (b) Visiting Members (who have provided notice) may address the Committee at this point. Visiting members to be allocated a maximum 15 minutes speaking time in total – up to 5 minutes per Member.
- (c) Cabinet Member will respond to the Call-In. The Cabinet may call witnesses at this point. The Cabinet Member and any witnesses to be allocated a maximum of 30 minutes speaking time in total.
- (d) The Call-In Members may ask questions of the Cabinet Member. A maximum 15 minutes in total to be allocated for this part of the meeting.

Questions and debate by the Committee

- (e) The Committee may ask questions of the Cabinet Member and Call-In Members and debate what it has heard. A maximum 30 minutes in total to be allocated for this part of the meeting.

Conclusion of the Debate

- (f) Concluding remarks from the Lead Call-in Member. A maximum 15 minutes in total to be allocated.
- (g) Concluding remarks from Cabinet Member(s). A maximum 15 minutes in total to be allocated.
- (h) Committee to discuss what it has heard and may make any recommendations to the Cabinet Member or Cabinet. A maximum 15 minutes in total to be allocated.

Guidance on options available to the Committee;

- (i) The Committee may decide that the original Cabinet/Cabinet Member decision stands.
- (j) The Committee may wish to make a recommendation(s) which change the substantive decision which will be referred back to Cabinet or the Cabinet Member for consideration.



- (k) The Committee may wish to offer advice or make any recommendations which do not change the substantive decision. (For example: establish a cross party Task and Finish Group; how the decision making process could have been improved on for the future and suggestion relating to consultation and engagement improvements). The Cabinet Member in attendance may agree to accept the advice or recommendation(s).

Action following a Hearing

- 16.6 As soon as is reasonably practicable following the hearing of a call-in, the Chair will give notice on the Monitoring officer either;
- (a) that the Committee is not offering any advice or any advice that needs to be considered before a relevant decision(s) can be implemented; or
 - (b) that the Committee is offering advice in a report accompanying the notice that it requires the decision taker to consider before any further action is taken.
- 16.7 In the event of a notice under paragraph 16.6(a) above, any decision awaiting implementation may be implemented immediately, and any advice offered is to be noted.
- 16.8 In the event of a notice under paragraph 16.6(b) above the report will be submitted to the decision taker who will decide what action to take in respect of any decision awaiting implementation or to be taken and whether to adopt any or all of the advice contained in the report.
- 16.9 Any further call-in notices given in respect of a decision that has been considered under this process will not operate to defer the implementation of the decision in question.

17. Miscellaneous Matters

Scrutiny Members' Access to Information

- 17.1 With the exception of documents in draft form, the Scrutiny Committees will be entitled to copies of any document which is in the possession or control of the Cabinet or its committee and which contains material relating to:
- (a) any business transacted at a public or private meeting of the Cabinet or its Committees; or
 - (b) any decision taken by an individual Member of the Cabinet.

Party Whip

- 17.2 It is generally accepted that the Party Whip should be suspended in respect of scrutiny matters. However, when considering any matter in respect of which a Scrutiny Member is subject to a formal party whip, the Member must declare the existence of the whip and the nature of it before the commencement of the deliberations on the matter. Declarations will be recorded in the Minutes of the meeting



- 17.3 A Party Whip is any instruction given by or on behalf of a political group to any Member who is a member of that group as to how that Member will speak or vote on any matter before the Council or any Committee, or the application or threat to apply any sanction by the group in respect of that Member should s/he speak or vote in any particular manner.

Officer Advice

- 17.4 The Chair may request an appropriate Officer to offer advice or draw the attention of the committee to any relevant factors where a debate involves questions of a technical, legal, financial or operational/administrative nature.

Suspending the Procedure Rules

- 17.5 With the exception of paragraphs 8.5 and 9.1 above,¹ any or all of these Procedure Rules may be suspended for the duration of a meeting either:-
- (a) In the case of there being more than one third of all Members of the Committee present, by a Motion without notice; or
 - (b) In all other cases by a Motion on notice.

Interpreting the Procedure Rules

- 17.6 The Chair (who will be entitled to take advice from the Monitoring Officer) will determine all matters relating to the interpretation or application of these Procedure Rules which arise during a meeting. The Chair's decision will be final.
- 17.7 The Monitoring Officer will determine all matters relating to the interpretation or application of these Procedure Rules which arise between meetings. The Monitoring Officer's decision will be final.
- 17.8 Any requirement to make a notice or information available to anyone will be fulfilled by publishing that information on the Council's website such that it is readily available to be viewed or printed off from the website and, if necessary, printed off at council offices to be given to personal callers in hard copy.
- 17.9 References in these Procedure Rules to an Officer will include references to any duly authorised representative of that Officer.
- 17.10 References in these Procedure Rules to Members will (unless the context requires otherwise) be taken to mean references to Members of the committee in question.
- 17.11 References in these Procedure Rules to Motions, will include (where the context so requires or admits) references to amendments to Motions.

¹ Rules required by statute (right to require individual vote to be recorded and no obligation to sign minutes of a previous meeting at an Extraordinary (Special) Meeting).



- 17.12 References in these Procedure Rules to Committees will be taken to include, panels or boards of the committee in question.
- 17.13 Reference in these Procedure Rules to a day or days will be taken to mean between the hours of 9.00 and 17.00 on any day that is not a Saturday, Sunday or public holiday.
- 17.14 References in these Procedure Rules to a period of days that is to elapse between the occurrence of two specified events will be taken to mean clear days calculated by excluding the day upon which both of the specified events occur.

Notice Requirements

- 17.15 All notices given by Members under these Procedure Rules will be treated as having been given to the recipient by any of the following means:-
- (a) post properly addressed to the recipient at their usual address;
 - (b) leaving it properly addressed for the recipient at their usual address;
 - (c) e-mail sent to an email address designated by the recipient for this purpose from an email account registered with the Council in the Member's name;
 - (d) submitting a form on the Council's website designated for this purpose.
- 17.16 All Notices given to Members under these Procedure Rules will be treated as having been given to the recipient by any of the following means:-
- (a) post properly addressed to the recipient at their usual address (being their usual place of residence or any other address which the Member has given notice to the Monitoring Officer of for these purposes);
 - (b) leaving it properly addressed for the recipient at their usual address or if requested (by notice given to the Monitoring Officer) either in addition or substitution for the methods set out in paragraph 17.15(a) and (b) above, by:-
 - (c) e-mail sent to an email account registered with the Council in the Member's name from an email account registered to the Council.
- 17.17 All Notices given under these Procedure Rules must be given in writing, contain all of the information that is reasonably required in order to properly communicate the purpose and effect of the notice, and be signed (which will include electronic signatures) by the person or persons required to give the notice in question.
- 17.18 If more than one signatory is required to give valid notice, any single notice given must bear the signatures of all the necessary signatories and be given in accordance with paragraph 17.15 (a) or (b) above. In the alternative, each of the required signatories may give individual notices in accordance with paragraph 17.15 (c) or (d) above.
- 17.19 Notices will be deemed to have been given:-



- (a) in the case of paragraphs 17.15(a) or 17.16(a) above, on the day upon which delivery would ordinarily occur in the normal course of the method of post chosen (provided proof of posting is available);
- (b) in the case of paragraphs 17.15(b) or 17.16(b) above, on the day upon which the notice is left;
- (c) in the case of paragraphs 17.15(c) or (d) above, on the day upon which receipt is acknowledged otherwise than by any automated process;
- (d) in the case of paragraph 17.16(c) above, on the day upon which notice is sent.

Time Calculation Example

- 17.20 The following example is provided to demonstrate the effect of paragraphs 17.13 and 17.14 above. In the following example, it is assumed that none of the weekdays referred to are public holidays.
- 17.21 If a notice is required to be given 5 days before a meeting, then the giving of the notice and the meeting are the two specified events for the purposes of paragraph 17.14.
- 17.22 Assuming the meeting is to be held on a Monday, then the latest a notice may be given is on the first of the two preceding Fridays, between 09.00 and 17.00 hours.
- 17.23 If so given, the Friday upon which the notice is given ranks as the day upon which the first event occurs for the purposes of paragraph 17.14. The 5-week days in the ensuing week then rank as the required 5 “clear days” between giving the notice and day upon which the meeting is being held.

FRIDAY	Notice Given
SATURDAY	Not Counted
SUNDAY	Not Counted
MONDAY	Clear Day 1
TUESDAY	Clear Day 2
WEDNESDAY	Clear Day 3
THURSDAY	Clear Day 4
FRIDAY	Clear Day 5
SATURDAY	Not Counted
SUNDAY	Not Counted
MONDAY	Meeting





Part E – Officers
Section E1 – Officers

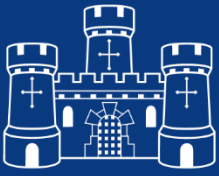
In Part E:-

This Section (E1) of the Constitution explains the role of the authority’s officers in general and the role of certain key and “statutory” or “proper” officers. It sets out the officer management structure and explains how the authority’s functions are grouped together under Services and Directorates.

Section E2 contains the Officer Scheme of Delegation that sets out how Council has delegated powers to officers and how officers are to use those powers. In summary, with the exception of matters that are specifically reserved to Members by law or in this Constitution, such as adopting strategic policy and taking certain types of regulatory decisions, all of the other functions are delegated to officers. Officers may enter into contracts and incur expenditure but must do so within financial limits and procedures set out in the Finance and Contract Procedure Rules (Section F5).

Section E3 contains the Employment Procedure Rules.



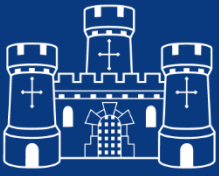


Part E – Officers
Section E1:- Officers

In this Section:-

- 1. Introduction**
- 2. Officer Management Structure**
- 3. Statutory Officers**
- 4. Proper Officers**

NEWCASTLE
UNDER LYME
BOROUGH COUNCIL



1. Introduction

- 1.1 “Officers” is the term used to refer to the people employed, retained or appointed by the authority to advise and support Members and implement their decisions. The term “officers” in this constitution includes all the people who operate in this capacity under an agreement with the authority whether or not they are directly employed by the Council. This may include contractors, consultants, agency staff and volunteers.
- 1.2 Section A2 explains the core objective of this authority’s approach to decision making and how it operates a “Cascade of Powers” system of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected by the decision in question. Under this system of delegation the vast majority of the authority’s decisions and actions will fall into the category of operational day to day decisions taken by its officers.
- 1.3 In order to ensure the smooth functioning of the authority and the efficient delivery of services, Council and the Cabinet have delegated to officers all of the powers that they need to do what their role requires of them from time to time. More information on the powers of officers can be found at Section E2.
- 1.4 Some officers have specific legal duties to ensure that the Council acts within the law and uses its resources wisely. These officers are known as “Statutory” or “Proper” officers and some have specific legal titles in addition to their job titles. A summary of who these officers are and what they are responsible for can be found at paragraphs 3 and 4 of this Section (below).
- 1.5 The relationship between officers and Members is governed by a Protocol on Member/Officer relations which can be found at Part F. Members and officers are also bound by Codes of Conduct. These can also be found at Part F.



2. Officer Management Structure

- 2.1 The Council's services are delivered through different departments, known as "Services" each under the control of an officer who is known as a Service Director.
- 2.2 Service Directors are responsible for all of the functions within their services. They report to the Chief Executive or Deputy Chief Executive. The Chief Executive is ultimately responsible for the operational management of the Council, its officers, and for the delivery of all of the authority's services within the budget and policy framework set by Members.
- 2.3 The Chief Executive, Deputy Chief Executive and Service Directors are known as the "Chief Officers" and together (with the Monitoring Officer and Section 151 Officer) they form the Council's Corporate Leadership Team.
- 2.4 The way the Council structures its Services and Directorates changes from time to time to reflect changes in service delivery and best practice. The Council's website contains the most up to date information and also sets out more details about who does what and how they can be contacted.

3. Statutory Officers

- 3.1 The authority is required to appoint certain officers to undertake the "Statutory Officer" roles. These roles require the appointed officer to discharge specific legal duties to ensure that the Council acts within the law and uses its resources wisely. Those roles are the Head of Paid Service, the Chief Finance Officer (also known as the Section 151 Officer or S151 Officer), and the Monitoring Officer.
- 3.2 The Council is responsible for ensuring that these officers have the resources they require to discharge their roles effectively.



The Head of Paid Service

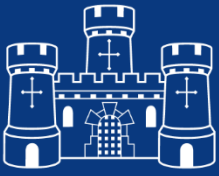
- 3.3 The Chief Executive is the authority's Head of Paid Service. The Head of Paid Service reports to Council on the manner in which the discharge of the authority's functions is coordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

The Chief Finance (Section 151 or S151) Officer

- 3.4 The Chief Finance Officer is responsible for the proper administration of the financial affairs of the authority.
- 3.5 The Chief Finance Officer will contribute to the corporate management of the authority by providing professional advice and assistance to officers and Members in respect of matters of financial propriety, compliance, and due process in the formation and implementation of the budget and policy framework.
- 3.6 The Chief Finance Officer shall, where necessary, and in consultation with the Head of Paid Service and Monitoring Officer, report any compliance issues to the Council, the Cabinet or the external auditor.

The Monitoring Officer

- 3.7 Unless otherwise agreed the Head of Legal and Governance is the authority's Monitoring Officer. The Monitoring Officer is responsible for ensuring lawfulness and fairness in decision-making and matters relating to the conduct of elected Members.
- 3.8 The Monitoring Officer will provide advice to ensure that decisions are taken on proper authority, by due process, and in accordance with the budget and policy framework.
- 3.9 The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the Chief Finance Officer, report any proposal, decision or omission considered to be unlawful or to amount to



maladministration to the Council or the Cabinet. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- 3.10 The Monitoring Officer will contribute to the promotion and maintenance of high standards of Member conduct and will discharge functions in respect of breaches of the Member Code of Conduct.
- 3.11 The Monitoring Officer shall determine matters relating to the interpretation of the Constitution and will be responsible for ensuring that it is kept up to date.
- 3.12 The Monitoring Officer is authorised to make minor and/or consequential amendments to the Constitution for the purpose of keeping it up to date, clarifying its content or interpretation, correcting any errors or omissions or otherwise giving effect to the intentions of the Council.

4. Proper Officers

- 4.1 There are various laws which require certain functions to be undertaken by the “Proper Officer” of the council or for a “Proper Officer” take overall responsibility for a particular statutory duty. The “Proper Officer” for these purposes shall be the Chief Officer with responsibility for the subject matter or Service Area in question. In the case of uncertainty, cross-cutting matters or matters relating to democratic process or corporate governance, the Proper Office is the Chief Executive or Monitoring Officer.
- 4.2 “Proper Officer” functions may be discharged by other officers duly authorised to act in the name of the “Proper Officer” concerned.



Part E – Officers
Section E2 – Powers of Officers

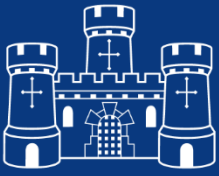
In Part E:-

Section E1 of the Constitution explains the role of the authority’s Officers in general and the role of certain key and “statutory” or “proper” officers. It sets out the Officer management structure and explains how the authority’s functions are grouped together under Services/Directorates.

This Section (E2) contains the Officer Scheme of Delegation which sets out how Council has delegated powers to officers and how officers are to use those powers. In summary, with the exception of matters that are specifically reserved to Members by law or in this Constitution, such as adopting strategic policy and taking certain types of regulatory decisions, all of the other functions are delegated to officers. Officers may enter into contracts and incur expenditure but must do so within financial limits and procedures set out in the Finance and Contract Procedure Rules (Section F5).

Section E3 contains the Employment Procedure Rules.





Part E – Officers
Section E2:- Powers of Officers

In this Section:-

- 1. Introduction**
- 2. Cascade of Powers**
- 3. Use of Powers**
- 4. Controls on the Use of Powers**
- 5. Notices, Authorisations, Determinations, Orders, Licences, Agreements and Consents**
- 6. Authorising Expenditure and Signing and Sealing Agreements**
- 7. Legal Proceedings and Protecting the Council’s Interests**

**NEWCASTLE
UNDER LYME
BOROUGH COUNCIL**

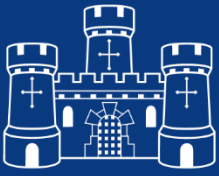


1. Introduction

- 1.1 Officers are appointed to undertake particular roles. Those roles may be established by the terms of their appointment, job or role description, their position in the organisation, or from a specific instruction or the allocation of specific responsibilities by their manager. Officers' roles may vary from time to time to reflect changes in service delivery.
- 1.2 In order to ensure the smooth functioning of the authority and the efficient delivery services that it is responsible for, the Council and the Cabinet delegate to officers all of the powers that they need to do whatever their role requires of them from time to time.
- 1.3 All powers and functions not specifically reserved to Members in this Constitution or by statute stand delegated to officers in accordance with the cascade principle set out below.

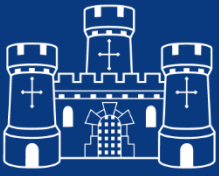
2. Cascade of Power

- 2.1 Officers' powers have been delegated by means of a standing cascade. That means that there are no long lists in this constitution of specific powers and who they have been delegated and sub-delegated to.
- 2.2 Instead, there is a standing delegation of all necessary powers from the Council and the Cabinet (and their committees) to the Chief Executive, Deputy Chief Executive and, from there, to each Service Director. The cascade continues down through the Service Directors to team managers and relevant officers in each Service.
- 2.3 In each case the powers delegated are the full range and extent of powers vested in the authority from time to time as necessary in order to discharge functions, implement decisions, and undertake the efficient operational management of the Services that the Chief Executive, Deputy Chief Executive and Service Directors are responsible for.
- 2.4 This includes the power to do anything ancillary or incidental to, arising from, or necessary to give effect to or facilitate the exercise of powers and the discharge of functions delegated to officers.



3. Use of Powers

- 3.1 When officers act under delegated powers, they do so in the name of their Service Director who will retain ultimate responsibility for ensuring that powers are exercised at the appropriate level by suitably competent and qualified officers.
- 3.2 It is for team managers and Service Directors to determine, record and keep under review the extent to which officers in their service are authorised to exercise delegated powers in their name. They shall do this by ensuring that there is clarity in setting out their Service and team structures and defining the respective roles of their officers.
- 3.3 It is the responsibility of each officer in the chain of cascade to ensure that powers are being exercised at the most appropriate level by suitably competent and qualified officers. They shall at all times have due regard for the nature, subject matter, and likely impact of any decision and liaise closely with those above them in the chain of cascade, including relevant Members, especially where a matter has potentially significant strategic, policy or operational implications.
- 3.4 Any ambiguity that may arise as to whether or not a particular officer is, by reference to the terms of their appointment, job or role description, or their position in the organisation, authorised in respect of any particular function is to be resolved by reference back up through the chain of cascade. That is to team managers, Service Directors, Deputy Chief Executive or ultimately to the Chief Executive as appropriate who shall, where necessary, give written confirmation of the allocation of any given responsibility.
- 3.5 In exceptional circumstances, and with the agreement of those above them in the chain of cascade, Officers may decline to exercise powers which rest with them where it is considered, in all the circumstances, that it would be more appropriate for another officer (whether or not further up the chain of cascade) or for Members to exercise the power instead.
- 3.6 Unless specifically prohibited by the terms of any authorisation, officers may arrange for any power which rests with them to be discharged by



another suitably competent and qualified officer but they shall remain responsible for any powers so exercised.

3.7 Officers may direct that certain types of decisions, or decisions on particular matters, be reserved to them (or to another officer) notwithstanding that they would ordinarily be taken at a point further along the chain of cascade.

3.8 Where the duly empowered officer closest to the point of service delivery is unavailable or unable to act then, subject to any specific arrangements that may have been put in place, a suitably qualified and competent officer who is most proximate to the absent officer in the chain of cascade is empowered to act in place of that officer. This will usually follow the chain of cascade or line of management back up through team managers, Service Directors, the Deputy Chief Executive to the Chief Executive.

4. Controls on the Use of Powers

4.1 Officers are not empowered in respect of matters that are specifically reserved to Members or which amount to the adoption or implementation of new policy.

4.2 Officers are only empowered to act in respect of matters which fall foursquare within their Service area, suite of responsibilities and sphere of competence.

4.3 Officers who propose to exercise powers in respect of any matter that is not wholly within their Service area, suite of responsibilities or sphere of competence shall be obliged to act in consultation with and take appropriate advice from those officers with the relevant responsibilities and expertise and particularly from the Chief Finance Officer and the Service Director Legal and Governance in respect of financial and legal considerations.

4.4 Before taking decisions, officers shall be satisfied that they can demonstrate, by keeping appropriate records, that they are duly authorised to act and that they have undertaken all appropriate consultation.



4.5 Officers must at all times observe and abide by the principles and controls governing officer decision making contained in Section A2.

5. Notices, Authorisations, Determinations, Orders, Licences, Agreements, and Consents

5.1 For the avoidance of doubt, the cascade of power through the officer structure includes the power to take all action necessary in connection with or ancillary to:-

- (a) the instruction of the Service Director Legal and Governance in respect of legal (or quasi legal) proceedings.
- (b) the authorisation of officers as may be required by statute (whether as “Proper Officers” or otherwise) to undertake certain roles, or to exercise or discharge any powers, duties or functions including investigatory or regulatory functions and affecting entry to land or premises;
- (c) the issuing, service, variation, or withdrawal of any notice, direction, determination, requisition, ultimatum or demand;
- (d) the making, confirmation, variation or withdrawal of any order or regulation;
- (e) the formation, variation or termination of any contract or agreement;
- (f) the grant, variation, withdrawal or termination of any permission, authorisation, license or consent.

6. Authorising Expenditure and Signing and Sealing Agreements

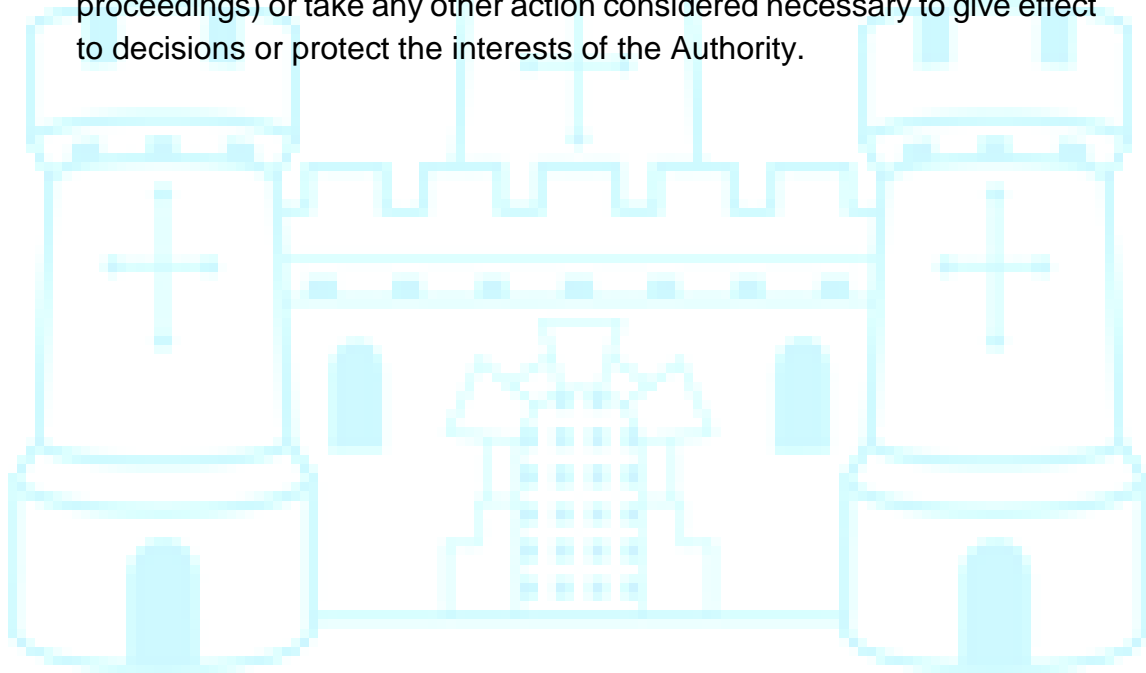
6.1 The Finance and Contract Procedure Rules and individual Service Schemes of Financial Delegation will set out the financial limits that officers must work within and procedures that they must follow when authorising expenditure.

6.2 The Finance and Contract Procedure Rules (Section F5) set out which documents can be signed by officers within individual Services and which documents must be signed and/or sealed by the Service Director Legal and Governance.



7. Legal Proceedings and Protecting the Council's Interests

- 7.1 All matters in respect of the conduct of legal (or quasi legal) proceedings (including the authentication or execution of documents) are reserved to the Service Director Legal and Governance (and his/her duly authorised officers) who shall be authorised to institute, defend, settle, discontinue or otherwise participate in any such proceedings (or intimated proceedings) or take any other action considered necessary to give effect to decisions or protect the interests of the Authority.



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Part E – Officers
Section E3 – Employment Procedure Rules

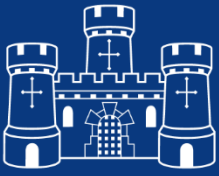
In Part E:-

Section E1 of the Constitution explains the role of the authority’s officers in general and the role of certain key and “statutory” or “proper” officers. It sets out the officer management structure and explains how the authority’s functions are grouped together under Services and Directorates.

Section E2 contains the Officer Scheme of Delegation that sets out how Council has delegated powers to officers and how officers are to use those powers. In summary, with the exception of matters that are specifically reserved to Members by law or in this Constitution, such as adopting strategic policy and taking certain types of regulatory decisions, all of the other functions are delegated to officers. Officers may enter into contracts and incur expenditure but must do so within financial limits and procedures set out in the Finance and Contract Procedure Rules (Section F5).

This Section (E3) contains the Employment Procedure Rules.





Part E – Officers
Section E3 – Employment Procedure Rules

In this Section:-

- 1. Introduction**
- 2. Officer Management Structure**
- 3. Statutory Officers**
- 4. Proper Officers**

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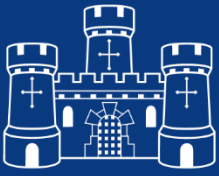


1. General

- 1.1 Staff or “**Officers**” within the organisation are employed, appointed, designated or engaged on behalf of the whole Council and not by parts of the organisation or individuals.
- 1.2 The employment, appointment, designation or engagement of all staff will be in compliance with the law and any policies and practices of the Council.
- 1.3 Persons employed, appointed, designated or engaged by contractors under specific agreements or contracts are not staff of the Council, but are employees engaged by the contractor.
- 1.4 The Council will provide the necessary resources to support the appointed officer structure. Officers may be employees and other persons engaged on temporary contracts, consultancy arrangements or other appropriate terms.
- 1.5 Generally (except for certain senior staff appointments) the function of appointment and dismissal of and taking disciplinary action against a member of staff of the Council must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him/her.

2. Recruitment and Appointment of Staff

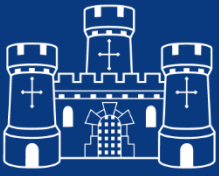
- 2.1 Any candidate for any designation or appointment with the Council who knows that he/she is related to, or a close personal friend of, a Councillor or senior officer of the Council shall, when making an application, disclose, in writing, that relationship to the Service Director Strategy, People and Performance.
- 2.2 A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.



- 2.3 Every Councillor and employee shall disclose to the Service Director Strategy, People and Performance any relationship known to him/her to exist between him/herself and any person he/she knows is a candidate for a designation or appointment by the Council.
- 2.4 Any candidate for designation or appointment who directly or indirectly seeks the support of a Councillor or officer of the Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal. A Councillor shall not solicit for any person in respect of any designation or appointment with the Council but may give a written testimonial of a candidate's ability, experience or character.
- 2.5 Persons shall be deemed to be related to a councillor or officer if they are a spouse, partner (i.e. member of a couple living together) parent, parent-in-law, grandparent, child, stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons.
- 2.6 In the case of a dispute under paragraph 2.5 above about the status of a relationship in relation to an appointment, the Service Director Strategy People and Performance will rule and such ruling will be applied.
- 2.7 The Service Director Strategy People and Performance will ensure that the provisions of these Rules are reflected, as appropriate, in application forms or in any accompanying detailed procedures for each post, following advertisement.

3. Responsibility of the Employment Sub-Committees

- 3.1 In addition to these rules, the responsibilities of the Employment Sub-Committees are set out in the Committee Terms of Reference in Section B2.
- 3.2 Subject to the provisions of these Rules, the Disciplinary Appeals Committee is responsible for hearing and determining appeals as set out in the relevant Council policies. In determining employment matters, the



Employment Sub-Committees will have regard to the appropriate provisions of this procedure.

4. Appointment of Head of the Paid Service

4.1 The appointment of Head of the Paid Service (as defined by the Local Government and Housing Act 1989 “**the 1989 Act**”) is subject to specific requirements as set out below.

4.2 Where the Council proposes to appoint to the Head of the Paid Service, the Appointments Sub-Committee will oversee the arrangements for filling the vacancy.

4.3 The Appointments Sub-Committee shall:-

- (a) draw up a statement specifying the duties of the role and any qualifications or guidelines to be sought in the person to be appointed;
- (b) where it is not proposed to appoint from existing employees, 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;
- (c) make arrangements for a copy of the statement mentioned above to be sent to any person on request;
- (d) where a post has been advertised as required above, the Committee will select from the applications a short list of qualified candidates and will then interview those included in the short list;
- (e) following the interview of candidates, the Committee will come to a view as to the most suitable person to recommend for the position.

4.4 The Committee must advise the Service Director Strategy People and Performance of:-

- (a) the name of the person in question;
- (b) any other particulars which the Committee consider are relevant to the appointment.



4.5 The Committee will recommend that person for appointment to the next meeting of the full Council or at a specially convened meeting of the Council.

4.6 If the Council approve the recommendation, then a formal offer of appointment can be made.

4.7 Where, following the interviews, the Committee is of the view that there is no suitable candidate it will re-advertise the post.

Where the Council does not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

5. Other Chief Officers and Deputy Chief Officers

5.1 The offer of appointment for the following roles as defined by the 1989 Act:-

- (a) a statutory chief officer
- (b) a non-statutory chief officer
- (c) a deputy chief officer

must not be made until the Service Director Strategy People and Performance has been notified of the name of the person to whom proposed to be appointed along with any other relevant particulars which the Service Director Strategy People and Performance will approve and confirm that the proposed terms of employment fall within the Council's approved Pay Policy Statement.

6. Dismissal of Designated Statutory Officers

6.1 The Head of Paid Service, Monitoring Officer and Chief Finance Officer are the Designated Statutory Officers ("DSOs") for the purposes of the Local Authorities (Standing Orders) (England) Regulations 2001.

6.2 Dismissal of the DSOs will be dealt with in accordance with the IDC terms of reference set out in Section B2, together with the detailed guidance provided in the IDC Handbook and the Model Disciplinary Procedure and Guidance as set out in the JNC



Conditions of Service Handbook. Notice of dismissal shall not be given before such dismissal has been approved by Full Council.



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Part F

Section F1 – Local Government Association Model Councillor Code of Conduct 2020

In Part F:-

This Section (F1) of the constitution provides an overview of the key components of Newcastle-under-Lyme Borough Council and a brief explanation of what they do and how they operate. The key components are:-

- **Joint Statement**
- **Introduction**
- **Definitions**
- **Purpose of the Code of Conduct**
- **General Principles of Councillor Conduct**
- **Application of the Code of Conduct**
- **Standards of Councillor Conduct**
- **General Conduct**
- **Protecting Your Reputation and the Reputation of the Local Authority**

The rest of the constitution contains more detailed information about each of these components and how they operate.

Section F2 explains the core objective of the council's approach to decision making and outlines how we achieve this objective. It sets out the principles that all decision makers must follow.

Section F3 explains some of the rights and responsibilities of the people who live and work in the borough and how they can get involved in everything that the council does. It also explains how citizens can submit a petition to the council.

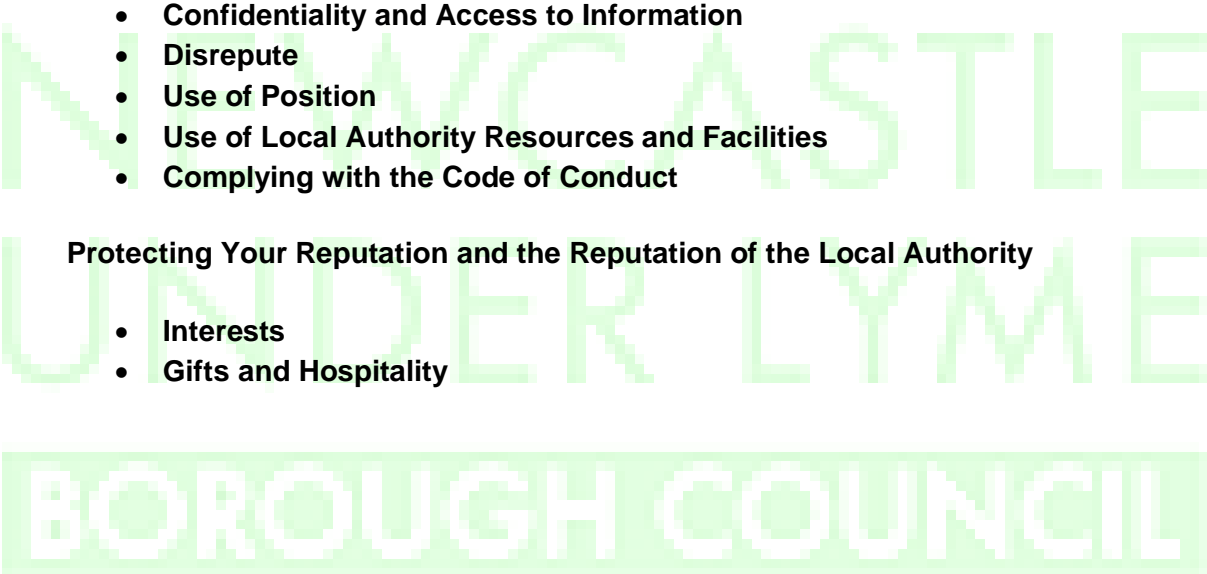
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Part F
Section F1:- Local Government Association
Model Councillor Code of Conduct 2020

In this Section:-

- 1. Joint Statement**
- 2. Introduction**
- 3. Definitions**
- 4. Purpose of the Code of Conduct**
- 5. General Principles of Councillor Conduct**
- 6. Application of the Code of Conduct**
- 7. Standards of Councillor Conduct**
- 8. General Conduct**
 - **Respect**
 - **Bullying, Harassment and Discrimination**
 - **Impartiality of Officers of the Council**
 - **Confidentiality and Access to Information**
 - **Disrepute**
 - **Use of Position**
 - **Use of Local Authority Resources and Facilities**
 - **Complying with the Code of Conduct**
- 9. Protecting Your Reputation and the Reputation of the Local Authority**
 - **Interests**
 - **Gifts and Hospitality**





1. Joint Statement

- 1.1 The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.
- 1.2 As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.
- 1.3 Importantly, we should be able to undertake our role as a councilor without being intimidated, abused, bullied, or threatened by anyone, including the general public.
- 1.4 This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

2. Introduction

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



3. Definitions

3.1 For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- (a) is a member of any committee or sub-committee of the authority, or;
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

3.2 For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

4. Purpose of the Code of Conduct

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

5. General Principles of Councillor Conduct

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

5.2 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; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

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

6. Application of the Code of Conduct

6.1 This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

6.2 This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.

6.3 The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.



6.4 You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

6.5 Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

7. **Standards of Councillor Conduct**

7.1 This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

7.2 Guidance is included to help explain the reasons for the obligations and how they should be followed.

8. **General Conduct**

Respect

8.1 As a councillor:

I treat other councillors and members of the public with respect.

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

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

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

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where



action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

Bullying, Harassment and Discrimination

8.2 As a councillor:

I do not bully any person.

I do not harass any person.

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

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

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

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.

Impartiality of Officers of the Council

8.3 As a councillor:



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

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

Confidentiality and Access to Information

8.4 As a councillor:

I do not disclose information:

- (a) given to me in confidence by anyone
- (b) acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
 - (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.

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.

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.

Disrepute

8.5 As a councillor:

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

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

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

Use of Position

8.6 As a councillor:

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

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

Use of Local Authority Resources and Facilities

8.7 As a councillor:

I do not misuse council resources.



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.

Complying with the Code of Conduct

8.8 As a Councillor:

I undertake Code of Conduct training provided by my local authority.

I cooperate with any Code of Conduct investigation and/or determination.

I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

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.

9. Protecting your Reputation and the Reputation of the Local Authority

Interests

9.1 As a councillor:

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.

Gifts and Hospitality

9.2 As a councillor:

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



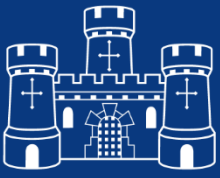
from persons who may apply to the local authority for any permission, licence or other significant advantage.

I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

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.

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APPENDICES

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 behavior wherever it occurs.

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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.

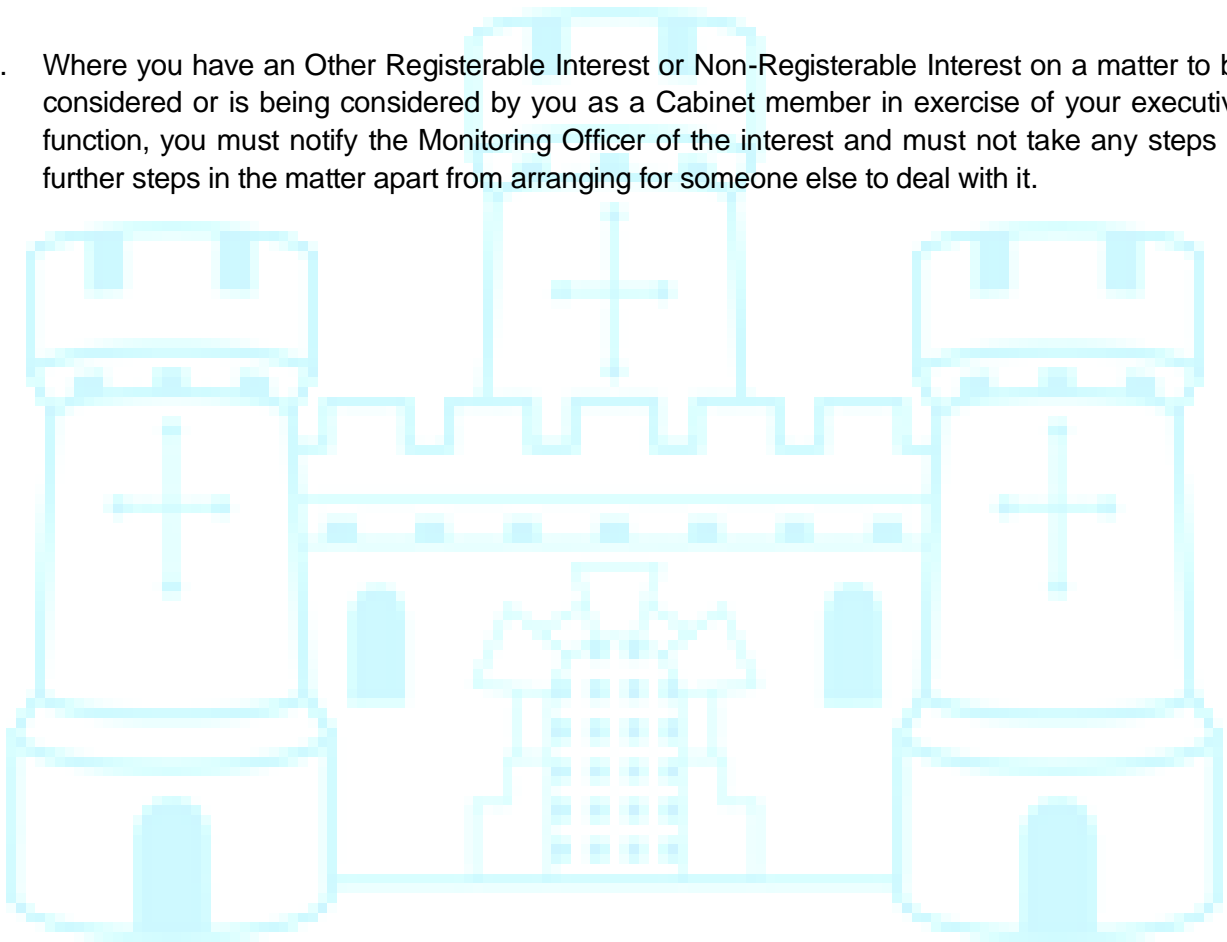
9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
 - (a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - (b) a reasonable member of the public knowing all the facts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



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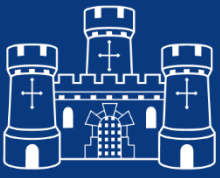


Table 1: Disclosable Pecuniary Interests

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

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the 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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<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>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>



Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.
Corporate Tenancies	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.
Securities	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 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 with as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issues share capital of that class.

* 'director' includes a member of the committee of management of an industrial and provident society.

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



Table 2: Other Registrable Interests

You must register as an Other Registrable Interest:-

- (a) any unpaid directorships;
- (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;
- c) any body
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.





Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies.
- The introduction of sanctions.
- An appeals process through the Local Government Ombudsman.
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code.
- Changes to the role and responsibilities of the Independent Person.
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.



Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

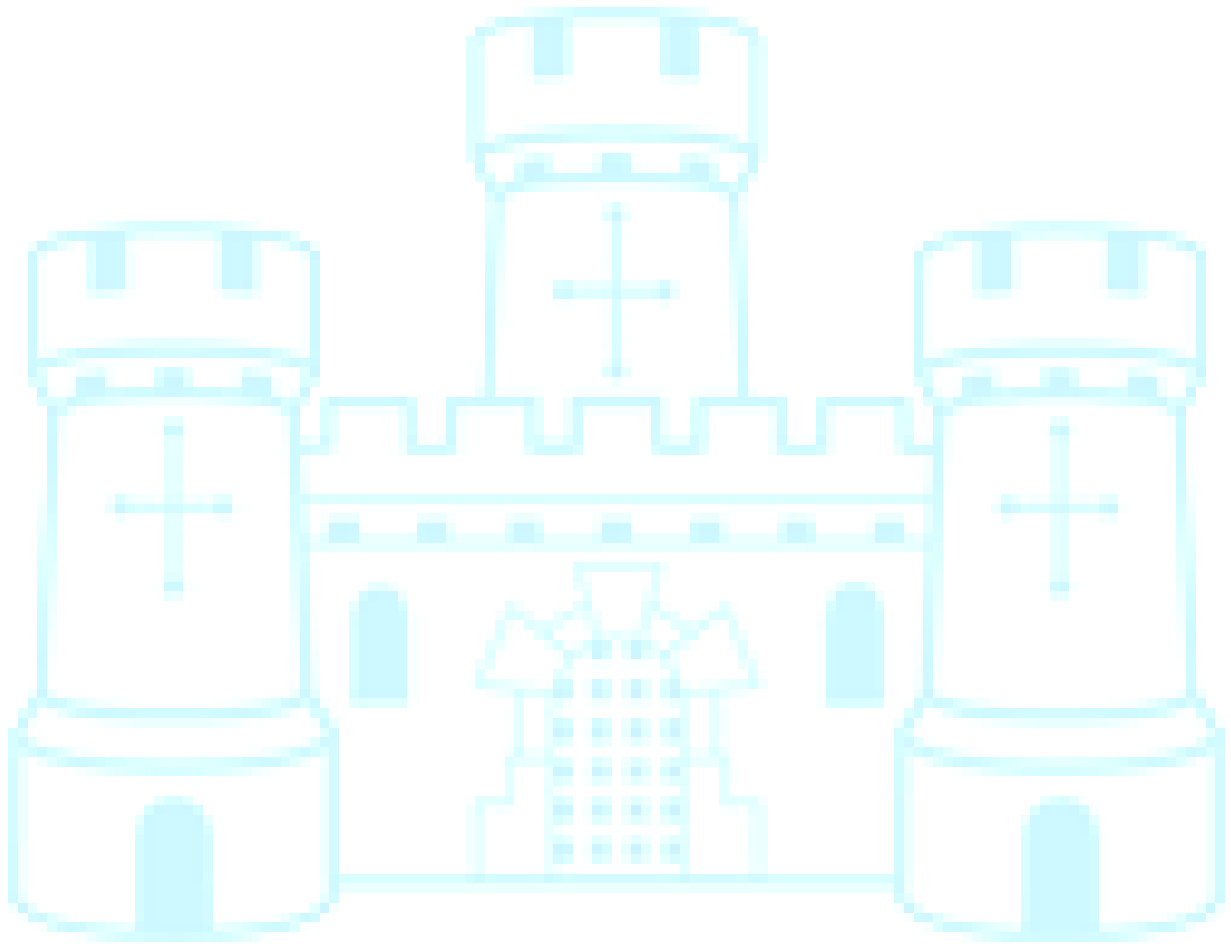
Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.



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Part F
Section F2 – Member Planning Protocol

In Part F:-

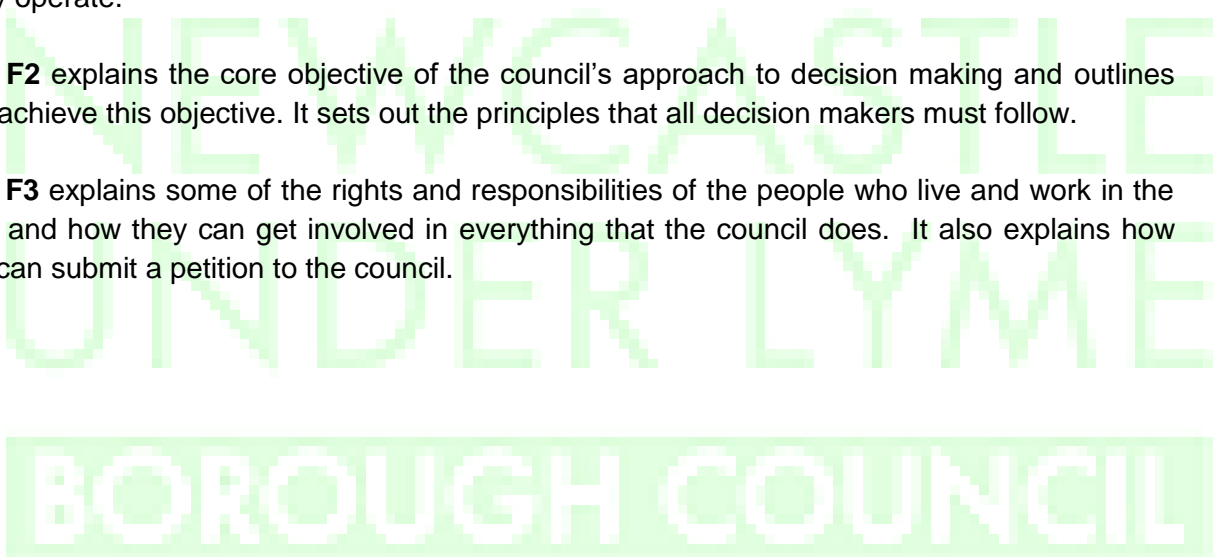
This Section (F1) of the constitution provides an overview of the key components of Newcastle-under-Lyme Borough Council and a brief explanation of what they do and how they operate. The key components are:-

- Aim of the Protocol
- Some Words of Caution
- Training
- Discussions with Those Proposing Developments
- Site Visits
- Procedures at Meetings of the Planning Committee
- Applications by Members
- Members as Agents for Others
- Decisions Contrary to Service Director Planning's Recommendation to the Planning Committee
- Predisposition, Predetermination or Bias
- Lobbying

The rest of the constitution contains more detailed information about each of these components and how they operate.

Section F2 explains the core objective of the council's approach to decision making and outlines how we achieve this objective. It sets out the principles that all decision makers must follow.

Section F3 explains some of the rights and responsibilities of the people who live and work in the borough and how they can get involved in everything that the council does. It also explains how citizens can submit a petition to the council.



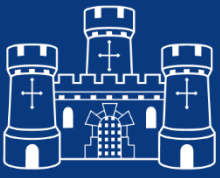


Part F
Section F2:- Member Planning Protocol

In this Section:-

1. **Aim of the Protocol**
2. **Some Words of Caution**
3. **Training**
4. **Discussions with Those Proposing Developments**
5. **Site Visits**
6. **Procedures at Meetings of the Planning Committee**
7. **Applications by Members**
8. **Members as Agents for Others**
9. **Decisions Contrary to Service Director Planning's Recommendation to the Planning Committee**
10. **Predisposition, Predetermination or Bias**
11. **Lobbying**

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1. Aim of Protocol

- 1.1 This Protocol applies to Members who are involved in the planning system.
- 1.2 The role of an Elected Member on the Planning Committee involves balancing representation of the needs and interests of individual constituents and the community, with the need to maintain an ethic of impartial decision-making in the wider public interest on what can be highly controversial proposals. Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework. The decision-making process should be open and transparent.
- 1.3 One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings.
- 1.4 Opposing views are often strongly held by those involved. Whilst councillors must take account of these, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that planning authorities make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons and in accordance with the statutory framework.
- 1.5 The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper.
- 1.6 Whilst the determination of a planning application is not a 'quasi-judicial' process (unlike, say, certain licensing functions carried out by the Council), it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved



party may seek a Judicial Review and/or complain to the Local Government Ombudsman on grounds of maladministration or a breach of the Council's Members' Code of Conduct.

The successful operation of the planning system relies on mutual trust and an understanding of Members' and officers' roles which are different but complementary. Both serve the public but Members are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not by individual Members. Officers who are Chartered Town Planners are subject to the Royal Town Planning Institute's Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute.

- 1.7 The aim of the Protocol is to ensure that Members involved in Planning matters act in a way in which is not only fair and impartial but is also clearly seen to be so.
- 1.8 This Protocol relates mainly to planning applications. The same principles are however applicable to other types of approvals sought under planning legislation and to the various kinds of enforcement action within the purview of the Planning Committee. It is also applicable to the development and approval of planning policy by Council.

2. Some Words of Caution

- 2.1 The Protocol does not replace or supersede or override any duty or responsibility of a Member to declare an interest of any kind in accordance with the requirements of the Local Government Act 2000 (Section 81(1)), the Members' Code of Conduct set out in Appendix 18 of the Constitution, or in accordance with any current guidance. The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by councillors and to adopt a local code of conduct (see paragraph 6.1 of Appendix 18 relating to disclosure of pecuniary interests).



2.2 In order to keep Members aware of matters within the scope of paragraph 2.1 above which may affect the operation of this Protocol, changes or new advice will be reported to Members as appropriate and the Protocol refreshed accordingly.

2.3 The Protocol does not of itself authorise any departure from the requirements of the Council's Constitution or its Procedure Rules or Financial Regulations.

3. Training

3.1 Training for all Members on the Planning Committee and their substitutes¹ is mandatory. In the event of a Member not attending at least two-thirds of any session of training events labelled as mandatory the Chair and Vice Chair of the Planning Committee are allowed to use their discretion in considering whether a Member can remain on the Committee with full voting rights².

3.2 Other Members of the Council are welcome to join the training sessions if they wish and there is spare capacity.

4. Discussions with Those Proposing Developments

4.1 Early councillor engagement is nowadays encouraged to ensure that proposals for sustainable development can be harnessed to produce the settlements that communities need. Members of the Planning Committee and their substitutes should not, other than in the context of the Council's Strategic Planning Consultative Group or meetings organised by and attended by officers, normally be involved in discussions with an applicant for

¹ The Council's Constitution (Appendix 9 Revised April 2015) states as follows For every member of the Committee, there can be one substitute nominated

Any Member who is due to miss a meeting should inform the Chair of the relevant Committee at least 24 hours before the Committee is due to meet (and that it is the Member concerned who does this) At any one meeting, there should be no more than 2 substitutes per political grouping present Training will be provided for nominated substitutes on regulatory committees Where a Planning Committee site visit is involved, substitutes will only be allowed to attend and vote at the relevant Planning Committee if they have been on the site visit

² Resolution of 23 June 2009 Planning Committee Item No.148



planning permission for any Major or Minor Development.³ If Members are so involved, it will be on the basis that it must always be made clear at the outset of those discussions that they do not bind the Committee to making a particular decision, and that any views expressed by Members are personal and provisional. By the very nature of such meetings not all the relevant information may be at hand, nor will formal consultations with interested parties have taken place.

- 4.2 Members are advised not to give advice on the development plan or material considerations as they may not be aware of all the issues at an early stage.
- 4.3 Similarly Members should not become drawn into negotiations, which should be done by officers (keeping Members up to date) to ensure that the Council's position is co-ordinated.
- 4.4 A written note of all such meetings will be made by the attending officer. A note will be taken of any phone conversations by the officer involved and relevant emails recorded for the pre-application enquiry file.
- 4.5 Initially, until the issue of confidentiality has been clarified by the party making the enquiry and officers have determined whether or not there is a legitimate reason for confidentiality, Members involved in such pre-application discussions should treat them on a confidential basis. Unless there is a legitimate reason for confidentiality concerning a proposal, there will be an expectation that records of such enquiries and discussions will be available as a matter of public record, particularly upon the submission of an application
- 4.6 Similar considerations will apply when the Council is considering its plan-making, particularly when making new site allocations in emerging development plans.

³ Major' applications are defined as those applications where 10 or more dwellings are to be constructed (or if the number is not given, the site area is more than 0.5 hectares), and, for all other uses, where the floor space proposed is 1000 square metres or more or the site area is 1 hectare or more.

'Minor' applications are those for developments which do not meet the criteria for 'Major' development nor the definitions of Change of Use or Householder Development



5. Site Visits

- 5.1 The Planning Committee may resolve, when considering an application, to defer a decision on the application in order to undertake a site visit as a Committee. In such cases no decision relating to that application will be made before or during the course of the site visit; decisions on such matters will be taken by a subsequent meeting of the Committee.
- 5.2 Site visits by the Committee are generally held where there is a clearly identified benefit to the Committee in enabling Members better to appreciate particularly contentious or complex proposals, and where the impact is difficult to visualise or assess from the submitted information and plans. The Member proposing at Committee a site visit should indicate the nature of such benefit. The reason(s) for the holding of the site visit shall be recorded in the minutes of the Committee⁴
- 5.3 If the Service Director of Planning so wishes he may bring to the Planning Committee, at a time when that application is not being considered, a proposal for the holding of a site visit by the Planning Committee
- 5.4 The site visit shall be undertaken in accordance with the Planning Committee's agreed site visit protocol which is attached to this Protocol.⁵
- 5.5 The officer attending the site visit will take a formal list of Members in attendance at the formal opening of the site visit.
- 5.6 Where a site visit has taken place, it will be referred to in the report to Committee.
- 5.7 When an application that has been subject to a site visit is brought to the Planning Committee for determination, Members, including their substitutes, (see Appendix 9 of the Constitution, paragraph 4) who did not attend the site visit shall neither be eligible to take

⁴ As resolved Planning Committee 1 April 2015.

⁵ Last revised 1 April 2015 Planning Committee.



part in the debate concerning the item's determination nor shall they be eligible to vote upon that determination.⁶

6. Procedure at Meetings of the Planning Committee

It is paramount that any decision the Committee reaches must be reached fairly and impartially and is seen to be so

6.1 *Registration and disclosure of interests*

Chapter 7 of the 2011 Localism Act places requirements on councillors regarding the registration and disclosure of their pecuniary interests and the consequences for a councillor taking part in consideration of an issue in the light of those interests. The definitions of disclosable pecuniary interests can be found at Appendix 18, Annex 3 of the Constitution. A failure to register a disclosable pecuniary interest within 28 days of election or co-option or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a councillor or co-opted member has a disclosable pecuniary interest, are criminal offences.

6.2 For full guidance on interests, see 'Openness and Transparency on Personal Interests: Guidance for Councillors', Department for Communities and Local Government, March 2013. (This Protocol does not seek to replicate the detailed information contained within the DCLG note). Advice should always be sought from the Council's Monitoring Officer prior to the meeting. Ultimately, responsibility for fulfilling the requirements rests with each Member.

6.3 The provisions of the Act seek to separate interests arising from the personal and private interests of the councillor from those arising from the councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the councillor's involvement would be appropriate.

⁶ As resolved Planning Committee 1 April 2015.



- 6.4 The Council's Members' Code of Conduct establishes what interests need to be disclosed. All disclosable interests should be registered and a register maintained by the Council's Monitoring Officer and made available to the public. Members should also disclose that interest orally at the committee meeting or meeting of Council when it relates to an item under discussion.
- 6.5 A Member must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the councillor becoming aware of such changes
- 6.6 A disclosable pecuniary interest relating to an item under discussion requires the withdrawal of the Member from the Committee or meeting of Council. In certain circumstances, a dispensation can be sought from the appropriate body or officer to take part in that particular item of business.
- 6.7 If a Member is present at the Planning Committee specifically for the purposes set out in the Council's procedure for making direct representations to the Planning Committee, they may remain in the meeting after they have made their presentation but they should take no further part in the determination of that item.
- 6.8 If a Member has a (non-pecuniary) personal interest, he or she should disclose that interest, but then may speak and vote on that particular item. This includes being a member of an outside body; mere membership of another body does not constitute an interest requiring such a prohibition.
- 6.9 It is always best to identify a potential interest early on. If a Member thinks that they may have an interest in a particular matter to be discussed at the Planning Committee or at Full Council he or she should raise this with the Council's Monitoring Officer prior to the meeting.



6.10 The Planning Committee operates a guillotine on late representations and submissions⁷ Members should determine applications before them upon the basis of the information contained in and referred to within the officer report. In the event of Members of the Planning Committee and their substitutes receiving representations direct from applicants, their agents and third parties, particularly after the guillotine on late representations, they should bring such material to the attention of officers, and consider carefully any advice given to them by officers with respect to the consideration of such representations.

7. Applications by Members

7.1 All applications for planning permission by Members or those related⁸ to them must be dealt with by the Planning Committee and not under delegated powers. The standard national planning application form requires the applicant to indicate whether they are a member of staff, an elected Member, related to a member of staff or related to an elected Member.

7.2 Members making such an application or with knowledge of such an application being made, should inform the Council's Service Director Planning of this within 14 days of the submission of such an application.

7.3 In the event of the Service Director Planning becoming aware that an application is being made by a Member or a person related to a Member, they will inform the Council's Monitoring Officer.

7.4 Members would undoubtedly have a disclosable pecuniary interest in their own application, and potentially their relatives' application, and should not participate in its consideration. If a Member is present at the Planning Committee specifically for the purposes set out in the Council's procedure for making direct representations to the Planning Committee, they may remain in the meeting after they have made their presentation but they should take no further part in the determination of that item.

⁷ As resolved Planning Committee June 2008, and amended February 2009.

⁸ Related' means related by birth or otherwise, closely enough that a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias on the part of the decision maker in the local planning authority.



8. **Members as Agents for Others**

- 8.1 Members who act as a paid agent for people making a planning application or objecting to such an application, or for people in respect of whose development enforcement or similar action is proposed, should play no part in the decision making process for that matter. They must inform the Service Director Planning beforehand of their involvement, and the person on whose behalf they are acting. Any such matter will be considered by the Planning Committee (and not dealt with under delegated powers) and the agency of the Member will be reported to the Committee.
- 8.2 Where a person related to a Member acts as a paid agent for people making a planning application or objecting to such an application, or for people in respect of whose development enforcement or similar action is proposed, that Member, once they are aware of this, should play no part in the decision making process for that matter. They must inform the Service Director Planning beforehand of their relatives' involvement, and the person on whose behalf their relatives are acting. Any such matter will be considered by the Planning Committee (and not dealt with under delegated powers) and the agency of the Member's relative will be reported to the Committee.

9. **Decisions Contrary to Service Director Planning's Recommendation to the Planning Committee**

- 9.1 Members of the Committee and their substitutes should draw to case officer's attention any concerns that they have with an application coming to the Committee for determination, as soon as possible having received notice of the application in the 'weekly list of applications received', so that potential solutions are sought with the applicant in accordance with the requirements of the National Planning Policy Framework⁹

⁹ As resolved Planning Committee May 2015



- 9.2 Full advantage should be taken of the use of conditions in planning permissions to make developments acceptable.¹⁰
- 9.3 Members of the Committee and their substitutes who are disposed to move refusal of a proposal contrary to recommendation are urged to contact the Service Director Planning (or his representative) no less than 24 hours before the Committee meeting, with details of the reasons they are minded to give for such a refusal
- 9.4 When a proposal to refuse to grant planning permission is made at the Committee contrary to the officer's recommendation, advice should be sought by the Committee as to the most appropriate way to meet the requirement to work in a proactive and positive manner with applicants. That may in certain circumstances such as where technical advice is not being accepted include a deferral of the decision in order to enable further technical advice to be obtained and reported to the Committee.¹¹
- 9.5 The mover and seconder of a resolution of refusal contrary to officer recommendation should be identified by the Chair and recorded in the minutes of the Committee, and in the event of an appeal being lodged there is an expectation that those Members will make themselves available as witnesses on behalf of the Council in the appeal proceedings should either the Service Director Planning or the Service Director Legal and Governance or their representatives deem that appropriate.¹²
- 9.6 The law requires that decisions should be taken in accordance with the development plan, unless material considerations indicate otherwise (s38A Planning and Compensation Act 2004 and s70 of the Town and Country Planning Act 1990).¹³

¹⁰ As resolved Planning Committee May 2015

¹¹ As resolved Planning Committee May 2015

¹² As resolved Planning Committee May 2015

¹³ In dealing with an application for planning permission the Local Planning Authority shall have regard to (a) the provisions of the development plan, so far as material to the application, (b) any local finance considerations, so far as material to the application, and (c) any other material consideration



9.7 Where the Committee propose to make a decision which is contrary to the recommendation of the Service Director Planning the Chair will allow the presenting officer to explain the implications of a contrary decision.

10. Predisposition, Predetermination, or Bias

10.1 Members of the Planning committee and their substitutes, (and of Full Council when the Local Plan is being considered), need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies.

10.2 The Courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave the committee's decision susceptible to challenge by Judicial Review.

10.3 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition). The latter is acceptable; the former is not and may result in a Court quashing such planning decisions.

10.4 Section 25 of the Localism Act also provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter.

10.5 This reflects the common law position that a councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting. Nevertheless, a councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased.



- 10.6 If a councillor has predetermined their position, they should withdraw from being a member of the decision-making body for that matter. This would apply to any member of the Planning Committee who wanted to speak for or against a proposal, as a campaigner (for example on a proposal within their ward). If the Council rules allow substitutes to the meeting, this could be an appropriate option
- 10.7 Authorities will usually have a Cabinet/Executive Member responsible for development and planning. This councillor is able to be a member of the Planning Committee. Leading members of a local authority, who have participated in the development of planning policies and proposals, need not and should not, on that ground and in the interests of the good conduct of business, normally exclude themselves from decision making committees.
- 11. Lobbying**
- 11.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Member or to a member of the Planning Committee.
- 11.2 As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".
- 11.3 Lobbying, however, can lead to the impartiality and integrity of a Member being called into question, unless care and common sense is exercised by all the parties involved.
- 11.4 As noted earlier in this Protocol, the common law permits predisposition but nevertheless it remains good practice that, when being lobbied, Members (and those on the Planning Committee and their substitutes in particular) should try to take care about expressing an



opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments.

- 11.5 In such situations, they could restrict themselves to giving advice about the process and what can and cannot be taken into account. Members can raise issues which have been raised by their constituents, with officers. If Members do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material and planning considerations at Committee.
- 11.6 It is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual councillor
- 11.7 Planning decisions cannot be made on a party political basis in response to lobbying. The use of political whips to influence the outcome of a planning application is likely to be regarded as maladministration.
- 11.8 Planning Committee members and their substitutes should in general avoid organising support for or against a planning application, and avoid lobbying other councillors.
- 11.9 Councillors should not put pressure on officers for a particular recommendation and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.
- 11.10 Members may be tempted to form a judgement about an application early on in its passage through the planning system, whether or not they have been lobbied. The nature of the proceedings of the Planning Committee is such however that it is important that those arriving at the decision should not be vulnerable to an accusation of partiality because they



have committed themselves one way or the other or have declared publicly the way in which they intend to vote on the application.

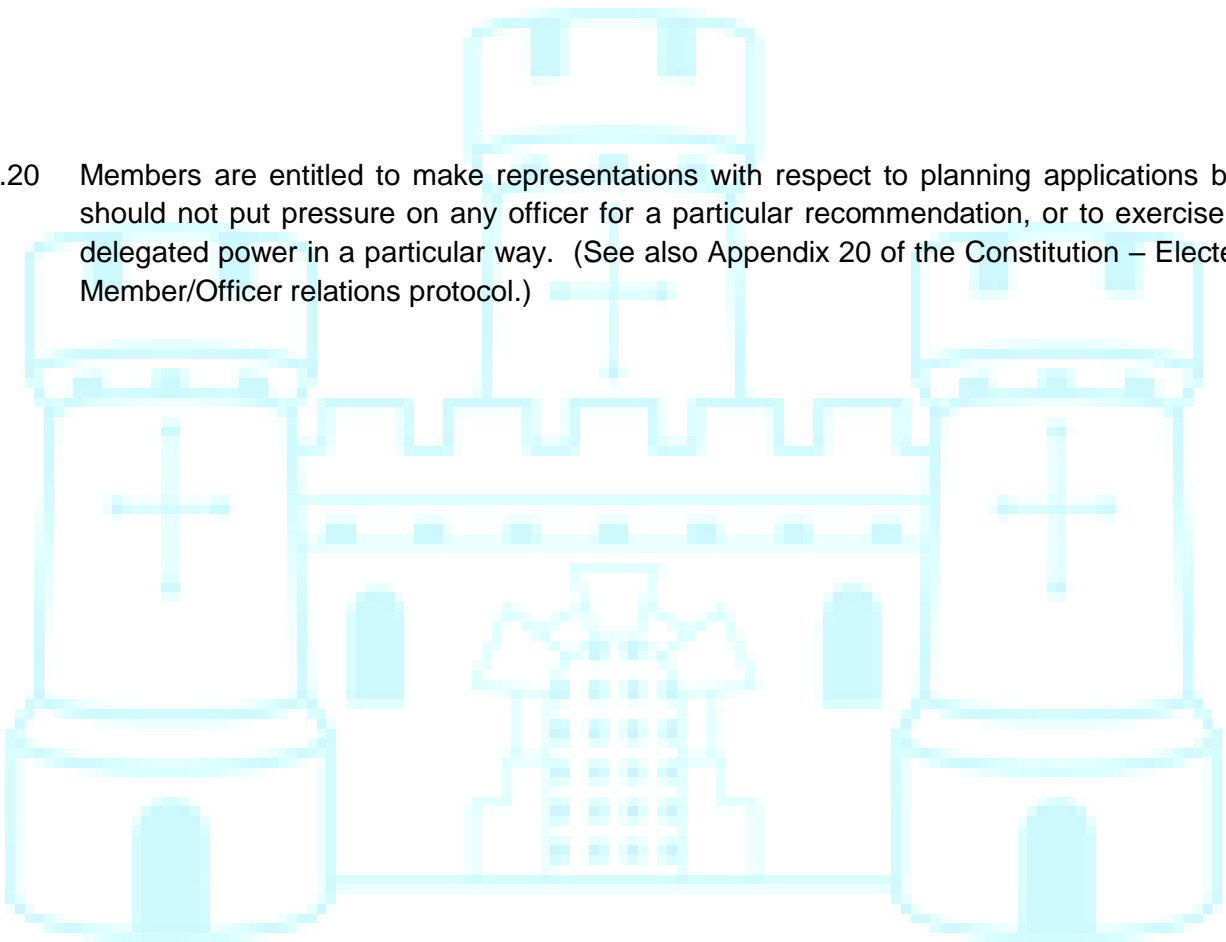
- 11.11 When being lobbied about particular applications or proposals, Members of the Planning Committee or their substitutes must, therefore, avoid expressing an opinion either to applicants or objectors or supporters which may be taken as indicating that they have already made up their mind on the issue before they have considered all the information, evidence and arguments, or which appears to commit the authority on a particular application. In such situations, it is safer if they restrict themselves to giving procedural advice, including suggesting to those who are lobbying that they should speak or write to the Service Director Planning in order that their opinions can be included in the Service Director Planning's report to the Committee.
- 11.12 Members of the Planning Committee or their substitutes need to take account of the general expectation that a planning application will be processed and determined in a transparently open and fair manner and that the Committee's decision will be taken on the merits of the application having regard to the provisions of the Development Plan and all other material considerations, including local finance considerations. It would therefore be inconsistent with open and fair treatment for a Member of the Planning Committee or their substitutes to organise support for or opposition to a particular proposal, or to lobby other Members.
- 11.13 It is important also to recognise that a member of the Planning Committee who is a Member for the Ward affected by a particular planning application may be in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the Member responds to lobbying by deciding to go public in support of a particular outcome – or even to campaign actively for it – it would be very difficult for that Member to argue convincingly when the Committee comes to take its decision that he/she has carefully weighed all the information, evidence and arguments presented.
- 11.14 Similar issues can arise if the Committee member is also a Member of the Parish Council to whose area the application relates.



- 11.15 Whilst there is a view that the proper course of action for such a Member would be to make an open declaration and not to vote, this would be a severe restriction on the Member's ability to represent the views of the electorate.
- 11.16 Accordingly, if a member of the Committee or a substitute wishes to express a preliminary opinion or to give preliminary support to a particular body of opinion, that Member should make it clear that he or she will only be in a position to take a final decision after having heard and/or seen all the relevant information, evidence and argument put before the Planning Committee.
- 11.17 However, any member of the Committee or a substitute who expresses publicly a final view on a planning application prior to the Committee meeting at which a decision is to be taken, or who organises support for, or opposition to, a particular proposal, or lobbies other Members should declare an interest and not vote on that matter, though having declared that interest he or she may speak on it as a Member of the Committee.
- 11.18 The Local Government Association suggests that in most cases, short of high profile active lobbying for a particular outcome, it should be possible for a Member to give support to a particular body of opinion whilst waiting until the Committee meeting and hearing and/or reading all the information, evidence and arguments presented before making a final decision. The striking of the balance in such cases is ultimately the responsibility of the individual member and in doing so, regard needs to be paid to the general rules laid down in the Members' Code of Conduct in Appendix 18 and the responsibility of the Councillor alone to decide what view to take on any question, on its merits and not to do anything which could not be justified to the public.
- 11.19 Since a planning application which is to come before the Planning Committee for a decision cannot be decided upon before the meeting of the Committee, when all relevant available information is to hand and has been considered, a political group meeting should not be used to decide how Members should vote. Planning Committee members are not subject to a party whip.



- 11.20 Members are entitled to make representations with respect to planning applications but should not put pressure on any officer for a particular recommendation, or to exercise a delegated power in a particular way. (See also Appendix 20 of the Constitution – Elected Member/Officer relations protocol.)



NEWCASTLE
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BOROUGH COUNCIL



Part F
Section F3 – Officer Code of Conduct

In Part F:-

This Section (F1) of the constitution provides an overview of the key components of Newcastle-under-Lyme Borough Council and a brief explanation of what they do and how they operate. The key components are:-

- Ethical Standards
- Disclosure of Information
- Political Neutrality
- Relationships
- Appointments and Other Employment Matters
- Outside Commitments
- Personal Interests
- Equality Issues
- Separation of Roles During Tendering
- Corruption
- Use of Financial Resources
- Gifts and Hospitality
- Prevention of Money Laundering
- Sponsorship – Giving and Receiving
- Records
- Personal Conduct
- Safeguarding
- General Note

The rest of the constitution contains more detailed information about each of these components and how they operate.

Section F2 explains the core objective of the council's approach to decision making and outlines how we achieve this objective. It sets out the principles that all decision makers must follow.

Section F3 explains some of the rights and responsibilities of the people who live and work in the borough and how they can get involved in everything that the council does. It also explains how citizens can submit a petition to the council.



Part F
Section F3:- Officer Code of Conduct

In this Section:-

1. **Ethical Standards**
2. **Disclosure of Information**
3. **Political Neutrality**
4. **Relationships**
 - **Councillors**
 - **The Local Community and Service Users**
 - **Contracts, Grants or Property Matters**
 - **The Press and the Media**
5. **Appointments and Other Employment Matters**
 - **Appointments**
 - **Discipline, Promotion and Pay Adjustments**
 - **Giving of References**
 - **Employment References**
 - **References Other Than Employment References, i.e. Personal/Character References**
6. **Outside Commitments**
 - **Private Work**
 - **Intellectual Property**
 - **Information Technology and Data Security**
7. **Personal Interests**
8. **Equality Issues**
9. **Separation of Roles During Tendering**
10. **Corruption**
11. **Use of Financial Resources**



12. Gifts and Hospitality

- Introduction
- Legal Position
- General Principles
- Gifts
- Hospitality
- Procedure for Acceptance/Refusal

13. Prevention of Money Laundering

14. Sponsorship – Giving and Receiving

15. Records

16. Personal Conduct

17. Safeguarding

18. General Note

**NEWCASTLE
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BOROUGH COUNCIL**



1. **Ethical Standards**

- 1.1 Local government employees are expected to abide by the highest ethical principles, giving the highest possible standard of service to the public, and where it is part of their duties, providing appropriate advice to Councillors and fellow employees with impartiality. Employees are expected, without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.

2. **Disclosure of Information**

- 2.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to elected Members, auditors, government departments, service users and the public.
- 2.2 Committee agendas and most reports and background papers are required by law to be available for public inspection. Detailed guidance is available from the Democratic Services Manager or the Committee Section. Obstruction of a member of the public who wishes to exercise these rights is a criminal offence.
- 2.3 The public are specifically excluded from certain proceedings of committees or other meetings associated with the business of the Council. No employee shall communicate to the public the content of such proceedings or any document relating to the authority, unless required by law or expressly authorised by the Chief Executive to do so. Employees making unauthorised communications may become subject to disciplinary action.
- 2.4 Employees should exercise caution and care not to disclose commercially sensitive information. Guidance should be sought from the appropriate Service Director or the Monitoring Officer.
- 2.5 Employees should not use any information obtained in the course of their employment for personal gain or benefit either for themselves or others, nor should they pass it on to others who might use it in such a way.
- 2.6 Personal information received by an employee from a councillor 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.
- 2.7 Employees have a duty to maintain confidentiality and must not disclose any information obtained in the course of their employment to any third party for any unauthorised reason.



In particular, employees must not disclose personal information about any individual without the appropriate authority to do so. A disclosure which complies with the requirements of the Whistleblowing Policy will be regarded as authorised disclosure.

3. Political Neutrality

- 3.1 Employees serve the authority as a whole. They must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.
- 3.2 Employees whose duties require them to advise political groups must do so in ways which do not compromise their political neutrality.
- 3.3 All employees must follow the policies and decisions of the authority and must not allow their own personal or political opinions interfere with their work.
- 3.4 Where an employee holds a politically restricted post, the restrictions imposed by the Local Government and Housing Act are deemed to be incorporated in their contract of employment.

4. Relationships

Councillors

- 4.1 Employees are responsible to the authority through its management structure. Some employees have a specific role to give advice to councillors and senior officers. All employees are responsible for carrying out the authority's work and are expected to follow the advice of those officers who have a specific advisory role, e.g. Section 151 Officer or Monitoring Officer. Mutual respect between employees and councillors is essential.

The Local Community and Service Users

- 4.2 Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within the community.

Contracts, Grants or Property Matters

- 4.3 Orders and contracts must be awarded on merit, by fair competition against other tenders, and special favour must not be shown to businesses operated or controlled by, for example,



friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

- 4.4 Employees involved in awarding contracts or 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 a contractor who is engaged or who is proposed to be engaged by the authority, must declare that relationship to the appropriate manager and record the relationship in the Register of Disclosures of Pecuniary Interests (held by the Monitoring Officer) as soon as practicable.
- 4.5 Employees must also disclose and record in the Register any interest of themselves or their spouse/partner (if living together) in the following:
- Any grant made by the Council;
 - Any tenancy of or contract for the purchase of any property in the ownership of the Council;
 - The receipt as landlord of Housing Benefit in respect of a property in the Borough.

The Press and the Media

- 4.6 Employees must not deal direct with the press or the media unless they are required to do so in the course of their work or they have been expressly authorised by an appropriate manager.
- 4.7 All enquiries for information or comment on issues affecting the work of the Council must be referred to the Service Director.
- 4.8 Any article, publication, or interview given on aspects of Council policy or activity must be properly authorised.

5. Appointments and Other Employment Matters

Appointments

- 5.1 Employees involved in appointments should ensure that these are made on the basis of merit. It is unlawful for an employee to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post. These principles and the Council's procedures are detailed in the Council's Recruitment, Selection and



Induction Code of Practice which supplements the corporate training which is available to all employees involved in the recruitment and selection process.

- 5.2 In order to avoid any possible accusation of bias, employees should 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. [Candidates for any appointment with the Council when making an application, must disclose on the job application form whether they are related to any member of the Council or to any Council employee.] Deliberate omission to make such a disclosure will disqualify the candidate and if the omission is discovered after appointment, they will be liable to dismissal.
- 5.3 Elected Members and the Chief Executive, Deputy Chief Executive and Service Directors must disclose to the authority any relationship known to exist between themselves and a candidate for an appointment of which they are aware.

Canvassing of and Recommendations by Members

- (1) Canvassing of Members of the Council or any committee of the Council directly or indirectly for any appointment under the Council shall disqualify the candidate concerned for that appointment. This requirement shall be included in any form of application for an appointment or otherwise be drawn to the attention of applicants.
- (2) A Member of the Council shall not solicit for any person any appointment under the Council, but this shall not preclude a Member from giving a written testimonial for submission to the Council with an application for a job.
- (3) A Member of the Council shall not permit his name to be used as a reference by any person applying for a lease or tenancy of any house or other property belonging to the Council.

Relatives of Members or Officers

- (1) A candidate for any appointment under the Council who knows that their spouse/partner or any relation is currently employed by the Council or is a Member of the Council shall, when making an application for employment, disclose that relationship. A candidate who fails to disclose such a relationship shall be disqualified from the appointment and if appointed shall be dismissed without notice. Every Member or officer of the Council participating in an interview panel shall disclose to the panel any relationship known to them to exist between themselves and any person whom they know is a candidate for the appointment being considered.
- (2) The substance of this Standing Order shall be included in any form of application for employment or otherwise be drawn to the attention of applicants.



- (3) In any case in which a senior officer has power to engage an employee they shall not appoint any relative to such position without first referring the proposed appointment to the Chief Executive or in the case of the Chief Executive, the Section 151 Officer or Monitoring Officer.
- (4) For the purpose of this Standing Order "senior officer" means any officer of the Council authorised to appoint staff.

Discipline, Promotion and Pay Adjustments

- 5.4 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or personal friend.

Giving of References

- 5.5 If requested to supply a reference, employees should note that they owe a duty of care in negligence to the person receiving it and also to the subject of the reference and must therefore:

- Ensure the reference is factual, fair and balanced.
- Wherever possible, confine their comments to facts only.
- Avoid making professional judgements unless they feel qualified to do so.
- Avoid statements of pure opinion.
- Generally avoid 'pro forma' references.

Note: Sending a reference by fax is generally more secure than by email.

Employment References

- 5.6 **Only Service Directors and Senior Managers are authorised to give employment references for employees of the Council.** These should:

- be in writing only (i.e. no oral references either in person or by telephone) - be on the Council's official headed paper
- be marked 'PRIVATE AND CONFIDENTIAL – GIVEN IN CONFIDENCE'
- include the following disclaimer:

"This reference is strictly confidential and is given only for the purposes for which it is requested. It is given on the strict understanding that no liability shall arise on the part of Newcastle-under-Lyme Borough Council and its employees, out of or in connection with any reliance placed upon it by you or by any third party".



References Other Than Employment References, i.e. Personal/Character References

5.7 Employees who wish to provide a personal/character reference for a person who is a Council employee must:

- ensure it is clearly marked 'PERSONAL REFERENCE'.
- give their home address, not the Council's address.
- ensure it is not written on the Council's official headed paper.

6. Outside Commitments

Private Work

6.1 "Private work" includes all work, voluntary, or paid employment (including the involvement in any business) other than work undertaken for the Council.

6.2 It is not intended to prevent employees from engaging in other work but to ensure that no conflict of interest arises. Any Service Director must have good reason for not approving the work. Employees are permitted to undertake private work provided:

- It does not affect their effectiveness in the performance of, or conflict with, their duties with the Council
- The work is not carried out in Council time, on the Council's premises or using the Council's materials or equipment

6.3 Employees who work in specific categories of activity, such as professional services or property development, must take particular care to avoid any possible conflict of interest and must only conduct private business outside the boundary of the Borough areas in order to demonstrate that no conflict of interest can be alleged or inferred.

6.4 All communications from the Council in connection with any private work being undertaken by an employee will be made by letter to the employee's home address. The employee must not contact staff in connection with the matter other than by letter addressed to the appropriate Service Director. If it is necessary for the employee to speak to staff either directly or by telephone, this must be done outside the employee's paid working hours.

6.5 Employees must obtain the approval of the Service Director for this Service before undertaking any private work and must record each commission, tranche or element of work in the Register of Private Work which is kept for this purpose in their department. If approval



is not given, the work must not be undertaken. Every employee should contact the Service Director for advice before deciding to engage in or carrying out any work.

- 6.6 Approvals must be requested and approved on a job specific basis and reviewed/reconfirmed by the relevant Service Director annually.
- 6.7 Instances of employees undertaking private work which requires the Council's approval and which is not entered in the Register will be treated as "gross misconduct" under the terms of the Council's disciplinary procedure.

Intellectual Property

- 6.8 Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment.
- 6.9 Intellectual property is a generic term that includes inventions and patents, creative writings and drawings. If these are created by the employee during the course of employment then as a general rule they belong to the Council.
- 6.10 Advice on intellectual property procedures is available from the Legal Services Manager.

Information Technology and Data Security

- 6.11 Employees must ensure that they follow the Council's procedures and adhere to the Information Security Management policy in relation to the use and storage of computers and the proper management of computer held information in relation to the Data Protection Act.

7. Personal interests

- 7.1 Employees must declare to their line manager (in writing) any non-financial interests that they consider could bring about conflict with the authority's interests.
- 7.2 Employees must declare to an appropriate manager any financial interests which could conflict with the authority's interests.
- 7.3 Employees should declare to an appropriate manager membership of any organisation not open to the public with formal membership and commitment of allegiance and which has secrecy about rules and/or membership and/or conduct (e.g. a Masonic lodge).



- 7.4 On no account must employees be directly involved in the processing of any matter or application in which they or their spouse or partner or any close relative have a personal interest.
- 7.5 Employees must declare to their line manager (in writing), any non-financial interests that they consider could bring about conflict with the Council's interests. This may include membership of outside bodies in a personal capacity. In such cases employees should be mindful not to place themselves in a situation where their involvement or working contribution could compromise their continuing professional duty to the interests of the Council.
- 7.6 As part of their official duties, an employee may be required to serve on an outside body. In such cases employees will be expected to represent and promote the Council's interests and policies as the circumstances dictate and as far as this is consistent with their duties as a member of the outside body.
- 8. Equality Issues**
- 8.1 All employees should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated fairly and not to be discriminated against.
- 8.2 Employees should note that cases of racial or sexual harassment are deemed to be gross misconduct under the Council's Disciplinary Procedure.
- 9. Separation of Roles During Tendering**
- 9.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 9.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.



9.4 Employees 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.

9.5 Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

10. **Corruption**

10.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

10.2 Employees who are in receipt of or affect the receipt of Housing Benefit and/or other related benefits (i.e. Income Support, Unemployment Benefit, Incapacity Benefit, etc.) must be aware that the obtaining of such benefits by deception would be considered as theft against the Authority as the employer and would therefore constitute Gross Misconduct under the Council's Disciplinary Procedure.

10.3 Employees must provide their employing department with details of their home address or in cases where more than one address is frequented the address that they normally class as their home. This does not include c/o addresses unless there are special circumstances which management have been made aware of and are satisfied with. Similarly, changes of name should also be notified to the employing department.

10.4 The Council is committed to the highest possible standards of openness, probity and accountability. In line with this commitment it encourages employees with serious concerns about any aspect of the Council's work to come forward and voice those concerns. The Council's Anti-Fraud and Corruption Strategy makes it clear that employees do so without fear of reprisals. The Whistle Blowing Policy is intended to encourage employees to raise serious concerns within the Council rather than overlooking a problem or raising them with external bodies first. Policies are available on the Intranet and from Internal Audit.

11. **Use of Financial Resources**

11.1 Employees 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 authority.



- 11.2 Employees should be aware of and must adhere to the Council's Standing Orders and Financial Regulations.
- 11.3 An employee who becomes aware of any contravention of these rules and regulations must report the matter immediately to their line manager or, if appropriate, they should contact some other responsible officer to ensure that the matter is brought to the Council's attention.
- 11.4 An employee must not use any of the Council's resources whether financial or physical assets for any purpose other than Council business.

12. **Gifts and Hospitality**

Introduction

- 12.1 The following procedures must be followed when offers of gifts or hospitality are made to members and employees of the Borough Council.
- 12.2 The public have the right to expect the highest standards of conduct, integrity and probity in the public service. Holders of public office must not place themselves under any financial or other obligations to individuals or organisations that might influence them in the performance of their official duties. In addition, public servants must be open in their dealings. There should be no hidden motive for the decisions or actions they take and information should be restricted only when wider public interest demands.
- 12.3 Local government employees may not accept any fee, reward or gift other than their proper remuneration for doing their job (Local Government Act 1972).
- 12.4 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community.

Legal Position

- 12.5 It is a criminal offence for a Council employee corruptly to solicit or accept any gift or consideration as an inducement or reward. If the gift or consideration is from someone holding or seeking a contract with the Authority, it is deemed to have been received corruptly unless the employee proves to the contrary. It is also a criminal offence for Council employees to accept any fee or reward other than their proper remuneration. Accepting any gift or consideration in the knowledge or belief that it is intended as an inducement or



reward is an offence whether the employee receiving it is actually influenced or not. **Generally, all offers of gifts or hospitality should therefore be refused unless they are of an extremely minor nature.**

General Principles

- 12.6 It is important that the Council maintains a good relationship with other agencies, local businesses and the community. In attempting to promote this, employees will, from time to time, be faced with decisions as to whether or not to accept gifts and hospitality.
- 12.7 In some circumstances a rigid refusal may cause unnecessary offence. However, it is vital to dispel the impression of improper influence being exerted over the Council. It may be more acceptable to join in hospitality being offered to a group than to an individual employee.
- 12.8 Commonsense is the general principle governing the acceptance of gifts and hospitality. Employees should consider the nature and scale of the gift, the hospitality being offered and the surrounding circumstances including the relationship between the donor and the Council.
- 12.9 The main criterion in accepting hospitality is whether the decision can be fully justified to the Council and to the public.
- 12.10 Although it is impossible to cover every situation, the following guidelines should help employees to reach an objective decision where necessary.

Gifts

- 12.11 All offers of gifts from agencies or people who provide, or might provide, goods, works or services to the Council, or who need a decision from the Council (e.g. planning applications) must be refused tactfully.

The only exceptions to the rule are:

- Modest promotional gifts such as calendars, diaries or office stationery.
- Small gifts of token value on the conclusion of courtesy visits to an organisation's premises.

- 12.12 More expensive promotional gifts or, for example, bottles of spirits or wine, must be refused.



- 12.13 Gifts sent by post or left at an employee's place of work must be properly returned with a polite letter. If this is not possible, the gift can be handed to the Mayor's Charity and an explanatory note sent to the donor.

Hospitality

- 12.14 Invitations or free tickets to attend social functions or sporting events should **only** be accepted when the occasion is part of community life or the Council should be seen to be represented. **Such offers are acceptable only when they are clearly required as part of the conduct of Council business.**
- 12.15 It is, of course, not always possible or desirable to reject offers of hospitality on a modest scale. A working lunch of modest standard to enable parties to continue to discuss business and the offer of limited hospitality when visiting an organisation on Council business would be acceptable.
- 12.16 When hospitality has to be declined, those making the offer should be courteously, but firmly informed of the procedures and standards operating within the Council.
- 12.17 Employees may accept hospitality through attendance at conferences and courses, with the prior approval of the Service Director the Chief Executive and providing this would not compromise a purchasing decision.
- 12.18 Prior approval of your Service Director or the Chief Executive should be sought before accepting invitations to attend receptions, luncheons and promotional events.
- 12.19 To avoid jeopardising the integrity of subsequent purchasing decisions, the cost of approved visits to inspect equipment including software demonstrations should be met by the Council. Particular care should be taken to avoid accepting any hospitality offered by tenderers when undertaking such visits.

Procedure for Acceptance/Refusal

- 12.20 The acceptance of gifts or hospitality other than those approved by the Council may be treated as serious misconduct which will be dealt with under the Council's disciplinary procedure. In certain circumstances, this could ultimately lead to prosecution.
- 12.21 For their own protection, employees if in doubt about their particular circumstances should seek advice from their Service Director or, if necessary, Chief Executive.



12.22 A central register is maintained by the Democratic Services Manager recording all gifts and hospitality offered and action taken.

12.23 All offers of gifts or hospitality, even if they are refused, (apart from the exceptions detailed above) must be recorded in the Register.

13. **Prevention of Money Laundering**

13.1 The Proceeds of Crime Act 2002 and the UK Money Laundering Regulations 2003 replaces responsibility on Council employees to combat money laundering. Under the legislation it is a criminal offence to:

- assist a money launderer;
- 'tip-off' a person suspected to be involved in money laundering that they are suspected or that they are the subject of police investigation;
- fail to report a suspicion of money laundering;
- acquire, use or possess criminal property.

Employees contravening the regulations can be faced with imprisonment (up to 14 years), a fine or both.

13.2 In order to combat money laundering and to protect itself and its employees from the consequences of failing to comply with the legislation, the Council has issued guidance for any employee dealing with large sums of money in or out of the Council. The following list identifies a number of areas that the guidance applies to but it is not exhaustive:

- Cashiers
- Officers receiving large sums of money, e.g. land sales
- Benefits officers, large payments to landlords
- Employees making payments for large contracts, consultants fees
- Property deals
- Receipt and repayment of performance bonds

13.3 Employees whose duties involve working in the areas listed above should ensure that they are familiar with the guidance which is available from the Internal Audit Section.

14. **Sponsorship - Giving and Receiving**

14.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic



conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

- 14.2 Where the authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

15. Records

- 15.1 Employees should keep full and accurate records of all transactions. Where an employee is required to complete records such as time sheets or leave sheets, these must be completed accurately. Falsification of records is criminal and is gross misconduct.

16. Personal Conduct

- 16.1 Employees are expected to be polite and courteous at all times and in particular the following are unacceptable behaviour:
- The use of abusive or offensive language towards members of the public, Councillors or other members of staff
 - Threatening or aggressive behaviour
 - Inappropriate sexual conduct
 - Dishonesty

17. Safeguarding

- 17.1 It is the duty of every officer (and member) to be alert to safeguarding concerns in relation to vulnerable adults and children that may arise during the discharge of their duties. All personnel must undertake appropriate training such that they are able to recognise and respond to safeguarding concerns as part of their day-to-day role.

18. General Note

- 18.1 Copies of all policies mentioned in this Code of Practice are available on the Intranet or from your Service Director.

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Part F

Section F4 – Member and Officer Relations Protocol

In Part F:-

This Section (F1) of the constitution provides an overview of the key components of Newcastle-under-Lyme Borough Council and a brief explanation of what they do and how they operate. The key components are:-

- Introduction
- Interpretation of the Protocol
- The Role of Elected Members
- The Role of Officers
- The Relationship: General
- The Relationship: Scrutiny Committees
- Political Groups
- Access to Premises
- Use of Council Resources
- Access to Information
- Political Activity
- Breaches of the Protocol
- Status of This Protocol

The rest of the constitution contains more detailed information about each of these components and how they operate.

Section F2 explains the core objective of the council's approach to decision making and outlines how we achieve this objective. It sets out the principles that all decision makers must follow.

Section F3 explains some of the rights and responsibilities of the people who live and work in the borough and how they can get involved in everything that the council does. It also explains how citizens can submit a petition to the council.



Part F

Section F4:- Member and Officer Relations Protocol

In this Section:-

1. **Introduction**
2. **Interpretation of the Protocol**
3. **The Role of Elected Members**
4. **The Role of Officers**
5. **The Relationship: General**
6. **The Relationship: Scrutiny Committees**
7. **Political Groups**
8. **Access to Premises**
9. **Use of Council Resources**
10. **Access to Information**
11. **Political Activity**
12. **Breaches of the Protocol**
13. **Status of This Protocol**

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1. Introduction

- 1.1 The aim of this Protocol is to guide elected Members (often referred to as 'Councillors') and officers of the Council in the conduct of their working relationships in order to ensure that these relationships remain productive and positive.
- 1.2 A strong, constructive and trusting relationship between elected Members and officers is essential to the effective and efficient working of the Council as a whole.
- 1.3 It is recognised that relationships between elected Members and officers are very varied and can often be complex. Therefore, this Protocol does not seek to be prescriptive and may therefore not cover all situations. However, it is hoped that the framework it provides will serve as a guide to dealing with a wide range of circumstances.
- 1.4 This Protocol forms a key part of the Council's approach to corporate governance and its commitment to uphold good standards in public life.

2. Interpretation of the Protocol

- 2.1 Elected Members and officers must observe this Protocol at all times.
- 2.2 The provisions of this Protocol will be interpreted after having regard to the requirements of the Members' Code of Conduct, the Officers' Code of Conduct, the Council's Constitution, Whistleblowing Policy and the various Human Resources policies, procedures and processes, for example 'Dignity at Work'.
- 2.3 Where there is a conflict or discrepancy between this Protocol and the codes and policies referred to above, then those codes and policies shall have precedence. Conventions will also be taken in account in cases of conflict or discrepancy. Any questions over interpretation will be decided by the Monitoring Officer in consultation with the Chief Executive.
- 2.4 It is recognised that, in the period preceding any Council election or by-election, specific protocols are in place. These protocols, which are contained within the rules in relation to Purdah will take precedence over this Protocol where there is, again, conflict or a discrepancy. Details on the rules in relation to Purdah are annexed to the Constitution.
- 2.5 This Protocol does not change any rights or protection which a person may have in law.



3. The Role of Elected Members

- 3.1 Elected Members are primarily accountable to the wider electorate who, periodically, determine the people they wish to represent them on the Borough Council of Newcastle-under-Lyme. Therefore, this Protocol recognises that Members of this Council are elected to serve the people of the Borough of Newcastle-under-Lyme.
- 3.2 Elected Members, as politicians, may express the values and aspirations of their particular party political groups but they must also recognise that, in their role as elected Members, they have a duty to always act in the public interest.
- 3.3 Elected Members may have a number of roles within the Borough Council and need to be alert to the possible conflicts of interest that may arise as they carry out these various roles.
- 3.4 At all times elected Members should be aware that the role(s) they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.
- 3.5 Elected Members are mainly responsible for:
- (a) The political direction and strategic leadership of the Council;
 - (b) The determination of policies, plans and strategies;
 - (c) Ensuring appropriate actions are taken to give effect to or implement those policies, plans and strategies particularly in service delivery terms;
 - (d) Performing the Council's statutory and regulatory functions;
 - (e) Monitoring and reviewing, primarily via the Cabinet and scrutiny functions, the Council's performance in implementing its policies, plans and strategies and in delivering its services;
 - (f) Ensuring and promoting effective working with partner organisations;
 - (g) Representing the Borough Council on local, regional and national bodies and organisations; and
 - (h) Representing the views of their wards, including the various communities and individual constituents living in these wards.
- 3.6 Some elected Members will have additional responsibilities relating to their membership(s) of the Cabinet, Scrutiny Committees or other committees and sub-committees, including regulatory committees. Holding these various roles will undoubtedly involve different relationships with individual officers in areas where the elected Member in question has particular roles and responsibilities.



3.7 Elected Members who serve on committees and sub-committees collectively have delegated responsibilities. These responsibilities may include deciding quasi-judicial matters which, by law, are excluded from the remit of the Council's Cabinet.

3.8 In turn, officers can expect elected Members:

- (a) To act within the policies, practices, processes and conventions established by the Council;
- (b) To work constructively in partnership with officers acknowledging their separate and distinct roles and responsibilities;
- (c) To understand and support the respective roles and responsibilities of officers and their associated workloads, pressures and reporting lines;
- (d) To give political leadership and direction and to seek to further agreed policies and objectives with the understanding that elected Members have the right to take the final decision on issues based on advice;
- (e) To treat them fairly and with respect, dignity and courtesy;
- (f) To act with integrity, to give support and to respect appropriate confidentiality;
- (g) To recognise that officers work to the instructions of their senior officers and not to individual Members or body of members;
- (h) To not subject officers to intimidation, harassment, or put them under undue pressure. Elected Members will have regard to the seniority of officers in determining what are reasonable requests, having regard to the relationship between the elected Member and officer, and the potential vulnerability of officers, particularly at junior levels;
- (i) To not request officers to exercise discretion which involves acting outside the Council's policies and procedures;
- (j) To not authorise, initiate, or certify any financial transactions or enter into any contract, agreement or undertaking on behalf of the Council or in their role as an elected Member without proper and lawful authority;
- (k) To not use their position or relationship with officers to advance their personal interest or those of others or to influence decisions improperly; and
- (l) To comply at all times with the elected Members Code of Conduct, the law, the Council's Constitution and such other policies, procedures, protocols and conventions agreed to by the Borough Council.

3.9 It is important that elected Members of the Council:

- (a) Respect the impartiality of officers and do not undermine the role of officers in carrying out their duties;



- (b) Do not ask officers to undertake work, or act in a way which seeks to support or benefit a particular political party or gives rise to an officer being criticised for acting in a party political manner; and
- (c) Do not ask officers to exceed their authority where that authority is given to them in law, by the Borough Council or by their managers.

3.10 The Head of Paid Service (often referred to as 'the Chief Executive'), the Monitoring Officer, Section 151 Officer and other statutory officers have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an officer is discharging his/her responsibilities as part of any statutory office an elected Member shall not:

- (a) Interfere¹ with or obstruct the officer in exercising those responsibilities; and
- (b) Victimise any officer who is discharging or has discharged his/her responsibilities of the statutory office in question.

4. The Role of Officers

4.1 The primary role of Council officers is to advise, inform and support all elected Members and to implement the lawfully agreed policies of the Council.

4.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Elected Members should avoid, where possible, inappropriate involvement² in such matters

4.3 In performing their role, officers will act professionally, impartially and with political neutrality. Whilst officers will consider an elected Member's view on any particular issue, they should not be influenced or pressured to make comments, or recommendations which are contrary to his/her professional judgement or views.

4.4 Officers should:

- (a) Implement decisions of the Council and its subordinate bodies which are lawful, and have been properly approved in accordance with the requirements of the law and the Council's Constitution, and are duly recorded;
- (b) Work in partnership with elected Members in an impartial and professional manner;

¹This is not intended to prevent Members questioning officers for the purposes of being able to understand fully an issue, but the level and extent of such questions needs to be reasonable.

²This is not intended to prevent Members questioning officers for the purposes of being able to understand fully an issue, but the level and extent of such questions needs to be reasonable.



- (c) Assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions;
- (d) Respond to enquiries and complaints in accordance with the Council's agreed standards;
- (e) Be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for elected Members, the media or other sections of the public;
- (f) Act with honesty, respect, dignity and courtesy at all times;
- (g) Provide support and learning and development opportunities for elected Members to help them in performing their various roles;
- (h) Not seek to use their relationship with elected Members to advance their personal interests or to influence decisions improperly; and
- (i) Comply, at all times, with the Council's Officer Code of Conduct, and other such policies or procedures approved by the Council.

4.5 Officers have the right not to support elected Members in any role other than that of elected Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on officers' involvement in political activities.

4.6 Some officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their professional capacity.

5. The Relationship: General

5.1 Elected Members and officers are, first and foremost, servants of the public. They are indispensable to one another in carrying out this role. However, their responsibilities are distinct. Elected Members are accountable to the public, and their group (where one is formed), whereas officers are accountable to the Council as a whole and for operational purposes to their manager

5.2 At the heart of the various Codes, and this Protocol, is the importance of mutual respect. Elected Member/officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between elected Members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other.

6. The Relationship: Scrutiny Committees



- 6.1 It is accepted that in carrying out the Council's scrutiny functions, elected Members may require an officer to attend to answer questions or to discuss issues.
- 6.2 It is recognised by this Protocol that challenge in a constructive and non-confrontational way is important in ensuring policies and performance are meeting the Borough Council's strategic objectives. Therefore, nothing in this Protocol is intended to stop elected Members from holding officers to account for decisions made under delegated powers. Nor is it intended to affect the Council's scrutiny functions.
- 6.3 When deciding whether to require an officer to attend a meeting, the Scrutiny Committee will consider the seniority of the officer in deciding who it would be appropriate to invite. There is a presumption against inviting officers outside the senior officer range to attend in this capacity. Requests for officer attendance should be made to the appropriate Service Director concerned. Such requests should indicate in broad terms the areas which elected Members will want to discuss, and should give reasonable notice of the dates when attendance is required.
- 6.4 Where an officer attends a Scrutiny Committee meeting, his/her contribution should be confined to matters of fact and explanation. However, an officer may be asked to explain and justify advice which he/she has given prior to a decision having been taken, including decisions taken by him/her under delegated powers.
- 6.5 Officers should not be drawn, overtly or covertly, into discussions of a political nature which would be inconsistent with the political neutrality requirement. Any questioning of an officer should not be reasonably interpreted as constituting harassment.
- 6.6 In scrutiny proceedings, the capability or competence of officers must not be questioned. A distinction needs to be drawn between reviewing the policies, performance and decisions of the Council or its services and the appraisal of staff performance. The latter is not a function of scrutiny committees.
- 6.7 The approach here is consistent with the Scrutiny Procedure Rules as set out in the Council's Constitution.
- 6.8 In applying this part of the Protocol, account will be taken of any guidance agreed by scrutiny bodies provided that guidance is consistent with the principles of this Protocol.

7. Political Groups



- 7.1 The Chief Executive, together with Service Directors and occasionally other employees (all with the permission of the Chief Executive) may at times request to attend or be invited to attend a political group meeting with a view to briefing and advising on the formulation of policy. This may be on his/her initiative or at the request of a political group. However, the decision on whether he/she should attend is the Chief Executive's, in either case.
- 7.2 If the Chief Executive decides that he/she or another officer may attend a political group meeting and it concerns a proposed significant policy change which is about to be presented to a meeting of the Council, Cabinet or committee, then he/she must offer the facility to all other political groups within the authority, indicating the area of policy upon which he/she is offering to brief/advise. He/she will inform the leader of the political group with whom he/she is having the meeting that he/she will be offering the facility to the other political groups represented on the Council.
- 7.3 Certain points must be clearly understood by all those participating in this process, elected Members and Officers alike. In particular:
- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meeting, or parts of meeting, when matters of party business are to be discussed;
 - (b) Political group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
 - (c) Similarly, where Officers provide information and advice for a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Council, Cabinet or relevant committee when the matter in question is considered.
- 7.4 Special care needs to be exercised whenever officers are involved in providing information and advice to a political group meeting which includes persons who are not elected Members of the Council. Such persons will not be bound by the Members Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to an elected Members-only meeting.



7.5 Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussions to another political group.

8. Access to Premises

8.1 Officers have the right to enter the Council's land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.

8.2 Unless authorised to do so as part of an authorised committee site visit, Members are not entitled to inspect land or premises which the Council has the right or duty to inspect. Nor may they enter, or issue orders relating to works being carried out by or on behalf of the Council (for example building sites).

9. Use of Council Resources

9.1 Elected Members should not ask officers to provide resources or support which they are not permitted to give, for example support or resources:

- (a) Which are to be used for business which is solely to do with a political party;
- (b) For work in connection with a ward or constituency party political meeting or electioneering;
- (c) For work associated with an event attended by an elected Member in a capacity other than as a Member of the Council;
- (d) For private personal correspondence;
- (e) For work in connection with another body or organisation where an elected Member's involvement is other than as a member of the Council; and
- (f) Which constitutes support to an elected Member in his/her capacity as a member of another authority.

10. Access to Information

10.1 The legal rights of Members to inspect Council documents are covered partly by statute and partly by the common law. The information set out in Appendix 11 (Access to Information Rules) of the Constitution explains the position in detail.

10.2 Members have all the rights available to members of the public and may request individual copies of any agendas of the Cabinet and of committees, sub-committees or panels of which they are not members. Additionally, Members' rights to information are subject to legal rules and, if a Member has a legitimate interest in a matter and is able to demonstrate a "need to



know”, in his or her role as a Borough Councillor, employees should provide the relevant information, including confidential information, to that Member. Approaches for information on this basis should normally be directed to the Service Director.

- 10.3 Special care needs to be taken when a Member has a significant personal or business relationship with a constituent about whom he or she is seeking information. An appropriate option may be that another Member could act for the constituent.

11. Political Activity

- 11.1 Senior employees, except those politically exempted, cannot be local authority councillors or MPs, nor can they ‘speak or publish written work for the public at large or to a section of the public with the apparent intention of affecting public support for a political party’.
- 11.2 Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Service Directors, and not to individual Members of the Council, whatever office they might hold.
- 11.3 It is obviously important though for there to be regular contact between the Chief Executive, Service Directors, senior employees and the leaders of political groups on matters affecting the Council, and between Service Directors, other senior employees, the Leader of the Council and members of the Cabinet and Committee Chairs on matters affecting their respective responsibilities.
- 11.4 Council decisions can only be made in accordance with the Constitution and through the formal processes of the Council. Only decisions made at formal meetings or under delegated powers can be acted upon by officers.

12. Breaches of the Protocol

- 12.1 Where an elected Member is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the appropriate Service Director. Where the officer concerned is a Service Director, the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer.
- 12.2 On the elected Member’s side, where the relationship between elected Members and officers breaks down or becomes strained, every effort should be made to resolve matters informally, through conciliation by an appropriate senior manager or Members. Officers will also have recourse to the grievance procedure or to the Council’s Monitoring Officer, as



appropriate, in certain circumstances. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive who, having advised the Leader of the Council and the other appropriate Group Leaders, will decide on the course of action to be taken, following consultation with the Council's Standards Committee if appropriate.

- 12.3 Breaches of the protocol by an elected Member may also constitute a breach of the Members' Code of Conduct (see Appendix 18 of the Constitution).

13. **Status of This Protocol**

- 13.1 This Protocol was approved by Full Council on 25 February 2015. It now forms part of the Council's Constitution (Appendix 20) and replaces the earlier version. As such, it is binding on all elected Members including co-opted and independent Members, and officers.
- 13.2 This Protocol shall apply, as appropriate and necessary, to any person appointed individually or on behalf of a body or organisation to advise support or assist the Authority in its work.

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Part F – Appendices

Section F5:- Finance and Contract Procedure Rules

F5A:- Introduction and Overview

In Part F:-

Section F1 contains the Member Code of Conduct

Section F2 contains the Member Planning Protocol

Section F3 contains the Officer Code of Conduct

Section F4 contains the Officer/Member Relations Protocol

This Section (F5) contains the Finance and Contract Procedure Rules that govern how the council manages its financial affairs. The Rules are split into the following eight parts:-

- **This section (F5A)** contains an introduction and overview to the principles of good financial management, the roles and responsibilities of Officers and Members and the various documents and processes that form the council's financial management framework.
- **Part F5B** Financial Management
- **Part F5C** Financial Planning
- **Part F5D** Risk Management and Control of Resources
- **Part F5E** Financial Systems and Procedures
- **Part F5F** Contract Procedure Rules
- **Part F5G** Collaborative Working and ASDVs
- **Part F5H** Glossary



Part F – Appendices

Section F5:- Finance and Contract Procedure Rules

F5A:- Introduction and Overview

A1. Introduction

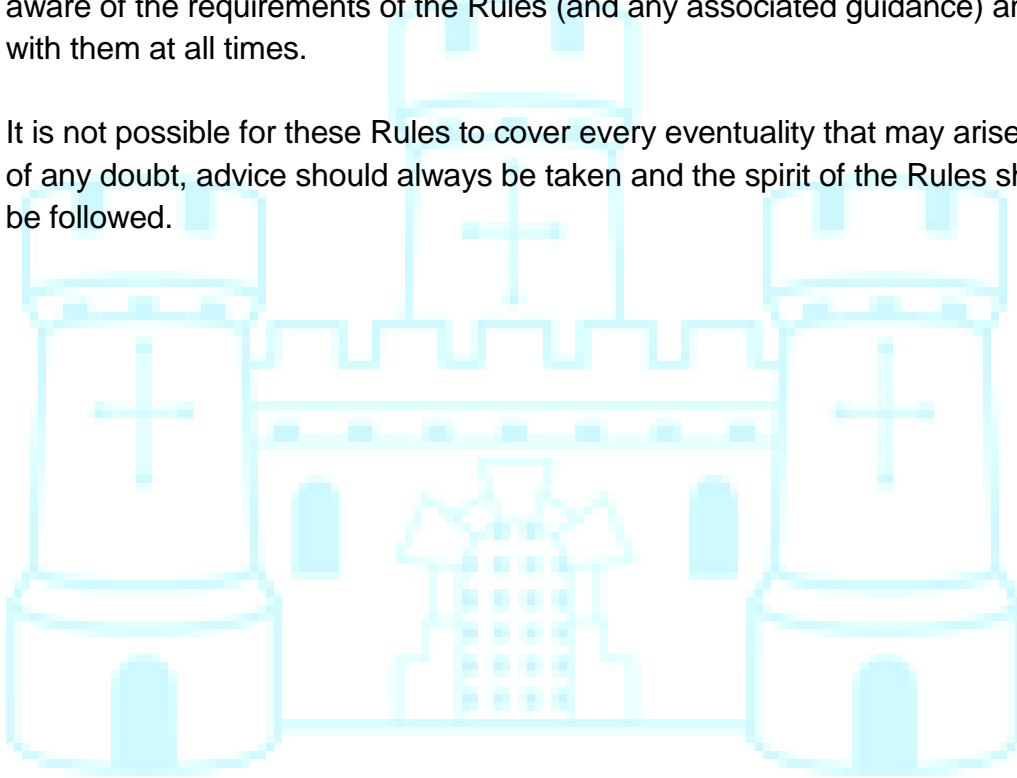
- A1.1 Section A1 of the Constitution contains an overview of the main components of the council and how they relate to each other. It explains how the decisions that the council has to make are made either by all of the elected Members acting together in a meeting of Full Council (“Council”), by the Cabinet, by committees or by Officers.
- A1.2 Section A2 explains the council’s core objective in decision-making and sets out the principles of decision-making that all Members and Officers must observe. The rest of the Constitution sets out various rules about who is authorised to take different types of decisions and how decisions should be taken and recorded.
- A1.3 Whenever a decision is taken, it will have a financial implication in terms of either a cost or a saving (which includes income) for the council. These Finance and Contract Procedure Rules (“the Rules”) provide the framework for managing those implications and setting out who is authorised to make decisions that have different types of financial implications.
- A1.4 The Rules apply to every Member and Officer of the council and anyone acting on the council’s behalf. These rules sit alongside all of the rules, codes, protocols and principles contained in or made under the Constitution. All decision makers need to ensure that they are not only empowered under the Constitution to make every decision that they propose to make, but that they are also authorised under these Rules to incur the financial implications of every decision that they make.
- A1.5 All Members and Officers are under a duty to ensure the security of resources under their control, and to ensure that the use of resources is lawful, properly authorised, provides value for money and achieves best value. Failure to comply with the Rules may lead to disciplinary action, legal action, or may even amount to a criminal offence so Officers should always seek advice from their line management if they are in any doubt about any aspects of the Rules.
- A1.6 The Section 151 Officer is responsible for keeping the Rules under review, issuing any advice or guidance, making minor amendments, or recommending significant amendments to Council as and when required.



A1.7 The Section 151 Officer is also responsible for reporting breaches of the Rules to Council and/or the Cabinet.

A1.8 The Corporate Leadership Team is responsible for ensuring that all Officers are aware of the requirements of the Rules (and any associated guidance) and comply with them at all times.

A1.9 It is not possible for these Rules to cover every eventuality that may arise. In the case of any doubt, advice should always be taken and the spirit of the Rules should always be followed.



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Part F – Appendices

Section F5:- Finance and Contract Procedure Rules

F5B:- Financial Management

In Part F:-

Section F1 contains the Member Code of Conduct

Section F2 contains the Member Planning Protocol

Section F3 contains the Officer Code of Conduct

Section F4 contains the Officer/Member Relations Protocol

This Section (F5) contains the Finance and Contract Procedure Rules that govern how the council manages its financial affairs. The Rules are split into the following eight parts:-

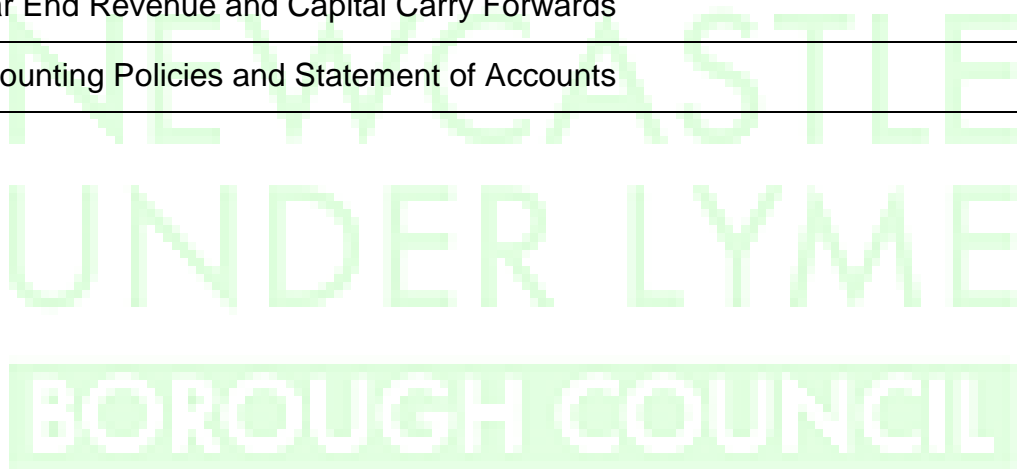
- **Section F5A** contains an introduction and overview to the principles of good financial management, the roles and responsibilities of Officers and Members and the various documents and processes that form the council's financial management framework.
- **This Section (F5B)** Financial Management
- **Part F5C** Financial Planning
- **Part F5D** Risk Management and Control of Resources
- **Part F5E** Financial Systems and Procedures
- **Part F5F** Contract Procedure Rules
- **Part F5G** Collaborative Working and ASDVs
- **Part F5H** Glossary



Part F – Appendices
Section F5:- Finance and Contract Procedure Rules
F5B:- Financial Management

In this Section:-

B1	Why is Financial Management Important?
B2	Overview
B3	What is covered in this Section?
B4	Overview of Roles and Responsibilities for Financial Management
B5	Budgeting Overview
B6	Budget Management Framework
B7	Budget changes – Virements and Supplementary Estimates
B8	Budget changes – Virement and Supplementary Estimate Approval Limits
B9	Administrative Virements
B10	Gateway Approval Process for new Capital Schemes
B11	Year End Revenue and Capital Carry Forwards
B12	Accounting Policies and Statement of Accounts





B1. Why is Financial Management Important?

B1.1 Financial management is essential to ensure that public funds are kept secure and used properly to best effect. This section explains who is accountable for the proper financial management of the council.

B2. Overview

B2.1 The Finance and Contract Procedure Rules (“the Rules”) form part of a set of rules and processes that must be followed to ensure effective financial management.

B2.2 In accordance with the “executive arrangements” form of local governance under the Local Government Act 2000, Council decides who will discharge the various functions that it is responsible for. This is set out in the Constitution that records the delegation of power to the Cabinet, committees and Officers.

B2.3 Council also approves and adopts these Rules that are contained within the Constitution. These Rules provide a framework for managing the council’s financial affairs, and the financial implications of decisions made under the delegation arrangements set out in the Constitution. These Rules apply to everyone who makes decisions for the Council or on its behalf.

B2.4 The Rules set out the financial limits that Members and Officers must operate within. Beneath these Rules, the Section 151 Officer also maintains a table of financial authorisation limits for Officers within each individual service (“Financial Scheme of Delegation”).

B2.5 There are also Codes of Practice in force from time to time that set out the steps of any detailed procedures or processes that need to be followed to ensure the Rules are properly applied in practice. These are issued by the Section 151 Officer.

B3. What is covered in this Section?

B3.1 This Section contains a short “high level” overview of the roles and responsibilities delegated by the Constitution, including Council, Cabinet, committees and Officers.

B3.2 This section also contains an overview of the process for approving changes to the council’s budget, including:

a) When Section 151 Officer and/or Member approval is required

b) what can be approved within services



c) accounting policies and statement of accounts

B4. Overview of Roles and Responsibilities for Financial Management

B4.1 The Constitution sets out in detail the arrangements Council has put in place for decisions to be taken by Members and Officers. These Rules apply to the financial implications of all decisions taken under those arrangements. It is important that all decision makers are familiar with the provisions in the Constitution and these Rules that, together, authorise them to make decisions.

B4.2 The following is a “high level” summary of the decision making arrangements contained in the Constitution:-

- a) Council. Council adopts the Budget and Policy Framework. It also is responsible for discharging a number of functions it has “reserved” for itself. Council has also constituted a number of committees that discharge delegated powers. Part B of the Constitution contains information about the roles and responsibilities of Council and its committees.
- b) The Cabinet. The Cabinet is responsible for proposing the Budget and Policy Framework to Council. Once approved, the Cabinet is responsible for taking all the necessary steps to implement it. The Cabinet operates collectively and, in cases of urgency, through individual Cabinet Members. Part C of the Constitution contains information about the roles and responsibilities of the Cabinet and individual Cabinet Members.
- c) Officers. Officers are responsible for the vast majority of day-to-day operational decisions under powers delegated to them by both Council and the Cabinet. In addition, there are certain specified Officers (“Statutory” and “Proper Officers”) who are responsible for discharging certain specified functions. Part E of the Constitution contains more information about the roles and responsibilities of Officers.

B5. Budgeting Overview

B5.1 In February each year, Council sets a budget for the following financial year. Inevitably, in a large and complex organisation, changes will need to be made to this approved budget during the year. To ensure that there is appropriate approval and control over these changes, the council operates two main approaches. These are:-



- a) Changes that have a material financial or policy impact will generally require the approval of the Section 151 Officer and/or Members. The type and level of approval required will depend on the nature of the proposed changes and the source of funding. Specific guidance on the approval process is set out below.
- b) Changes that are of an administrative nature can be approved by Service Directors. Financial approval limits generally for individual Officers are set out in the table maintained by the Section 151 Officer. This table is reviewed on at least an annual basis and published on the intranet.

B6. Budget Management Framework

B6.1 The Section 151 Officer is responsible for establishing an appropriate framework of budget management and controls which ensures that:-

- a) budget management is exercised within the annual budget, unless Council agrees otherwise
- b) each Service Director has timely information available on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
- c) expenditure is committed only against an approved budget
- d) all Officers responsible for committing expenditure comply with relevant guidance, including the Finance and Contract Procedure Rules
- e) Each cost centre has a single named budget manager, determined by the relevant Service Director and notified to the Section 151 Officer
- f) significant variances from approved budgets are investigated and reported by budget managers regularly.

B6.2 Service Directors are responsible for maintaining budgetary control within their departments, in adherence to the principles set out in this document and, in particular:-

- a) to ensure that all income and expenditure is properly recorded and accounted for



- b) to ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Service Director (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure
- c) to ensure that spending remains within the service's overall approved budget, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast
- d) to ensure that a monitoring process is in place to review performance and service levels in conjunction with the budget
- e) to prepare and submit reports to the Cabinet on the service's projected expenditure compared with its budget, in consultation with the Section 151 Officer
- f) to ensure prior approval at the appropriate level for new proposals that create financial commitments in future years, change existing policies, initiate new policies or materially extend or reduce the council's services
- g) to ensure compliance with the scheme of virement set out in B7 to B9 below
- h) to agree with the relevant Service Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Service Director's level of service activity
- i) to ensure best value is obtained in service delivery
- j) to ensure that resources are used only for the purposes for which they were intended
- k) to prepare regular reports in the approved format on overall financial and non-financial performance and progress against planned service outcomes (as part of the Council Plan/Priority Delivery Plans), and for submitting these to the Cabinet and the relevant Scrutiny Committee after consulting the Section 151 Officer, in accordance with agreed procedures. Service Directors will report periodically to their capital oversight/review group on the progress and forecast of all capital expenditure and income against the approved programme.



B6.3 The key reporting stages are:

- a) approval of service outcome plans, including budget statements and performance targets
- b) approval of projects through the relevant capital oversight/review group to be included in the Capital Programme
- c) quarterly reviews of revenue and capital expenditure. Final outturn reports for both revenue and capital expenditure, including full post-implementation review, on all capital schemes completed during the year.

B6.4 In addition, the reports will be specifically required to give details in respect of the following:-

- a) potential overspends and proposed remedial action, including any impact on future year's budgets which may need consideration in the on-going Medium Term Financial Strategy for policy and financial planning
- b) amendments to approved budgets such as supplementary revenue and capital estimates where Member approval is required
- c) write off of bad debts or assets where Member approval is required.

B7. Budget Changes – Virements and Supplementary Estimates

Introduction and Explanation

B7.1 Council sets the budget in advance of each financial year. It does so by determining how much the council will spend (and receive) through service delivery, in total, in each financial year. Council then allocates these amounts to different budget areas or "lines" for different services, and then for different purposes or functions within individual services.

B7.2 As part of setting the budget, Council also approves the capital programme each year. The capital programme comprises a series of rolling annual allocations for one off projects like ICT infrastructure renewal, vehicle fleet replacement, property acquisitions or upgrades and regeneration projects. Each of these specific projects is represented by a separate line in the capital programme. There can be, within each capital programme allocation, a number of individual schemes.



- B7.3 During the course of the year, services may wish to undertake an activity not originally identified in the approved budget. There might also be circumstances in which delivering a planned activity will cost more than anticipated or generate less income than anticipated.
- B7.4 There might also be, during any financial year, a need to alter the capital programme to add, prioritise or accelerate a particular scheme, or to deal with cost increases as a scheme progresses.
- B7.5 In order to accommodate these changes with no overall impact on the approved service budgets, funds will either have to be transferred between different lines of the budget Council has approved, or new funding will have to be brought into the budget lines that Council has approved. New funding typically comes from external sources such as unanticipated income or grant funding. In some cases, it might come from reserves or borrowing.
- B7.6 The transfer of funds between the budget lines that Council has approved is known as a virement. Where it relates to service provision or recurring spend, it is known as a revenue virement. Bringing new funding into the budget lines that Council has approved is known as a supplementary estimate. This will be either a capital supplementary estimate or a revenue supplementary estimate depending on whether the additional funding is needed for service provision/recurring spend or “one-off” spend on a project in the capital programme.
- B7.7 Virements and supplementary estimates can often mean that activities or outcomes Council approved and is expecting to be delivered when setting the budget and policy framework are going to change. For this reason, different levels of authorisation for virements and supplementary estimates are needed depending on the potential impacts. The various authorisation requirements are set out below.
- B7.8 Where a proposed virement or supplementary estimate would involve transferring funds from the general fund reserve it must be approved by Council regardless of value. Even where a proposed virement or supplementary estimate does not draw on reserves, Council approval will nevertheless be required if the proposal will have significant implications (as determined by the Section 151 Officer) for future years’ budgets. Examples of this include borrowing, or utilising capital receipts, beyond any limitations set by council in the budget.



B7.9 This is because there are certain requirements around maintaining adequate levels of reserves and preserving the security of future year's budgets that can only be determined by Council on the advice of the Section 151 Officer. It is important that these controls are not circumvented by the virement/supplementary estimates scheme.

B7.10 The finance team must be consulted where there is any uncertainty as to the need for a virement or supplementary estimate, or in applying of the approval limits below to arrive at the correct authorisation process.

B8. Budget Changes – Virement and Supplementary Estimate Approval Limits

B8.1 Where the proposal does not involve transferring funds from general reserves, the approval levels are as follows:

Revenue Virements/Supplementary Estimates

Approver	Approval Limit
Service Directors	Up to £50k
Section 151 Officer in consultation with relevant Cabinet Member(s)	£50k< to £100k
Cabinet	£100k< to £1m
Council	£1m<

Capital Virements/Supplementary Estimates

Approver	Approval Limit
Service Director	Up to £50k
Section 151 Officer in consultation with relevant Cabinet Member(s)	£50k< to £250k
Cabinet	£250k< to £2m
Council	£2m<

B8.2 It is important to remember that if a proposed virement or supplementary estimate would involve transferring funds from the general fund reserve, or if (in the opinion of the Section 151 Officer) it will have significant implications on future years' budgets, it must be approved by council.

B8.3 Where a report taken to Cabinet/Council or an Officer Decision Notice ("ODN") results in the approval of a recommendation which necessitates a virement or supplementary estimate, there is no further/separate requirement to seek authorisation for the virement or supplementary estimate in question so long as:-



- a) The approving body is authorised to approve the virement or supplementary estimate in question by reference to the approval limits above; and,
- b) The financial implications section of the report or ODN in question deals with the issue of virement/supplementary estimates

B9. Administrative Virements

B9.1 Some virements are essentially of an administrative nature, as they do not involve a change from existing approved policies. Administrative virements would include the following examples:-

- a) implementation of restructuring and reorganisation proposals that have already received the appropriate level of Officer and Member approval
- b) routine changes to the structure of the chart of accounts
- c) changes to notional accounting budgets which are required for reporting purposes but which do not affect the council's cash expenditure. Examples include changes to the depreciation and deferred grants budget

B9.2 Where the virement is (as determined by the Section 151 Officer) solely of an administrative nature, approval is only required from the Section 151 Officer or Deputy Section 151 Officer.

B10. Gateway Approval Process for new Capital Schemes

B10.1 Where services wish to undertake a new capital scheme which is not already included in the council's approved capital programme, they must (regardless of value) follow the relevant "Gateway" approval process from time to time in force. The purpose of Gateway approval processes is to stress test or scrutinise proposals prior to seeking formal Member/Officer authorisation to proceed.

B10.2 The Gateway approval process will vary depending on the nature and cost of a scheme but will typically require the preparation of a business case in a prescribed form, the business case will go through a process of consideration at Member/Officer level that may include a scheme or project specific Member/Officer/stakeholder oversight board or group.

B10.3 The Section 151 Officer will devise and publish Gateway approval processes on the intranet (from time to time) along with any prescribed forms of documents that relate.



Advice should be sought from the finance team on a case-by-case basis to confirm the appropriate approval process.

B10.4 Once the relevant “Gateway” approval process has been completed, all other formal governance approvals must be completed before incurring unbudgeted expenditure on the scheme. For example, if supplementary estimates or virements are required, the approval processes set out above must be completed. Formal, reasoned decisions should be taken at Council, Cabinet or Officer level (as the case may be) and documented, informed by the outcome of the Gateway approval process. All contract and procurement procedure rules must then be followed.

B11. Year End Revenue and Capital Carry Forwards

Carry Forward of Underspend

B11.1 During the course of the financial year, services can request permission to provisionally carry forward an underspend at year-end. In-year, these carry forwards will be approved in principle as subject to outturn. The approval limits for these in-year individual carry forwards are:

Revenue

Approver	Approval Limit
Section 151 Officer	Up to £100k
Cabinet	£100k<

Capital

Approver	Approval Limit
Section 151	Up to £250k
Cabinet	£250k<

B11.2 All carry forward proposals must be supported by the appropriate justification demonstrating that the resources carried forward will be earmarked for a specific purpose or issue. Service Directors should include provisional indications of likely carry forward requests in their quarterly reviews of performance.

B11.3 Before approval is sought for a carry forward, Service Directors should ensure that there are no unfunded overspends within their department. It is extremely unlikely that proposed carry forwards for a service will be approved if there are unfunded overspends elsewhere within the department.



B11.4 For capital budgets, underspends against rolling annual allocations funded from council resources or non-ring-fenced grant funding will only be approved on an exception basis, with any commitments expected to be the first call on the following year's capital allocation. For committed one-off schemes, re-profiling into future years will be automatically approved provided the scheme remains a priority for the council at that time.

B12. Accounting Policies and Statement of Accounts

B12.1 The Section 151 Officer is responsible for the preparation of the Council's Statement of Accounts, in accordance with proper practices as set out in the format required by the Code of Practice on Local Council Accounting in the United Kingdom for each financial year ending 31 March.

B12.2 The key controls for accounting policies are:-

- a) Systems of internal control that ensure financial transactions are lawful
- b) Suitable accounting policies are selected and applied consistently
- c) Accurate and complete accounting records are maintained
- d) Financial statements are prepared which present a true and fair view of the financial position of the Council.

B12.3 The Section 151 Officer is responsible for:-

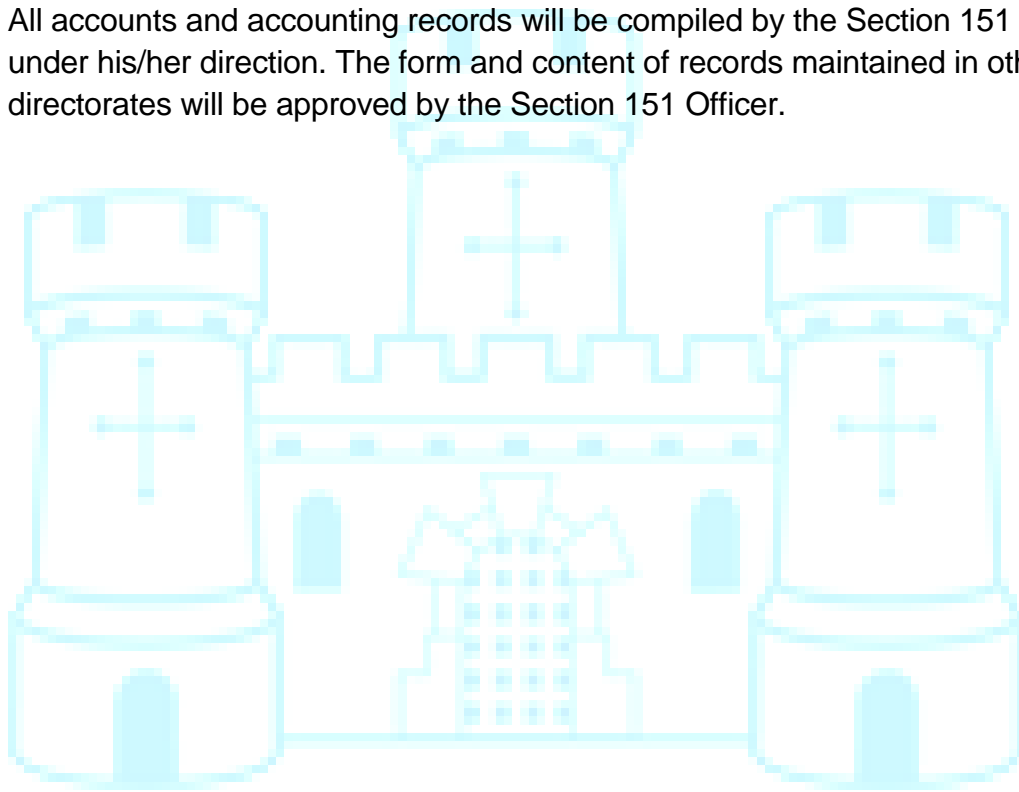
- a) selecting suitable accounting policies and ensuring that they are applied consistently
- b) exercising supervision over financial and accounting records and systems
- c) preparing and publishing reports containing the statements on the overall finances of the council including the council's Annual Report and Accounts.

B12.4 The Section 151 Officer is responsible for determining the accounting procedures and records for the council. All accounting procedures will be approved by the Section 151 Officer.



B12.5 Service Directors are responsible for ensuring that staff in their departments are aware of, and adhere to, the accounting policies, procedures and guidelines set by the Section 151 Officer.

B12.6 All accounts and accounting records will be compiled by the Section 151 Officer or under his/her direction. The form and content of records maintained in other directorates will be approved by the Section 151 Officer.



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Part F – Appendices

Section F5:- Finance and Contract Procedure Rules

F5C:- Financial Planning

In Part F:-

Section F1 contains the Member Code of Conduct

Section F2 contains the Member Planning Protocol

Section F3 contains the Officer Code of Conduct

Section F4 contains the Officer/Member Relations Protocol

This Section (F5) contains the Finance and Contract Procedure Rules that govern how the council manages its financial affairs. The Rules are split into the following eight parts:-

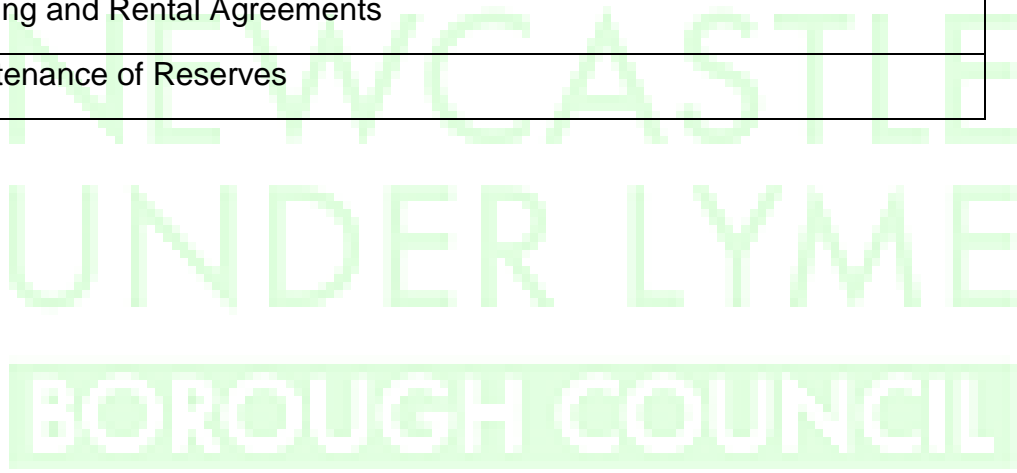
- **Part F5A** contains an introduction and overview to the principles of good financial management, the roles and responsibilities of Officers and Members and the various documents and processes that form the council's financial management framework.
- **Part F5B** Financial Management
- **This Section (F5C)** Financial Planning
- **Part F5D** Risk Management and Control of Resources
- **Part F5E** Financial Systems and Procedures
- **Part F5F** Contract Procedure Rules
- **Part F5G** Collaborative Working and ASDVs
- **Part F5H** Glossary



Part F – Appendices
Section F5:- Finance and Contract Procedure Rules
F5C:- Financial Planning

In this Section:-

C1	Why is Financial Planning important?
C2	What is covered in this Section?
C3	Policy Framework
C4	Revenue Expenditure
C5	Revenue Budget Preparation
C6	Budget Monitoring and Control
C7	Determination, Monitoring & Control of affordable borrowing
C8	Responsibility for borrowing
C9	Capital Expenditure
C10	Capital Approvals and Strategic Projects
C11	Capital Monitoring and Amendments to the Capital Programme
C12	Capital Receipts
C13	Leasing and Rental Agreements
C14	Maintenance of Reserves





C1. Why is Financial Management Important?

C1.1 Section A1 of the Constitution explains how Council adopts the Budget and Policy Framework following proposals from the Cabinet, and that once adopted the Cabinet is responsible for its implementation. In terms of financial planning, the key elements of the Budget and Policy Framework are as follows. These might go by different names from time to time.

C2. What is covered in this Section?

C2.1 This section contains information on:-

- a) Policy Framework
- b) Budgeting
- c) Format of the Budget
- d) Revenue Budget Preparation, Monitoring and Control
- e) Determination, Monitoring and Control of Affordable Borrowing
- f) Resource Allocation
- g) Capital Programmes
- h) Leasing and Rental Agreements
- i) Maintenance of Reserves
- j) Reporting

C3. Policy Framework

C3.1 Council is responsible for approving the Budget and Policy Framework. The policy framework will comprise the statutory plans and strategies which the Council is required to produce.

C3.2 Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.

C3.3 Council is responsible for approving the process to enable changes to be made to the budget during the financial year. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

C3.4 Each year the Council produces:-



- a) The Council Plan detailing its objectives and targets over a 3 to 4 year planning horizon
- b) A Medium Term Financial Strategy detailing the financial and service scenario over a 3 to 4 year planning horizon and the policy and expenditure options required to respond to this scenario.
- C3.5 The Section 151 Officer will advise Council on the financial environment, financial policies, including the appropriate levels of reserves and contingencies, the amount of borrowing outstanding and an appropriate treasury management strategy. The Section 151 Officer will also advise Council on the policy and expenditure options to assist in the determination of its Budget. Individual Service Directors will support this process by assessing and advising on the service scenario and policy and expenditure options for revenue and capital in their area of responsibility, in a form determined by the Section 151 Officer.
- C3.6 The Cabinet, advised by the Section 151 Officer, will develop a budget package including financing options, policy and expenditure options and a capital programme. This will be subject to review by the relevant Scrutiny Committee and Cabinet before consideration by Council. The final Budget and Council Tax precept will be determined by Council.
- C4. Revenue Expenditure**
- C4.1 Revenue expenditure is broadly defined as any expenditure incurred on the day-to-day running of the Council. Examples of revenue expenditure include salaries, energy costs, and consumable supplies and materials.
- C5. Revenue Budget Preparation**
- C5.1 The Section 151 Officer is responsible for ensuring that a revenue budget is prepared on an annual basis for consideration by the Cabinet, before submission to Council. Council may amend the budget or ask the Cabinet to reconsider it before approving it in accordance with the Constitution.
- C5.2 It is the responsibility of Service Directors to ensure that budget estimates reflecting agreed plans are submitted to the Cabinet and that these estimates are prepared in line with any guidance issued by the Section 151 Officer.
- C5.3 The Section 151 Officer is responsible for approving the council's tax base for the forthcoming year and reflecting this within the budget.



C5.4 The Cabinet will then submit a 'final budget' to Council for approval.

C5.5 The Section 151 Officer is responsible for reporting to Council on the robustness of estimates contained within the budget proposed by the Cabinet and the adequacy of reserves allowed for in the budget proposals.

C5.6 Council shall not approve additional net expenditure to either revenue or capital budgets without first having considered the advice of the Cabinet and the Section 151 Officer on the financial implications arising.

C6. Budget Monitoring and Control

C6.1 The Section 151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations at a corporate level and report to the Cabinet on the overall position on a regular basis.

C6.2 It is the responsibility of the Corporate Leadership Team to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Section 151 Officer. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Section 151 Officer to any problems.

C6.3 In addition, the Section 151 Officer will:-

- a) administer the Council's scheme of virements and supplementary estimates (both administrative and those requiring Member approval)
- b) prepare and submit reports on the Council's projected income and expenditure compared with the budget on a regular basis

C7. Determination, Monitoring & Control of Affordable Borrowing

C7.1 Under the Local Government Act 2003, the Council is required to have regard to the Chartered Institute of Public Finance and Accountancy's (CIPFA) Prudential Code for Capital Finance in Local Authorities (Prudential Code).

C7.2 The key objectives of the Prudential Code are to ensure that within a clear framework the capital investment plans of local authorities are affordable, prudent



and sustainable. A further objective is to ensure that treasury management activity supports prudence, affordability and sustainability.

C7.3 The Prudential Code requires that prior to the commencement of the financial year the following prudential indicators for the forthcoming financial year and at least the two subsequent financial years must be approved by Council.

C7.4 The minimum indicators required for the following three year period are:-

- a) estimates of the ratio of financing costs to net revenue stream
- b) estimates of capital expenditure and how it will be financed
- c) estimates of the increases in Council Tax and Weekly Rents that would result from the totality of the estimated capital expenditure
- d) estimates of capital financing requirements (underlying need to borrow for a capital purpose) and estimated level of gross external borrowing (total debt)
- e) the authorised limit for external debt
- f) the operational boundary for external debt
- g) a limit on the amount of fixed rate investments and fixed rate borrowing the Council may have during the year
- h) a limit on the amount of variable rate investments and variable rate borrowing the Council may have during the year
- i) the maximum proportion of fixed rate loans maturing in specified periods
- j) the maximum amount to be invested for longer than 1 year

C7.5 After the year end, actual values are to be calculated for:-

- a) ratio of financing costs to net revenue stream
- b) capital expenditure



c) capital financing requirement

d) external debt

C7.6 In addition, Council will set for itself the following local Financial Health Indicators (FHIs) for the current year, the following year and the two successive years:

a) interest and debt repayment costs as a % of net budget

b) the total borrowing requirement as a % of the Council's net budget

C8. Responsibility for Borrowing

C8.1 The Section 151 Officer is responsible for:-

a) establishing procedures to both monitor performance against all forward looking prudential indicators and for ensuring that gross external borrowing does not exceed the Council's authorised limit

b) reporting to Council any significant deviations from expectations

c) ensuring that regular monitoring is undertaken in year against the prudential indicators of affordability and sustainability by reviewing estimates of financing costs to revenue, the capital financing requirement and the local FHIs

d) reporting to Council, setting out management action, where there is significant variation in the estimates used to calculate these prudential indicators, for example caused by major overruns of expenditure on projects or not achieving in-year capital receipts

C9. Capital Expenditure

C9.1 Capital expenditure is broadly defined as expenditure, on the acquisition of an asset, or expenditure which adds to (rather than merely maintains), the value of an existing asset. It also includes spending that extends the useful life of an asset and increases usability, provided that the asset yields benefits to the council and the services it provides for a period of more than one year.

C10. Capital Approvals and Strategic Projects

C10.1 The council has developed a Gateway approval process that sets out the process, procedure and documentation that must be used for all proposals to be included in



the council's approved capital programme and for strategic projects. The purpose of this process is to ensure that all proposals are both affordable and fit with corporate priorities. Details of the processes (and relevant documentation) that must be followed are published on the intranet.

C10.2 The Section 151 Officer will review this process as required and it is the responsibility of each project manager to ensure that they keep up to date with the process and documentation.

C11. Capital Monitoring and Amendments to the Capital Programme

C11.1 As part of the annual policy and planning process, schemes in the capital programme which have not reached an advanced stage will be reconsidered.

C11.2 All capital schemes and allocations should be approved through the annual capital programme setting process, within the timetable set out by the Section 151 Officer and approved at the annual budget setting Council.

C11.3 In exceptional cases, there will be a need for a new capital project to be approved in-year. The Gateway Approval Process for these in-year schemes is set out in Rule B10 of Section F5B (Financial Management).

C11.4 Project managers must ensure that the project specification remains consistent with the approved business case and continues to represent value for money for the council. Where project outcomes or costs alter significantly from those originally approved, a revised Business Case must be completed for approval through the Gateway approval process.

C11.5 Wherever possible, expenditure funded by rechargeable works should be included in the Capital Programme. Where this is not possible, Service Directors may approve (in consultation with the Section 151 Officer) capital expenditure in respect of urgent work to repair, replace or reinstate vehicles, buildings or equipment where the work is to be fully funded from insurance monies.

C11.6 In addition, Service Directors may authorise essential design work subject to available budget required in advance of the start of the financial year on capital schemes that are in the programme approved by Council in February.



C12. Capital Receipts

C12.1 The Section 151 Officer must be informed of all proposed sales of land and buildings so that the effect on financial and property management can be assessed.

C12.2 Council will determine, in each budget setting process, the amount of receipts to be set aside for the repayment of debt and how the balance of such receipts is to be used in the coming financial year. Use of unbudgeted receipts arising in-year shall be subject to the scheme of virement/supplementary estimate (Rule B8.1).

C13. Leasing and Rental Agreements

C13.1 Leasing or renting agreements must not be entered into unless the service has established that they do not constitute a charge against the Council's prudential borrowing limits. Advice can be obtained from the Section 151 Officer on general leasing arrangements and on whether the lease is a finance or operating lease.

C13.2 The Section 151 Officer's approval must be obtained for all agreements that may involve a leasing charge, excluding leases relating to land or property.

C14. Maintenance of Reserves

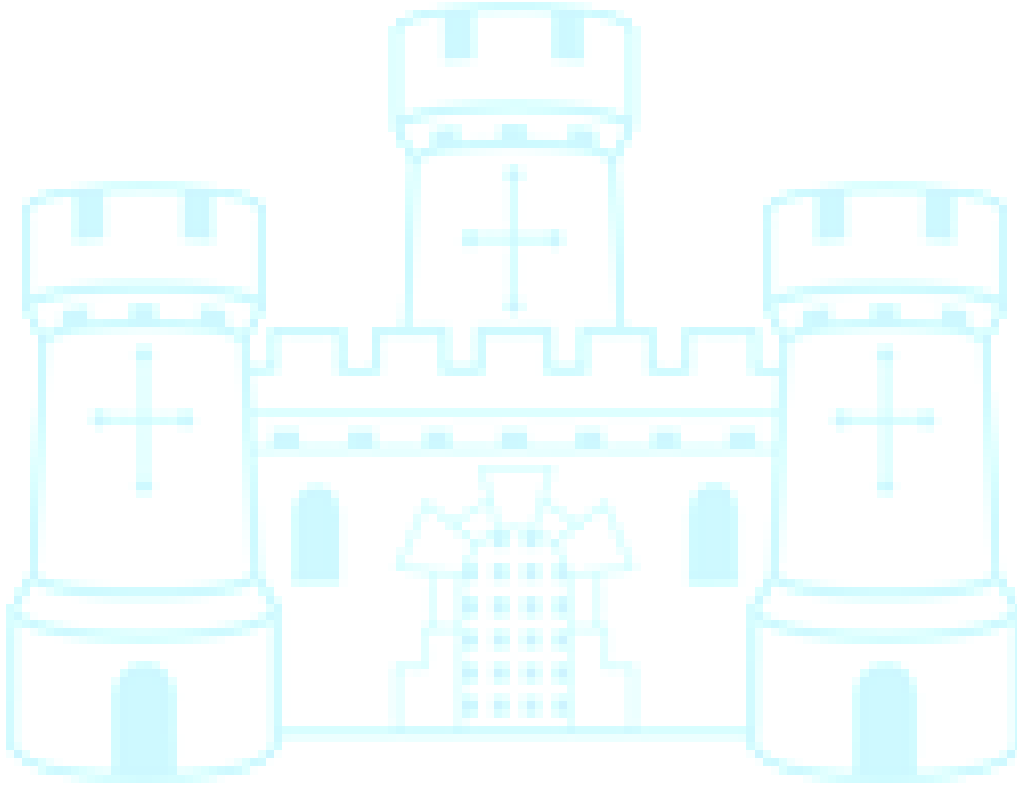
C14.1 The Section 151 Officer is responsible for advising the Cabinet and/or Council on prudent levels of reserves for the Council, taking into account of the advice of the external auditor.

C14.2 The key controls are:

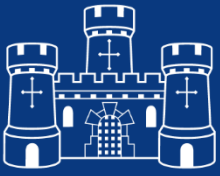
- a) to maintain reserves in accordance with the Code of Practice on Local Council Accounting in the United Kingdom and agreed accounting policies
- b) for each reserve established, the purpose, usage and basis of transactions should be clearly identified
- c) authorisation of expenditure from the General Fund Reserve is in accordance with the limits set out in F4B (Financial Management) Rule B8.2. Expenditure from Earmarked Reserves/Contingencies is to be authorised by the Section 151 Officer. In addition, the Section 151 Officer may authorise any (in any amount):-
 - i. any appropriation to and from reserves of unused grant and contribution income



- ii. any appropriation where there is a legislative requirement (or equivalent), and the Council has no discretion in undertaking the transfer
- iii. any appropriation within the budget agreed by Council



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Part F – Appendices

Section F5:- Finance and Contract Procedure Rules

F5D:- Risk Management and Control of Resources

In Part F:-

Section F1 contains the Member Code of Conduct

Section F2 contains the Member Planning Protocol

Section F3 contains the Officer Code of Conduct

Section F4 contains the Officer/Member Relations Protocol

This Section (F5) contains the Finance and Contract Procedure Rules that govern how the council manages its financial affairs. The Rules are split into the following eight parts:-

- **Part F5A** contains an introduction and overview to the principles of good financial management, the roles and responsibilities of Officers and Members and the various documents and processes that form the council's financial management framework.
- **Part F5B** Financial Management
- **Part F5C** Financial Planning
- **This Section (F5D)** Risk Management and Control of Resources
- **Part F5E** Financial Systems and Procedures
- **Part F5F** Contract Procedure Rules
- **Part F5G** Collaborative Working and ASDVs
- **Part F5H** Glossary



Part F – Appendices

Section F5:- Finance and Contract Procedure Rules

F5D:- Risk Management and Control of Resources

In this Section:-

D1	Insurance
D2	Risk Management
D3	Business Continuity
D4	Internal Controls
D5	Internal Audit
D6	External Audit
D7	Preventing Fraud and Corruption
D8	Assets
D9	Property
D10	Inventories
D11	Stocks
D12	Cash
D13	Asset disposal and Write off
D14	Treasury Management
D15	Investments and Borrowings
D16	Funds held for Third Parties
D17	Salaries and Wages
D18	Early Retirement and Severance
D19	Travelling and Subsistence
D20	Code of Conduct
D21	Retention of Records



D1. Insurance

- D1.1 The Service Director Legal and Governance is responsible for preparing the Council's risk management policy statement on behalf of the Corporate Leadership Team (CLT), for promoting it throughout the council and for advising Cabinet on appropriate insurance cover.
- D1.2 The Service Director Legal and Governance will maintain and administer the Council's insurances in accordance with the Risk Management Strategy that describes the Council's approach to managing risk.
- D1.3 The Service Director Legal and Governance is responsible for authorising the settlement or repudiation of insurance claims and associated costs. Advice will be sought from the council's insurance solicitors and insurers.
- D1.4 Service Directors are responsible for informing the Service Director Legal and Governance immediately of:-
- a) any insurance claims received
 - b) any events which may result in an insurance claim against the council
 - c) the terms of any indemnity that the council is required to give prior to entering into any contracts, agreements, partnership or arrangements.
 - d) any new risks that might require to be insured, together with any changed circumstances affecting existing risks. Consideration should be given to new projects, new ways of working and changes in legislation where insurance impacts are often overlooked
 - e) changes to the assets insured by the council
 - f) changes to the responsibility of the council
- D1.5 No new insurances may be taken out without prior consultation with the Service Director Legal and Governance.
- D1.6 Service Directors must ensure the retention of documents in accordance with the corporate retention policy and that there is co-operation with the risk and insurance



team in providing the correct documentation within the strict timescales of the Civil Procedure Rules when dealing with claims.

D1.7 Service budgets will be charged with the cost of legal penalties or losses incurred by the Council because of any failure to comply with the requirements of the Civil Procedure Rules and these Finance and Contract Procedure Rules relating to claims.

D2. Risk Management

- D2.1 The Council's approach to risk management is that it should be effective in helping to optimise the balance between risk taking and control, maximising opportunities and encouraging innovation.
- D2.2 Service Directors are responsible for ensuring the Risk Management Policy and Strategy is implemented and that the Risk Management Framework operates within their Services. Risk management should be embedded throughout the organisation at both a strategic and an operational level, through integration into existing systems and processes.
- D2.3 There are several levels of risk register within the council. There should be a movement of risks both upwards and downwards through the levels and treatment so that risks are addressed at the most appropriate level of the organisation:-
- a) Corporate Risk Register - contains risks that impact on the organisation's overall objectives either because of their frequency of occurrence across several services or the significance of the impact
 - b) Service Risk Registers - contain strategic and operational risks that impact on the delivery of service objectives
 - c) Team Risk Registers – there may be very specific operational risks that affect the delivery of team priorities that are not recorded in Service Risk Registers. These should be recorded in Team Risk Registers which should act as a feeder for risks to be elevated to the Service Risk Register if needs be
 - d) Programme/Project Risk Register – contain risks associated with individual projects. Due to the speed of project delivery, these risks are more likely to be more dynamic and must be more frequently monitored and reported



- D2.4 Service Directors are responsible for ensuring risk management is carried out at both an operational and strategic level in accordance with the corporate risk management framework.
- D2.5 Service Risk Registers are a perpetual living document and should be reviewed and reported at least quarterly. They must align with the relevant Priority Delivery Plan as an important part of monitoring performance and outcomes as well as helping to inform the Council's risk appetite and the Corporate Risk Register.
- D2.6 Service Directors will take account of and address corporate risks where appropriate within their Service Risk Register. They will inform the risk and insurance team of any service risks that could be considered significant enough to highlight at a corporate level.
- D2.7 The Corporate Risk Register is maintained by the Service Director Legal and Governance. It will be reported to the Corporate Leadership Team on a regular basis.
- D2.8 The Audit and Standards Committee will also receive risk management reports on a regular basis to monitor the effective development and operation of risk management in the Council. The Committee provides independent assurance of the adequacy of the risk management framework and the internal control environment.
- D3. Business Continuity**
- D3.1 The Corporate Leadership Team is responsible for determining the Business Continuity Strategy and ensuring it is compliant with the Civil Contingencies Act 2004. Service Directors are responsible for implementing it and monitoring its effectiveness.
- D3.2 The Service Director Strategy, People and Performance develops the strategy and supporting framework on behalf of the Corporate Leadership Team.
- D3.3 The Audit and Standards Committee is responsible for approving the Business Continuity Strategy and reviewing its effectiveness as part of the risk management framework and the internal control environment.
- D3.4 Service Directors are responsible for ensuring that arrangements are in place to ensure the continuity of service delivery in the event of a disruptive incident. This is managed through the development of robust Business Continuity Plans that are



regularly maintained and tested in accordance with the Business Continuity Strategy.

D3.5 Service Directors are responsible for ensuring that arrangements/contracts for significant areas of service provision include requirements for contractors, partners and suppliers to have robust and tested business continuity plans. This should include the ongoing monitoring and compliance with this requirement via contract performance management and, where necessary, joint exercises.

D4. Internal Controls

D4.1 The Section 151 Officer and Service Director Legal and Governance are responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes, regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

D4.2 It is the responsibility of Service Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

D5. Internal Audit

D5.1 The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015 more specifically require that a “relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance”.

D5.2 The Public Sector Internal Audit Standards (PSIAS) defines Internal Audit as “an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes”.

D5.3 This function can be delivered by a team internal to the council or it can be contracted out under the supervision of the Section 151 Officer.



- D5.4 The Accounts and Audit Regulations 2015 require the council to review the effectiveness of its governance framework, including the system of internal control, on an annual basis and report the results in an Annual Governance Statement. This statement must provide a description of the governance framework within the council, a description of any work undertaken to assess its effectiveness and any significant governance weaknesses identified.
- D5.5 To contribute to the production of the Annual Governance Statement, the Section 151 Officer is responsible for planning and delivering a programme of independent review of the council's activities, the scope of the programme being based on the council's objectives and an assessment of the risk, which may affect the achievement of these objectives.
- D5.6 The Section 151 Officer is also responsible for reporting to those charged with governance and can satisfy this requirement by presenting an annual report to the Audit and Standards Committee, summarising the audit plan for the coming year and a commentary on audit activity which is completed or in progress. Quarterly reports setting out progress against the annual audit plan and delivery against its key performance indicators are also taken to the Audit and Standards Committee. In addition, any matters of material importance in relation to audit matters are also reported to Cabinet and the Audit and Standards Committee.
- D5.7 Audit staff will have full access to all premises, staff, assets, records and third party fund transactions as is necessary to conduct their reviews. With regards to organisations participating in partnering arrangements, including alternative delivery vehicles where provided for in the contract or service level agreement, audit staff shall have such access to premises, staff, assets and records of the partner as is necessary for the purposes of the partnering arrangement.
- D5.8 Partners will be required to grant reasonable access when requested and details of such access should be agreed with the partner and set down in the partnering agreement. Where the right of access has not been specified in existing arrangements then appropriate discussions with partners should take place. Similar rights of access should be determined as part of the establishment of any alternative service delivery vehicles, and should be similarly agreed and documented in the contract or service level agreement.



D6. External Audit

D6.1 The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.

D6.2 The Local Audit and Accountability Act 2014 (the Act) established new arrangements for the audit and accountability of relevant authorities and these new arrangements include the ability for local authorities to appoint their own local (external) auditors via an 'auditor panel'. An auditor panel can be established individually or jointly with one or more other authority.

D6.3 The Council may, from time to time, also be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

D7. Preventing Fraud and Corruption

D7.1 The Section 151 Officer is responsible for the development and maintenance of an Anti-Fraud and Corruption Strategy.

D7.2 The Council has an approved Anti-Fraud and Corruption Strategy that places responsibility for maintaining an anti-fraud culture with all Members, managers and individual members of staff. Any matters which involve, or are thought to involve, any fraud or other significant irregularity involving council assets or those of a third party fund, must be notified immediately to the Section 151 Officer, in conjunction with other Officers detailed in the council's Anti-Fraud and Corruption Strategy, who will decide what steps are necessary.

D7.3 In line with the Anti-Fraud and Corruption Strategy, the Service Director Legal and Governance in his/her role as Monitoring Officer will, in consultation with the appropriate Service Directors, decide whether any matter under investigation should be referred to the Police or appropriate enforcement agency.

D8. Assets

D8.1 In the context of these Rules, assets are defined as the resources, other than people, that the Council uses to deliver its service functions. Assets include buildings, land, infrastructure, furniture, equipment, plant, vehicles, stores and intellectual property such as computer software, data and information of all kinds.



D8.2 Service Directors are responsible for the care, control and proper, economical use of all assets used in connection with the operation and delivery of their Services. Proper records should be maintained for these assets, together with appropriate arrangements for their management and security.

D8.3 Service Directors are responsible for ensuring that assets are used only for official purposes and that all appropriate rights, licenses and insurances are obtained.

D8.4 Service Directors are responsible for ensuring that all computer software used is properly licensed.

D8.5 Service Directors are expected to have policies in place for:-

- a) the effective disposal of surplus assets
- b) asset replacement programme
- c) compilation of and regular review of asset inventories

D9. Property

D9.1 The Council's approach to property asset management is based on two main principles:-

- a) property is a corporate resource, owned by the council, not by individual services. This principle underpins the fact that property is one of the council's most expensive resources and that it needs to be managed proactively to support service delivery and improvement across all services
- b) property is held to support the delivery of the council's corporate objectives. This is to be delivered through a rigorous policy of property review and the disposal of any properties that are no longer required to meet corporate objectives

D9.2 The council's policies, aims and objectives relating to property asset management are explained further in the asset management strategy.

D9.3 Property assets are comparatively "illiquid" and changes necessarily take time to implement. Service Directors should be aware of this when planning new initiatives or changes to service delivery patterns and must ensure that the Service Director



Commercial Delivery is consulted at the earliest possible stage of the planning process in order that appropriate advice and support can be given.

D9.4 Service Directors are responsible for ensuring that property under their day to day control is occupied/used in accordance with all appropriate legal and regulatory requirements and that nothing occurs which might diminish the value of the asset. Particular care is required when carrying out alterations to a building and where any form of shared use with another organisation is planned. The advice of the Service Director Commercial Delivery must be obtained before this is permitted.

D9.5 All property acquisitions, lettings and disposals must be negotiated and approved in accordance with the Property Scheme of Delegation.

D10. Inventories

D10.1 Service Directors must ensure that proper arrangements are made to maintain inventories of all valuable and transportable items, including vehicles, furniture, computer and other equipment (including software), visual aids, expensive tools and sports equipment.

D10.2 The inventory must be updated for all acquisitions and disposals and checked at least annually. Items acquired under leasing arrangements must be separately identified for disclosure in the published final accounts.

D11. Stocks

D11.1 Stock are defined as consumable items constantly required and held by a service centre in order to fulfil its functions. Service Directors are responsible for the control of stocks. They must ensure that stocks are appropriately recorded, do not exceed reasonable requirements and that all significant stock is accounted for in the year-end accounts. Stocks should be checked at least once a year, more frequently in the case of expensive items.

D12. Cash

D12.1 Cash held on any council premises should be held securely and should not exceed any sums for which the council is insured (guidance on limits is available from the council's insurance team). If this is unavoidable, in exceptional circumstances the Service Director is responsible for making appropriate security arrangements.



D12.2 The type of receptacle used to secure the cash should be appropriate to the amount of cash held and records detailing the amounts should be maintained and stored separately to the cash.

D13. Asset Disposal and Write Off

D13.1 The disposal/write off of non-property assets must be authorised as follows:-

Approval level	Value of Disposal
Section 151 Officer	Up to £5k
Section 151 Officer in consultation with the relevant Cabinet Member	5k< to £10k
Cabinet	£10k<

D13.2 Any write off which arises because of theft or fraud must be notified immediately to the Section 151 Officer.

D14. Treasury Management

D14.1 The council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.

D14.2 Council is responsible for approving the Treasury Management Policy Statement setting out the matters detailed CIPFA's Code of Practice for Treasury Management in Local Authorities. The policy statement is proposed to Council by the Cabinet. The Section 151 Officer has delegated responsibility for implementing and monitoring the statement.

D14.3 All money in the hands of the council is controlled by the Section 151 Officer as designated for the purposes of Section 151 of the Local Government Act 1972, referred to in the code as the Finance Service Director.

D14.4 The Section 151 Officer is responsible for submitting to Council, for its approval, a proposed treasury management strategy prior to the start of the financial year to which it relates.

D14.5 All executive decisions on borrowing, investment or financing shall be delegated to the Section 151 Officer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.



D14.6 The Section 151 Officer is responsible for reporting on the activities of the treasury management operation and, on the exercise of the Section 151 Officer's delegated treasury management powers, to the Audit and Standards Committee on a 6-monthly basis during the financial year. In addition, an annual report on the treasury management activity undertaken in the previous financial year will be presented to Audit and Standards Committee and then full Council for approval by 30 September of the following financial year.

D15. Investments and Borrowings

D15.1 It is the responsibility of the Section 151 Officer to:-

- a) ensure that all investments of money are made in the name of the council or in the name of nominees approved by Council
- b) 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 Service Director
- c) effect all borrowings in the name of the council
- d) act as the council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the council
- e) that the amount of borrowing outstanding at any point in time does not exceed the council's authorised limit for the year.

D16. Funds Held for Third Parties

D16.1 It is the responsibility of the Section 151 Officer to:-

- a) arrange for all third party funds to be held, wherever possible, in the name of the Council (e.g. 'Newcastle-under-Lyme Council on behalf of...')
- b) arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Section 151 Officer, and to maintain written records of all transactions
- c) ensure that trust funds are operated within any relevant legislation and the specific requirements of any trust



D16.2 All Officers acting as trustees by virtue of their official position shall deposit trust assets and securities with the Section 151 Officer, unless the Trust Deed provides otherwise.

D17. Salaries and Wages

D17.1 Service Directors are responsible, in consultation with the Service Director Strategy, People and Performance, for providing accurate and appropriate information and instructions to enable the calculation and prompt payment of salaries, expenses and pensions. This includes details of appointments, promotions, re-gradings, resignations, dismissals, retirements and absences from duty. The Section 151 Officer will arrange for payment to the appropriate bodies, of all statutory disbursements, including taxation, and other payroll deductions.

D17.2 Time sheets and other pay documents which are used to generate payment of salaries, wages or other employee-related expenses must be submitted via authorised electronic inputs. Service Directors are responsible for ensuring that they are certified by an authorised Officer and that they are submitted to the payroll provider in accordance with the specified timetable.

D17.3 The Service Director Strategy, People and Performance will implement national and local pay agreements as soon as possible after their notification from the appropriate body. Arrangements for funding such awards will be determined each year as part of the budgetary process.

D18. Early Retirement and Severance

D18.1 Where Service Directors wish to bring forward proposals under the council's policies on severance and early retirement, they must be accompanied by a full cost and affordability assessment. The relevant Service Director (or the Chief Executive if the request relates to a Service Director), Section 151 Officer and Monitoring Officer (or their nominated deputy) must approve all requests. Member approval from the Employment Committee and/or Council is required in accordance with the terms of reference for the Employment Committee.

D18.2 Service Directors will generally be required to meet the costs of severance and early retirement from within their approved budget.



D19. Travelling and Subsistence

D19.1 Service Directors are responsible for instructing the Service Director Strategy, People and Performance and for providing appropriate and accurate information to enable the prompt and accurate payment of travelling, subsistence and other expenses to employees in accordance with the terms of employment agreed by the Council.

D19.2 Service Directors are responsible for ensuring that Council employees who use their cars for official business are properly insured to indemnify the Council against any loss and for ensuring that payments are only made in respect of journeys that are necessary and actually undertaken.

D19.3 All claims for reimbursement must be made using appropriate authorised electronic inputs.

D20. Code of Conduct

D20.1 The Code of Conduct for Employees must be followed by all Officers. It covers standards, disclosure of information, political neutrality, relationships, appointments and other employment matters, outside commitments, personal interests, equality issues, separation of roles during tendering, gifts and hospitality, use of financial resources and sponsorship.

D20.2 Where an outside organisation wishes to sponsor or is asked to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts and hospitality apply, as detailed in the Code of Conduct for Employees.

D21. Retention of Records

D21.1 The Returning Officer will be responsible for maintaining complete and accurate records and for reconciliation with regard to elections' accounts.

D21.2 The council, in common with other public and private organisations, has certain statutory obligations it has to meet for the retention of its records. It also has to fulfil the requirements of HM Revenue and Customs, other legislative requirements and the external auditors in respect of its financial records.

D21.3 All records held should have an appropriate retention period assigned to them, which meets the needs of the service in question but also the requirements of

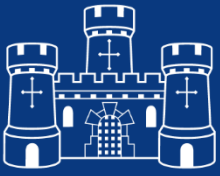


statutory obligations such as those relating to financial records, limitation of liability, and data protection/freedom of information.

- D21.4 The majority of financial records must be kept for 6 years from the end of the tax year to which they relate. However, some records may need to be kept for longer periods e.g. if required to defend future insurance claims. It is possible others can be destroyed within shorter periods.
- D21.5 The Council's retention schedules, available on the intranet, set out the length of time for which different types of records should be kept. The schedules are based on legislative requirements and best practice, and as such must be adhered to by Services.



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Part F – Appendices

Section F5:- Finance and Contract Procedure Rules

F5E:- Financial Systems and Procedures

In Part F:-

Section F1 contains the Member Code of Conduct

Section F2 contains the Member Planning Protocol

Section F3 contains the Officer Code of Conduct

Section F4 contains the Officer/Member Relations Protocol

This Section (F5) contains the Finance and Contract Procedure Rules that govern how the council manages its financial affairs. The Rules are split into the following eight parts:-

- **Part F5A** contains an introduction and overview to the principles of good financial management, the roles and responsibilities of Officers and Members and the various documents and processes that form the council's financial management framework.
- **Part F5B** Financial Management
- **Part F5C** Financial Planning
- **Part F5D** Risk Management and Control of Resources
- **This Section (F5E)** Financial Systems and Procedures
- **Part F5F** Contract Procedure Rules
- **Part F5G** Collaborative Working and ASDVs
- **Part F5H** Glossary



Part F – Appendices

Section F5:- Finance and Contract Procedure Rules

F5E:- Financial Systems and Procedures

In this Section:-

E1	Banking Arrangements
E2	Charging
E3	Trading
E4	Charging and Trading Policy
E5	Collection of Income
E6	Bad Debts
E7	General Principles - Ordering and paying for work, goods and services
E8	Payment of Invoices
E9	Non-invoice payments
E10	Credit cards
E12	Payment to Members
E13	Taxation





E1. Banking Arrangements

- E1.1 It is the responsibility of the Section 151 Officer to operate such bank accounts as are considered necessary. Opening or closing any bank account shall require the approval of the Section 151 Officer or their nominated deputy.
- E1.2 The Section 151 Officer will approve the terms under which banking services, including overdraft facilities, are provided.
- E1.3 All bank accounts must be titled impersonally with the prefix of Newcastle-under-Lyme Borough Council subject to any exceptions agreed by the Section 151 Officer.
- E1.4 Subject to any directions given by the Council, all arrangements with the council's bankers must be made solely through the Section 151 Officer. No bank accounts may be opened or arrangements made with any other bank except with the agreement of the Section 151 Officer.
- E1.5 Bank transfers, CHAPS payments and faster payments from the General Fund and the council's other main drawings accounts must be signed by the Section 151 Officer, or their nominated deputy.
- E1.6 Cheques drawn must bear the signature of the Section 151 Officer or be signed by other Officers authorised to sign by the Section 151 Officer.
- E1.7 No direct debits should be set up unless authorised by the Section 151 Officer.

E2. Charging

- E2.1 This section E2 applies to services that the Council has a power but not an obligation to provide ("discretionary services") and for which it is proposed to make a charge to recover all or part of the costs incurred by the Council in providing the services.
- E2.2 Service Directors are responsible for ensuring that legal advice is sought before introducing charging, in relation to legal powers, authorisation, Member engagement, consultation and related issues. The Service Director Legal and Governance should also be consulted before proceeding with a project that involves a new policy for charging for discretionary services or a variation on previous practice.



E3. Trading

- E3.1 This section (E3) applies where the Council proposes to provide services to third parties in the public sector and on a commercial basis.
- E3.2 The Council's approach to trading is one which is based on risk but which also empowers services and encourages external income generation. Business case approval from the Corporate Leadership Team must be obtained before trading and the business case will be reviewed by the Corporate Leadership Team not less than annually. Legal advice must be sought in advance in relation to trading with bodies that are not classed as public bodies within the meaning of the Local Authorities (Goods and Services) Act 1940.

E4. Charging and Trading Policy

- E4.1 Charges should be reviewed annually to ensure that they are still compliant with all the legal and financial requirements and increased annually where relevant. Charges must be based on the principle of full-cost recovery, unless there is a statutory limit on charges (e.g. planning fees) including all service and corporate overheads.
- E4.2 Any in-year variation of charges is to be approved by the relevant Service Director in consultation with the Portfolio Holder.

E5. Collection of Income

- E5.1 Officers must comply with arrangements determined by the Section 151 Officer for the safe and efficient collection and recording of all money due to the council.
- E5.2 Service Directors are responsible for ensuring that accounts for income due to the council, including grant claims, reimbursements and third party contributions, are raised immediately and accurately in a form approved by the Section 151 Officer. These must include VAT where appropriate.
- E5.3 The cost of collection should be taken into account when raising accounts. Service Directors must ensure that the method of collection is appropriate to the value of the transaction. Officers must endeavour to collect payment at point of service/sale wherever possible, especially for low value charges (e.g. under £100).
- E5.4 Service Directors are responsible for ensuring that all income received is receipted, where required, recorded correctly against the appropriate budgets, and



in the case of cash and cheques, banked with the minimum of delay. The frequency of banking should follow the guidelines provided by the Section 151 Officer to avoid incurring disproportionate banking charges on relatively low value transactions, taking into account local security and insurance cover arrangements.

- E5.5 Where a service wishes to collect income by electronic means (i.e. by debit card, credit card, contactless payments etc.) using an external service provider then prior to putting in place such arrangements the service will need to seek the approval of the Section 151 Officer in respect of the accounting procedures to be put in place for recording the income. In addition, the service will be responsible for ensuring that the external service provider meets the requirements of the Payment Card Industry Data Security Standards (PCI DSS) both when appointed and for all subsequent periods during which their services are being used.
- E5.6 Service Directors are responsible for monitoring income collection and ensuring appropriate recovery action is taken. A summary of the position on the level of outstanding debt and collection issues should be included in outturn reports. Full provision for income outstanding is made in service accounts. However, this should not preclude pursuit of the debt.
- E5.7 Credit notes must be authorised by appropriate Officers nominated by the Section 151 Officer.
- E5.8 Any receipts, tickets or other documents used as receipts should be in a format agreed by the Section 151 Officer.
- E6. Bad Debts**
- E6.1 The council has a corporate debt recovery policy with the guiding principle that customers have a responsibility to pay amounts that have been properly assessed as being due. The council is committed to using the most appropriate and effective recovery methods available to it and does so in accordance with its approved debt policy and debt recovery code of practice.
- E6.2 In certain circumstances, and for justifiable reasons, it will be necessary to classify some debts as irrecoverable and to recommend that they be written off.
- E6.3 The Section 151 Officer (or their nominated deputy) and the Service Director Legal and Governance are authorised to write off any value of debt where there are



reasons that prevent the Council from attempting any further recovery action. These reasons are usually as follows:-

- a) the debtor has been declared bankrupt or has entered into insolvency arrangements
- b) the debtor has gone into liquidation
- c) the debtor has had their debt remitted by the Court
- d) the debtor has been granted a Debt Relief Order for the debt
- e) the debtor is deceased and there is evidence of no estate

E6.4 Debts that are being written off for a reason other than those listed in D6.3, must be approved in accordance with the following limits:-

Approval level	Value of Disposal
Section 151 Officer	Up to £5k
Section 151 Officer in consultation with the relevant Cabinet Member	5k< to £10k
Cabinet	£10k<

E6.5 Service Directors are responsible for ensuring that an adequate provision for bad debt is made in the Council's accounts at year-end and that contributions to this provision are included in budgetary projections and outturn reports.

E7. General Principles – Ordering and Paying for Goods and Services

E7.1 Service Directors are responsible for ensuring all required processes are followed to enable the prompt and accurate payment for goods and services provided and for the analysis of expenditure.

E7.2 Except for purchases by credit card, or where an exception has been agreed in accordance with D7.9, all purchases must be supported by an official requisition and purchase order unless previously agreed with the Section 151 Officer. No payment will be made unless there is an official purchase order. All purchases,



including by credit card, must have regard to the Finance and Contract Procedure Rules.

- E7.3 All requisition and purchase orders must be authorised in accordance with the relevant financial scheme of delegation. All requisition and purchase orders must be raised within and relate to the current financial year, with the exception of the dual year posting period.
- E7.4 All official purchase orders must include, as a minimum, the order number, the price agreed with the supplier, description of the goods or services to be provided, the delivery address, the address where invoices must be received and the terms and conditions for the goods and services to be provided.
- E7.5 Service Directors must ensure that there is adequate separation of duties in the raising and authorisation of requisitions, authorising of purchase orders, receipt of goods and authorisation of payments to creditors.
- E7.6 Service Directors must ensure robust processes to continually maintain service HR records and schemes of delegation so that electronic workflows associated with core financial systems are not compromised.
- E7.7 All purchasing activity must be carried out in accordance with the council's procurement strategy and advice issued about efficient and effective use of the council's core financial and e-procurement systems and processes. Such processes will include the deployment of credit cards. Invoices received for payment must comply with the council's best practice processes.
- E7.8 Approval of the Section 151 Officer must be sought in advance of entering into any supply agreement with a commercial creditor who has not been set up on the Council's core financial system.
- E7.9 Service Directors must consult the procurement team on appropriate arrangements for purchases of goods and services that cannot be accommodated within standard ordering and payment processes.
- E8. Payment of Invoices**
- E8.1 All invoices must be sent directly by the creditor to the address stated on the official purchase order to enable prompt payment. Unless there are exceptional circumstances, all creditor invoices should be sent to the finance team.



E8.2 All invoices, as a minimum, must include:-

- a. the official purchase order number
- b. the name and address of the council (as customer)
- c. an invoice number
- d. the description of the goods or services provided
- e. the quantity delivered
- f. the delivery address
- g. the date of the invoices and/or date of delivery of the goods or services
- h. the address and VAT registration number of the supplier and the net price
- i. the amount of VAT charged at the prevailing rate(s) and the total amount charged
- j. any discount for prompt payment.

E8.3 Invoices received without a valid purchase order number will be returned to the creditor as unauthorised for payment.

E8.4 The Council's standard payment terms are between 10 and 30 days from receipt of a correct invoice by BACS (Bankers Automated Clearing System). Alternative terms may not be negotiated or agreed with suppliers without the explicit approval of the Section 151 Officer. Service Directors are responsible for notifying suppliers of these terms and for ensuring that they are observed by all those involved in the purchasing and payment processing.

E8.5 Payment will only be made for goods and services which have been formally receipted in accordance with receipting procedures set out by the Section 151 Officer.



E9. Non-invoice Payments

- E9.1 Where Service Directors wish to initiate a payment to a third party without a supporting invoice, an official request for payment must be submitted to the Section 151 Officer. Non-invoice payments should be requested on an exceptional basis only. Where payments of this type need to be made on a regular basis, Service Directors must consider, in conjunction with the finance team, other alternative options that may be more appropriate.
- E9.2 Any such requests must be authorised by the Section 151 Officer who is responsible for ensuring that all payment details provided are accurate and that supporting records and documentation are available to substantiate the payment, including an official VAT receipt to allow for the reclaim of any VAT element. A pro-forma invoice, a request for payment, a supplier statement and a credit card voucher are NOT official VAT receipts.
- E9.3 Appropriately authorised requests for payment will be processed by the Section 151 Officer and paid by BACS. Cheques will only be used in exceptional cases and by prior agreement.
- E9.4 Payments or reimbursements in respect of salaries and wages, travelling expenses or other employment allowances must be processed through the Payroll system and not treated as a non-invoice payment.

E10. Credit Cards

- E10.1 The Council operates a scheme that offers Officers the flexibility to procure goods and services with a credit card.
- E10.2 Service Directors are responsible for the appropriate deployment and management of credit cards within their service. Further guidance on the use of credit cards is available on the council's intranet site.
- E10.3 The credit card procedure sets out the terms, processes and procedures under which the scheme operates. It is important that when the card is used, it is used to purchase appropriate items only. The card should be used for low value, low risk purchases and not be used to bypass the Finance and Contract Procedure Rules.
- E10.4 Council credit card spend is under constant scrutiny down to line level detail. Credit cards should be used for official purposes only. All spend will be reviewed



internally on a regular basis with a report issued to Corporate Leadership Team every 6 months.

E11. Payments to Members

E11.1 The Section 151 Officer is responsible for paying all allowances and duly authorised expenses to Members.

E12. Taxation

E12.1 It is the responsibility of the Section 151 Officer to:-

- a) complete all Inland Revenue returns regarding PAYE
- b) submit the Council's VAT return to HMRC each month and complete a monthly return of VAT inputs and outputs to HM Revenue and Customs
- c) provide details to HM Revenue and Customs regarding the Construction Industry Tax Deduction Scheme
- d) maintain up-to-date guidance for Council employees on taxation issues

E12.2 It is the responsibility of Service Directors to:-

- a) ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations
- b) ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements
- c) ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency
- d) follow the guidance on taxation issued by the Section 151 Officer



Part F – Appendices

Section F5:- Finance and Contract Procedure Rules

F5F:- Contract Procedure Rules

In Part F:-

Section F1 contains the Member Code of Conduct

Section F2 contains the Member Planning Protocol

Section F3 contains the Officer Code of Conduct

Section F4 contains the Officer/Member Relations Protocol

This Section (F5) contains the Finance and Contract Procedure Rules that govern how the council manages its financial affairs. The Rules are split into the following eight parts:-

- **Part F5A** contains an introduction and overview to the principles of good financial management, the roles and responsibilities of Officers and Members and the various documents and processes that form the council's financial management framework.
- **Part F5B** Financial Management
- **Part F5C** Financial Planning
- **Part F5D** Risk Management and Control of Resources
- **Part F5E** Financial Systems and Procedures
- **This Section (F5F)** Contract Procedure Rules
- **Part F5G** Collaborative Working and ASDVs
- **Part F5H** Glossary



Part F – Appendices
Section F5:- Finance and Contract Procedure Rules
F5F:- Contract Procedure Rules

In this Section:-

F1	Basic Principles
F2	Statute
F3	Compliance
F4	Consequence of Breach
F5	Review
F6	Corporate Contracts
F7	Frameworks
F8	In-house Suppliers
F9	Joint Procurement
F10	Authority to Proceed
F11	Insurance
F12	Form of Contract
F13	Bonds and Security
F14	Procurements of Goods, Services or Works below the PCR 2015 Find a Tender Threshold
F15	Procurement of Goods, Services or Works above the PCR 2015 Threshold
F16	Remedies for breach of the Regulations
F17	Timescales
F18	Electronic Tendering
F19	General Rules for Procurements Involving an Element of Competition
F20	Abandonment
F21	Contracts Finder
F22	Signing/Sealing
F23	Waiving the Rules
F24	Payment of Undisputed Invoices
F25	Public Services (Social Value) Act 2012
F26	Additional Matters
F27	Consultancy Procedure

BOROUGH COUNCIL



F1. Basic Principles

F1.1 The aim of the Contract Procedure Rules (“the Rules”) is to:-

- a) ensure compliance with all legal requirements
- b) achieve best value
- c) ensure transparency, openness, non-discrimination and fair competition
- d) demonstrate probity, consistency, accountability and integrity
- e) ensure compliance with the council’s procurement strategy

F1.2 The principles of transparency, non-discrimination and equality are obligations that apply to all procurements and must be complied with at all times.

F1.3 These Rules are supplemented by Procurement Procedure Guidance (“PPG”) as indicated. The PPGs will be updated as required so Officers must check the intranet site for the latest version.

F2. Statute

F2.1 The Council is required by s.135 of the Local Government Act 1972 to make standing orders to ensure competition and regulate the procurement process.

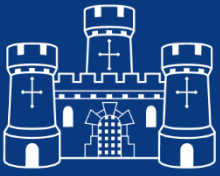
F2.2 The Council must also comply with various other statutes when purchasing goods, works or services, including the Public Contracts Regulations 2015 (PCR 2015).

F2.3 The risks of non-compliance are significant and include awards of damages and contracts being set aside.

F3. Compliance

F3.1 These rules apply to the following undertaken by or on behalf of the council:-

- a) the purchase of all goods, services or works
- b) concessions
- c) in circumstances where the Council is procuring goods, works or services on behalf of a collaborative working arrangement



d) in circumstances where the Council is seeking a commercial partner for the purposes of a joint venture

- F3.2 All references in these Rules apply equally to a) to d) above as appropriate and as advised by the procurement team. All Officers are responsible for ensuring compliance with these Rules.
- F3.3 Third parties acting on behalf of the council must also comply with the Rules. Officers instructing third parties to procure contracts must supply the third party with a copy of the Rules.
- F3.4 Officers and third parties must ensure that any conflicts of interest are avoided. Any conflicts of interest must be declared to appropriate line managers as set out in the Officer Code of Conduct. Legal advice must be obtained by Officers where any conflict has potential to impact on contractual relationships.
- F3.5 Corruption is a criminal offence. All Officers who let, manage or supervise contracts must act in accordance with the highest standards of propriety and ensure adequate records are kept.
- F3.6 Differences in the interpretation of these rules will be resolved by the Service Director Legal and Governance in consultation with the Section 151 Officer.
- F3.7 These Rules do not apply to the sale, leasing or purchase of land or any interest in land or any contract of employment or loans or the sale, issue or purchase of any shares or other similar financial asset.
- F3.8 These Rules do not apply to an award of a contract in the following circumstances:
- a) any contracts between the council and a company that is controlled by it (sometimes referred to as a Teckal company)
 - b) any contracts between the council and a company that is jointly controlled by the council with another contracting authority; or
 - c) any contract which establishes or implements a co-operation between the council and another contracting authority with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have



in common and where implementation of the co-operation is governed solely by considerations relating to the public interest and participating contracting authorities perform on the open market less than 20% of the activities concerned by that co-operation

- d) any service contract awarded by the council to another contracting authority based on an exclusive right that the latter enjoys pursuant to a law, regulation or published administrative provision which is compatible with the PCR 2015.

F3.9 For contracts falling within the exceptions at F3.8, written advice from the Service Director Legal and Governance must be obtained to ensure that the specific rules relating to the exceptions apply and to ensure that the award does fall outside of the scope of these Rules.

F3.10 Additional goods, services or works within the scope of a contract with a company that is wholly or jointly owned by the Council may be permitted but shall comply with the general provisions for authority to vary as found in paragraphs F12.10 to F12.12. It may be possible to increase the scope of a contract falling within F3.8 a) or b) above, but before seeking to do so, the Officer shall prepare a business case demonstrating value for money. Increasing the scope of such a contract shall comply with the general change principles stated in paragraphs F12.7 and F12.8 below, shall be recorded in writing by ODN and shall be authorised by the relevant Service Director and the Service Director Legal and Governance.

F3.11 In calculating the total value of a contract, the following principles shall apply to determine the total value:

- a) the total amount payable over the term of the contract plus any extension period, net of VAT, including any form of option and any renewal of the contract by all council services utilising the contract
- b) where the award of a contract involves lots, the total amount payable for all of the lots, net of VAT, including any form of option and any renewal of the contract by all council services utilising the contract
- c) for joint purchasing arrangements, the contract value shall be the aggregate of both parties' spend under the contract.



F3.12 No Officer shall take any steps or omit to do something in order to seek to subdivide procurements or payments to avoid the application of the Rules or any part of the Rules or the PCR 2015.

F3.13 Rules relating to grants and collaborative working arrangements are dealt with in Sections F5G and F5H of the Rules respectively.

F4. Consequence of Breach

F4.1 Failure to comply with any of these rules may be considered a breach of the Officer Code of Conduct and may result in disciplinary action and legal proceedings against the Officer or third parties concerned. No Officer shall take any steps or omit to do something amounting to a knowing or reckless attempt to avoid the Rules.

F4.2 Any Officer who fails to follow the Rules may lose the protection of the indemnity given to Officers by the Council and therefore may have personal liability for a contract or any losses.

F4.3 Where it becomes apparent that a service has failed to comply with the Rules the Service Director must immediately notify the Monitoring Officer and Section 151 Officer. The Service Director must complete a Waiver And Record of Non-Adherence (WARN) form outlining the reasons for the non-compliance and the steps taken to prevent a re-occurrence.

F4.4 The content of WARN forms must be approved by the Section 151 Officer and the Monitoring Officer. The Audit and Standards Committee will receive periodic reports on the WARN process and significant single occurrences will be reported to the next available meeting of the Audit and Standards Committee. Service Directors may be required to attend Audit and Standards Committee to explain the circumstance leading to the WARN.

F5. Review

F5.1 The Service Director Legal and Governance will keep the Rules under review and shall have authority to make minor amendments and updates as required. Any significant changes require the consent of full Council.

F5.2 The Service Director Legal and Governance will report to the Audit and Standards Committee who will make recommendations to Council.



F5.3 The Service Director Legal and Governance and the Section 151 Officer will keep the procurement strategy and procurement procedure guidance under review and have authority to make such amendments and updates as required.

F6. Corporate Contracts

F6.1 Officers must always check if there is an existing council contract in place before starting a new procurement activity.

F6.2 If a council contract exists, it must be used unless the contract allows for, and the council's procurement team authorise, another course of action.

F7. Frameworks

F7.1 A framework contract is an agreement with suppliers which establishes the terms governing contracts from which orders for goods, services or works may be placed or 'called off'.

F7.2 Frameworks may only be used when:-

- a) the works, goods or services required are clearly identified within the framework
- b) the framework allows the Council to participate
- c) the framework adheres to the aims of the Rules

F7.3 Officers must ensure that they follow the rules applicable to the framework that set out how individual contracts can be called off. Often this will involve a further procurement activity, referred to as a mini competition. Even where not a requirement, a mini competition should be considered to adhere to the aims of the Rules. Advice must be sought from the procurement team. Advice must be sought from Legal Services in accordance with rule F13 below concerning contract terms, to ensure contract terms are acceptable.

F7.4 Authority to establish a new framework agreement must be evidenced in an Officer Decision Notice (ODN) signed by the Service Director Legal and Governance and Section 151 Officer before procurement activity is started and must be supported by a business case. The business case must clearly state the maximum value of the framework agreement, the range of contracting authorities able to call-off from it and monitoring arrangements, in particular relating to the total spend under the framework and compliance with call-off procedures.



F7.5 No framework agreement established by the council shall exceed a contract term of 4 years unless exceptional circumstances exist which are substantiated and are related to the subject matter of the framework agreement. If a framework agreement is to exceed a term of 4 years, then the reasons for this must be set out in the ODN to establish a new framework agreement.

F7.6 No contracting authority shall be entitled to call off from a framework agreement established by the council unless the contracting authority has signed an access agreement with the council. The Service Director Legal and Governance must advise on the most appropriate form of access agreement.

F8. In House Suppliers

F8.1 Various services may be available internally from within the council or by any council controlled companies that the council has established. The procurement team can provide advice on utilising these services.

F9. Joint Procurement

F9.1 It is best practice to consider working with others either internally or externally where there may be benefits to a joint procurement with other service areas or public bodies to achieve economies of scale and prevent duplication.

F9.2 Advice from the Service Director Legal and Governance must be sought as to the most appropriate form of agreement for joint procurement activity and the apportionment of risk between the parties.

F9.3 If the Council is responsible for any procurement under such joint arrangements, which result in the Council entering into a contract with a supplier, the Rules must be followed.

F10. Authority to Proceed

F10.1 Before beginning a procurement, the service Officer is responsible for ensuring that the appropriate authority and budget is in place. The form of the authority will depend on the value, strategic importance of the proposed contract, budget implications and risks.

F10.2 Member authority to commence a procurement process will not normally be required, even where the decision to ultimately let a contract will be a Key Decision. However, Service Directors should ensure that there is sufficient budget in place to



undertake the procurement exercise and let a contract and that doing so will not be contrary to the budget and policy framework.

F10.3 It is prudent to ensure that relevant Members are briefed and content with the proposal to procure, particularly if the ultimate letting of a contract will amount to a Key Decision. This is to avoid wasted resource in running a procurement process in circumstances where Cabinet might ultimately decline to award a contract.

F10.4 Notwithstanding the content of rule F10.3 above, Officers must consider whether the decision to procure is in itself a Key Decision because of the likely cost of the procurement process. If so, a Cabinet decision will be required prior to commencing procurement and notice of the same will need to be given in the Forward Plan.

F10.5 Authority to proceed must be evidenced in writing and include confirmation from the budget holder that budget is available to procure and ultimately let a contract. Acceptable forms of authority include:-

- a) minutes of the Cabinet
- b) an Officer Decision Notice
- c) a relevant extract from the appropriate scheme of delegation

F11. Insurance

F11.1 Officers are responsible for checking that all chosen contractors provide written evidence of adequate insurance to cover public liability, employers' liability and if necessary professional indemnity for the full duration of the contract.

F11.2 Indemnity levels must reflect the risk to the Council which typically will be for each and every contract:-

- a) £5 million for public liability
- b) £10 million for employers liability
- c) £2 million for professional indemnity

F11.3 The levels required may be reduced following the written consent of the Service Director Legal and Governance either as a one off in respect of a particular contract



or, where other arrangements have been agreed, for particular types of contract. The service Officer shall consider insurance risks and issues before commencing a procurement and shall seek any necessary approvals prior to issue of the invitation to tender.

F11.4 In some circumstances, it may be necessary to obtain specialist insurance. Service Officers shall be responsible for making enquiries with Insurance Team.

F12. Form of Contract

F12.1 The form of contract must be identified in advance. Every request for a quote (“RFQ”) or invitation to tender (“ITT”) must be accompanied by the appropriate form of contract. The Council’s standard form of contract must be used. In exceptional cases, an alternative form of contract may be used such as the supplier’s form of contract or a varied form of the council’s standard contract, but with the prior written agreement of the Service Director Legal and Governance.

F12.2 F12.1 does not apply to call-off contracts from frameworks. In addition, in appropriate circumstances, industry standards such as PSPC, NEC, JCT, JClI, ACE, RIBA & ICE may be used with the Council’s additional standard clauses covering freedom of information and other local government specific issues. These additional clauses are available from Legal Services. Officers must ensure that the published RFQ/ITT includes the correct form of contract or refers to the correct industry standard.

F12.3 Letters of Intent will only be used in exceptional circumstances and with the written consent of the Service Director Legal and Governance.

F12.4 Advice need not be taken from legal services on the final draft of a contract with a value of up to £50,000 where the council’s standard form of contract has been used with no amendments, additions or deletions to the council’s standard clauses.

F12.5 The final draft of all contracts over £50,000, contracts that must be executed as a deed (irrespective of value) or any other contract (whether specifically or by type) stipulated by the Service Director Legal and Governance must be approved by legal services (or in some other manner agreed by the Service Director Legal and Governance) before they are executed.

F12.6 When selecting the form of contract, be sure to consider whether it will need to be executed “under hand” (signed) or as a deed. See rule F22 below.



- F12.7 A change to a contract, such as an extension of the contract period (in addition to any extension period included in the original contract), or a change to any of the terms or adding in scope to the goods, works or services, is known as a variation to the contract.
- F12.8 When drafting the specification for the ITT, it is good practice to provide for a variation in clear, precise and unequivocal words that state the scope of the variation(s) permitted and the conditions under which the variation(s) shall apply, provided that such variation(s) do not alter the overall nature of the contract. For example, the ITT may state additional goods, works or services that may be included in the contract in the future, or an extension in time of the contract period.
- F12.9 In relation to PCR 2015 procurements, variations to contracts shall only be permitted where the variation falls into one of the categories listed in Regulation 72 as amended from time to time. Variations to such contracts shall be recorded in writing by Officer Decision Notice and shall be authorised by the Service Director and the Service Director Legal and Governance. The procurement team shall ensure that appropriate notices are issued to comply with Regulation 72 requirements.
- F12.10 For non PCR 2015 procurements, Officers shall not enter into variations which would extend the contract beyond the original scope or which would increase the contract price by more than an additional 20% of the original contract price, without the approval of the Section 151 Officer and Service Director Legal and Governance. Such approval shall be evidenced by ODN signed by the Section 151 Officer and Service Director Legal and Governance. A business case will be required to obtain this approval. The procurement team will keep a record of such approvals. Any variation pursuant to this paragraph 12.7 shall comply with the principles in paragraphs F12.7 and F12.8 above.
- F12.11 In all cases, any variation shall be agreed between the parties to the contract and as a minimum shall be recorded in writing and signed by the parties.
- F12.12 In no circumstances shall a variation be made to a contract which has ended or which has been terminated. If there is no provision within the contract terms for a variation of the type required, legal advice shall be sought.



F12.13 Contracts must be effectively monitored throughout the period of the contract by the relevant contract manager and appropriate records kept in accordance with the council's document retention scheme.

F12.14 Contracts shall not permit payment in advance except in respect of software licences, hardware or software support, HP leases, deposits, warranties or new or additional water, electricity and gas connections instigated by a new build or refurbishment project, unless the Service Director and Section 151 Officer agree otherwise, such agreement to be recorded in writing.

F12.15 Part payments may be made during the contract period after the completion of a stage of work provided that the services, goods or works have been completed or delivered. The contract shall include a clear payment schedule which identifies milestones and payment dates or shall identify the events and performance indicators which will trigger a part payment. No part payment shall be made unless the contract precisely sets out the payment schedule and the circumstances in which the part payment shall be made.

F12.16 Payments made under a contract shall be made in accordance with the relevant scheme of delegation and these Rules.

F13. Bonds and Security

F13.1 A performance bond or adequate security will be required where:-

- a) the nature and length of the contract is such that the risk of failure is sufficiently high
- b) the estimated cost of re-establishing a service if the contract fails is relatively high
- c) the financial and technical standing of the contractor is such that the risk of the failure is sufficiently high.

F13.2 Contracts with a value of up to £250,000 and which appropriately mitigate risk through staged payments or retentions will not typically require a bond or other security (though security may still be sought if any of F13.1 a) to c) apply). In all cases of contracts with a value of more than £250,000, a decision of the Section 151 Officer should be sought.



F13.3 The amount of the bond will be 10% of the total contract value unless otherwise agreed by the Section 151 Officer.

F13.4 Where the contractor is a limited company which is part of a larger group, the ultimate holding company may be required to provide a parent company indemnity or guarantee in addition to or instead of a performance bond or other security.

F14. Procurements of Goods, Services or Works below the Public Contracts Regulations 2015 (“PCR2015”) Find a Tender Thresholds

F14.1 Where the estimated costs of any goods, services or works is less than the PCR 2015 thresholds, quotes shall be invited as outlined below:-

Value	Procedure
Under £5k	Awarding to a contractor from the council's approved list of contractors on a rotational basis where applicable. In other cases, direct awards are permissible but there is a requirement to be able to demonstrate compliance with the principles of Rule F1.1 across a period of time/range of awards.
£5k< to £25k	At least two written quotations
£25k< to the PCR2015 Thresholds	A minimum of three quotations sought through the appropriate e-tendering portal.

F14.2 The PCR 2015 threshold is reviewed biennially, and advice must be taken from the procurement team as to the threshold at the time of planning a procurement.

F14.3 The procedure for under threshold procurements is explained in PPGs.

F15. Procurement of Goods, Services or Works above the PCR 2015 Threshold

F15.1 The PCR 2015 apply to above threshold contracts for the supply of goods, services and works. There is a separate procedure (known as the 'light touch regime') for social care and health care contracts and other contracts specified in Schedule 3 of the Regulations as explained in PPGs.



F15.2 There are six types of procurement routes available for contracts exceeding the PCR 2015 threshold:-

- a) Open Procedure
- b) Restricted Procedure (including through the use of a dynamic purchasing system)
- c) Competitive Procedure with Negotiation
- d) Competitive Dialogue
- e) Innovation Partnerships and
- f) Call Off from a Framework Agreement.

F15.3 There is a separate procedure for some types of procurements, known as the light touch regime, which is explained in the PPGs.

F15.4 Advice shall be taken from the procurement team as to the most appropriate type of procurement procedure. PPGs contain a general guide to the types of procurement procedures.

F15.5 The procedures to be followed for each type of procurement at F15.2 (a) to (f) above are set out in the 2015 regulations and cannot be varied under any circumstances. PPG5 explains the procedure for the Open Procedure. PPGs explain the procedure for the Restricted Procedure. The types of procurement at F15.2 (c), (d) and (e) are not to be used unless the appropriate procedures apply. There is a separate procedure for social care and health care procurements and other contracts specified in Schedule 3 of the Regulations. Call-offs under a framework agreement shall follow the procedure set down by the framework authority.

F15.6 Before commencing any above PCR 2015 threshold procurement, advice must be taken from the procurement team.

F16. Remedies for Breach of the Regulations

F16.1 The consequences for breaches of the Regulations for over threshold procurement are significant and include:-



- a) setting aside of contracts following a declaration of ineffectiveness
- b) financial penalties
- c) awards of damages and costs to successful challengers
- d) compensation to the contractor for repudiatory breach of contract
- e) costs of delays in provision of the required goods/services/works
- f) costs of further procurement.

F16.2 Officer compliance with these Rules and the Regulations is therefore essential.

F17. Timescales

- F17.1 Procurements over threshold can take a minimum of 4 months and sometimes over 18 months to complete depending on complexity.
- F17.2 An accelerated procedure may be available for use in urgent circumstances after consultation with the Service Director Legal and Governance. The Service Director shall certify the urgency making it impractical to comply with the stipulated timescales.

F18. Electronic Tendering

- F18.1 The Council utilises an e-procurement software solution for competitive procurement activities of £25,000 and over.
- F18.2 Officers must use the e-procurement solution for all procurements with a value of £25,000 and over unless the Section 151 Officer has provided written consent for the exception or unless the procurement is being conducted through a framework that has its own e-procurement software, when it is permissible to use the e-procurement facility provided by the framework provider.

F19. General Rules for Procurements Involving an Element of Competition

- F19.1 For procurements of £25,000 and over, Service Officers must contact the procurement team before the commencement of procurement activities to agree the appropriate process that will ensure value for money and adequate competition.



F19.2 Service Officers are responsible for drafting a clear and robust specification. The specification must set out exactly what the Council requires and timescales for delivery.

F19.3 Where a variant is permitted, the service Officer must set out the minimum requirement(s) of the variant. Lots must be considered where appropriate and the procurement team will advise on the best use of lots.

F19.4 The tender documentation must as a minimum include:-

- a) the time, date and internet address for submission of tenders
- b) information the supplier must provide
- c) timescales for the project
- d) the criteria for award
- e) the contract documents
- f) method for dealing with queries during the tender period

F19.5 The tender documentation must state that the council is not bound to accept the lowest or any tender.

F19.6 The tender documentation must set out how errors in tenders will be dealt with using one of the following two ways:-

- a) the tenderer shall be given details of the error(s) found during the evaluation and shall be given the opportunity to confirm without amendment or withdraw the tender; or
- b) amending the tender to correct genuine error(s) provided that in this case, apart from these genuine errors, no other adjustment, revision or qualification is permitted.

F19.7 The ITT must state that by submitting a tender the tenderer agrees to the council's contract terms. There shall be no discussion or negotiation about the contract terms prior to the tender close date. Once an award has been made, modifications may



exceptionally be necessary, for example to address an error, where an issue with consistency with the specification is identified or exceptionally where a condition is at odds with the approach in that sector of the market. Legal advice shall always be obtained to ensure that any modification is appropriately drafted. Such modifications shall comply with the general principles listed below:-

- a) the modifications shall not render the contract materially different from the one forming part of the ITT
- b) had the modifications been included originally with the ITT, the modification would not have allowed for the admission of bidders other than those initially selected OR for the acceptance of a tender other than that originally accepted OR have attracted additional bidders
- c) the modifications do not change the economic balance of the contract in favour of the contractor in a way which was not provided for in the original contract;
- d) The modification does not extend the scope of the contract beyond PCR 2015 prescribed parameters.

F19.8 Any modifications which do not fall within at least one of the conditions listed in (a) to (d) above shall require approval by ODN from the Service Director Legal and Governance. Advice shall always be taken from the Service Director Legal and Governance before agreeing to any modifications of the Council's contract terms.

F19.9 Evaluation criteria are the basis on which scores are given to assess responses. Tender evaluation criteria are assessed on:-

- a) price or quality only
- b) MEAT (Most Economically Advantageous Tender) based on a consideration of quality and cost
- c) Life cycle costing
- d) Fixed price with quality criterion only
- e) Community Wealth Building



f) Social Value

F19.10 Guidance on evaluation criteria is contained in the PPGs.

F19.11 A record of all tenders received shall be kept on the e-procurement solution and shall include:-

- a) service name
- b) bidder's names
- c) tender value
- d) date
- e) reasons for any disqualifications for late tenders and
- f) name of those who were invited but did not submit a tender

F19.12 Any request for an extension to a tender period must be made no later than the period stated in the ITT and in any event before the tender close date and shall be agreed by the Service Director Legal and Governance. If an extended date is permitted all tenderers must be advised.

F19.13 Clear written records must be kept of the assessment process. For all PCR 2015 procurements, a report must be written and retained by the service until the expiry of the contract term. The procurement team shall advise what must be recorded in the procurement report.

F19.14 Negotiation or discussion is generally not permitted except for certain types of procedures that permit negotiation or where it clearly states in the ITT that negotiation or discussion is part of the tender process. If used, negotiations or discussions must be recorded either contemporaneously or as soon as possible after the negotiation or discussion has concluded.

F19.15 A contract procured under the Regulations cannot be entered into or a framework agreement concluded until the end of the standstill period. The standstill period is 10 calendar days from issue of the unsuccessful letters and intention to award



letter. The period will be extended to the next working day if the standstill period ends on a non-working day. The standstill period ends at midnight.

F19.16 Where timescales allow, for non PCR 2015 contracts, a voluntary standstill period of 10 days between decision to award the contract and actual contract award can be implemented. Advice should be taken from the Service Director Legal and Governance on whether or not to apply a voluntary standstill period.

F20. Abandonment

F20.1 If less than three tenders are received, consideration should be given as to whether continuing with the process will achieve a competitive price, value for money and quality of services. A further advertisement may be required.

F20.2 Before abandonment or recommencement of an above threshold procurement, there shall be consultation with the Service Director Legal and Governance to ensure appropriate procedure and risk management.

F21. Contracts Finder

F21.1 All relevant procurement opportunities which involve an element of competition over £25,000 shall be advertised on "Contracts Finder". An element of competition means where the procurement opportunity is put into the public domain for the attention of suppliers generally. It does not include situations where a tender or quote is sought from a limited number of suppliers such as a call-off from a framework agreement or seeking quotes/tenders from selected suppliers.

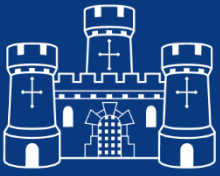
F21.2 An award of a relevant contract shall be notified on "Contracts Finder". PPGs explain when an opportunity or award has to be advertised on "Contracts Finder".

F22. Signing and Sealing

F22.1 Contracts with a value of up to £50,000 that are not required to be executed as a deed may be signed by the Service Director in accordance with a service scheme of delegation.

F22.2 Unless otherwise agreed in writing by the Service Director Legal and Governance, contracts with a value of more than £50,000 and contracts that are required to be executed as a deed (irrespective of value) must be executed by:-

- a) The Service Director Legal and Governance or the Section 151 Officer or the Chief Executive; and



- b) An authorised Member signatory

F22.3 Contracts will be executed “under hand” (signed) unless required in law or by the Service Director Legal and Governance to be executed as a deed. Contracts required to be executed as a deed in law typically include:-

- a) Transfers of land or interests in land
- b) Some Leases
- c) Mortgages and Charges
- d) Certain documents in respect of Trusts
- e) Agreements made without consideration
- f) Gifts or tangible goods without delivery
- g) A release or variation of certain rights

F22.4 In addition to legal requirements to execute some contracts as a deed, there can be advantages to executing other types of contracts as deeds. This will typically occur in respect of high value/risk transactions and/or where contractual relations will be continuing for some time. In these situations, the council may want to execute the contract as a deed to:-

- a) be able to take action for breach of contract over a longer period
- b) prevent the contracting party (or their successor in title) calling into question, at a later date, the validity or effectiveness of the contract or the accuracy of statement of fact made in the contract

F22.5 Advice should be taken from Legal Services on execution requirements where there is any doubt.

F22.6 Contracts must be executed and completed before work is started to ensure incorporation of terms. Making payments before the contract is sealed or signed may be a breach of the Rules and may result in disciplinary action.



F23. Waiving the Rules

F23.1 Where an Officer intends to seek an exemption to these Rules on the grounds set out below the Officer shall obtain the written consent of the Service Director Legal and Governance and the Section 151 Officer by way of a Waiver And Record of Non-Adherence (WARN) form.

F23.2 The Audit and Standards Committee will receive periodic reports on the WARN process and significant single occurrences will be reported to the next available meeting of the Audit and Standards Committee. Service Directors may be required to attend Audit and Standards Committee to explain the circumstance leading to the WARN.

F23.3 Other than in exceptional circumstances, there shall be no retrospective approval of an exemption and the matter will have to be recorded and reported as a Non-adherence instead, in accordance with rules F4.3 and F4.4 above.

F23.4 Requests to waive these rules for under PCR 2015 threshold contracts may be authorised in the following circumstances, following a robust audit:

- a) goods, services or execution of works are obtainable only from one source or contractor and there is no reasonably satisfactory alternative
- b) compatibility issues such that procurement from another source would be uneconomic given the investment in previous infrastructure;
- c) in cases of genuine urgency or emergency (which shall not include urgency or emergency arising on account of a failure to comply with the Rules when there has been ample opportunity to do so) where it can be clearly demonstrated that the time required to comply with the Rules would have a significant adverse impact on the council's interests
- d) where a recent, directly analogous and diligently undertaken compliant procurement process evidences a lack of genuine competition
- e) Other such circumstances as shall be agreed by the Service Director Legal and Governance and the Section 151 Officer



F23.5 Where it has not been possible to advertise through Find a Tender and publish a contract award notice, the Council may, under Regulation 99(3) of the Public Contracts Regulations 2015, publish a Voluntary Transparency Notice, justifying the decision to award without prior publication of a contract notice.

F23.6 Authority to publish a Voluntary Transparency Notice must be documented in an ODN signed by the Service Director Legal and Governance, Section 151 Officer and Service Director providing full justification for the publication and future procurement plans.

F23.7 All WARNS signed pursuant to E23.1 shall be held by Legal Services and shall be available for inspection as required.

F24. Payment of Undisputed Invoices

F24.1 The Council has a duty under the PCR 2015 for every public contract (whether it is above or below the PCR 2015 threshold) to pay undisputed invoices within 30 days. PPGs explain the requirements for payment of undisputed invoices.

F25. Public Services (Social Value) Act 2021

F25.1 The Council must consider the social value of its approach to procurement and whether social or environmental criteria or conditions may be appropriate and permissible. PPGs explain the requirements for social value.

F26. Additional Matters

F26.1 PPGs set out additional matters which might be relevant to a procurement and Officers are advised to refer to PPGs before commencing a procurement.

F27. Consultancy Procedure

F27.1 Officers shall follow the separate consultancy procedure in addition to the Rules.

F27.2 External consultants or advisors may only be appointed to provide professional or consulting services if such services are not available within the council or if the Officers providing them do not have the resources to meet what is required. Where such services are available in-house, the appointing Officer must consult with the Service Director Strategy, People and Performance and the Section 151 Officer before taking any decision to make an external appointment.



- F27.3 Consideration should always be given to using approved frameworks, examples include YPO (Yorkshire Purchasing Organisation), ESPO (Eastern Shires Purchasing Organisation, CCS (Crown Commercial Service) and Homes England.
- F27.4 External consultants and technical Officers engaged to supervise contracts must follow these Rules as applicable and their contracts for services must state this requirement.
- F27.5 Procurement plans and/or tenders prepared by external consultants on behalf of the Council must be referred to the procurement team for approval and advice.
- F27.6 All contracts for external consultants and advisors shall explicitly require that the consultants or advisors provide immediately any or all documents and records maintained by them relating to the services provided at the request of the appointing Officer, and lodge all such documents and records with the appropriate Officer at the end of the contract.
- F27.7 The appointing Officer shall ensure that any consultant working for the Council has appropriate indemnity insurance.
- F27.8 Any consultant used by the council shall be appointed in accordance with these Rules. Where the council uses consultants to act on its behalf in relation to any procurement, then the appointing Officer shall ensure that the consultants carry out any procurement in accordance with these Rules and using the council's standard terms and conditions of contract in any procurement that the consultant carries out. No consultant shall make any decision on whether to award a contract or whom a contract should be awarded to. The appointing Officer shall ensure that the consultant's performance is monitored.
- F27.9 Where the engagement of a consultant is required to support a procurement process or related project, the consultant should sign an appropriately drafted confidentiality agreement.

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Part F – Appendices

Section F5:- Finance and Contract Procedure Rules

F5G:- Collaborative Working and ASDVs

In Part F:-

Section F1 contains the Member Code of Conduct

Section F2 contains the Member Planning Protocol

Section F3 contains the Officer Code of Conduct

Section F4 contains the Officer/Member Relations Protocol

This Section (F5) contains the Finance and Contract Procedure Rules that govern how the council manages its financial affairs. The Rules are split into the following eight parts:-

- **Part F5A** contains an introduction and overview to the principles of good financial management, the roles and responsibilities of Officers and Members and the various documents and processes that form the council's financial management framework.
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- **Part F5E** Financial Systems and Procedures
- **Part F5F** Contract Procedure Rules
- **This Section (F5G)** Collaborative Working and ASDVs
- **Part F5H** Glossary



Part F – Appendices
Section F5:- Finance and Contract Procedure Rules
F5G:- Collaborative Working and ASDVs

In this Section:-

G1	General
G2	Written Agreement
G3	Accountable Body
G4	Collaborative Working Approval Process
G5	ASDV Background
G6	Approval to set up an Alternative Service Delivery Vehicle
G7	Operational Governance
G8	ASDV Reporting
G9	Directors of ASDVs



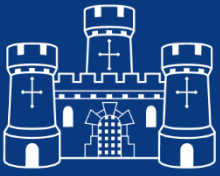


G1. General

- G1.1 The term “collaborative working” covers a wide array of joint working arrangements. For the purposes of this section, the term “collaborative working” means working with one or more third parties collectively to achieve a shared objective.
- G1.2 The council’s contribution to collaborative working may be capital, revenue or contributions in kind such as staff time, and contributions of any kind fall within this section.
- G1.3 This section does not cover public-to-public or public to private contractual arrangements. This is covered under section F of the Finance and Contract Procedure Rules.
- G1.4 In any circumstance where the council undertakes procurement in respect of collaborative working, the council’s Finance and Contract Procedure Rules shall apply.
- G1.5 The council will maintain a register of significant partnerships and all significant partnerships will be subject to an annual review that will be reported to Audit and Standards Committee.
- G1.6 As a measure of best practice, all collaboration agreements should be subject to a complete review at least every 4 years.
- G1.7 Any collaboration which involves the creation of or participation in a separate legal entity such as a limited company, trust or charity, must be set up and approved in accordance with the governance arrangements as set out below.

G2. Written Agreement

- G2.1 Collaborative working arrangements must be recorded in writing, the content and format of which must be approved by the Service Director Legal and Governance.
- G2.2 Any collaborative working involving the commitment of significant council resources (be they finance, staff, land, buildings or equipment), or where the council acts as an accountable body, must have a formal agreement in place approved by the Service Director Legal and Governance



G3. Accountable Body

G3.1 Any collaborative working in which the council is to act as Accountable/Responsible Body must be approved by the relevant Service Director and the Section 151 Officer.

G3.2 Where the council does act as the accountable body, the full cost of this service must be charged to the collaborative working arrangement (including a fair share of corporate overheads or equivalent in kind contribution)

G4. Collaborative Working Approval Process

G4.1 The approval process for participation in a collaborative working arrangement is based on:-

- a) compliance with corporate outcomes
- b) the financial contribution of the council

G4.2 If the council's financial contribution has not already been included in the approved budget, further approval will be required. The level of approval required will depend on both the amount, and whether the funding is to come from existing budgets or from reserves. These approval limits are set out in Section F5B (Rule B8.1) of the Finance and Contract Procedure Rules. The financial contribution of the Council should be assessed over the lifetime of the collaborative working arrangement and shall include the all staffing/resource costs as well as any financial contributions provided.

G4.3 Each Service Director is responsible for preparing regular reports for the Cabinet Member outlining the key outcome and achievements of each collaborative working arrangement. The report should also review the affordability and continued relevance of the arrangement to the Council's corporate objectives.

G5. ASDV Background

G5.1 The term Alternative Service Delivery Vehicle (ASDV) refers to a range of different organisations which:-

- a) have been set up by the council, either alone or with a partner (public or private sector)
- b) are legally separate from the council



c) are operationally independent of the council, but the council has retained significant control over key strategic issues.

G5.2 ASDVs can take a number of different legal forms. The main types include company limited by shares, company limited by guarantee and Trusts.

G5.3 Each ASDV will have its own governance arrangements, business plans, policies and procedures for managing its business, which can be different to those of the council.

G5.4 In most cases, the council will have at least three distinct relationships with its ASDV. Each of these relationships is subject to different considerations, rules and processes. It is essential when configuring and operating an ASDV that a careful approach is taken to delineating roles and responsibilities to put in place operational safeguards to deal with conflicts that might arise. These conflicts can arise between these distinct relationships or roles, or more generally, where an Officers or Members has a role in respect of the ASDV and in respect of the Council. These roles, relationships and potential conflicts must be kept under constant review.

- a) As an ASDV director. Directors are responsible for the operational leadership and direction of the ASDV and are ultimately accountable to the ASDVs shareholders. Their primary duty is to promote the interests of the ASDV and conflicts can arise where policy or political imperatives do not align with the best interests of the ASDV, and ASDV directors have a lead role in setting or delivering policy/political imperatives and in ensuring the success of the ASDV.
- b) As a shareholder/owner of the business. The shareholder's primary role is to hold the ASDV directors to account for their leadership, direction and success of the ASDV. Conflicts can arise where policy or political imperatives do not align with the best interests of the ASDV and shareholders have a lead role in setting or delivering policy/political imperatives and in ensuring the success of the company.
- c) As a customer of the ASDV or as a supplier of goods or services to the ASDV. Customers commissioning services or acquiring goods from the ASDV or supplying goods or services to the ASDV are primarily concerned with achieving best value for the council. Conflicts can arise where a commissioning/supplying decision taker also has responsibilities to the company as a director or shareholder. There is an inherent conflict in seeking to achieve best value for the Council and promoting the interests of the ASDV.



G6. Approval to set up an ASDV

G6.1 Setting up a new ASDV is likely to be an expensive, complex and time-consuming process requiring significant input from a number of Council services and external specialists. To ensure consistency with corporate priorities and minimise the risk of abortive costs, the set up needs to be in 3 distinct stages:-

- a) approval by the Corporate Leadership Team to develop an Outline Business Case to establish the new ASDV
- b) Production of an outline Business Case (OBC) to support the development of a full business case
- c) Production of a Full Business Case (FBC).

G6.2 Cabinet approval will be required at OBC and FBC stage. Depending on the structure of the proposed ASDV specific Cabinet approval may also be required for:-

- a) Council pension guarantees
- b) Provision of working capital loans
- c) The initial/Year 1 Annual Business Plan (ABP)
- d) Key Reserved Matters.

G6.3 Approval of any working capital loans or pension guarantees shall be undertaken in accordance with the thresholds set out under rule B8.1 above.

G6.4 Scrutiny Committee consideration at FBC stage can also be beneficial

G7. Operational Governance

G7.1 A Member or joint Officer/Member shareholder committee is typically a best practice approach to taking responsible for making decisions that relate to the Council's role as shareholder or owner of the ASDV. Those sitting on a shareholder committee must have sufficient knowledge and experience to be able to hold ASDV Directors to account for performance, and to robustly interrogate and challenge business plans and performance data.



- G7.2 The exact process and range of shareholder decisions will be different for each ASDV. However, as a minimum, a formal Council (as shareholder) decision will be required to approve the annual business plan and any changes to the legal structure of the company (e.g. changes in shares). Any changes to HR and or remuneration policies will be approved by reference to the likely financial impact in line with the thresholds set out in rule B8.1 above.
- G7.3 Council approval to change the scope/range of services should initially be obtained from the Corporate Leadership Team. Further approval will depend on the size and nature of services covered by the proposed change and therefore advice should be obtained from the Service Director Legal and Governance.
- G7.4 Company approval will depend on each company's own governance processes.
- G7.5 If the ASDVs supplies goods or services to the Council, then generally the standard FCPRs applicable to any third party supplier should be applied to decisions affecting the ASDV in its role as a supplier. The primary exception is ASDVs that are Teckal exempt. In these cases, the Council can award contracts to the ASDV without a competitive procurement process. The award of a contract under a Teckal exemption should still be subject to a business case assessment demonstrating value for money is being achieved.
- G7.6 Each ASDV will have its own equivalent of the Councils FCPRs. Changes to these documents will generally not require any approval from the Council.
- G7.7 The ability of the Council to wind-up or liquidate an ASDV will be set out in the Shareholder Agreement or Articles of Association of each ASDV. Putting an ASDV into liquidation is likely to be a significant step with major HR, legal, financial and service delivery implications. It is therefore likely that such a decision will require Cabinet approval.

G8. Reporting

- G8.1 Each ASDV will be required to provide regular shareholder financial and performance reports to the Council. The form and timing of reports will be defined by the Section 151 Officer and Service Director Legal and Governance.
- G8.2 If the ASDV supplies services to the Council, it will also have to provide performance reports in accordance with its contractual obligations. These contractual performance



reports will be incorporated as part of the standard Officer/Member process used for all suppliers.

G8.3 Regular monitoring reports should be taken to the appropriate Scrutiny Committee.

G9. Directors of ASDVs

G9.1 Both Members and Officers may act as a director of one or more of the Councils ASDVs, however many councils have elected not to have Member directors (or for Members to be ex-officio Directors only) to avoid the potential conflict of interest issues described above (political imperative Vs best interests of the ASDV).

G9.2 The role of Director includes some significant personal responsibilities and liabilities, and a significant time commitment to the ASDV and in maintaining the necessary skills to be an effective Director.

G9.3 A Director's primary duty is owed to the ASDV. Directors should be appointed solely based on their skills, knowledge and expertise after undertaking skills matrix analysis to match candidate Directors to the needs of the ASDV from time to time.

G9.4 Regular, robust performance assessment and training of Directors is essential to the success of an ASDV.

G9.5 For all of these reasons, it important that advice from the Service Director Legal and Governance is sought before appointing ASDV Directors

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Part F – Appendices

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F5H:- Glossary

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Part F – Appendices
Section F5:- Finance and Contract Procedure Rules
F5H:- Glossary

Appropriation	Amounts transferred between the Revenue account and revenue or capital reserves
Bad debt	A debt owed to the Council where the cash will not be collected and therefore the debt needs to be written off. See also provision for bad debts below.
Balances (Revenue Account)	The accumulated surplus of income over expenditure. Members may agree that Balances be used to reduce future Council Tax precepts although a minimum level, consistent with prudence and best practice will be maintained. Amounts in excess of that required for day-to-day cash management and to finance working capital can be invested to generate interest income to the Authority.
Capital Approval	The capital programme provision as amended by any supplementary estimates or virements.
Capital Expenditure	Expenditure on the purchase, construction or replacement of capital (fixed) assets or expenditure that adds to the life or value of an existing fixed asset.
Capital Programme	The Authority's plan of capital projects and spending over future years. Included in this category are the purchase of land and buildings, the erection of new buildings and works, Highway Improvement schemes and design fees, and the acquisition of vehicles and major items of equipment.
Capital Project / Scheme	These terms mean the same thing and are used interchangeably within these Rules. A project/scheme may be separately identified in the capital programme or be an item within a themed allocation (for example ICT or building maintenance).

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Capital Receipts	Income received from the sale of capital assets and available, subject to rules laid down by the Government, to finance new capital expenditure or to repay debt.
Carry Forward	An increase or reduction in a Service's new financial year budget, stemming from either an under or overspend in the previous year. All carry forwards (except for Schools) need the approval of the Cabinet upon the presentation of a business case.
Commitment	The value of any order or contract placed, prior to payment for goods / services having been made.
Contingencies	Sums set aside as part of the Councils budgets to meet either: (a) the potential costs of activities expected to occur during the year over and above those costs included in Service budgets (pay and price contingency); or (b) items that are difficult to predict in terms of financial impact or timing (contingency for uncertain items).
Council Fund	The Council's main revenue fund to which all revenue receipts are credited, and from which revenue liabilities are discharged. The movement on the fund in the year represents the excess of income over expenditure within the Consolidated Revenue Account. The level of balances held is based on the Council's assessment of the level of risk and uncertainty and the potential call on such reserves. Also known as the General Fund Reserve.
Corporate Leadership Team	The Corporate Leadership Team is the Chief Executive, Deputy Chief Executive, Section 151 Officer, Monitoring Officer and Service Directors,
Debt Write-Off	Realising the cost of debt that is considered to be "bad" (unrecoverable) by writing it off against the revenue account or bad debt provision.
Earmarked Reserves	Reserves that can only be used for a specific use or purpose.



Financial Scheme of Delegation	A table setting out the financial limits within which Officers are authorised to incur expenditure. The table is held and maintained by the Section 151 Officer
Financial Year	The Council's accounting period covers the 12 months from April 1 to March 31.
Find a Tender Service	Find a Tender Service (FTS) is the home of higher-value, public contract opportunities (tenders) within the UK. The Find a Tender Service can be used by both Public Buyers and Suppliers. For Public Buyers, the use of the portal complies with Public Contract Regulations 2015.
Forward Plan	The statutory notice given of an intention to take a "Key Decision". See Section C3 of the Constitution.
Internal Control	A procedural system designed to manage risk to an acceptable level whereby different staff Members perform different parts of a task, so that no one person is entirely responsible for processing a transaction from start to finish.
Key Decision	A decision of such significance that additional processes apply. See Section C3 of the Constitution.
Leases	Agreements covering the hire/rental of equipment or buildings, generally for a specified period of time and at a specified rate. There are two types of leases, Operating and Finance
Leases (operating)	A lease where the risks and rewards of ownership remain with the lessor.
Leases (finance)	A lease where most of the risks and rewards associated with ownership are transferred to the lessee (responsibility for maintenance, insurance, etc. will fall to the Council)



Monitoring Officer	The Officer appointed by Council as the Monitoring Officer for the purposes of Section 5 of the Local Government and Housing Act 1989. The Monitoring Officer has statutory duties to report on matters they believe to be illegal or that amount to maladministration and is responsible for matters relating to the conduct of Members and Officers. They are also responsible for the operation of the council's Constitution.
Option Appraisal/Business Case	This is required for all Capital schemes and all significant revenue proposals and takes the form of a Business Case Template. This will be used to assess whether the scheme is affordable, deliverable and in accordance with the corporate plan. Consequences to the Service are considered and evaluated and it will also provide a basis for monitoring and reporting progress. In the case of revenue proposals, it will also take into account the risk and impact on users.
Policy and Expenditure Planning	The Council's annual cycle of planning for the medium and short-term future, aimed at achieving optimal allocation of available resources.
Policy and Expenditure Proposals	Proposals, including new policies, which have resource implications and will be subject to appraisal by Members, the Corporate Management Team and external consultees before inclusion in the annual budget.
Procurement	The process of acquiring goods, services and works which includes the choice of supplier, the specification of goods/ services/works required and the initiation of a purchase order or contract agreement.
Provision	An amount set aside by the Authority for any liabilities of uncertain amount or timing that have been incurred. The main



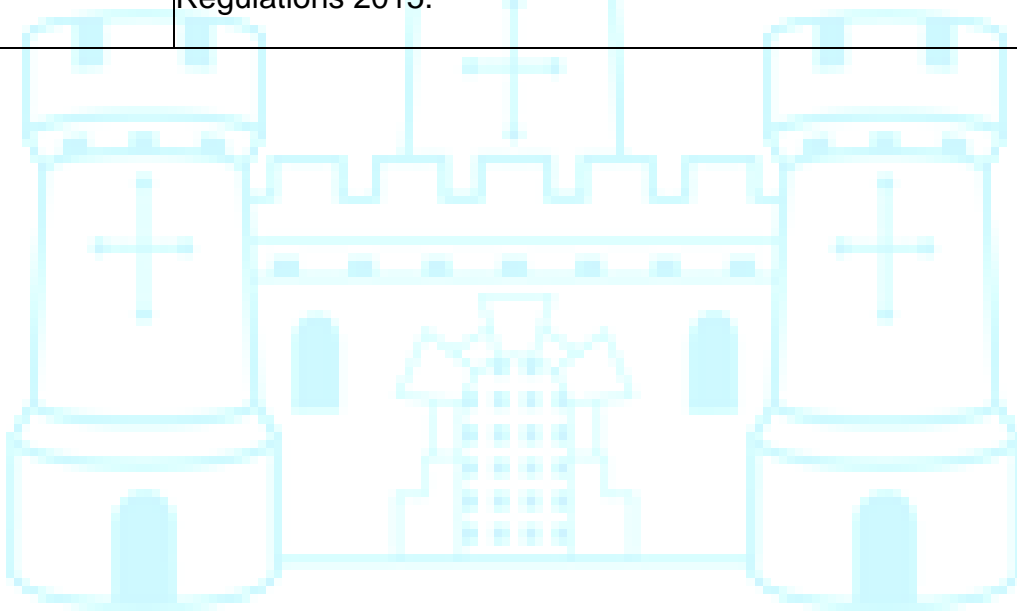
	category is estimates of liabilities or losses already incurred but whose exact amount will be determined in the future (e.g. bad debts, obsolete stock). See also Capital Provision and Provision for Doubtful Debt.
Provision for Doubtful Debt	An allocation of funds set aside from Service revenue budgets to cover amounts that may not be recoverable from debtors.
Prudential Borrowing Limits	The maximum amount of borrowing that the Council can enter into at any one point in time during the year. This limit is set by Council prior to the start of the year to which it relates and cannot be breached under any circumstances.
Quotation	An informal priced offer setting out the terms and conditions to supply requested goods or services.
Revenue Account	The Account that sets out the Council's income and expenditure for the year for non-capital spending.
Revenue Expenditure	Spending on the day-to-day running expenses of the Council. It includes expenditure on employees, premises, transport and supplies and services.
Ring Fencing	Certain budgets agreed by the Section 151 Officer are "ring-fenced". This means that under-spends on these budgets will return to balances and overspends will be met centrally. This is to reflect the fact that certain items of expenditure are either demand-led or so significantly influenced by extraneous factors that they are beyond the direct control of managers. Ring-fenced budgets include planning levies, external audit fees and election expenses.
Schemes of Delegation	Schemes of Delegation are the documents that set out, for each Service, any powers that Members of the Corporate Leadership Team have delegated to other Officers. Service Directors are responsible for maintaining up to date and accurate Schemes of Delegation and lodging a copy of the same with the Director of Legal and Governance.



Section 151 Officer	The Officer designated by Council as the Section 151 Officer for the purposes of the Local Government Act 1972. The Section 151 Officer is responsible for the proper administration of the council's financial affairs.
Service Plan/Priority Delivery Plans	A plan which outlines measurable Service aims for the year ahead, encompassing both core purpose and specific key objectives for any given year. The Plan will consider both inputs and outputs.
Starts value	Represents the full value of the Council's contribution to a Capital Scheme irrespective of the timing of the payments.
Supplementary Capital Estimate (SCE)	Additional resources approved by Members with funds either provided by a third-party (e.g. developer contributions, receipts, government grant), by the use of Council reserves or from the Revenue budget
Supplementary Revenue Estimate (SRE)	An approved increase to a Service revenue budget during the financial year, funded centrally from reserves, contingencies or external funding sources such as grants or partner contributions.
Tender	A formal priced offer in response to an invitation to supply goods, services or works against a specification.
Tenderer	Any person or organisation invited to submit a Tender.
Third Party Funds	Funds provided by outside bodies or individuals in support of Council activities, establishments or clients. Can sometimes be known as trust funds.
Threshold	The financial level at which award of contract regimes under prevailing Public Contract Regulations 2015 apply
Underspend	An underspend results when the net costs of a budget holder are lower than the net budget for the year.
"Up to" or "to"	In tables setting out financial thresholds "up to" or "to" means up to and including the amount stated. In the same tables, "<" means more than.



Virement	A Revenue virement is a transfer of amounts from one budget heading to another within, or between, Service Directors of Service. Capital virements cover any changes to Capital budgets funded from within the existing Capital programme.
Voluntary Transparency Notice	A notice providing justification of the decision of the Council to award the contract without prior publication of a contract notice, in accordance with the requirements of Regulation 99(4) of the Public Contract Regulations 2015.



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