



BOROUGH COUNCIL OF NEWCASTLE-UNDER-LYME COUNCIL CONSTITUTION

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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.

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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**

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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

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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 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.

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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. The only signatures which are valid are those which provide an address within the council's area.
- 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 can 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, which is why an address is needed.

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).



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 unless it is a petition asking for a senior officer to give evidence at a public meeting. This is reduced to 200 signatures 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 organizer 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 If a petition has received at least 250 valid signatures it will be reported to Council and the lead petitioner will be allowed a maximum of three minutes to speak to the petition. It will not be the subject of debate and Members will not ask questions of the lead petitioner.
- 2.17 If a petition has received between 5 and 250 valid signatures it will be reported to full Council by the proper officer and then referred to the relevant senior officer who will be responsible for ensuring that the petition is responded to and taken into account



in the decision-making process as appropriate.

- 2.18 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 organizer will receive written confirmation of this decision. This will also be published on the website.
- 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 at least 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.

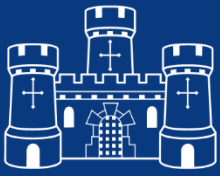
What Can I do if I Feel My Petition Has Not Been Dealt With Properly?

- 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.

NEWCASTLE
UNDER LYME
BOROUGH COUNCIL



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.

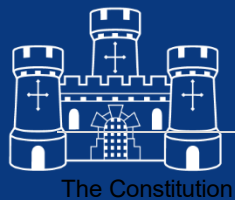
Section B2 sets out the details of each of the authority’s committees. There is an overview of what the committee does and a detailed terms of reference section which sets out the extent of the committee’s powers. Membership details of committees are available from the Council’s website.

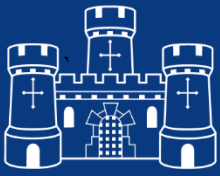
Section B3 sets out the roles and attributes of all Councillors, and then explains about the additional requirements of Councillors who undertake certain roles. The additional requirements in respect of Cabinet roles are set out in Section C2.

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

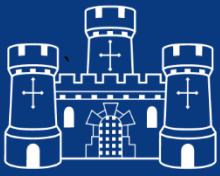
- 1.1 The Borough of Newcastle-under-Lyme is divided into 21 areas known as “**Wards**”. Every four years the 21 Wards elect between 1 and 3 Councillors (depending on the size of the Ward) to represent them. In total, 44 Councillors are elected to form the Council.
- 1.2 The term “**Council**” is used 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.

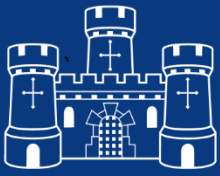
4 The Budget and Policy Framework

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.

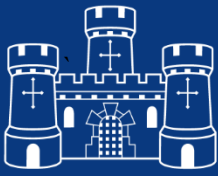
5.2 The following is a list of functions that Council has reserved to itself. The following list also includes some of the more significant functions that the law says Council must undertake itself. It is not intended to be a complete list of functions that Council must, in law, undertake itself:-

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.

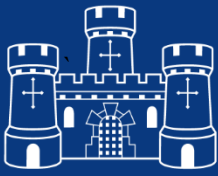
Financial Provision

- (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.

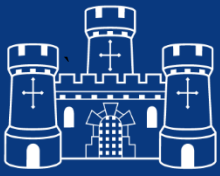
Human Resources

- (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.

6.2 Appointments to outside bodies will be for one year and can be renewed thereafter.

6.3 Council portfolio holders shall be appointed as of right to designated outside bodies

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
- (e) 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



NEWCASTLE UNDER LYME

9

Either Way Functions

- 9.1** The “either way” functions set out in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Schedule 2; where they are functions of this authority, will be the responsibility of and exercised by the Cabinet. . 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.
- 2.42 To consider and decide any packages on the dismissal of officers including by reason of redundancy, where the package including pension costs amounts to over £100,000.00

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 planning applications which fall within Schedule 2 of the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 where:

3.3. i at least one of the criteria in Regulation 5(3) is met **or** is an own-interest application as set out in Regulation 6 of those regulations **and**

3.3. ii both the nominated officer and nominated member of the Committee agree to the referral

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 by chief and deputy chief officers only against disciplinary action taken when required to do so under the Council's disciplinary policies. In respect of DSOs only, it deals 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 though 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.

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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.

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BOROUGH COUNCIL



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**

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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.

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.

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

Section B5 sets out the rules that govern Committee meetings.

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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

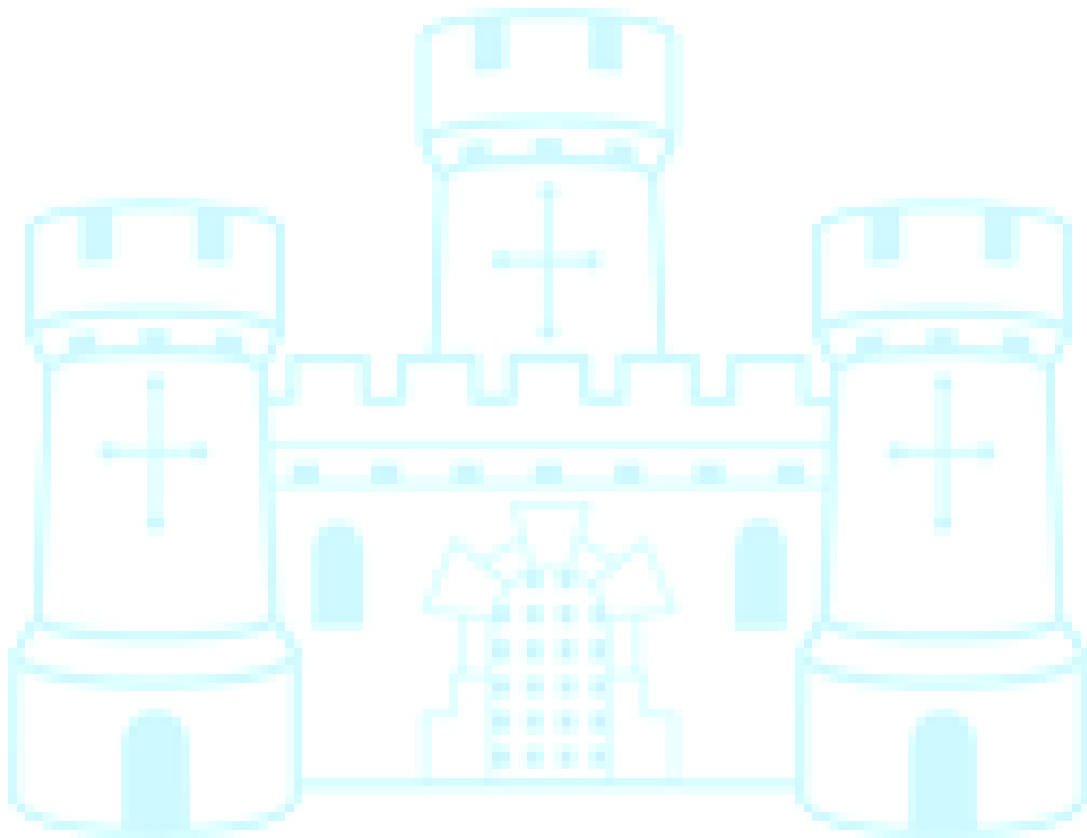
12. Public Speaking and Questions

13. Miscellaneous Matters

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



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



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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

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 Seconder 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 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 Seconder. 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:-
- (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 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"):-
- (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 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.

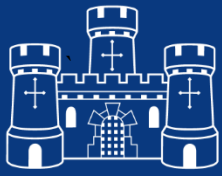
13.17 If a notice is required to be given 5 days before a meeting, then giving the notice and the meeting are the two specified events for the purposes of paragraph 13.10.

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.

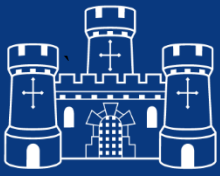
Section B2 sets out the details of each of the authority’s committees. There is an overview of what the committee does and a detailed terms of reference section which sets out the extent of the committee’s powers. Membership details of committees are available from the Council’s website.

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.

NEWCASTLE
UNDER LYME
BOROUGH COUNCIL



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

3. Conduct of Meetings

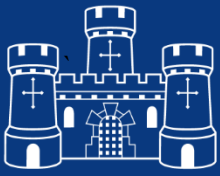
- Chair and Vice Chair
- Respect for the Chair
- Quorum
- Matters for Decision
- Disorderly Conduct and Disturbance

4. Motions

- Motions During Debate
- Notice of Motions
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- Content and Length of Speeches



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- When a Member May Speak Again
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6. Voting

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8. Minutes Records and Disclosure of Information

- Minutes and Records of Decisions
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- Confidential and Exempt Matters

9. Urgent Business

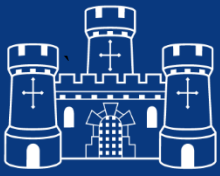
10. Public Access to Meetings

11. Notices and Information Relating to Meetings

- Information Generated for Meetings
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12. Public Speaking at Planning Committees

- Entitlement to Speak
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- Procedure at Committee



- Content and Length of Speeches
- Circulating Additional Materials

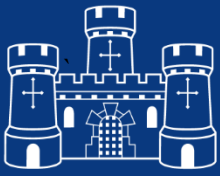
13. Public Speaking and Questions at Other Committees

14. Planning Committee Members' Call-In Procedure

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

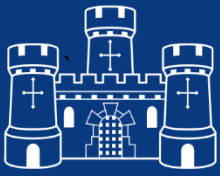
- 1.1 At each Annual Council, the Council will constitute any committees that it considers appropriate to deal with matters which are not reserved to the Council, allocated to the Cabinet, or delegated to Officers.
- 1.2 The Council will set out the terms of reference for each committee and appoint Members 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.

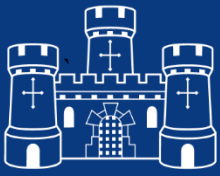


2. Conduct of Meetings

Chair and Vice Chair

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

NEWCASTLE
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Respect for the Chair

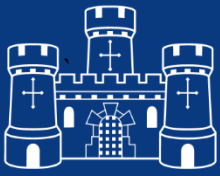
- 2.5 Whenever the Chair rises during a debate, the meeting will be silent.

Quorum

- 2.6 Where the total membership of a committee is 12 Members or less, the quorum will be 3 members.
- 2.7 Where the total membership of a committee is more than 12 Members, the quorum will be one quarter of the total membership.
- 2.8 No business will be transacted at a meeting that is inquorate.
- 2.9 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

- 2.10 All matters for decision by the committee will be included within the agenda.
- 2.11 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.
- 2.12 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.
- 2.13 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

- 2.14 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.
- 2.15 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
- 2.16 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.
- 2.17 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.
- 2.18 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.

3. Motions

Motions During Debate

- 3.1 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

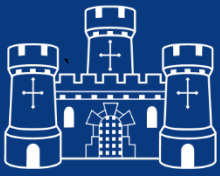
- (f) to proceed to the next business
- (g) to put the question
- (h) to adjourn the debate
- (i) to adjourn the meeting
- (j) to extend the time allowed for speeches
- (k) to suspend a particular Procedure Rule(s)
- (l) to exclude the press and public
- (m) that a Member who misconducts themselves should not be heard further
- (n) that a Member should leave the meeting

Motions and Rescinding Decisions

- 3.2 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

- 3.3 An amendment must be relevant to the Motion under discussion and will have the effect of deleting, substituting or adding words to the Motion.
- 3.4 Amendments may not be moved if they will have the effect of negating the Motion before the committee.



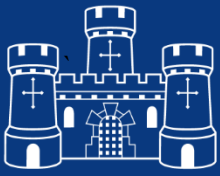
- 3.5 Only one amendment may be moved at a time. No further amendment will be moved until the amendment under discussion has been disposed of, although the Chair may allow two or more amendments to be discussed (but not voted on) together if this would facilitate the proper conduct of the business before the meeting.
- 3.6 If an amendment is lost, another amendment may be moved on the original Motion.
- 3.7 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.
- 3.8 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.
- 3.9 A Member may alter a Motion which they have proposed but if seconded, the consent of the seconder and the committee is required.
- 3.10 Any alteration proposed must be of the type permitted to be moved as an amendment.

Withdrawal of Motions

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

Closure of Motions

- 3.12 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.
- 3.13 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.



3.14 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.

3.15 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.

4. Members' Speeches

Content and Length of Speeches

4.1 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

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

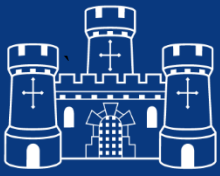
Order of Speeches

4.3 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.

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

Right of Reply

4.5 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.



- 4.6 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.
- 4.7 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

- 4.8 A Member may intervene on a point of order or in personal explanation and will be entitled to be heard immediately.
- 4.9 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.
- 4.10 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.
- 4.11 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.

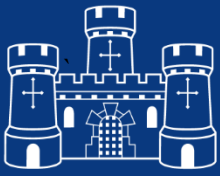
5. Voting

Method of Voting

- 5.1 All matters will be decided by a simple majority of those Members present and voting at the time the question is put.
- 5.2 Members must be in their designated seats or present via a remote meeting for their vote to be counted.
- 5.3 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

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



Recording Votes

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

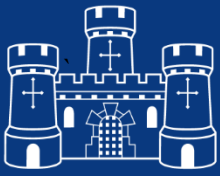
6. Rights of Other Council Members

Attendance at Meetings

- 6.1 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.
- 6.2 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

- 6.3 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.



6.4 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.

6.5 Any notice given under paragraphs 7.3 or 7.4 above will clearly state the nature of the business in question.

6.6 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

7. Minutes Records and Disclosure of Information

Minutes

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

7.2 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

7.3 Signed minutes of each committee meeting will be submitted to the next meeting of that committee's parent body.

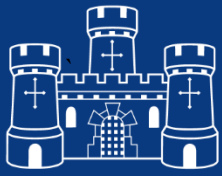
7.4 Any question about the accuracy of any Minute of a body must be considered and determined by that body at its next meeting

Records of Attendance

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

Exempt Matters

7.6 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.



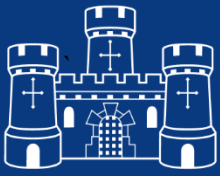
- 7.7 No Member will disclose the content of any discussions in the confidential part of a meeting.
- 7.8 No Member will disclose to any person (other than a Member of the Council with a need to know) any matter arising during the proceedings of the Council, the Cabinet or any Committee and which comes 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.
- 7.9 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

8 Urgent Business

- 8.1 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.
- 8.2 The Chief Executive may take any necessary action after consulting the relevant Chair.
- 8.3 A report of any action taken will be made available by electronic means to all committee Members.

9 Public Access to Meetings

- 9.1 Committee meetings will ordinarily be held in public unless the information to be discussed:-
- 9.1.1 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,
- 9.1.2 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.
- 9.2 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.

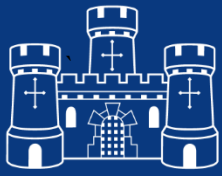
10 Notices and Information Relating to Meetings

Information Generated for Meetings

- 10.1 Committee meetings will require the production and publication of the following written information (“**Meeting Information**”):-
- 10.1.1 meeting agendas (“**Agendas**”), setting out the business to be decided at a meeting
 - 10.1.2 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
 - 10.1.3 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.
 - 10.1.4 approved minutes, records of decisions or (where Exempt Information is discussed) a summary of proceedings and any decisions reached (“**Minutes**”)

Information about Future Meetings

- 10.2 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.
- 10.3 The Monitoring Officer will give notice under paragraph 11.2 above:-
- 10.3.1 to all members of the body to which the notice relates; and, in respect of all meetings which are ordinarily held in public, by:-
 - 10.3.2 displaying a copy of the notice at the Council’s principle office; and
 - 10.3.3 making details of the meeting available on the Council’s website
- 10.4 The Monitoring Officer will normally provide, not less than 5 days prior to a meeting, Agendas and Reports by:-



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

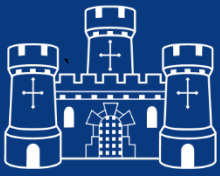
- 10.5 Where a report to be considered at a meeting is not available for publication with an agenda, the agenda item will be marked "Report to Follow" and the report (or any other updates or supplementary information) will be provided when available in accordance with paragraph 11.4 above.

Information about Past Meetings

- 10.6 The authority will retain:-
- 10.6.1 Background Documents for a period of 4 years after the date of the meeting; and;
 - 10.6.2 all other Meeting Information for a period of 6 years from the date of the meeting.
- 10.7 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

- 10.8 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.
- 10.9 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.
- 10.10 Exempt Information will not be provided to the public.



11 Public Speaking at Planning Committees

Entitlement to Speak

- 11.1 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.
- 11.2 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

- 11.3 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:
- 11.3.1 in the case of attendance in person before 12.00 noon on the day before the committee meeting, or
- 11.3.2 in the case of attending remotely 2 days before the start of the meeting.

Procedure at Committee

- 11.4 The Chair retains full discretion to manage public speaking as they see fit, but ordinarily the following rules will apply.
- 11.5 The Chair will invite one person only from each of the following categories of speaker to address the committee in the following order:-
- 11.5.1 Objector
 - 11.5.2 Supporter
 - 11.5.3 Town or Parish Council Representative
 - 11.5.4 Applicant

Content and Length of Speeches

- 11.6 Each speaker will be permitted to speak for a maximum of 5 minutes.
- 11.7 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.

- 11.8 Speakers are not permitted to ask questions.

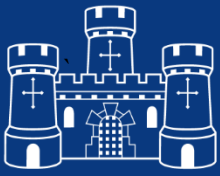
Those speaking must comply with the standard of conduct required under Section A3 of the constitution.

Circulating Additional Materials

- 11.9 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.

12. Public Speaking and Questions at Other Committees

- 12.1 This section does not apply the Planning Committee.
- 12.2 Members of the public may speak or ask a question at Committee meetings on any subject which is relevant to matters on the agenda.
- 12.3 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.
- 12.4 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.
- 12.5 Questions will be asked and answered without debate.
- 12.6 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
- 12.7 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

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

13. Planning Committee Members' Call-In Procedure

Notice of Planning Applications

13.1 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

13.2 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"):-

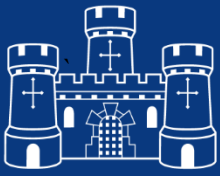
- (a) Has concerns about the application in question and setting out what those concerns are; and
- (b) Requesting that the application be referred to Planning Committee and that the use of delegated powers is removed.

13.3 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.



- 13.4 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.
- 13.5 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.
- 13.6 In the event that the Call-in Request is declined, the Chair's decision will be notified to the Requesting Member and Case Officer.
- 13.7 The Chair's determination on Call-in Requests shall be final.
- 13.8 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.
- 13.9 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.

14. Miscellaneous Matters

Officer Advice

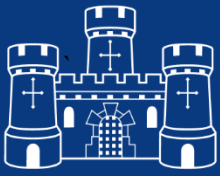
- 14.1 The Chair may request an appropriate Officer to offer advice or draw the attention of the committee to any relevant factors where a debate involves questions of a technical, legal, financial or operational/administrative nature.

Suspending the Procedure Rules

- 14.2 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



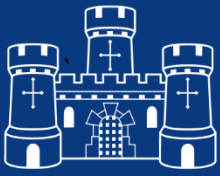
the purpose and effect of the notice, and be signed (which shall include electronic signatures) by the person or persons required to give the notice in question.

- (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

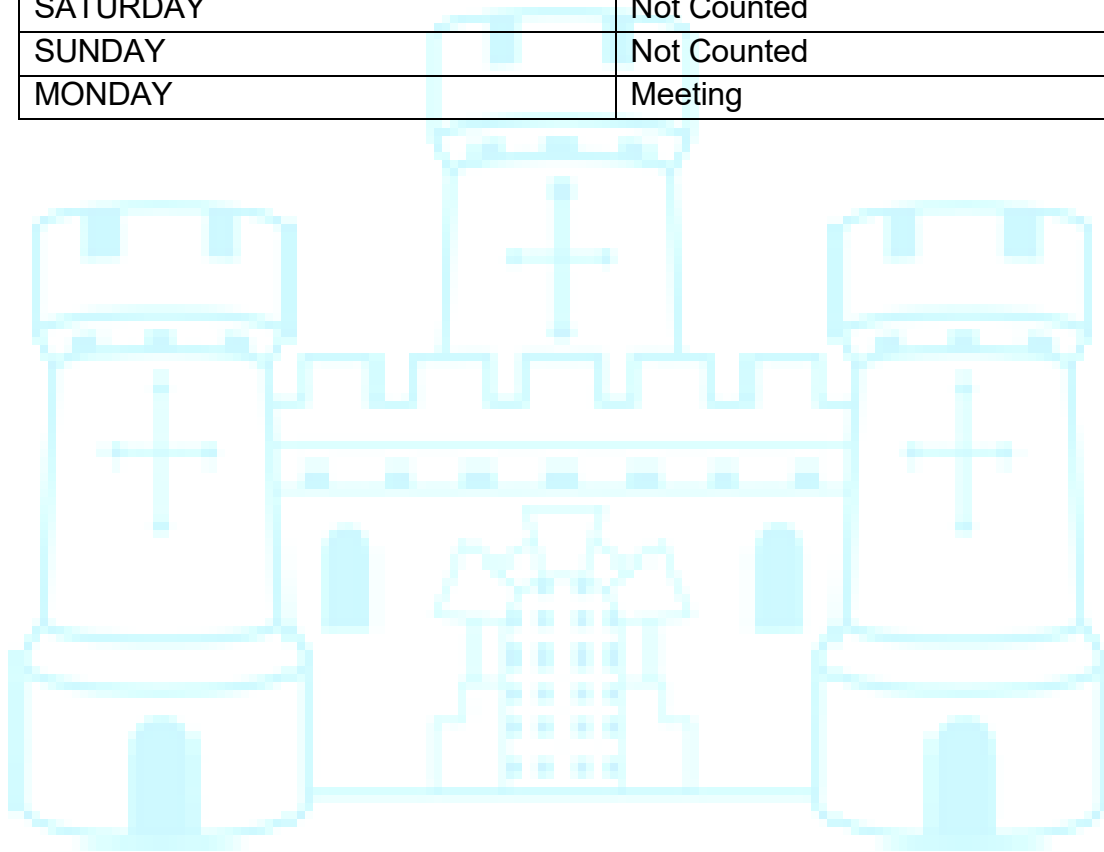
Example Calculation of Time in Respect of Notice Periods

- (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



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BOROUGH COUNCIL

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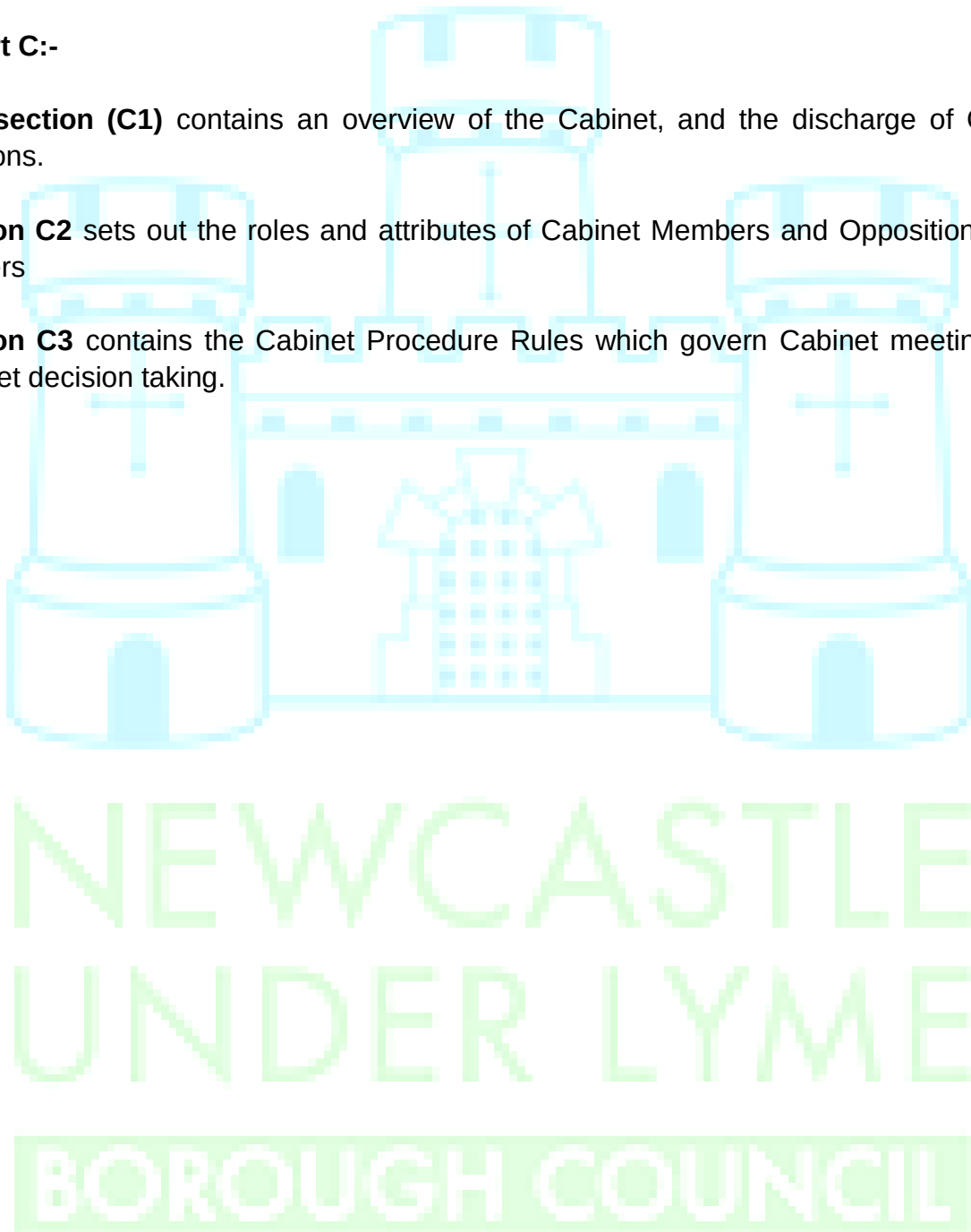
Part C – The Cabinet
Section C1:- The Cabinet

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.



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
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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

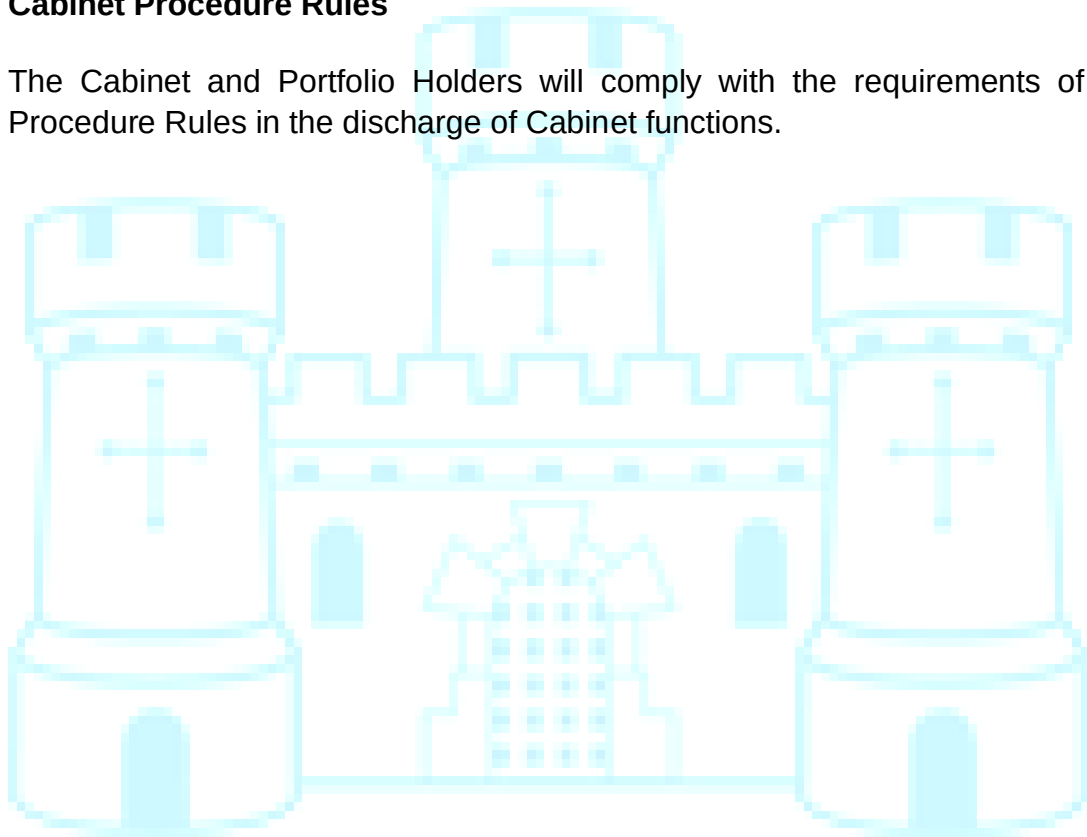
- 5.4 Council has decided that all decisions which fall to be taken by the Cabinet will be taken collectively by all Cabinet Members present at a quorate meeting of the Cabinet. With the exception of urgent Cabinet decisions, Council has not delegated any decision making powers to individual Cabinet 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.



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BOROUGH COUNCIL

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Part C – The Cabinet

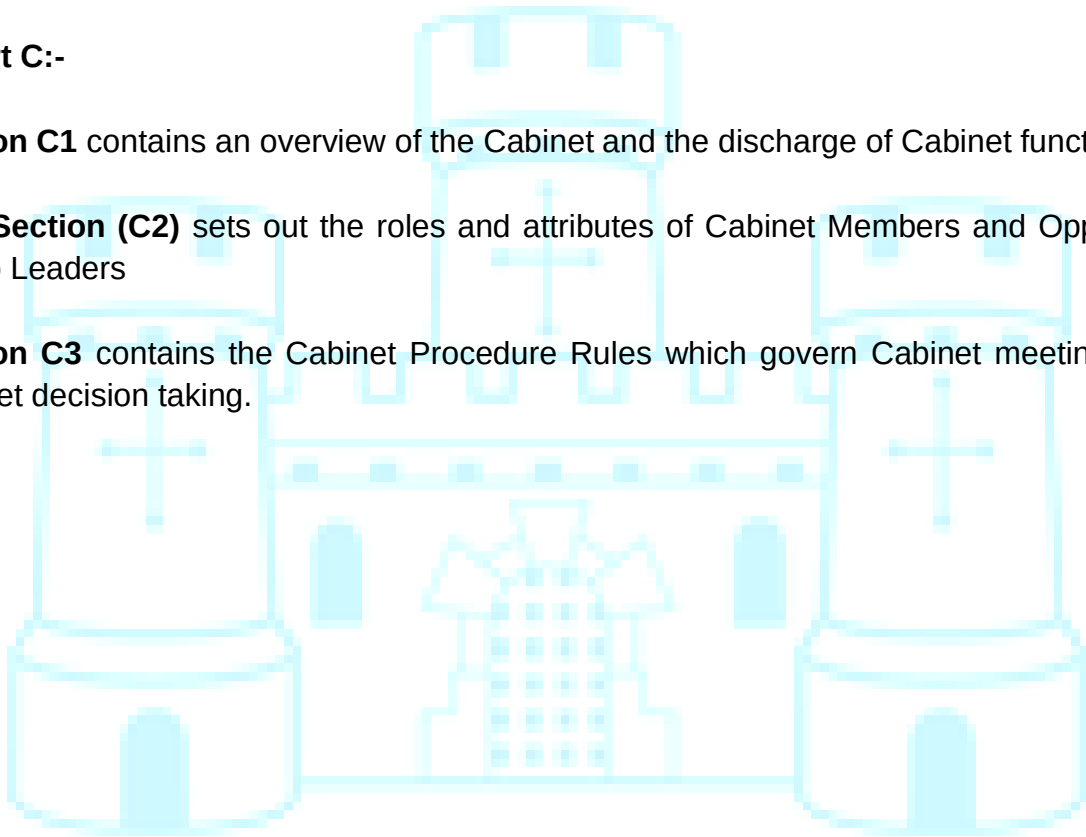
Section C2:- The Roles, Responsibilities and Attributes of Cabinet Members

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.



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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

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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:-
- (a) compile Portfolio responsibilities and allocate them to the other Cabinet Members having regard to their abilities.
 - (b) fulfil the role of a Portfolio holder and advise and mentor other Cabinet Members.
 - (c) 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.



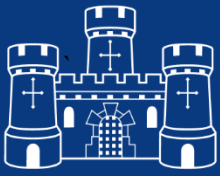
- 3.5 Group leaders and any Shadow Cabinet Members are accountable to their group and ultimately to the communities that they are elected to represent.

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.



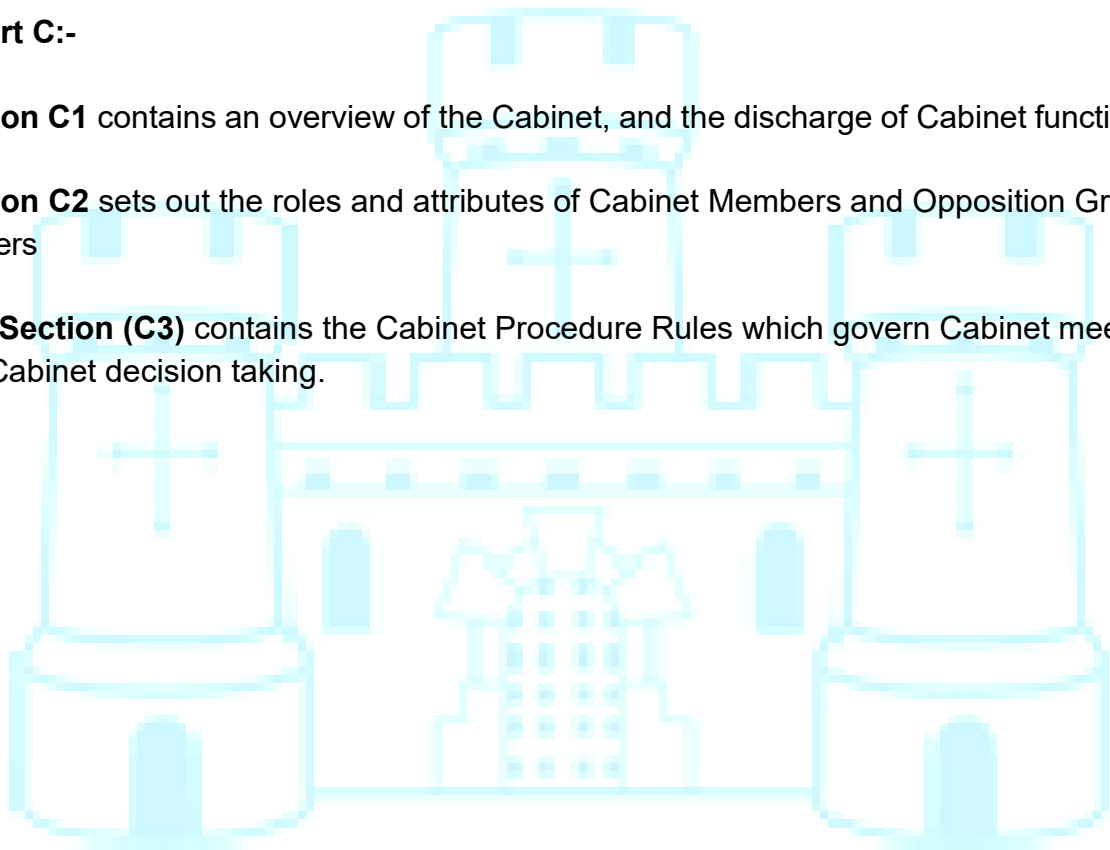
Part C – The Cabinet
Section C3- Cabinet Procedure Rules

In Part C:-

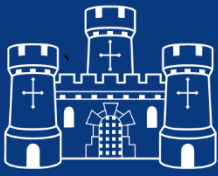
Section C1 contains an overview of the Cabinet, and the discharge of Cabinet functions.

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.



NEWCASTLE
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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

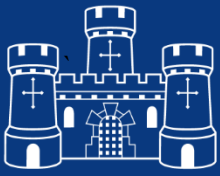
- Meeting Dates
- Chairmanship
- Quorum
- Conduct of Debate
- Voting
- Matters for Decision and Placing Items on the Agenda
- Attendance at Meetings

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

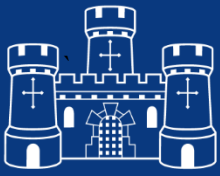
- 1.3 The Leader will assign a range (or "Portfolio") of Services areas to each Cabinet Member. Each Cabinet Member (or "Portfolio Holder") will be responsible for overseeing the Cabinet's responsibilities in respect of the Services within their Portfolio.

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:-
- (a) resign their Cabinet position
 - (b) 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)
 - (c) 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.

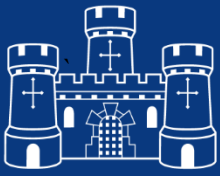
2. Advisory Bodies, Cabinet Committees and Joint Arrangements

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.



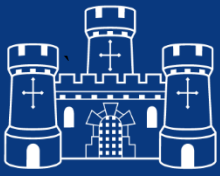
- 3.12 A Member may require, after a vote is completed, that the Minutes of the meeting record whether and how they voted.
- 3.13 If one third of the Members present so request the vote will be recorded to show how each Member voted.
- 3.14 A Member may, immediately after the item of business is voted 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:-
- (a) result in the Council incurring expenditure or making savings of £250,000 or more (revenue), and/or £500,000 or more (capital); and/or
 - (b) 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:-
- (a) all Cabinet and Key decisions that are proposed to be taken during the period covered by the Forward Plan
 - (b) which of those decisions are likely to be Key Decisions
 - (c) the likely decision taker
 - (d) when the decisions are likely to be taken
 - (e) 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.

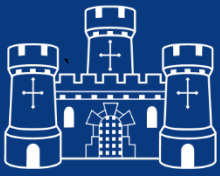
- 4.4 Except in cases of urgency, Key Decisions cannot be taken unless at least 28 days' notice has been given in the Forward Plan.

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.

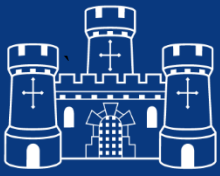
6. Urgent Decisions

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.

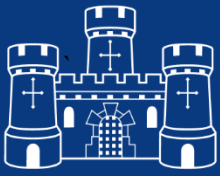
8.4 The Council may then resolve:-

- (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:-

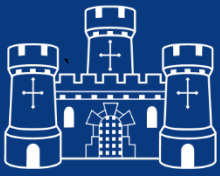
- (a) that s/he does not object to the minded to adopt resolution; or
- (b) with reasons, that s/he objects to Council's minded to adopt resolution



- 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 five clear days before the meeting in question; or two clear days before on an item that is added later. 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.

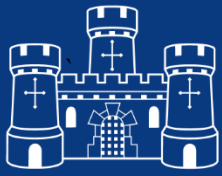
10.2 Visiting Members:-

- (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.

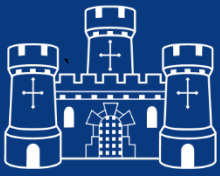


Disorderly Conduct and Disturbances

- 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

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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

NEWCASTLE
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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 Review Working Parties on a time-limited basis, although there shall be no more than three active Working Parties 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 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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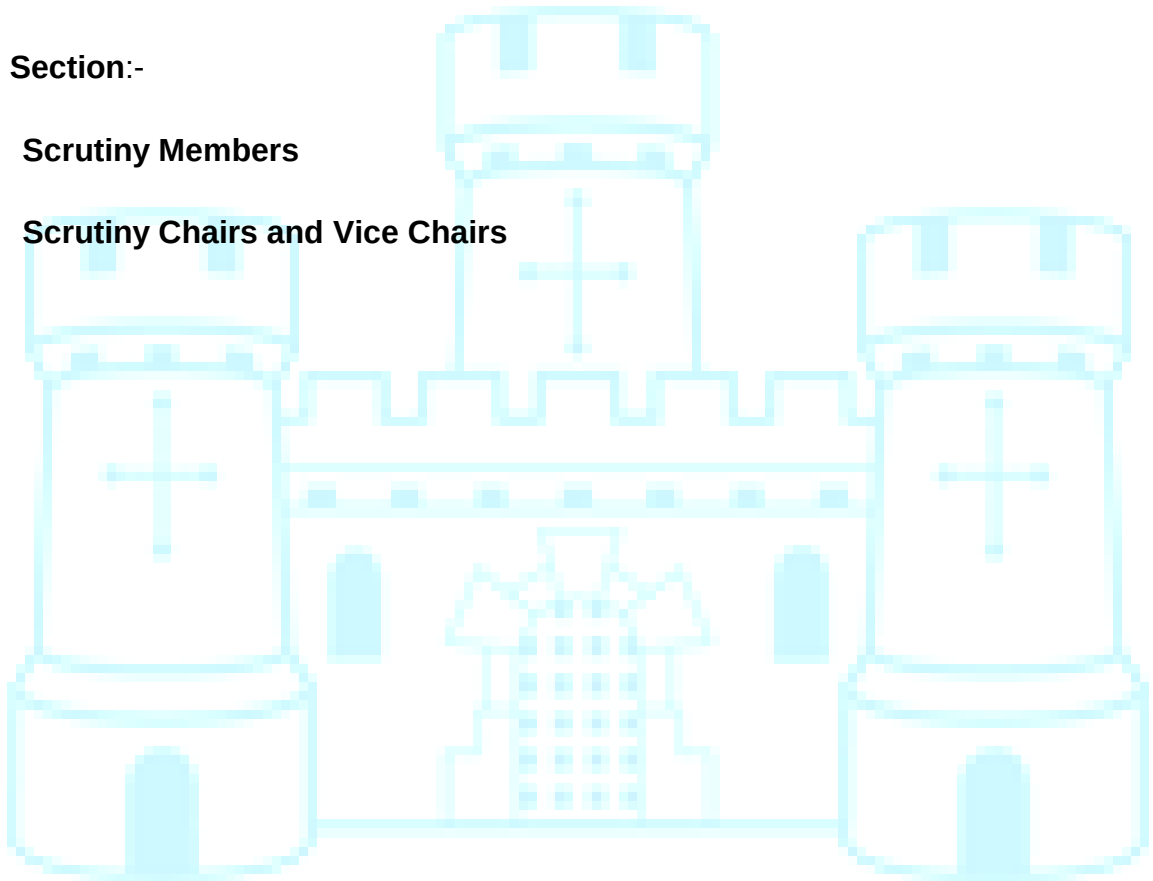


Part D – Scrutiny

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. Working Groups

4. The Scrutiny Management Group

5. Work Programmes

6. Meetings and Conduct of Meetings

- Meeting Dates and Calling Meetings
- Chair and Vice Chair
- Quorum
- Matters for Decision
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- Requesting and Requiring Attendance by Others

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- Motions without Notice
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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. Working Groups



- 3.1 The Scrutiny Committees may constitute such Working 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 Working Group. The Scrutiny Committees will endeavour to publish on the Council's website details of the membership and terms of reference of each Working Group. Working groups will periodically report progress to their parent scrutiny committee who will be responsible for approving any recommendations of a Working Group.
- 3.3 Working 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 Executive 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 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 or any Executive 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 Working 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 be 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 Seconder. 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 Director of 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 an answer 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 working 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.

NEWCASTLE
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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 Head of Service. Services are grouped together to form Directorates under the control of an Executive Director. Each Head of Service reports to their relevant Executive Director.
- 2.2 Executive Directors are responsible for all of the Services within their Directorate. They report to the 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 and Executive Directors are known as the "Chief Officers" and together (with the Monitoring Officer and Section 151 Officer) they form the Council's Executive Management 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 and 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
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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 and from there to each Executive Director and Head of Service. The cascade continues down through the Heads of Service 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 Executive Directors and Heads of Service 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 Executive Director or Head of Service 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 Heads of Service, in conjunction with their Executive Director, 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, Head of Service, Executive Director 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, Heads of Service and Executive Directors 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 Head of 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 Head of 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 Head of 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 Head of 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.

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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 Head of HR.
- 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 Head of HR 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 Head of HR will rule and such ruling will be applied.
- 2.7 The Head of HR 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 Head of HR 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 Head of HR has been notified of the name of the person to whom proposed to be appointed along with any other relevant particulars which the Head of HR 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.



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 councilor.

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.

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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

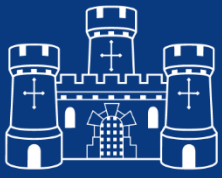
9.2 As a councillor:

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.



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

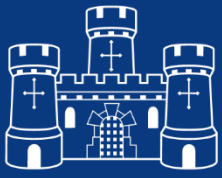
7. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter 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.

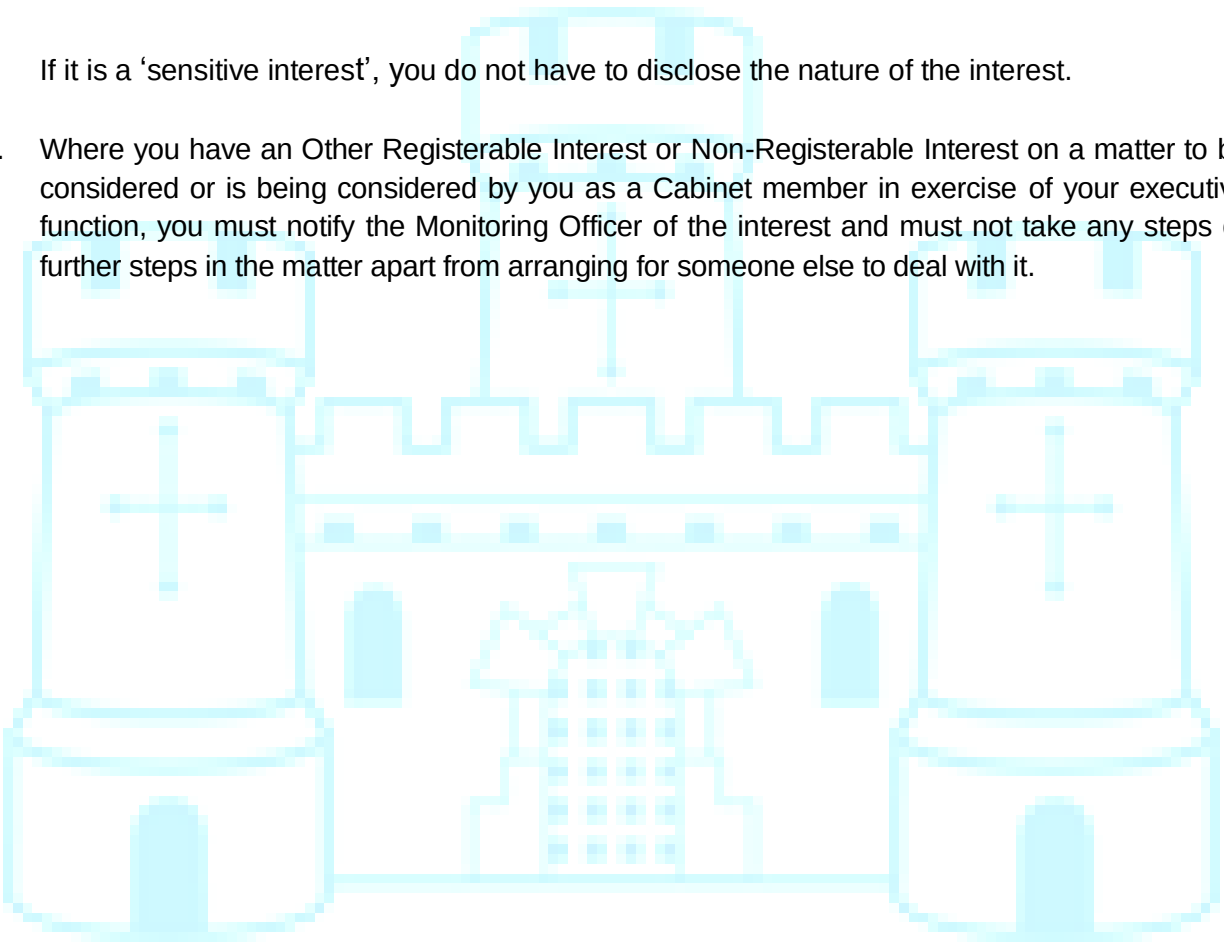
9. Where a matter (referred to in paragraph 8 above) ***affects*** the financial interest or well-being:
 - (a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - (b) a reasonable member of the public knowing all the 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	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	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 — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/



	civil partners (alone or jointly with another) a right to occupy or to receive income.
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.

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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:

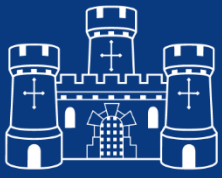
Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

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.

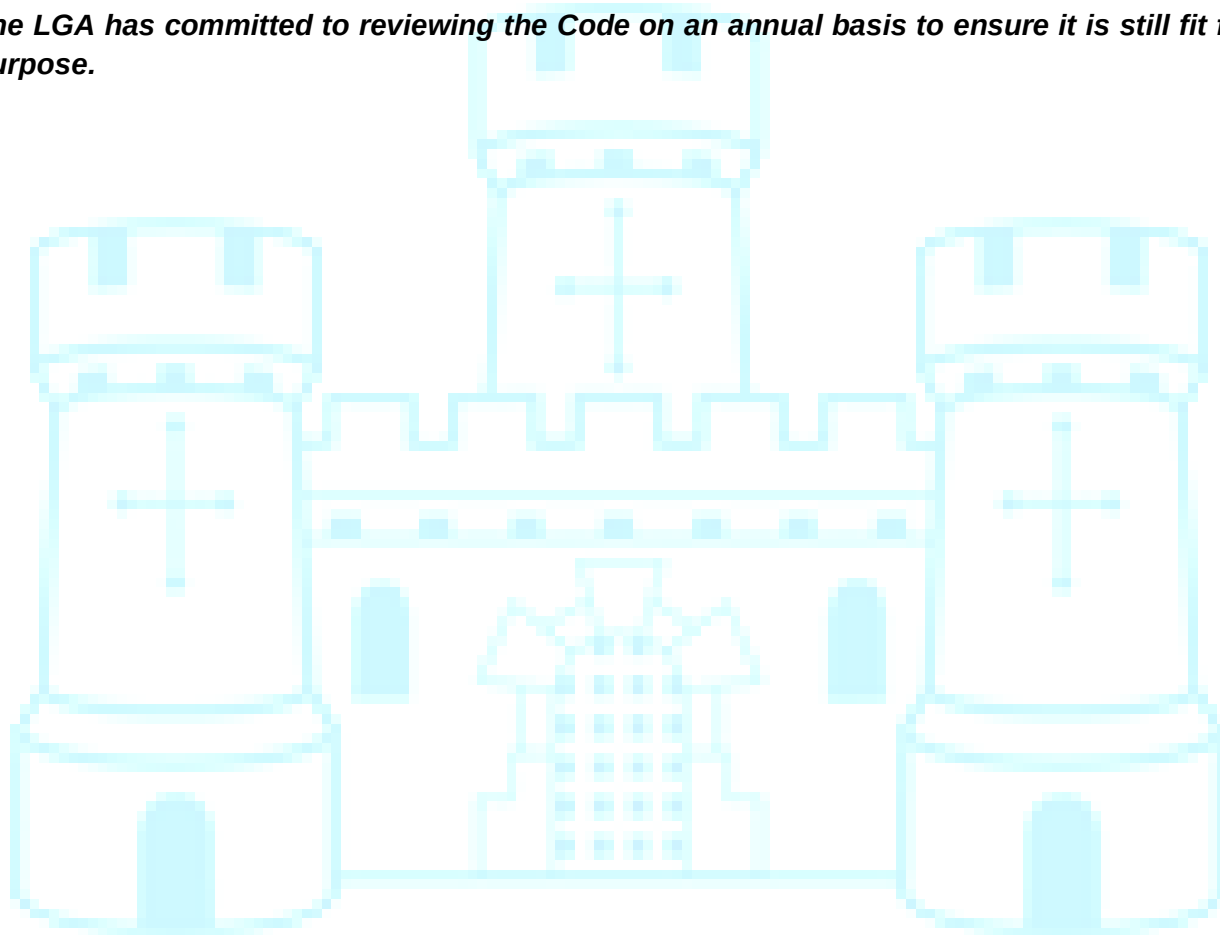
Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

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 Heading of 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:-

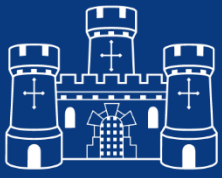
- 1. Aim of the Protocol**
- 2. Some Words of Caution**
- 3. Training**
- 4. Discussions with Those Proposing Developments**
- 5. Site Visits**
- 6. Procedures at Meetings of the Planning Committee**
- 7. Applications by Members**
- 8. Members as Agents for Others**
- 9. Decisions Contrary to Heading of 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 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

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

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



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.
- 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 Committee.⁴
- 5.3 If the Head 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 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

⁴ As resolved Planning Committee 1 April 2015.

⁵ Last revised 1 April 2015 Planning Committee.

⁶ As resolved Planning Committee 1 April 2015.



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.

6.4 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 As resolved Planning Committee June 2008, and amended February 2009.



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 Head of Planning of this within 14 days of the submission of such an application.
- 7.3 In the event of the Head of 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.

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 Head of 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 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.



- 8.2 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 Head of 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 Head of 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
- 9.2 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 Head of 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

⁹ As resolved Planning Committee May 2015

¹⁰ As resolved Planning Committee May 2015



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 Head of Planning or the Head of 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
- 9.7 Where the Committee propose to make a decision which is contrary to the recommendation of the Head of 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

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



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 Head of Planning in order that their opinions can be included in the Head of 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.)

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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 Executive 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 Legal Practice Administrator in the Chief Executive's Directorate) 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 Head of Communications.
- 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 Executive 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 Executive Director of Resources and Support Services.
- (4) For the purpose of this Standing Order "senior officer" means any officer of the Council authorised by their Executive Director 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 Executive 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 Executive 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 Executive 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 Executive 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 Executive 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 Executive 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 Executive Director for their Service or the Chief Executive and providing this would not compromise a purchasing decision.
- 12.18 Prior approval of your Executive 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 Executive 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 Head of Service.

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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**

**NEWCASTLE
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BOROUGH COUNCIL**



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 Executive 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 Executive, 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 (in the case of Newcastle-under-Lyme Borough Council, the Head of Internal Audit); the Section 151 Officer (the Executive Director (Resources and Support Services); 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:

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.

² This 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.



- (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;
- (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 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 Executive Directors and Heads of Service 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, Executive group 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 Executive 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 Director or another senior employee of the Executive Director concerned.

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 Executive 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, Executive Directors, senior employees and the leaders of political groups on matters affecting the Council, and between Executive 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 Executive Director or Head of Service. Where the officer concerned is an Executive Director, the matter should be raised with the Chief Executive, and, in the case of a Head of Service, with the appropriate



Executive Director. 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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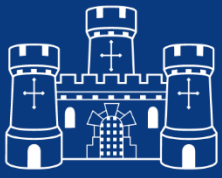
Part F

Section F – Contract Procedure Rules

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
- Compliance with Contract Procedure Rules
- Normal Procedure
- Exceptions to Contract Procedure Rules
- Contracts Under £5,000
- Contracts Valued £5,000 to £50,000 Inclusive
- Contracts Overs £50,000
- Contracts Over EU Thresholds
- Receipt and Custody
- Opening Tenders
- Late Tenders
- Alterations
- Acceptance
- Negotiations Following Receipt of Tenders
- Nominated/Named Sub-Contractors and Suppliers
- Engagement of Consultants
- Contract Conditions
- Extending Existing Contracts
- Cancellation or Determination
- Signature of Contracts
- Sealing
- Bonds and Parent Company Guarantees
- Retention and Disposal
- Framework Agreement
- Dynamic Purchasing Systems
- General Data Protection Regulations



- Modern Slavery
- Safeguarding
- Other Requirements
- Annex 1 - Exceptions to Contract Procedural Rules – Template
- Annex 2 – Establishment of a Framework Agreement
- Annex 3 – Establishment of a Dynamic Purchasing System

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 F5:- Contract Procedure Rules

In this Section:-

- 1. Introduction**
- 2. Compliance with Contract Procedure Rules**
- 3. Normal Procedure**
- 4. Exceptions to Contract Procedure Rules**
- 5. Contracts Under £5,000**
- 6. Contracts Valued £5,000 to £50,000 Inclusive**
- 7. Contracts Over £50,000**
- 8. Contracts Over EU Thresholds**
- 9. Receipt and Custody**
- 10. Opening Tenders**
- 11. Late Tenders**
- 12. Alterations**
- 13. Acceptance**
- 14. Negotiations Following Receipt of Tenders**
- 15. Nominated/Named Sub-Contractors and Suppliers**
- 16. Engagement of Consultants**



17. **Contract Conditions**
18. **Extending Existing Contracts**
19. **Cancellation or Determination**
20. **Signature of Contracts**
21. **Register of Contracts**
22. **Sealing**
23. **Bonds and Parent Company Guaranteed**
24. **Retention and Disposal**
25. **Framework Agreements**
26. **Dynamic Purchasing Systems**
27. **General Data Protection Regulations**
28. **Modern Slavery**
29. **Safeguarding**
30. **Other Requirements**

Annex 1 - Exceptions to Contract Procedural Rules – Template

Annex 2 – Establishment of a Framework Agreement

Annex 3 – Establishment of a Dynamic Purchasing System

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CONTRACT PROCEDURE RULES

Document Control

Organisation	Newcastle-under-Lyme Borough Council
Title	Contract Procedural Rules
Filename	
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01.07.2014	Simon Sowerby	0.1	Initial draft – to Head of Service – Mark Bailey
02.07.2014	Simon Sowerby	0.2	Amended draft – to Head of Service – Mark Bailey
04.08.2014	Simon Sowerby	0.3	Amended draft – to Head of Service – Mark Bailey
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12.08.2014	Simon Sowerby	0.5	Amended draft – to Head of Service – Mark Bailey
16.09.2014	Simon Sowerby	0.6	Amended draft – to Head of Service – Mark Bailey
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02.01.2015	Simon Sowerby	1.0	Mark Bailey - Approved
31.05.2019	Simon Sowerby	1.1	Review and update plus tracked changes to – Legal services
24.07.2019	Simon Sowerby	1.1	Changes approved by Council.
17.11.2021	Daniel Dickinson		Changes approved by Council

Document Approvals

This document requires the following approvals:

Sponsor Approval	Name	Date
Executive Management Team	M. Hamilton	22.05.2019
Monitoring Officer/Legal Services	C. Ellwood	20.06.2019
Constitution and Members Support Working Group	Cllr Mark Holland	20.06.2019
Council	Cllr Simon Tagg	24.07.2019

Document Distribution

This document will be distributed to:
Executive Management Team
Business Managers
Constitution and Member Support Working Group

BOROUGH COUNCIL



1. Introduction

1.1 Procurement is the process by which the Council manages the acquisition of all its goods, services and works. It includes the identification of need, consideration of options, the actual procurement process and the subsequent management and review of the contracts.

1.2 These Contract Procedure Rules provide a corporate framework for the procurement of all goods, services and works for the Council. The Rules are designed to ensure that all procurement activity is conducted with openness, probity and accountability. Above all, the Rules are designed to ensure that the Council obtains value for money and the required level of quality and performance in all contracts that are let.

1.3 In these Rules, the following definitions apply:

Contract	Means any form of contract, agreement or other arrangement for the supply of goods, services or work.
Council	Means the Borough Council of Newcastle-under-Lyme.
Code of Practice	Means the Council's Code of Practice for Procurement – this includes accompanying guidance.
Services	Includes all services which the Council purchases or obtains including advice, specialist consultancy work, agency staff etc.
Works	Includes all construction and repairs in respect of physical assets (buildings, etc).
Strategic Procurement Team	Means officers responsible for strategic procurement support. Business Improvement Manager and/or Business Improvement Officer Performance and Procurement,
Lead Officer	The officer within the Council/Service Area taking the lead on the procurement exercise.
Chief Officer(s)	Means (one of) the following: Chief Executive Executive Director (Operational Services) Executive Director (Regeneration and Development) Executive Director (Resources and Support Services) who together as a group form the Council's Executive Management Team (EMT) and have responsibility for the day to day management of the Council and its officers.



Section 151 Officer	Is a statutory position under Section 151 of the Local Government Act 1972. The Executive Director (Resources and Support Services) currently holds this position.
Maverick Spend	Refers to purchasing made outside of agreed contracts and the Council's contract procedural rules.
Monitoring Officer	Is a statutory position under Section 5 of the Local Government and Housing Act 1989, as amended by Schedule 5, paragraph 24 of the Local Government Act 2000.
Service	The relevant Service area within the Council.
Heads of Services	Means a senior manager with responsibility for the Service.
Business Manager	Means a manager with responsibility for a business area within the Service.
Authorised Officer	Means any officer who by the nature of his or her job, or as directed by a Head of Service or Business Manager, is authorised to place orders
Financial Regulations	Means the financial regulations issued by the Section 151 Officer and approved by the Council.
International Financial Reporting Standards (IFRS)	Means a common global language for business affairs so that company accounts are understandable and comparable across international boundaries.
Rules	Means these Contract Procedure Rules.
Cabinet	Means the part of the Council which is responsible for most day-to-day decisions.
Constitution	This document sets out how the Council operates, how decisions are made and the procedures which are followed.
Cabinet Portfolio Holder	Means a member of the Cabinet with a specific area of responsibility (known as a portfolio) to ensure greater accountability for the decisions taken by Cabinet
TUPE	TUPE is an acronym for 'Transfer of Employment (Protection of Employment)' Regulations 2006 (amended in 2014). These Regulations preserve employees' terms and conditions when a business or undertaking (or part of one) is transferred to a new employer
Supplier Contract Management System/Website	The portal used by the council to publish contract notices, upload procurement documents, receive and respond to clarifications, receive bids and publish award notices,

- 1.4
- These rules apply to all contracts whereby the Council pays for all goods, services or works.
 - The Public Procurement Regulations or their equivalents do not apply to income based contracts (arrangements whereby the Council gets an income from a third party). However,



it is good practice to always follow the principles of these Contract Procedure Rules when awarding such arrangements. Advice must always be sought from the Section 151 Officer when dealing with income based arrangements.

- 1.5 All values referred to in these Rules are exclusive of VAT.
- 1.6 Any dispute regarding interpretation of these Rules shall be referred to the Section 151 Officer for resolution.
- 1.7 The Section 151 Officer (or their nominee/s) shall undertake a formal review of the Rules on an annual basis.
- 1.8 These Rules do not apply to:
 - (a) Contracts of employment;
 - (b) Contracts relating to interest in land;
 - (c) The engagement of Counsel or other legal advisers; or
 - (d) Contracts relating to Treasury Management entered into by the Section 151 Officer in pursuance of the powers delegated to him under the Council's Constitution.
- 1.9 Whereas the titles of Chief Officers are shown in these Rules, their nominees may undertake the responsibilities listed during their principal's absence provided they have written authority from the relevant Chief Officer to do so. This shall not be the case where statute law, or resolution of the Council, or a decision of the Council's Cabinet, requires otherwise.

2. Compliance with Contract Procedure Rules

- 2.1 The provisions contained in these Rules are subject to the statutory requirements of both the European Union and the United Kingdom Government. The letting and content of contracts shall conform to all statutory requirements and be subject to any over-riding directives of the European Union relating to contracts and procurement. This Rule cannot be waived since a failure to comply with European legislation may result in a legal challenge with consequent reputational and financial risk.

In addition, where specific statutory procedures are prescribed for certain types of procurement or contract, then these procedures must be followed at all times. In any case where the Council approves, through a resolution of its Cabinet, to have separate Procedure Rules for particular types of contract, then such Rules (which must be prepared in consultation



with the Chief Executive, the Section 151 Officer and the Monitoring Officer will take precedence over these Rules.

- 2.2 Subject to Rules 2.1 and 2.3, every contract for the supply of goods and services and for the execution of works made by or on behalf of the Council shall comply with these Rules, the Council's Financial Regulations and the Council's Procurement Strategy. All Council employees and organisations or companies engaged to act in any capacity to procure, manage or supervise a contract on behalf of the Council must be provided with a copy of (or access to) these Rules and comply with them.

Any exception to this Rule may only be made with the written authority of a Chief Officer or the Monitoring Officer.

- 2.3 A written record of any exception from the provisions of these Rules shall be made by a Chief Officer or his or her nominee and the Monitoring Officer. An 'exceptions form' must be completed for every instance where a Chief Officer approves an exception from these Rules. The form must adequately document the reasons for the exception and an electronic copy must be retained by the Service concerned. A copy of each completed form shall be forwarded to the Chief Officer concerned, the Monitoring Officer, Internal Audit and the Strategic Procurement Team where a record of all exceptions is maintained. The Chief Officer concerned is responsible for keeping the appropriate Cabinet Portfolio Holder informed.

- 2.4 All procurement activity must be undertaken with regard to high standards of probity and in accordance with the relevant sections of the Council's Constitution. All officers should manage procurement activity in a manner which avoids any conflicts of interest, and if any conflicts of interest do arise, these should be referred immediately to the Monitoring Officer, and recorded in the Register of Disclosures and Pecuniary Interests by Officers, which is kept in the office of the Legal Practice Administrator.

- 2.5 All procurement and spend activity shall comply with these Contract Procedural Rules, none compliance/Maverick spend, will be reported to the council's internal governance/monitoring committee (Statutory Officers Group) for action.

- 2.6 The procurement of goods, services and works must comply with UK and European Union public procurement legislation where applicable. Where such legislation is applicable and any conflict with these Rules arises, EU Directives and/or UK legislation take precedence over these Rules. Current regulations require tenders to be advertised in the EU Journal where the value exceed those set (and reviewed) by the European Union on a two yearly basis.



In estimating relevant values, officers shall have regard to the rules addressing aggregation. The estimated value payable over the life of the contract or, in instances where the total contract value is difficult to estimate, the approximate monthly value of the contract, multiplied by 48. Requirements must be calculated based on all Council spend (i.e. the corporate requirement rather than individual service needs) and must not be divided into two or more smaller purchases as this is in breach of the aggregation rules.

Further detail in relation to aggregation can be found in the Public Contract Regulations 2006.

- 2.7 Chief Officers are responsible for ensuring processes are in place to comply with these regulations within their own Service.

2.8 **Partnerships**

These Rules apply to any proposal for the Council to become involved in a joint venture or partnership, including the monitoring of any such arrangement.

- (a) In relation to the Rules, a joint venture or partnership includes any arrangement involving one or more organisations in addition to the Council through which either a specific project or services within any of the functions of the Council are to be provided, and
- (b) Provides a role for the Council or any of its Members or officers in whatever structure is used to deliver the project or services involved (such structures may include, but are not limited to, companies, trusts and management committees).

- 2.9 Before any consideration is given to the Council entering into a joint venture with the private sector or a strategic service delivery partnership with any external organisation and in particular before any detailed negotiations are entered into or before any contract is made or undertaking given by or on behalf of the Council in relation to a joint venture or partnership, the Chief Officer concerned must submit detailed information concerning the proposed joint venture or partnership to the Chief Executive. The Chief Executive will give consideration to the proposed joint venture in accordance with these Rules. On receipt of the detailed information above, the Chief Executive will liaise with the relevant Chief Officer(s) or his/her representative(s) to ensure that an appropriate project board is convened.

- 2.10 Procurement processes for strategic partnerships and PFI projects must include, where relevant:



- (a) The issue of an information memorandum to prospective bidders setting out the background to the project, the Council's objectives and an outline of the procurement process and timetable, with roles and responsibilities made clear (the drafting of which can be supported by the Strategic Procurement Team);
- (b) An invitation to bidders to demonstrate their track record in achieving value for money through effective use of their supply chain, including the use of small firms. This should continue to be examined as part of contract management.
- (c) A requirement on bidders which must be included in their invitations to tender (or negotiate for partnerships) to submit optional, priced proposals for the delivery of specified social benefits/value which are relevant to the contract and add value to the community strategy.

3. Normal Procedure

3.1 These Rules relate to three categories of procurement based on the estimated value of the contract:

- (a) Up to £5,000;
- (b) £5,001 to £30,000 (inclusive);
- (c) £30,001 to £50,000 (inclusive);
- (d) In excess of £50,000;

3.2 In all instances, goods, services or works must be obtained via appropriate existing approved arrangements where these exist. These include:

- (a) In-house services (for example facilities management);
- (b) Established corporate contracts and approved arrangements
- (c) For works (construction) related compliant frameworks where these are available for the Council to use;

The following arrangements shall be used where it is considered that they provide value for money for the Council:

- (d) Use of contracts which have been established by consortia of which are available to the Council (for example Yorkshire Purchasing Organisation (YPO); Eastern Shires Purchasing Organisation (ESPO) – both being part of the Pro5 consortia);
- (e) Direct purchasing from YPO, ESPO (i.e. products available from published catalogue);



- (f) Approved nationally negotiated contracts (for example those arranged by Crown Commercial Services (CCS));
- (g) Approved e-Procurement solutions;
- (h) For low value purchases, purchasing cards can be used provided they are not used with the intention of undermining the use of approved or corporate contracts or as a method of circumventing aggregation rules;

Information relating to the above arrangements will be published regularly on the Council's intranet.

Where the Council has an in-house service, external companies should not be used for these services unless the Head of Service (responsible for the in-house service) confirms specifically that they are unable to meet requirements on that occasion.

Use of Council contracts shall be mandatory for the supply of the goods/services included in the contract specification.

- 3.3 Orders and payments for goods, services and works shall be undertaken in accordance with Financial Regulations. Orders must be placed, using approved Council systems, in advance of the receipt of the goods/services and orders must be coded to appropriate account codes.
- 3.4 Where the supply is of a significantly higher than normal value for the existing arrangement in Rule 3.2 – for example for bulk purchases – the Authorised Officer should consult with the Strategic Procurement Team to determine whether special rates should be sought or whether an alternative procurement procedure may be required.
- 3.5 Prior to inviting tenders or quotations, the Authorised Officer must:
 - (a) Ensure that there is not another arrangement which must be used instead, as per paragraph 3.2 above, and;
 - (b) For contracts where there is evident risk, and for all contracts over £50,000, produce and maintain a documented risk log for the procurement process and for the eventual contractual relationship. As a minimum this should analyse all risks, identify how the risks will be managed, the responsible officer(s) and the review periods as per the Council's procurement risk log template;
 - (c) Consider at the outset, through the use of the procurement risk log, any equality and diversity, social, environmental, economic, ethical, health and wellbeing and workforce implications in respect of the provision of supplies, services or works;



- (d) In support of the Public Services (Social Value) Act 2012, it should be considered at the outset, in the development of the procurement risk log, how the contract can improve the social, economic and environmental wellbeing of the Borough of Newcastle-under-Lyme, its citizens and businesses and this should be built into the contract where appropriate. The Service must be able to demonstrate that social value has been considered and, where applicable to the subject matter of the contract sought and achieved. The Service must also record that it considered whether it was appropriate to consult with stakeholders in respect of social value and the reasons for its decision;
- (e) Be satisfied that a specification (where appropriate), that will form the basis of the contract, has been prepared (the specification should be retained on the appropriate contract file held within the Service);
- (f) Be satisfied that all key stakeholders have been identified and consulted, and their views represented in the procurement risk log, specification and contract documents;
- (g) Have prepared and documented an estimate of the whole life cost of the contract including (where appropriate) any maintenance and ongoing costs (the estimate should be retained on the appropriate contract file held within the Service);
- (h) Ensure that all evaluation criteria (including sub-criteria) have been determined in advance, put into order of relative importance with weightings for each criteria and sub-criteria and published in the tender documentation;
- (i) Ensure that an appropriate procurement process is undertaken based on the whole life cost of the contract;
- (j) For all contracts, regardless of value, no person with a personal or financial interest in any of the bidders submitting proposals should be involved in evaluating quotations or tenders or involved in any way in influencing the decision as to which company is to be awarded the contract. A declaration of interest form must be completed by each officer involved in evaluating bids and held on file by the Lead Officer, where the Lead Officer is or forms part of the evaluation team the Monitoring Officer will be requested to hold declarations of interest on file;
- (k) Be satisfied that he or she has taken advice from the Strategic Procurement Team, Legal Services and Financial Services;
- (l) Be satisfied that he or she has the necessary authority to enter into the contract.

3.6 Before entering into a contract the Authorised Officer must:

- (a) Have undertaken a due diligence process to ensure the proposed contract is robust;
- (b) Be satisfied about the technical capability of such proposed;
- (c) Ensure that these Rules and Financial Regulations have been complied with, and that the proposed contract represents value for money;



- (d) For all contracts that exceed £30,001 and/or where deemed appropriate, the Authorised Officer shall undertake appropriate checks to ensure that the proposed contractor has the financial and resource capacity (taking account of contract value and risk) to perform the contract (unless the contractor has already been subjected to a recent satisfactory financial check). Financial vetting shall be undertaken by Internal Audit, who will advise on what, if any, security should be provided by the contractor. Under no circumstances must a company be eliminated from a procurement process on the basis of a credit reference check only;
- (e) The Chief Officer responsible for the contract must ensure that a suitably experienced and trained officer is identified to adequately manage the contract the Council enters into.

3.7 In all instances, procurement shall be undertaken in accordance with the principles of Best Value, and in a manner that is non-discriminatory, transparent and fair.

3.8 In instances where the Council's policy of payment settlement in 30 days will cause problems to a company or voluntary sector organisation, or early settlement will attract a discounted rate from the company, alternative settlement dates can be considered. Any company can request quicker payment terms by contacting the Council's relevant Authorised Officer.

Payment in advance may be required by small businesses, social enterprise or voluntary sector organisations but it must be used with care to:

- (a) Ensure that the agreement with the organisation protects the Council as far as possible;
- (b) Be satisfied that the risk is low and managed;
- (c) Be satisfied that the small company, social enterprise or voluntary sector organisation has to incur costs in advance and that this will place it in a financially difficult position;
- (d) Ensure that payments are charged to the appropriate financial year (*this is particularly important with an advance payment*);

3.9 The Council publishes on its website all items of expenditure on goods, services and works which exceed £500 in value. Prior to placing any order, officers must consider whether the expenditure can be justified. Orders must not be artificially split with the intention of bringing the value of each order below £500, or order less than is actually required.

3.10 Contracts for goods, services and works shall be structured, where appropriate and within the legislative framework, to support and promote the policies and corporate priorities of the Council. In particular, where appropriate and subject to procurement law, officers should



encourage and/or invite local suppliers to bid for Council contracts. Also, ensure that tenders are not framed in such way as to unnecessarily debar small and medium sized companies, the voluntary sector and social enterprises from bidding.

- 3.11 Where available, tenders should be advertised on the regional procurement portal

NOTE: case law has established that, even when contract values fall below EU Procurement Directive thresholds (above which the full requirements of the Directives apply), contracting authorities must ensure a degree of contract advertising sufficient to ensure competition, to avoid discrimination on the grounds of nationality and allow the impartiality of procurement procedures to be reviewed. Advertising opportunities on the regional procurement portal supports compliance with this requirement.

- 3.12 All tenders must be advertised and, where appropriate, be available for download (where available) on a regional procurement portal. Contract award notices shall also be published on the website in a timely manner following contract award. For procurements less than £5,000, the use of Micro; Small to Medium Enterprises and/or a voluntary sector and/or social enterprise directory should be used, where appropriate, to source potential voluntary sector suppliers to invite to quote. In cases where a quotation process is deemed appropriate for a contract over £10,000, these should be placed on a regional procurement portal (if available). If this is not available, the council's supplier contract management' website should be used for advertising / publishing contract opportunities.

- 3.13 Where there are no arrangements in place as per 3.2 above, orders with a value of less than £5,000 should be placed with suppliers from the local area where possible, utilising an informal quotation process.

- 3.14 All tenders advertised in the European Journal must be placed via an electronic system. Officers must ensure that entries into the Official Journal of the European Union (OJEU) fully comply with requirements/guidance on producing notices for the European Journal. This is available from the Strategic Procurement Team.

- 3.15 All EU notices for non-routine procurement MUST be referred, in advance of sending to the OJEU, to the Strategic Procurement Team for advice on wording.

- 3.16 All quotes and tenders must be undertaken using the Council's standard template documentation, unless prior approval has been obtained from the Section 151 Officer or the procurement is construction related, where JCT/JCI templates are able to be used.



- 3.17 Any project to develop a strategic service delivery partnership (which may or may not involve a transfer of staff to an external organisation) shall be undertaken in accordance with appropriate legislation.

The Chief Executive must be notified prior to commencing any such initiative.

- 3.18 Any project to develop a strategic service delivery partnership (which may or may not involve a transfer of staff to an external organisation) must be referred to the Council's Cabinet for:

- (a) Initial approval to commence the project, and;
- (b) Approval to award the contract which must be supported by a robust business case.

- 3.19 Any project which involves significant risk including: staff transfer, significant implications across a number of service areas or significant potential for reputational or financial risk, must be managed in an appropriate manner using Council approved project management methodology and progress reports must be provided to the Executive Management Team at key milestones, these to be agreed with the relevant Chief Officer.

- 3.20 Evaluation of tenders and quotations must be based on whole life costs, or total cost of ownership, including environmental, social and economic benefits where relevant to the contract.

- 3.21 The Council will achieve employment and skills outcomes through procurement where relevant to the purpose of a contract. Where relevant to the subject matter of the contract, the bidders' approach to tackling unemployment and creating training and apprenticeship opportunities should be built into the procurement process.

- 3.22 Where the Council will own an asset as a result of a contract, the asset has to be recorded in accordance with International Financial Reporting Standards (IFRS).

- 3.23 Where these situations arise, the Section 151 Officer must be contacted in the early stages of the procurement process in order to identify any IFRS implications and record them appropriately.

4. Exceptions to Contract Procedure Rules

- 4.1 Subject to statutory requirements, tenders need not be invited in accordance with these Rules in the following cases:

- (a) In the case of the supply of goods:



- (i) the goods or materials are proprietary articles and in the opinion of the appropriate Chief Officer no reasonably satisfactory alternative is available, or;
 - (ii) the prices of goods or materials are wholly controlled by statutory bodies, trade organisations or Government Order and in the opinion of the appropriate Chief Officer no reasonable satisfactory alternative is available;
 - (b) The work to be executed or the goods or services to be supplied are controlled by a statutory body;
 - (c) The contract is for the execution of work or the supply of goods or services certified by the appropriate Chief Officer to be required so urgently as to preclude the invitation of tenders. The appropriate Cabinet Portfolio Holder shall be kept informed of such decisions;
 - (d) The purchase of a named or proprietary product required to be compatible with an existing installation as approved by the Authorised Officer;
 - (e) Where the contract, subject to the approval of the Section 151 Officer relates to security work where the publication of documents or details in the tendering process could prejudice the security of the works to be done;
 - (f) In any case of work to be executed or goods or services to be supplied the Authorised Officer, in consultation with the Section 151 Officer, decides that there can be no genuine competition;
- 4.2 An 'exceptions form' (see Annex 1) must be completed for every instance where a Chief Officer approves an exception from these Rules for contracts with a total value of £5,000 or more, in accordance with 2.3 above.
- 4.3 Nothing contained in the above exceptions exempts officers either from using the Council's internal services or from following established arrangements in accordance with Rule 3.2. Officers must ensure that the best possible balance of value for money and quality is obtained for the Council.
- 4.4 Tenders need not be invited in accordance with these Rules where they have been undertaken by or on behalf of any consortium, collaboration or similar body, of which the Council is either a member or is able to access contracts for goods, services or works. Officers should ensure that any contracts let by such a consortium, collaboration or similar body are in accordance with UK and EU procurement directives and regulations and that the Council is legally able to access the arrangements. Advice should be sought from the Strategic Procurement Team.
- 4.5 Where the Council acts as lead body on a consortium or collaborative arrangement, the procedures for tendering contained within these Rules shall be followed (including the delivery, opening and acceptance of tenders) unless those provisions are inconsistent with



the method by which tenders are dealt with by the consortium, collaboration or other body concerned and are not detrimental to the Council.

- 4.6 Where another body is acting on behalf of the Council, the Council is providing funding to another body to undertake a scheme or project or the Council is provided funding from another organisation, satisfactory processes must be put in place and followed. Advice must be sought from the Section 151 Officer.
- 4.7 The budget required (both capital and revenue) over the lifetime of the goods/service/works being procured must be confirmed by the relevant budget holder prior to the commencement of any tender or quotation process

5. Contracts Under £5,000

- 5.1 These rules, in general, do not apply to contracts of less than £5,000. However, Rules 3.2, 3.7, 3.8 and 3.9 and the following principles apply to all procurement activity, irrespective of value.
- 5.2 Where Goods or Services are regularly required and arrangements illustrated in Rule 3.2 do not exist, these should be reported to the Section 151 Officer who will assess the need for appropriate arrangements to be put in place.
- 5.3 Officers should order Goods and Services that are required through an arrangement illustrated in Rule 3.2. Unless otherwise approved by the relevant Chief Officer (for the in-house service), external businesses will not be used where the Council has its own in-house services.

If a corporate contract cannot meet the reasonable needs of the Service, the Authorised Officer must inform the Section 151 Officer before using an alternative supplier.

- 5.4 Contract/procurement expenditure is monitored through the financial systems and a Service will be challenged on the use of non-contracted or inappropriate arrangements.
- 5.5 It is good practice (for all but small value and routine purchases) to obtain a written quotation. All quotations to the value of £5,000 can be provided by way of an informal quotation i.e. the Authorised Officer obtaining electronic quotations and maintaining (electronic) file copies linked to the relevant procurement. Whilst the council's supplier contract management website is available for use as part of routine purchases there is no formal requirement to utilise this process for quotations to the value of £5,000.



5.6 The Authorised Officer (ICT) must be informed of any system or hardware related procurements, regardless of value.

6. Contracts Valued £5,000 to £50,000 Inclusive

6.1 Contracts that are estimated to be for amounts between £5,000 and £50,000 (inclusive) shall be let on a competitive basis, normally via a request for quotes, unless an arrangement under Rule 3.2 has already been established for the Goods, Services or Works required.

6.2 A clear specification of requirements (identifying outputs or outcomes rather than inputs, unless there is a demonstrable need to specify inputs) should be produced and the Authorised Officer shall place the quotation on to (where available) a regional procurement portal. Where this is not available, the council's supplier contract management website should be used for advertising to support transparency and promotion of a competitive bidding process (in accordance with Rule 3.12).

6.3 A minimum of two (for contract values of £5,000 to £30,000) and three (for contract values of £30,001 to £50,000) companies shall be invited to submit a quotation through (where available) a regional procurement portal. Where this is not available the council's supplier contract management website should be used for advertising to support transparency and promotion of a competitive bidding process.

6.4 In every instance there shall be a record of the process which will include:

- (a) the officer(s) undertaking the procurement process and taking the decisions;
- (b) a copy of the specification and risk register (for contracts less than £50,000, a risk register is only required where there is evident risk);
- (c) copies of all tenders or quotations;
- (d) copy of the evaluation process and reasons for the decisions as to acceptance or rejection for every tender;
- (e) the award letter;
- (f) copy of the final contract;
- (g) copy of the contract review and management process including the officer responsible for on-going contract management;
- (h) a quotation profile which should be completed with details of the bid values and subsequent award information.

6.5 All procurements for £5,000 and over **will be recorded on the Council's Contracts Register.**



7. Contracts Over £50,000 – Invitation to Tender

- 7.1 For contracts whose estimated value is expected to be greater than £50,000 (but under current EU Procurement Thresholds) for Work, Materials, Goods or Services, the contract **will be recorded on the Council's Contracts Register** and the following tender procedures shall be adopted.
- 7.2 The tendering procedure should follow the relevant EU prescribed time limits. Where there is no prescribed procedure, a closing date of between fourteen (14) and twenty-eight (28) days from the placing of the notice shall be given for reply.
- 7.3 The invitation to tender shall state that no tender will be considered unless it is received by the date and time stipulated on the Invitation to Tender.
- 7.4 Contractors must be chosen by one of the following methods:
- (a) selective tendering via open or
 - (b) by way of a compliant framework agreement that the Council is authorised to use or a framework established itself (strategic procurement can support in reviewing compliance and/or the introduction of a council run framework);
 - (c) requesting tenders on behalf of a consortium, association or similar organisation of which the Council is a member following the rules of that organisation; or
 - (d) requesting tenders under the instructions of another authority for which the Council is acting as agent; or
 - (e) selecting a contractor from a list of contractors with a schedule of rates approved and selected by another authority for which the Council is acting as an agent.
- 7.5 The invitation to tender must include details of the Council's requirements for the particular contract including:
- (a) a form of tender, instructions to tenderers including a procurement timetable, evaluation criteria, financial reference requests, insurance, business continuity questionnaire, health and safety checklists, return details and draft contract terms approved by the Council's Legal Team (all tenders should have the facility to be submitted electronically);
 - (b) A specification that describes clearly the Council's requirements in sufficient detail to enable the submission of competitive offers. The EU rules with regard to specification shall be followed and these are set out in the EU Codes of Practice;
 - (c) Pricing mechanism and instructions for completion and;
 - (d) Whether the Council is of the view that TUPE will apply;



- (e) A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose);
- (f) A requirement for tenderers to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion. Where tender documentation is sent electronically, if selected, the tenderer may be required to submit the relevant signed documentation through conventional means;
- (g) Notification that tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense;
- (h) The invitation to tender or quotation must state that the Council is not bound to accept any quotation or tender;
- (i) The method by which any arithmetical errors discovered in the submitted tenders is to be dealt with, in particular whether the overall price prevails over the rates in the tender or vice versa;

7.6 Except under the open procedure, all tenderers invited to tender or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

7.7 Where any public advertisement has not defined the award criteria, invitations to tender must state the award criteria in objective terms and where possible in descending order of importance.

7.8 **Single Tenders**

In exceptional circumstances, the relevant Chief Officer may decide that it is in the best interests of the Council:

- (a) that a single tender be invited for the execution of work from a contractor selected by it; or
- (b) that a contract be negotiated with a contractor currently engaged by the Council on the basis of rates and prices contained in an initial contract awarded by the Council following open competition.

In any such case he/she may do so subject to setting out in writing the reasons for the decision which shall be kept centrally in the Service concerned. The appropriate Cabinet Portfolio Holder shall be kept informed, and a copy of the decision sent to the Cabinet.



This provision cannot be used for contracts exceeding (in aggregate) the current EU thresholds.

8. Contracts Over EU Thresholds

- 8.1 Where the value of the contract is likely to exceed the European threshold (taking account of the rules of aggregation), it must be tendered in accordance with the relevant European procurement directive and procurement regulations. The Authorised Officer should record, retaining a file note on the reasons for adopting the selected procurement route (i.e. open tender, restricted tender, competitive dialogue or negotiated procedure, accelerated procedure). The exception to this Rule is in cases where Goods, Services or Works can be obtained through a framework contract which has been established via the relevant EU procurement process (for example, Crown Commercial Service frameworks).

In estimating relevant values, officers shall have regard to the rules regarding aggregation (see Rule 2.5 above). Further detail in relation to aggregation can be found in the Public Contract Regulations 2006.

- 8.2 Any decision to adopt the negotiated, competitive dialogue or accelerated procedure should first be referred to the Strategic Procurement Team and Section 151 Officer.
- 8.3 The arrangements identified in Rule 3.2 shall be used provided the arrangement is clearly identified as relevant for high value contracts.
- 8.4 When a restricted process is undertaken, a minimum of 5 companies will be shortlisted to submit tenders (where 5 suitable suppliers express an interest).
- 8.5 Standard template documentation must be used to structure tender processes and the documentation must be placed where available on the e-tender portal to allow any company to express an interest in bidding (in the case of the restricted or competitive dialogue procedures) or to complete an Invitation to Tender (in the case of an open procedure).
- 8.6 In every instance there shall be a record of the process which will include the following, plus any information that may be required for submitting annual reports to the Government or other agencies:
- (a) the officer(s) undertaking the procurement process and taking the decisions;
 - (b) the rationale for the procurement route taken (including open or restricted procedure if above EU thresholds);
 - (c) a copy of the specification and risk register;



- (d) copies of all tenders and all associated correspondence/clarification obtained during the tender period;
- (e) a copy of the evaluation process and reasons for the decisions as to acceptance or rejection for every tender;
- (f) the award and unsuccessful letters;
- (g) a copy of the final contract;
- (h) a copy of the contract review and management process including the officer responsible for on-going contract management.

Tender award and unsuccessful letters must be in the approved template format and following the issue of these letters, any requests for further information or clarification must be dealt with promptly and a full audit trail must be kept of all such dialogue.

All dialogue with bidders during the tender process must be dealt with using the e-tender regional portal to ensure that all bidders are provided with the same information at the same time in the process. Officers must not conduct separate dialogue using any other means with any company during the process without obtaining advice from the Strategic Procurement Team.

- 8.7 In accordance with EC Procurement Directive 2004/18/EC, and subsequent amendments in the Public Procurement (Miscellaneous Amendments) Regulations 2011, any company responding to an EU tender shall be excluded from the tender process if it or its directors have been convicted of: conspiracy, corruption, bribery, fraud, money laundering, an offence in connection with the proceeds of criminal conduct or an offence in connection with the proceeds of drug trafficking. Any instances where a service has information relating to the above must contact the Audit Manager and Monitoring Officer for advice.

- 8.8 Upon completion of the procurement process a formal contract award notice will be published in the Official Journal of the European Union (OJEU).

8.9 **Single Tenders**

In exceptional circumstances, the relevant Chief Officer may decide that it is in the best interests of the Council:

- (a) that a single tender be invited for the execution of work from a contractor selected by it; or
- (b) that a contract be negotiated with a contractor currently engaged by the Council on the basis of rates and prices contained in an initial contract awarded by the Council following open competition.



In any such case he/she may do so subject to setting out in writing the reasons for the decision which shall be kept centrally in the Service concerned. The appropriate Cabinet Portfolio Holder shall be kept informed, and a copy of the decision sent to the Cabinet.

This provision cannot be used for contracts exceeding (in aggregate) the current EU thresholds.

9. Receipt and Custody

- 9.1 No tender will be considered unless it is received via the council's supplier contract management website specifically set up for the purpose of receipt of the said tender. Receipt of bids through the system is preferred and bidders will be encouraged to submit electronically.

Self Service facilities are available at the Customer Service Centres and support will be provided, if required.

- 9.2 All tenders sought on behalf of external agencies where these are to be named as client under a subsequent contract may be addressed and opened in accordance with the procedure rules, regulations and written requirements of such external agency.
- 9.3 Responses to Standard Selection Questionnaires (SSQs) and quotations are not deemed to be tenders and should be returned to the originating officer, electronically through the council's supplier contract management website. Submissions and responses in respect of negotiated procedure tenders and PFI projects must also be returned via the council's supplier contract management website.

10. Opening Tenders

- 10.1 Tenders received via the council's supplier contract management website shall be opened and recorded at one time and by one officer. Should the council require for any purposes tenders received in hard copy format shall be opened and recorded by not less than two officers designated for that purpose by the Monitoring Officer (or their nominated officer).
- 10.2 Should the council require for any purposes tenders to be submitted in hard copy format these must be opened by the same officer/s and at the same time as documents received via the council's supplier contract management website.



10.3 In respect of tenders with a value in excess of £50,000, any Member of the Council who so wishes may be present at the opening. Internal Audit also has the right to attend any tender opening.

10.4 Where external agencies contribute to the overall funding of a project, representatives of such agencies are permitted to attend the opening of tenders. They are allowed to make a note of the tenders and to also receive a copy of the subsequent written report on tenders received, provided that such representatives agree to observe commercial confidentiality and be bound by the confidentiality requirements of the Local Government Act 1972, as amended.

11. Late Tenders

11.1 Where a tender is submitted in competition and is received after the specified time then it shall be disqualified. Any such tender should be returned promptly to the tenderer who should be notified accordingly. The tender envelope may be opened to ascertain the name and address of the tenderer concerned.

11.2 The only exception to Rule 11.1 where a late tender may be considered is if none of the other tenders received have been opened and no tenders have been received via the council's supplier contract management website. The officer responsible for the opening of tenders must keep a record of the date and time of receipt of late tenders and the circumstances resulting in their acceptance, late tenders having to be received in hard copy format as the council's supplier contract management website does not permit tender submissions after the date and time established in the portal.

12. Alterations

12.1 An external tender can be amended after it has been received and before it has been accepted only in order to correct an arithmetical error or other discrepancy made in good faith, subject to the following:

- (a) The tenderer shall be given details of the error or discrepancy found during the examination of the tender and shall be given the opportunity of confirming the tender without amendment or withdrawing the tender;

OR

- (b) Amending the tender to correct genuine arithmetical errors provided that in this case, apart from these arithmetical errors, no other adjustment, revision or qualification is



made. In this case written confirmation should be requested from the tenderer as to the error or discrepancy and confirming what the corrected entry should be.

- 12.2 The appropriate Chief Officer must keep a record of all amendments made under this Rule and a copy of the record shall be sent to the Monitoring Officer.

13. Acceptance

- 13.1 Officers shall record the outcome of the evaluation of each tender and the rationale for the award of tender to the successful tenderer. The records shall be kept for the applicable retention period.

- 13.2 Contracts shall be evaluated and awarded in accordance with the evaluation criteria issued with the tender documentation. Only those tenders that comply with the evaluation criteria shall be considered for acceptance.

- 13.3 Tenders must be accepted on the basis of the “most economically advantageous” tender. The winning bidder will be determined by using the criteria and process communicated to bidders in the tender documentation:

- (a) For clarity, (where applicable) whole-life costs should be assessed when determining the most economically advantageous tender. In the case of capital works this includes taking into account the revenue impact of capital projects over a reasonable life for the asset (for example a slight increase in capital cost, such as energy management features, will reduce running costs).
- (b) In the case of PFI projects, financial evaluation and acceptance will be on the basis of the agreed financial model and all other relevant documents used during the process to determine the most economically advantageous tender.
- (c) In the case of tenders or quotes below the EU threshold and where two or more tenders or quotations provide the same level of quality at the same quoted cost, environmental considerations (transport, packaging, etc.) may be used to determine the successful bid if they are relevant to the contract. Prior to the award of the contract, a due diligence process must be carried out for all high risk/high value contracts to ensure the preferred bid is bona fide and that it is fully understood what the Council will receive and what payment is to be made.

- 13.4 A tenderer who submits a qualified or conditional tender shall be given the opportunity to withdraw the qualification or condition without amendment to the tender. If the tenderer fails to do so, the tender must be rejected unless it is dealt with as an alteration in accordance with Rule 12.1.



- 13.5 Prior to final contract award, the contractor must provide evidence of adequate insurance cover for public and employers' liability and professional indemnity insurance (where applicable) and produce such evidence during the life of the contract at the reasonable request of the Authorised Officer.
- 13.6 All tenderers must be notified in writing of their success/failure in the tender/quotation process. Notifications must be made using template letters which must be issued electronically via email for quotations of greater than £5,000.
- 13.7 It is important to notify companies as soon as possible after their elimination from a process. Therefore any company eliminated at the SSQ stage must be informed promptly using the Council's agreed templates which can be found on the Council's intranet or made available from strategic procurement.
- (a) For all procurements covered by EU Directives, a minimum of 10 calendar days (where notification is made electronically) mandatory standstill period is required between the communication of the notification of the award decision and contract conclusion, with day one being the day after the award decision is issued, via the e-tender portal or alternatively by email. The standstill period must end on a weekday (excluding bank holidays). This notification must be in the Council's agreed template which can be found on Connexus (the council's intranet) and should be sent to all companies that remain in the process. This is to allow companies an opportunity to challenge the decision. The notification of the award decision, based on the most economically advantageous tender, must contain: the award criteria;
 - (b) the score the tender obtained against those award criteria;
 - (c) the score the winning tenderer obtained;
 - (d) the name of the winning tenderer;
 - (e) the characteristics and relative advantages of the winning tender;
 - (f) precise details of standstill period (i.e. key dates).

NOTE: Where notification is not issued electronically or is followed up by posted notification, the standstill period must be no less than 15 calendar days.

- 13.8 All contract awards must be recorded on the council's supplier contract management website and councils contract register, and must include the name of the winning tenderer, bid value and performance monitoring information.
- 13.9 Upon completion, a formal contract award notice must be published in the Official Journal of the EU.



14. Negotiations Following Receipt of Tenders

- 14.1 This Rule applies to all tenders.
- 14.2 In all tenders, it is essential that the principles of probity, fairness and equal treatment are applied. Therefore negotiation following receipt of tenders or quotations is only permissible in limited circumstances in order to address minor issues since inappropriate negotiation may expose the Council to risk of challenge. The Section 151 Officer must be consulted before any negotiation is undertaken.
- 14.3 Any negotiations shall be conducted on behalf of the Council by at least two appropriate officers and at least one must be from the service concerned (Head of Service & Business Manager and/or an officer from Strategic Procurement). The Section 151 Officer shall be invited to send a representative to the negotiation meetings. A full written record shall be kept of the results of the negotiations, approved by the Chief Officer or his or her nominee personally, retained on a central file in the Service concerned and a copy sent to the Section 151 Officer. The appropriate Cabinet Portfolio Holder must also be kept informed.
- 14.4 Should the tender be of a nature where there is likely to be a requirement for discussion regarding the proposals, specification and/or pricing model, the Competitive Dialogue process may provide the most appropriate procurement process.
- 14.5 Negotiation must not be undertaken following receipt of tenders where the tender was subject to the EU Procurement Directives (unless the contract notice published in OJEU specifically allows for such negotiation).
- 14.6 Should there be a need for any reason to amend the Council's requirements/specification (value engineer) all providers submitting a tender shall be informed and given the opportunity to re-submit their proposal. **Should any of the following arise this will require a new procurement:**
- (a) amendments that could have resulted in a different outcome in the procurement;
 - (b) amendments that shift the economic balance of the contract in favour of the contractor. For example, a price increase could fall into this category;
 - (c) amendments which extend the scope of the contract considerably, such as a substantial increase in the duration or extension of the subject matter of the contract;
 - (d) where a new contractor replaces the original contractor, other than where this is allowed i.e. "if an event or set of circumstances occurs which a contracting authority acting "diligently" could not have foreseen";



- (d) where it is determined that 'material change' occurs in line with regulation 72 of the Public Procurement Regulations (PCR) 2015.

15. Nominated/Named Sub-Contractors and Suppliers

- 15.1 It is recommended that contracts are awarded to a single entity or lead contractor, who in turn will take contractual responsibility for the performance (and risks) the contractor will ensure that the insurances for any sub-contractors are equal to the minimum required by the Council. This responsibility lies with the contractor for all sub-contractors in their supply-chain. This reduces the risk of the Council becoming party to disputes between contractors.

16. Engagement of Consultants

- 16.1 Approval must be obtained from the appropriate Cabinet Portfolio Holder and the Chief Officer before engaging any consultant, consultancy firm or adviser.
- 16.2 An Authorised Officer may only appoint external consultants or advisors providing professional or consulting services if such Services are not available within the Council or if Council officers providing them do not have the resources to meet the needs of the Service. Where such Services are available in-house, the authorised officer must consult with the Chief Officer or Head of Service before taking any decision to make an external appointment.
- 16.3 Consideration should always be given to using approved frameworks, examples include: YPO (Yorkshire Purchasing Organisation), ESPO (Eastern Shires Purchasing Organisation, CCS (Crown Commercial Service); Homes England.
- 16.4 External consultants and technical officers engaged to supervise contracts must follow these Rules as applicable and their contracts for Services must state this requirement.
- 16.5 Procurement plans and/or tenders prepared by external consultants on behalf of the Council must be referred to the Strategic Procurement Team for approval and advice.
- 16.6 All contracts for external consultants and advisors shall explicitly require that the consultants or advisors provide without delay any or all documents and records maintained by them relating to the services provided at the request of the Authorised Officer, and lodge all such documents and records with the appropriate officer at the end of the contract.
- 16.7 The Authorised Officer shall ensure that any consultant working for the Council has appropriate indemnity insurance.



16.8 Any consultant used by the Council shall be appointed in accordance with these Procedural Rules. Where the Council uses consultants to act on its behalf in relation to any procurement, then the Chief Officer shall ensure that the consultant/s carry out any procurement in accordance with these Procedural 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 who a contract should be awarded to. The Chief Officer shall ensure that the consultant's performance is monitored.

16.9 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 and be bound by the confidentiality requirements of the Local Government Act 1972, as amended.

17. Contract Conditions

17.1 Every contract which exceeds £30,000 in value, and in any other case where the Monitoring Officer so decides, shall be in writing in a form approved by the Legal Services team. Most contracts under £50,000 are not required to be executed under seal. Contracts where the total value is expected to exceed £50,000 must be sealed. In relation to IT contracts, those involving leasing arrangements where it is proposed to use a supplier's own terms and high risk and/or long-term contracts, advice should be sought from the Legal Services team via its email address at.instructionsforlegal@newcastle-staffs.gov.uk. All written contracts shall specify:

- (a) The Work, Goods, or Services to be provided or undertaken (including any appropriate output or technical specifications); and (unless in the case of an annual contract where the following information is not available);
- (b) Full detail of all prices to be paid, detailing the frequency and method of calculation (if relevant) with a statement of discounts or other deductions; and
- (c) The period or times within which the contract is to be performed.

17.2 For contracts with an estimated value in excess of £50,000 for the execution of Works or for the supply of Goods or Services by a particular date or series of dates, the Authorised Officer shall assess the need to include provision for liquidated damages based on advice from the Legal Services team. Liquidated damages should only be included if they can be genuinely pre-estimated and are agreed with the contractor.



- 17.3 Every written contract must contain a clause to secure that if the contractor fails to comply with its contractual obligations in whole or in part, or commits a fundamental breach of the contract, the Council may, without prejudice to any other remedy available to it:
- (a) Terminate the contract, either wholly or to the extent of such default;
 - (b) Complete the contract either itself or through another contractor or agent to make good the default;
 - (c) Recover from the contractor any additional costs incurred in completing the contract to the original specification.
- 17.4 The contract should require that if one or more sums of money are to be received by the Council, the contractor responsible for the payment of such sum or sums must pay interest in respect of late payment at the rate stated in the contract from the date when payment is due until the date when payment is received.
- 17.5 It shall be a requirement that in the performance of the contract, the contractor must comply with the Equality Act 2010 including where relevant the Council's Public Sector Equality Duty, and shall provide the Council with information on request in relation to its compliance.
- 17.6 In the performance of the contract, the contractor must comply with the requirements of the Health and Safety at Work etc. Act 1974 and of any other relevant Acts, Regulations or Orders pertaining to health and safety.
- 17.7 Contractors discharging Council functions must comply with the duty of Best Value under the Local Government Act 1999 (as amended).
- 17.8 All Goods, Services and Works must comply with any relevant European Union standards or specifications, code of practice, British Standard Specifications or Codes of Practice or European Union equivalents current at the date of the tender.
- 17.9 Every contract over £50,000 for the execution of work or the supply of goods or services must include a clause in respect of the prevention of bribery.
- 17.10 In every written contract for the execution of work or the supply of goods or services the following or equivalent clauses shall be inserted:

"The Supplier shall not assign, novate, sub-contract or otherwise dispose of this Agreement or any part thereof without the previous consent in writing of the Council such consent not to be unreasonably withheld."



This clause may be amended to meet the requirements of a specific contract but only following consultation with the Council's Legal Services team.

- 17.11 Contracts shall contain details of relevant performance criteria, targets, standards and information on how the contract will be monitored, reviewed and managed by the Council. Benchmarking and/or price reduction clauses must be included, where appropriate, in contracts.
- 17.12 All tenders and contracts must contain a notice relating to the Freedom of Information Act and a schedule that clearly identifies those sections or clauses that are commercially confidential within the terms of the Freedom of Information Act.
- 17.13 If a contract is for the provision of business critical Services or supplies, officers may need to include clauses to the effect that the contractor maintains adequate business continuity processes in order to minimise the Council's exposure to risk.
- 17.14 Other contractual conditions shall be included as required within these Rules, the Code of Practice or as directed by the Legal Services team.

18. Extending Existing Contracts

- 18.1 Prior to extending a contract, the Authorised Officer must ensure that an options appraisal is undertaken to determine if it is in the interest of the Council to extend the current arrangement.
- 18.2 The Authorised Officer, after consultation with the appropriate Chief Officer, may extend a contract subject to the extension being within the scope of the original scheme.
- 18.3 Extensions to capital project contracts that will fall outside the scope of the original tender or scheme must go to the Cabinet for approval. This does not apply to operational contracts for goods and services that are not key decisions (i.e. where annual or periodic contracts are to be extended). The definition of a key decision is set out in Part 2; Section 13 subsection 13.2 of the Council's Constitution. In such cases the Authorised Officer or the Cabinet must, before taking the decision, consider tendering or negotiating the additional work, and ensure that any additional required funding is secured. In addition to obtaining approval to extend the contract, approval to increase the budget available for the project must be obtained in all cases where the increased contract amount would cause an overspending against the existing budget. Also, if the contract extension fundamentally or significantly changes the nature of the project, this should be reported to Members before an extension is agreed. A written record of the decision with reasons should be approved and retained by the Chief



Officer concerned or his or her nominee and the record must be retained on a central file in the relevant Service. A copy should also be sent to the Monitoring Officer.

- 18.4 If the original contract was subject to the EU procurement regulations, the contract can only be extended within the parameters identified in the original EU contract notice, or if the notice explicitly contained provision for extension.
- 18.5 If the contract was not subject to the EU procurement regulations, any extension must not take the total value of the contract above the EU thresholds.
- 18.6 If the contract was awarded as a framework agreement, the total framework period, including any extensions, cannot exceed four years except in exceptional circumstances relating to the subject of the framework agreement. For example, a longer duration could be justified in order to ensure effective competition if four years would not be sufficient to provide return on investment.
- 18.7 The length of call-offs under a framework agreement should not last for more than four years. The length of call-offs, as with other contracts, should be appropriate to the purchases in question and should reflect value for money considerations. However, individual call-offs from the framework can extend beyond the end date of the framework itself.
- 18.8 When negotiating a contract extension the Authorised Officer must make every effort to negotiate improved contract terms with regard to the cost and quality of the goods, services and works being delivered through the contract. The terms agreed must be confirmed in writing and the Contracts Register must be updated accordingly to show the extended contract period.

19. Cancellation or Determination

- 19.1 In every written contract a clause shall be inserted to ensure that the Council shall be entitled to cancel the contract, and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor or its employees or agents (with or without its knowledge):
- (a) does anything improper to influence the Council to award the contractor any contract; and/or;
 - (b) commits an offence under the Bribery Act 2010 in connection with the contract or under Section 117 of the Local Government Act 1972.



NOTE: The provisions of the Bribery Act that came into force into 2010 now means that the Council may commit the following offences:

Section 1 – bribing another person;
Section 2 – offences relating to being bribed; and
Section 6 – bribing a foreign public official.

If the Council commits any of these offences, then senior officers (defined under S.14 of the Act as a director, manager secretary or other similar officer in the case of a body corporate can be held personally liable and may be subject to 10 years' imprisonment. In addition, Section 7 of the Act creates a new offence of failing to prevent bribery, which again relates to the Council and in this instance the Council could find itself liable to an unlimited fine.

20. Signature of Contracts

- 20.1 Every contract that exceeds £50,000 must be sealed on behalf of the Council. Contracts below £50,000 can be signed by the appropriate Chief Officer or their authorised officer.
- 20.2 All contracts must be concluded before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Monitoring Officer. An award letter is insufficient.
- 20.3 **The Authorised Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.**

21. Registers of Contracts

- 21.1 The Strategic Procurement Team shall keep:
- (a) A Contracts Register setting down details of contracts awarded in the preceding twelve months, together with details of those contracts above £50,000;
 - (b) A copy of the Contracts Register will be published on the Council's website;
- 21.2 A payments register of all contracts in a form approved by the Section 151 Officer shall be maintained by the relevant Head of Service or their nominated officer. The payments register may be maintained electronically. The Register shall for each contract, specify the name of the contractor, the works to be executed or the Goods to be supplied and the contract value. The Register shall contain a record of all payments made individually and cumulatively to contractors and sub-contractors.



- 21.3 Approval can be sought from the Section 151 Officer by a Chief Officer or Head of Service where it is more appropriate to monitor contracts against approved expenditure budgets where applicable. Officers monitoring these budgets must ensure that the relevant statutory requirements are adhered to and that contract values do not exceed EU thresholds for competitive tendering.

22. Sealing

- 22.1 Where contracts are sealed as a deed the Common Seal of the Council shall be affixed to the contract and witnessed by a Council Member of the Cabinet and by an authorised signatory.
- 22.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed without the authority of Cabinet or of Chief Officer acting under delegated powers. A contract must be sealed where:
- (a) The Council wishes to enforce the contract for more than six years after its end; or
 - (b) The price paid or received under the contract is a nominal price and does not reflect the value of the Goods or Services; or
 - (c) Where there is any doubt about the authority of the person signing for the other contracting party; or
 - (d) Where the total value is expected to exceed £50,000.

23. Bonds and Parent Company Guarantees

- 23.1 For contracts over £50,000, a performance bond may be required if considered appropriate by the relevant Authorised Officer, the Section 151 Officer or other appropriate Chief Officer. The decision will be based on the risks associated with the contract, for example:
- (a) The value of the contract,
 - (b) The type of goods / services / works being procured,
 - (c) The payment profile for the contract,
 - (d) The financial strength of the company,
 - (e) Affordability and proportionality

The security required may be a performance bond or some other form of financial or performance guarantee. Affordability and proportionality must always be taken into consideration when deciding whether some form of financial security is appropriate and required.



- 23.2 For contracts over £100,000 the contractor must provide a bond from a source approved by the relevant Authorised Officer for completing the contract except where the relevant Authorised Officer in consultation with the Monitoring Officer decides that this is not necessary, after receipt of a completed risk analysis inclusive of a business continuity questionnaire.
- 23.3 At the discretion of the relevant Authorised Officer, a cash sum can be held in the place of a bond, either as a direct payment or set off against initial invoices received by the Council from the provider. Approval for this shall be requested in writing by the relevant Authorised Officer and details of which, when agreed with the Monitoring Officer, forwarded to the Section 151 Officer.
- 23.4 Where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the contractor, a bond shall be required regardless of the contract value.
- 23.5 A parent company guarantee is necessary when the contractor is a subsidiary of a parent company and:
- (a) The total value exceeds £100,000; or
 - (b) Award is based on evaluation of the parent company; or
 - (c) There is some concern about the stability of the contractor.
- 23.6 Where a bond is required the tender documents must contain provision for this cost to be identified separately.
- 23.7 If the contract period covers a number of years the Authorised Officer shall determine after consultation with the Monitoring Officer and the Section 151 Officer whether or not the bond is to be calculated by reference to the total contract sum over the duration of the contract or by reference to the annual value of the contract.
- 23.8 As stages of the contract are completed the value of the bond can be reduced at the discretion of the Authorised Officer with the approval of the Monitoring Officer.

24. Retention and Disposal Requirements

- 24.1 The retention of contracting information inclusive of:
- (a) approved suppliers;



- (b) contracts award and monitoring;
- (c) contracts award and monitoring – under seal;
- (d) quotations;
- (e) product evaluation;
- (f) product information;
- (g) tendering policies;
- (h) tenders;
- (i) tendering for contracts to be signed under seal
- (j) unsuccessful bidders

will be held on file by the lead officer/s either electronically or in hard copy format in line with the retention periods, disposal processes and relevant authority as contained in the council's Records Retention & Disposal Schedule, published on the council's intranet.

25. Framework Agreements

- 25.1 The Public Contract Regulations 2015 (Regulations) define a framework agreement as: “an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.”
- 25.2 The framework agreement with relevant providers will set out the terms and conditions under which agreements for specific purchases (known as call-off contracts) can be made throughout the term of the agreement.
- 25.3 The term of the agreement will be no more than four years.
- 25.4 A framework agreement will not itself commit either party to purchase or supply, but the procurement to establish a framework agreement is subject to the EU procurement rules.
- 25.5 Where the value of the framework contract is likely to exceed the European threshold (taking account of the rules of aggregation), it must be tendered in accordance with the relevant European procurement directive and procurement regulations. The Authorised Officer should record, retaining a file note on the reasons for adopting the selected procurement route.
- 25.6 In establishing a framework officers should adopt/follow in principle the procurement procedures highlighted in section 8 above25.5. Further guidance in relation to framework



agreements and a questions and answers section (produced by Crown Commercial Services) can be found at Annex 2.

26. Dynamic Purchasing Systems

- 26.1 The Dynamic Purchasing System (DPS) is a procedure available for contracts for works, services and goods commonly available on the market. As a procurement tool, it has some aspects that are similar to an electronic framework agreement, but where new suppliers can join at any time. However, it has its own specific set of requirements. It is to be run as a completely electronic process, and should be set up using the restricted procedure and some other conditions (as set out in Regulation 34 of the Public Contracts Regulations 2015).
- 26.2 Contracting authorities may set up a DPS. The DPS should be set up for identified types of requirement, which may be divided into categories of products, works or services.
- 26.3 The DPS is a two-stage process. First, in the initial setup stage, all suppliers¹ who meet the selection criteria and are not excluded must be admitted to the DPS. Contracting authorities must not impose any limit on the number of suppliers that may join a DPS. Unlike framework agreements, suppliers can also apply to join the DPS at any point during its lifetime. Individual contracts are awarded during the second stage. In this stage, the authority invites all suppliers on the DPS (or the relevant category within the DPS) to bid for the specific contract.
- 26.4 Guidance in relation to establishing a DPS and a questions and answers section (produced by Crown Commercial Services) can be found at Annex 3.

27 General Data Protection Regulations (GDPR)

- 27.1 GDPR requires officers of the council to protect the privacy of all EU citizens and prevent data breaches.
- 27.2 The lead officer/s will highlight in any pre-procurement dialogue with potential suppliers that the contract will be subject to GDPR and ensure bidders are both familiar with the legislation and of their obligations as the Processor.
- 27.3 In certain circumstances, the Controller is required to conduct a Data Protection Impact Assessment ("DPIA") prior to any processing (see Article 35 of the GDPR).

¹ For convenience "supplier" is used in this note to include any economic operator



This may occur before the contract is entered into, and ideally the DPIA should be conducted as early on in the procurement as possible. In all cases advice should be sought from your Data Protection Officer as to whether a DPIA is required.

- 27.4 In procurements for contracts involving processing personal data to be awarded, due diligence should be undertaken to ensure suppliers can implement the appropriate technical and organisational measures to comply with GDPR and to ensure the protection of the rights of data subjects. Selection criteria should be used to assess suppliers' human and technical resources to perform the contract to the appropriate standard and suppliers should be asked to provide proof by reference to the technical facilities and measures they have in place.
- 27.5 When evaluating responses, officers should consider undertaking due diligence and ensure they are satisfied the bidder can provide protective measures appropriate to the nature and risk of the processing. This should be relevant to the subject matter of the contract, and proportionate.
- 27.6 The lead officer will ensure the roles and responsibilities of the Controller and the Processor are set out clearly throughout contract delivery. The Controller must set out clear written instructions for the Processor on how the personal data should be processed, and these must be adhered to. If the Processor does not follow these written instructions, and determines the processing purpose or means of processing themselves, they will be in breach of contract, and the Processor may be considered to be a Controller in respect of that processing.
- 27.7 In drafting the specification of requirements linked to the procurement the lead officer will ensure that the following details are clearly established:
- the subject matter of the processing;
 - details of the duration of the processing;
 - the nature and purpose of the processing;
 - the type of personal data being processed;
 - the categories of the data subjects;
 - the obligations and the rights of the Controller;
 - that the Processor acts on the documented instructions of the Controller;
 - the requirement for the Processor to delete or return the personal data at the end of the provision of services;
 - a requirement for the Processor to implement appropriate technical and organisational measures; and



- a right for the Controller to audit the Processor.

27.8 The lead officer will ensure that written instructions at least set out that the Processor must:

- process the personal data only on the documented instructions of the Controller;
- comply with security obligations equivalent to those imposed on the Controller (implementing a level of security for the personal data appropriate to the risk);
- ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- only appoint Sub-processors with the Controller's prior specific or general written authorisation, and impose the same minimum terms imposed on it on the Sub-processor; and the original Processor will remain liable to the Controller for the Sub-processor's compliance. The Sub-processor must provide sufficient guarantees to implement appropriate technical and organisational measures to demonstrate compliance. In the case of general written authorisation, Processors must inform Controllers of intended changes in their Sub-processor arrangements;
- make available to the Controller all information necessary to demonstrate compliance with the obligations laid down in Article 28 GDPR and allow for and contribute to audits, including inspections, conducted by the Controller or another auditor mandated by the Controller - and the Processor shall immediately inform the controller if, in its opinion, an instruction infringes GDPR or other EU or member state data protection provisions;
- assist the Controller in carrying out its obligations with regard to requests by data subjects to exercise their rights under chapter III of the GDPR, noting Classification:
- different rights may apply depending on the specific legal basis for the processing activity (and should be clarified by the Controller up-front);
- assist the Controller in ensuring compliance with the obligations to implementing a level of security for the personal data appropriate to the risk, taking into account the nature of processing and the information available to the Processor;
- assist the Controller in ensuring compliance with the obligations to carry out Data Protection Impact Assessments, taking into account the nature of processing and the information available to the Processor; and



- notify the Controller without undue delay after becoming aware of a personal data breach.

27.9 At the award stage for procurements involving personal data processing, and particularly those for high risk processing, lead officers should ensure bidders are asked, at award stage, how the technical and organisational measures put in place (and set out at selection stage) meet the needs of the contract. For example, a model award question to ask bidders might be:-

Please provide details of the key data protection risks you foresee with this Contract and set out your proposals for dealing with those risks.

27.10 The lead officer will build into contract management activities sufficient checks to ensure suppliers are meeting their obligations under GDPR as the Processor. These supplier assurance activities may include audits undertaken by the Controller or a third party auditor. If obligations are not being met, the lead officer will take urgent remedial action with the supplier to address issues and risks.

28. Modern Slavery

28.1 As part of the Council's procurement, contracting and contract review processes with its suppliers and their supply chains, officers will endeavour to ensure that all suppliers address the requirements of the Modern Slavery Act 2015.

28.2 The lead officer will not select bidder(s) that have been prosecuted or served notice under the Modern Slavery Act, unless satisfied that appropriate remedial Action has been taken to prevent future occurrences/breaches.

28.3 The lead officer must ensure that bidders clearly complete Modern Slavery questions raised in the Invitation to Tender part II.

29. Safeguarding

29.1 The UK Government has established a principle of delivering "Policy through Procurement", meaning that the Government expects certain aspects of legislation to be delivered and enforced through Public Sector procurement and commissioning where applicable.

29.2 The Council is morally and legally responsible for:



- implementing its safeguarding policy and procedures;
- discharging its duty of care for children, young people and vulnerable adults,
- safeguarding the wellbeing of children, young people and vulnerable adults, and
- protecting children, young people and vulnerable adults from abuse and/or neglect when they are engaged in services organised and provided by the Council.

29.3 The lead officer must ensure any specific safeguarding requirements are outlined in the specification, which may also include any monitoring requirements. This should include any minimum safeguarding requirements (e.g. the need to have a Safeguarding Policy);

29.4 The lead officer if requesting a method statement will ask the bidder to outline how they (and their sub-contractors if relevant) will deliver the specification. If safeguarding is relevant to the service the method statements should ask the bidder to detail how it will meet its safeguarding responsibilities;

29.5 Conditions of Contract – for higher value requirements it may be appropriate to use the Council's standard Terms and Conditions of Contract. These make provision for safeguarding and are available from the strategic procurement team.

30. Other Requirements

30.1 The Authorised Officer must consult with the Section 151 Officer prior to entering into any lease or credit arrangement which has a capital cost or implications. The cost must first be approved for inclusion in the Capital Programme.

30.2 The Authorised Officer must inform the Section 151 Officer immediately of any claims (or anticipated claims) by or against contractors that are the subject of dispute between the council and the contractor.



ANNEX 1

EXCEPTIONS TO CONTRACT PROCEDURE RULES

This 'exceptions form' must be completed for every instance where a Chief Officer approves an exception from these Rules for contracts with a total value of £5,000 or more, in accordance with 2.3 above (The form must adequately document the reasons for the exception and an electronic copy must be retained by the Service concerned. A copy of each completed form is automatically forwarded to the Chief Officer concerned, the Monitoring Officer, Internal Audit and the Strategic Procurement Team where a record of all exceptions is maintained). The Chief Officer concerned is responsible for keeping the appropriate Cabinet Portfolio Holder informed

Title of Contract:	Contract Value:
Date:	
Description of Good or Service:	
Reason why the exception is being sought:	
Responsible Officer:	
Approved (Chief Executive):	Date:



ANNEX 2

THE PUBLIC CONTRACTS REGULATIONS 2015

&

THE UTILITIES CONTRACTS REGULATIONS 2016
GUIDANCE ON FRAMEWORK AGREEMENTS

(A Crown Commercial Services Publication)

NEWCASTLE
UNDER LYME
BOROUGH COUNCIL



Contents

Guidance on Framework Agreements

Overview:

- What are frameworks?
- What has changed (following the introduction of the Public Contracts Regulations 2015)?
- Why is this helpful/necessary?

Key Points:

- Identifying contract authorities in contract notices
- Call-offs and mini-competitions
- Award notices

FAQs

NEWCASTLE
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BOROUGH COUNCIL



Overview

What are framework agreements?

The Public Contract Regulations 2015 (Regulations) define a framework agreement as:

“an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.”²

What has changed - (following the introduction of the Public Contracts Regulations 2015)?

The key changes include the clarification of the rules on identifying the users of the framework agreement, increased flexibility in the rules on setting up and calling off multi-supplier framework agreements, and the requirement to publish award notices for call-offs on Contracts Finder.

Why is this helpful/necessary?

The new rules support the Government's approach to making the process simpler and more transparent for business and contracting authorities.

Which rules do I need to refer to?

Regulation 33 on Framework Agreements

Regulation 108 (1)(b) publishing award notices for call-offs from framework agreements on Contracts Finder.³

The provisions in Regulation 51 of the Utilities Contracts Regulations 2016 are less detailed than in the 2015 Public Contracts Regulations. They do, however, set out that the term of the framework agreement should not exceed 8 years and that contracts based on the framework agreement shall be awarded on the basis of objective rules and criteria.

Key Points

Identifying contract authorities in contract notices

The call for competition or invitation to confirm interest has to clearly identify the contracting authorities that can use the framework. The key is that economic operators from any Member State can easily identify who the users of the framework may be. The identification has to be either by name or by other means that makes them clearly identifiable. Where possible a link to a list of relevant authorities should be provided. However potential framework users may be identified by reference to a specific class of contracting authorities in a defined region that can be identified on the internet.

² Regulation 33(2)

³ See Regulation 108 (1)(b) and Contract Finder Guidance



Call-offs and mini competitions

Call-off contracts based on framework agreements may be longer than four years, and may extend beyond the expiry date of the framework (Recital 62 Public Procurement Directive).

For single provider framework agreements, call-offs are placed according to the terms and conditions laid out in the framework agreement.

Multi-supplier framework agreements can now comprise just two suppliers (previously minimum of three)

For multi-provider frameworks, there are now **three** potential ways to select the provider and place specific contracts: direct award; mini-competition; or a combination of both.

- i. **Direct award without re-opening competition.** If the framework agreement sets out all the terms governing the provision of the works, services and/or supplies concerned and all the objective conditions that are required to make a decision for award of the specific contract, then awarding the contract without re-opening competition amongst the parties to the framework agreement is possible. In this instance, the choice of provider must be based on the objective criteria laid out in the procurement documentation.
- ii. **Mixture of direct award and mini-competition (New).** This route is available where the procurement documents for the framework agreement state that it may be used, and the framework agreement sets out all the terms governing the provision of the works, supplies and services concerned. The procurement documents for the framework agreement must set out objective criteria which will be used to determine whether a specific contract will be placed following a reopening of competition or directly on the terms set out in the framework agreement so it is clear and transparent for all users and suppliers. The procurement documents should also specify which terms may be subject to the re-opening of competition. For example a direct award could be for those suppliers allocated to provide goods to a specific region and the accompanying objective criteria for selecting to re-open competition could be:
 - (a) the contract exceeds a set financial threshold;
 - (b) the quantity of products required is over a certain level;
 - (c) the contract has particularly complex requirements
- iii. **Mini-competitions.** When the framework agreement does not include all the terms governing the provision of the works, services and supplies concerned, the contracting authority must organise a 'mini-competition' between the providers which are party to the framework agreement.

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Award Notices

Contracting authorities must publish award notices for call-offs from framework agreements on Contracts Finder.⁴

FAQs

When do I have to advertise a framework in OJEU?

All framework agreements subject to Regulation 33 must be advertised in OJEU. Advertising would not be required if the call-off contracts to be awarded under the framework are exempt from the requirement to publish in OJEU – for example because the estimated maximum value of all call-offs under the framework agreement over its lifetime is below the relevant EU threshold⁵, or the procurements in question are covered by one of the exclusions set out in the Regulations. Where this is the case, Regulation 33 will not apply.

When assessing the total value of the framework, a required field in the OJEU Contract Notice, it is important that the estimate should include all the potential call-offs over the lifetime of the agreement that may be made by all contracting authorities that are permitted to use the framework, not just the intended call-offs by the contracting authority which is procuring the framework agreement.

How can my organisation set up a framework that can be used by other contracting authorities in our region?

Contracting authorities may set up and advertise framework agreements on behalf of other contracting authorities. This is particularly common in the case of contracting authorities that act as Central Purchasing Bodies (CPD). Where the EU rules have been followed by such CPDs, other contracting authorities may use the framework agreements as required so long as they have been covered in the call for competition or invitation to confirm interest. The identities of all the contracting authorities entitled to call-off under the terms of the framework agreement must be included in the procurement documentation. See Key Points above for more detail.

The contracting authority using the framework agreement is responsible for awarding call-off agreements in a way which complies with the terms of the framework agreement.

What do I need to include in my OJEU Notice?

The Regulations stipulate what is required in the Contract Notice or PIN as a call for competition, and your portal provider may also include guidance on what is required on the OJEU standard forms and notices. However the following will give you some idea of the information you need to consider and have at hand for completing the forms:

⁴ See Regulation 108 (1)(b) and Contract Finder Guidance

⁵ Regulation 5(8)



- consider how the identities of all the contracting authorities entitled to call-off under the terms of the framework agreement will be easily available for potential bidders.
- consider the length of term of the framework agreement. It will be a maximum of four years “save in exceptional cases duly justified, in particular by the subject-matter of the framework agreement”⁶. You should therefore seek legal advice if you intend to conclude a framework agreement with a longer duration. It is worth considering, in any event, whether a framework agreement is necessarily the best vehicle for a longer term project.
- estimate the total value of the goods, works or services for which call-offs are to be placed and, so far as is possible, the value and frequency of the call-offs to be awarded under the agreement. This is necessary for providers to be able to gauge the likely values involved and to provide a figure for the framework overall which, as with other contracts, should not normally be exceeded without a new competition taking place.

□ include the other information required by Annex V to the Directive and the relevant form.

My Authority has a requirement that could be met by a sheltered workshop type organisation. Can we do that for a framework?

Yes. Regulation 20 enables contracting authorities to reserve the right to participate in a public contract to sheltered workshops and economic operators whose main aim is the social and professional integration of disabled or disadvantaged persons. The ability to reserve contracts in this way applies to framework agreements as well as to contracts generally. The OJEU call for competition, at the start of the procurement for the framework agreement, will need to make it clear that the framework is reserved for sheltered workshops (the term used for supported employment programs, factories and businesses in the EU Directive itself) under Article 20 of the Public Procurement Directive.

A framework I want to call-off from will expire in 6 months and I need to award the call-off for 2 years. Can I do that?

The length of call-offs under framework agreements are not specifically limited by the Regulations. The length of call-offs, as with other contracts, should be appropriate to the purchases in question and should reflect value for money considerations. It may be the case that individual call-offs extend beyond the four-year term of the framework itself. However, this should not be done in order to circumvent the EU rules. For example, it might be difficult to justify a 12-month call-off, very near the end of the framework itself, where the normal pattern for the goods or services in question had been for such call-offs to last for just one month at a time.

Do I have to use a particular procedure to award a framework?

A framework agreement that is over the relevant threshold must be awarded in accordance with one of the procedures set out in the Regulations and the procurement documents. The OJEU call for competition must specify the procedure that will be used. The authority setting up the framework

⁶ Regulation 33(3)



agreement should follow the rules for all phases of the procurement process covered by the Regulations.

Does having a framework mean we don't have to consider sustainability and other issues such as TUPE?

The use of framework agreements does not remove the obligation on contracting authorities to address issues such as TUPE, where they are relevant to the contract at the call-off stage.

How many providers do I have to have on a framework?

Framework agreements can be concluded with a single provider or with several providers, for the same goods, works or services, it all depends on the market and your procurement strategy. Unlike the previous rules, which required multiple-supplier frameworks to include at least three providers, it is now permissible to have just two providers. The framework agreement will establish the objective criteria that will apply under the framework, for call-off by direct award, mini-competition or a combination thereof.

Can a multi-provider framework include a term that allows a direct award call-off to one provider i.e. no mini-competition?

Yes. Where the terms laid down in the framework agreement set out all the terms governing the provision of the specific requirement, and the terms or procurement documents set out the objective conditions for determining which of the economic operators should perform the contract, the authority can award the call-off without reopening competition. The Regulations do not specify how this should be done, but the mechanism used should comply with general Treaty principles including transparency and non-discrimination.

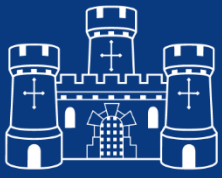
Do the award criteria used for awarding the framework agreement have to be the same for mini-competitions?

No. The award criteria used for mini-competitions need not be the same as those applied in the award of the framework agreement itself. The contracting authority should award the call-off to the provider which has submitted the best tender on the basis of the award criteria set out in the framework agreement focusing on the particular requirement. Contracting authorities must make it clear in the procurement documentation the criteria to be used for awarding call-off contracts.

Do we have to observe a standstill period before we enter into the framework agreement or after a mini-competition?

The standstill period applies when you set up a framework agreement. However, there is no mandatory standstill period for a call-off contract under a framework.

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ANNEX 3

THE PUBLIC CONTRACTS REGULATIONS 2015

&

THE UTILITIES CONTRACTS REGULATIONS 2016

DYNAMIC PURCHASING SYSTEMS

(A Crown Commercial Services Publication)

NEWCASTLE
UNDER LYME

BOROUGH COUNCIL



OVERVIEW

What is the Dynamic Purchasing System?

The Dynamic Purchasing System (DPS) is a procedure available for contracts for works, services and goods commonly available on the market. As a procurement tool, it has some aspects that are similar to an electronic framework agreement, but where new suppliers can join at any time. However, it has its own specific set of requirements. It is to be run as a completely electronic process, and should be set up using the restricted procedure and some other conditions (as set out in Regulation 34 of the Public Contracts Regulations 2015).

Contracting authorities, including central purchasing bodies, may set up a DPS. The DPS should be set up for identified types of requirement, which may be divided into categories of products, works or services.

The DPS is a two-stage process. First, in the initial setup stage, all suppliers⁷ who meet the selection criteria and are not excluded must be admitted to the DPS. Contracting authorities must not impose any limit on the number of suppliers that may join a DPS. Unlike framework agreements, suppliers can also apply to join the DPS at any point during its lifetime. Individual contracts are awarded during the second stage. In this stage, the authority invites all suppliers on the DPS (or the relevant category within the DPS) to bid for the specific contract. The new directive and Regulations update the existing DPS rules, as discussed below.

Why is this helpful/necessary?

The DPS can streamline procurement for both suppliers and authorities; suppliers don't have to demonstrate suitability and capability every time they wish to compete for a public sector contract and the award of individual tenders can be quicker than under some other procedures. The DPS is more flexible in some respects than frameworks, particularly as suppliers may join it at any time during its period of validity, meaning that suppliers are not locked out for the duration as they are with traditional frameworks. However the DPS under the old rules was rather cumbersome, so it was little-used either in the UK or in other member States. The new rules provide additional flexibility.

What has changed?

The basic principles remain from the old DPS, but there are several significant changes. Suppliers no longer have to submit an "indicative tender" with their request to join the DPS. The old obligation for authorities to publish a further simplified advertisement in the OJEU each time they wish to award a contract under a DPS no longer applies. The default four-year limit on the duration of a DPS has been removed. These improvements make the DPS significantly more useable and useful.

Which rules do I need to refer to?

⁷ For convenience "supplier" is used in this note to include any economic operator



Regulation 34 of the PCR 2015 sets out the rules on Dynamic Purchasing Systems. Regulation 34(5) states that in order to procure under a DPS, contracting authorities should follow the rules of the restricted procedure, and subject to the provisions of clause 34. Therefore, Regulations that apply to the Restricted Procedure, and to procedures generally, apply to the DPS, except where regulation 34 specifically alters or dis-applies them.

The corresponding provision in the Utilities Contracts Regulations is Regulation 52. It should be noted that in Regulation 52 (25) – (27) covering means of proof, cross references are made to relevant provisions of the PCR 2015.

KEY POINTS

Stage 1: Establishing the DPS and adding additional suppliers

To set up a DPS, a contracting authority must place a call for competition in OJEU to make known the intention to establish a DPS, and suppliers must be allowed at least 30 days to respond. (As with other procedures, sub-central bodies may use a Prior Information Notice to make known their intention). This initial DPS set-up phase only covers the exclusion and selection criteria, as used in other procedures, and as set out in Regulations 57-64 of the PCR 2015. The OJEU contract notice should specify the nature of the requirements and the approximate quantities or values envisaged.

As with other procedures, the procurement documents should be made freely available electronically from the date of the advert. These procurement documents must remain available electronically throughout the duration of the DPS.

A DPS can be divided into categories of works services or goods, which are objectively defined on the basis of characteristics of the procurement to be undertaken under the category. The characteristics used to define a group may include size of contract or geographical area of contract delivery.

If the DPS is divided into categories, the selection requirements for each category should be appropriate to that category, and may vary between categories. In accordance with Regulation 59, suppliers should “self-certify” their compliance with the selection requirements, and confirm that none of the grounds for exclusion apply, in order to gain admittance to the DPS. Normally (subject to Regulation 59(8)), only suppliers who win contracts under the DPS should be expected to provide documentary evidence of their status (consistent with other procedures).

This is also subject to the requirement of Regulation 59(11), so authorities should not request supporting documents where they already hold them or can obtain relevant information from a national database. Where a supplier has already submitted documents under a previous contract (DPS or indeed otherwise) it should be asked to confirm these are still applicable, and only provide new documents as preceding ones expire, or circumstances change. Where CPBs set up DPSs It would be sensible for the CPB to hold information about the evidence submitted, and make this available to its own customers.



All suppliers who meet and pass the exclusion and selection criteria must be admitted to the DPS and/or the relevant categories within it.

Suppliers may join the DPS at any point during its validity if they satisfy the selection requirements, and none of the grounds for exclusion apply. The authority is required to evaluate these suppliers' requests within 10 working days of receipt; this may be extended to 15 days if justified, for example, by the need to examine documents or to verify whether the selection criteria have been met (examination documents or other verification should not be the default, and only used if necessary for the proper conduct of the process; as noted as only the winning bidder should normally have to submit documents).

Contracting authorities may provide for award of contracts under a DPS on the basis of updated electronic catalogues, provided that the authority establishes the technical specification and format for the catalogue; supplier's requests to participate should be accompanied by a catalogue.

Stage 2: Awarding specific contracts using the DPS

Once the DPS is set up, an authority may award specific contracts using a DPS that they are entitled to use by inviting all suppliers admitted to the relevant category to bid, in accordance with regulation 54. As with a framework, the award criteria to be used for the award of individual contracts are to be set out in the original contract notice⁸. These criteria may be "formulated more precisely" for specific contracts, as set out in the invitation to tender for the specific contract.

The award process and permissible award criteria are consistent with those for other procedures; the minimum timescale for return of tenders is 10 days. Where the contracting authority is a sub-central body, this time limit can be reduced by mutual agreement between the contracting authority and all suppliers in the relevant DPS/category.

The authority may choose to require that tenders for a specific contract comprise or include electronic catalogues, adapted to the specific requirement, in which case the authority should have asked the suppliers request to participate to be accompanied by a catalogue as mentioned above.

There is no obligation to undertake a "standstill" period, although there may be some benefits in doing so (see under FAQ section below).

The DPS is to be undertaken as a wholly electronic procedure, in accordance with Regulation 22 (1) to (7) and (11) to (20). Unlike other procedures there is no derogation to postpone the electronic requirements, so this requirement is in force from the date of the new Regulations. However where authorities already use an e-procurement solution it may well be that this can be used or adapted for a DPS; authorities may wish to discuss with their e-procurement solution or service provider. The requirement for an electronic procedure does not prevent "human" evaluation of tenders received under a DPS.

There is no requirement to submit any form of award notice to OJEU following the setting up of the DPS, or when new suppliers are added to the DPS. There is a requirement to publish contract award

⁸ Or in the invitation to confirm interest where a Prior Information Notice was used for the original advertisement.



notices (which must be sent to the Publications Office within 30 days of award) for specific contracts awarded under the DPS. However, authorities can choose to group DPS contract award notices on a quarterly basis, which must be sent within 30 days (after) the end of each quarter. Authorities should also abide by the requirements for publication on Contracts Finder about contracts awarded, as explained under Procurement Policy Note 03/15;

See <https://www.gov.uk/government/publications/procurement-policy-note-0315-reforms-to-make-public-procurement-more-accessible-to-smes>

A DPS may be set up by central purchasing bodies, to undertake centralised purchases by the CPB itself, and/or for the CPB's "customers" to compete contracts.

Frequently Asked Questions

General nature and use of DPS

Q. The DPS is to be used for “commonly used purchases...generally available on the market”. What does this mean?

The rules do not specify how this should be interpreted. It is likely to depend on the specific type of goods, works or services covered by the DPS. The DPS will normally be suitable for largely “off-the-shelf” requirements which can be closely specified in advance. One-off, or heavily bespoke and/or highly complex requirements are unlikely to be suitable

Q. Are there any restrictions on the number or type of category into which a DPS may be divided?

No restrictions are specified in the rules; the regulations require that categories are objectively defined on the basis of the characteristics of the procurement to be undertaken. The rules state that these characteristics may include the maximum size of contract or geographical area of contract performance. However other characteristics are not excluded, for example the nature or scope of the deliverables might be appropriate. The authority will have to make its decision based on the specifics of its requirements. Early market engagement may be helpful in identifying suitable categories. Of course categories will need to ensure compliance with Treaty principles; so it would not be permissible to have different categories for different sizes or geographical locations of suppliers.

Q. Is there a time limit on how long a DPS can operate? And is there any flexibility?

The “period of validity” must be stated on the original OJEU notice; but the Regulations indicate that the period can be later amended (extended, shortened, terminated) subject to notification on the relevant OJEU standard form. This provides useful flexibility if the authority’s circumstances change, or developments in technology, markets, etc. mean the DPS as originally set-up outlives its usefulness. There is now no specific maximum duration of a DPS. Any changes to the period of validity of a DPS should comply with relevant Treaty principles.



Q. What is a suitable duration for a DPS?

The authority must make its own decision based on its needs and understanding of the market. Early market engagement should help provide insights. A longer-running DPS will reduce the need to re-compete, but if it is too long the DPS may become obsolete if the authority's circumstances or markets change. As noted above the authority may be able to lengthen or shorten the duration if necessary.

Q. Does the DPS encourage SME access to public contracts?

As with all procedures, the suitability for SMEs depends more on the authority's procurement decisions than the particular rules which apply to the process. However the DPS has some features which can potentially encourage SMEs. The selection stage is potentially less onerous, as the supplier only has to complete this stage on entry to the DPS (and thereafter periodically reconfirm its status) instead of having to do so separately for all procurements. As the DPS is open to suppliers throughout its duration, new start-ups, or businesses that wish to expand into new public sector markets, will not be frozen out of the market.

The division of DPS into categories by type of requirement, size of contract, or geographical place of delivery, could be arranged to ensure that niche suppliers and SMEs have maximum opportunity to compete.

Q. Is it permissible to have different terms and conditions for contracts under different categories of a DPS?

The rules do not govern the terms of the contracts awarded under a DPS. It would not be contrary to the rules to have different terms and conditions for contracts awarded under different categories of a DPS provided these complied with the Treaty principles of transparency, equal treatment and proportionality. There should be objective reasons why different terms and conditions are appropriate for different categories. The terms and conditions should be appropriate to contract for "commonly use purchases... available on the market" (so contracts designed for large bespoke requirements, for example, would not be appropriate).

In all cases the intended terms and conditions should be included within the procurement documents made available when the DPS is first advertised.

Q. Can suppliers be required to sign-up to the standard contractual terms and conditions of the authority setting up the DPS as part of the initial application process?

The authority can make clear that suppliers will be required to accept the terms and conditions of the authority setting up the DPS when bidding for contracts under the DPS.

Q. Does the "standstill" period apply to setting up the DPS?



There is no obligation to hold a standstill before admitting suppliers and commencing the DPS. And as suppliers may apply (or reapply if previously not accepted) at any time during the currency of the DPS, a standstill at initial set up would be of little value.

Suppliers joining a DPS

Q. Do suppliers need to submit an “indicative tender” with their initial application?

No; this requirement in the old rules has been removed from the new DPS.

Q. If a DPS is divided into categories, may a supplier apply for more than one category?

Yes, a supplier may apply for as many categories as it wishes.

Q. Can we limit the number of suppliers on the DPS or in any categories under the DPS?

No; any and all suppliers who pass the exclusion criteria and meet the selection criteria must be admitted to the DPS [category].

Q. Can we set the selection criteria at a high level, intended to limit the number of successful applicants?

No. The selection criteria and pass marks should be proportionate and objectively justifiable according to the requirements to be delivered in the DPS/category. Unnecessary or overly-onerous requirements meant to limit the number of suppliers would breach proportionality and equal treatment, would be likely to discourage SMEs, and would tend to reduce competition.

Q. Is it permissible to have different selection criteria for different categories under the DPS?

Yes; where a dynamic purchasing system is divided into categories; the contracting authority should apply selection criteria that are proportionate and relevant to the characteristics of the category concerned.

It is possible that a supplier could pass the selection stage for, and be admitted to, one or several categories but not to others.

Q. If a supplier fails the exclusion or selection stage, can it reapply later?

Yes. If the supplier had failed the exclusion stage, it could reapply if the mandatory or discretionary exclusionary periods had ended, or if the supplier had self-cleaned.

If the supplier did not meet selection criteria, it could reapply if its circumstances changed, for example if it had newly available skills, experience, or if something else which would change its answers to the selection criteria had occurred.

Q. If a supplier is admitted, is it obliged to bid for any contracts procured under the DPS?



No.

Q. Can a supplier be deselected from a DPS?

A supplier's initial admission to the DPS should normally be based on self-certification that it passes the exclusion criteria and meets the selection requirements. In similar manner to other procedures, the winning bidder for a contract under a DPS should be asked to provide confirmatory evidence before award of contract (unless previously submitted as discussed above). Please see separate guidance on "selection and award" for further information on those rules.

If a supplier ceases to meet the original exclusion or selection criteria during the course of the DPS it is likely that it could be excluded (indeed if it fails one of the mandatory exclusion grounds the authority will be *required* to remove the supplier).

The frequency of updates is for the authority to decide, but at least an annual update might be appropriate. Authorities could also require suppliers to confirm that their exclusion and selection status is not changed before the award of each contract.

It would *not* be permissible to remove or exclude a supplier from a DPS because the supplier had not chosen to bid for any contracts under the DPS, or because the supplier had bid but was unsuccessful in all its bids.

Q. Can a supplier be excluded for poor performance on contracts under the DPS?

Poor performance on prior public or utilities contracts which have led to contract termination, damages or other comparable sanctions are now grounds for discretionary exclusion. (Regulation 57(8)(g)). Therefore poor performance on previous contracts under the DPS which had led to sanctions could be used to exclude the supplier from the same, and other, DPSs in future.

As with any other exclusion for poor performance, this must be based on objective failings which led to sanctions; subjective assessment of a supplier's attitude, aptitude, etc. must not be used. If a DPS is set up by a CPB for use by other contracting authorities, the decision on whether to exclude a supplier should rest with the CPB.

Q. Can a supplier be deselected from one or more categories but not others?

In principle, yes, if the supplier ceases to meet the selection criteria for some categories but remains compliant with all the criteria for other categories.

If a supplier breaches a mandatory exclusion ground during the course of the DPS, he must of course be excluded from the whole DPS. And most of the discretionary exclusion grounds are unlikely to be category-specific.

However, if a supplier had evinced poor performance in contracts under some categories but not others, although it would be permissible to exclude it from the whole DPS, depending on the case, it might be more proportionate and appropriate to only remove it from the problematic categories.



Authorities will need to make their own case-specific judgements, and treat all suppliers equally.

Q. How long do we have to complete the assessment of new applicants?

Regulation 34(16) states that contracting authorities must finalise their evaluation of new applicants (i.e. applications which are received during the period of validity of the DPS) within 10 days of receipt. This may be prolonged to 15 working days in individual cases where this can be justified, in particular because of the need to examine additional documentation or to otherwise verify whether the selection criteria are met. Contracting authorities are under a clear duty to meet these timescales, and should ensure that systems and resources are in place to meet them.

These rules also apply to the initial evaluation of applicants when the DPS is set up. However, as long as the invitation to tender for the first specific contract under the Dynamic Purchasing System has not been sent, the period may be extended provided that no invitation to tender is issued during the extended evaluation period. If initial evaluation of tenders takes additional time, it is therefore possible to delay the start of the DPS to provide further time for evaluation of applicants.

Individual contract award under a DPS.

Q. Do I have to run a competition for every requirement under a DPS? Or can the DPS be used for “direct awards”, perhaps for low-value contracts?

The rules state that each requirement under a DPS must be competed; all suppliers under the DPS or the relevant category must be invited to bid. “Single tender” is not permitted (unless only one eligible supplier has applied for the category), and there is no derogation for low-value contracts.

This reflects the nature of the DPS; admission to the system only requires suppliers to demonstrate their suitability, ability, and capability to deliver the type of requirement in the DPS or category. (There is no requirement to submit any type of tender as part of the application for admission). Therefore the decision on the best value-for-money offering can only be decided at the tender stage for each individual requirement, and equal treatment requires that all suppliers on the DPS [category] have the opportunity to bid.

The European Commission regards impermissible direct awards as the worst type of breach of the procurement rules and Treaty principles, and would probably take legal action, particularly if there was systemic use of direct awards under a DPS. Aggrieved suppliers would also be able to take action under the Remedies rules.

The 10-day minimum for return of tenders (including if applicable completion of a catalogue) in a competition under a DPS is substantially shorter than the total procurement process-time for the other procedures under the directive. As the DPS is intended for commonly used purchases generally available on the market, and must be an electronic process, it should normally be possible to readily undertake a competition.



Q. If we cannot limit the number of suppliers on the DPS or in any category, how will we effectively resource and undertake competitions for individual contracts?

The DPS is no more onerous than the open procedure for individual contracts; in fact it will be easier, as authorities will only have to examine tenders and not assess supplier's exclusion and selection status for every contract (although they may need to receive the supporting documents as confirmation, as discussed above). Authorities will also know how many suppliers are on the DPS [category] at any given point, so they will know the maximum number of potential responses in advance. As the DPS is for works, goods and services commonly available on the market, it may be possible in many cases to run relatively straightforward award evaluation criteria, which will help to keep resource requirements in check.

As with any procurement, contracting authorities should adopt the "Lean" approach. This will include early market engagement to understand the supplier base and the potential for the market to meet the authority's needs. This will help the authority to decide the best division into categories. Focused categories may help limit the number of suppliers who apply for each category.

Authorities, including CPBs and authorities with access to DPSs and frameworks put in place by CPBs, will wish to consider the relative merits of DPSs, frameworks, and individual separate procurements, depending on the specific requirements and circumstances.

Q. Does the standstill period apply to contracts under the DPS?

The standstill period is not obligatory for individual contracts awarded under a DPS.

Q. Is there a clear requirement to provide a debrief report for unsuccessful bidders for individual contracts under a DPS?

The requirement for a "notice of decision" as required in the rules for most procedures is specifically **not** obligatory for award of contracts under a DPS. However authorities are not prohibited from either proactively providing feedback or offering to provide feedback on request, and CCS regards provision of feedback as being good practice. Where an authority provides or offers feedback it should treat all suppliers equally, make known its intention to do so in advance, and abide by good practice on providing feedback, as when providing feedback under procedures where it is obligatory.

Q. May individual contracts "overhang" the duration of the DPS itself?

This is not specifically covered in the rules, and given the flexibility of DPS duration, need not be a concern. However, the new rules specifically allow "overhang" in frameworks, and there is no reason to consider that proportionate overhang would be impermissible in DPS. As with all procedures, the DPS should not be used in a way which will distort or prevent competition.

Electronic processes and DPS



Q. The DPS must be a wholly electronic process; what does this mean?

The provision of Regulation 22, covering electronic communications, apply to the use of the DPS from the entry into force of the Regulations, and Regulation 34(2) states that a DPS must be a 'completely electronic process.' The derogation to postpone electronic communications does **not** apply to the DPS. Authorities which wish to use the DPS will therefore need to ensure that they have access to suitable IT systems which enable compliance with Regulation 22, (including the technical and security requirements in Regulation 22 (16)). As noted above, however, existing e-procurement solutions and services may be useable or adaptable for the DPS, as the requirements and processes are similar in principle to those in other procedures under the rules.

The specific derogations in Regulation 22 (8) to (10) for oral communication do not apply. As the DPS is for works, goods and services commonly available on the market, it is unlikely that the derogations for physical models, special formats or office equipment, or specific security requirements in Regulation 22(2) to (7), will normally be pertinent, although they apply where relevant. As mentioned activities not involving communication between the parties, such as tender evaluation, do not have to be electronic, although there is no prohibition on use of electronic evaluation tools.

Q. Can electronic auctions be used for the award of contracts under a DPS?

Yes, the rules explicitly allow the use of e-auctions in the award of contracts under a DPS, provided that the subject matter is suitable (including a requirement that the technical specification can be established with precision). All the other rules applicable to e-auctions also apply; see Regulation 35. Electronic catalogues and DPS

Q. Can catalogues be used in the DPS?

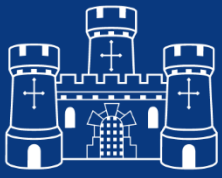
Yes, the authority may choose to allow or require the submission of electronic catalogues. These should meet the requirements for electronic communication in Regulation 22 and the provisions on e-catalogues in Regulation 36.

As with all use of catalogues under the public procurement rules, suppliers should not simply submit their general catalogues but should adapt the format and content to the specific requirements of the DPS.

Contracting authorities may require economic operators to submit an electronic catalogue as part of tender for a specific contract under a DPS. Authorities may also ask for submission of a catalogue with the initial request to participate. Please see separate guidance on e-communications for further details of the use of e-catalogues.

Q. If the request to participate in the DPS is accompanied by a catalogue, what should that catalogue contain?

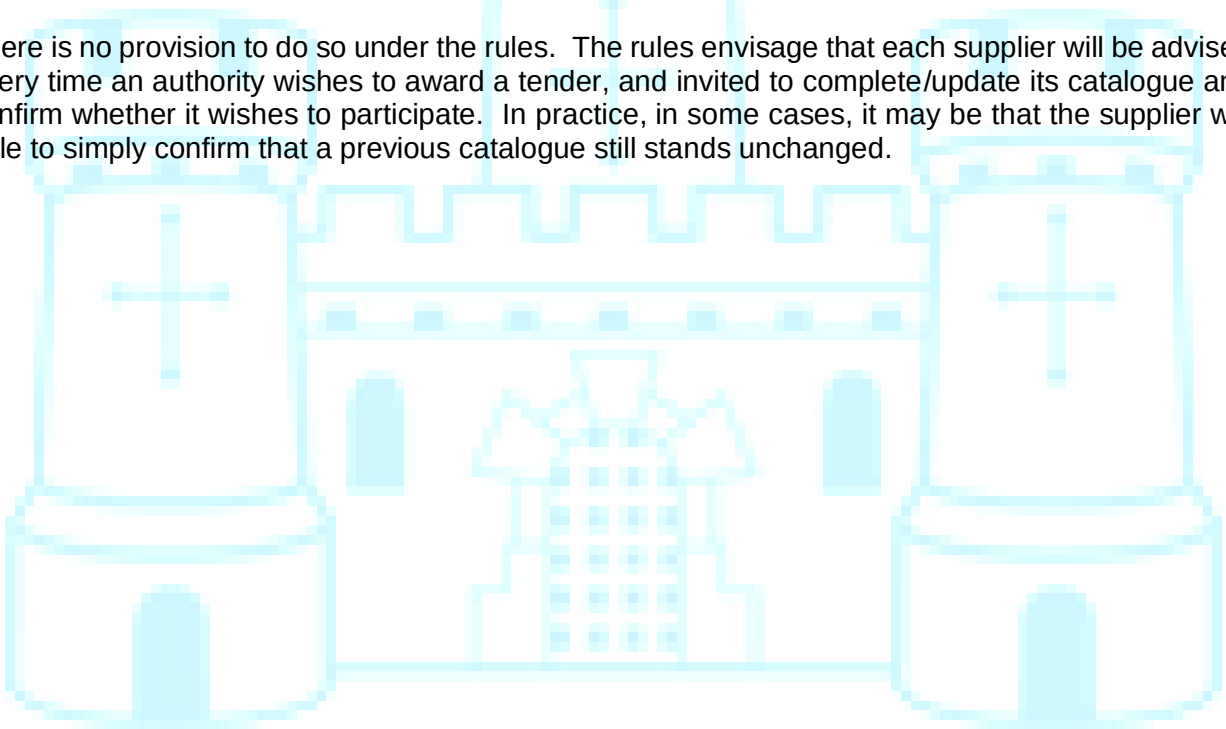
The rules do not specify what the catalogue should contain. It should comply with the technical specifications and format specified by the authority, (having regard to Government policy on open standards), and the format and content are likely to depend on the nature of the works, goods or



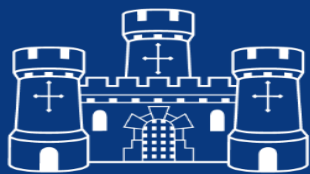
services to be procured. As it is not an indicative tender it is unlikely that it would need to contain detailed pricing information. Specific details of works, services or products and prices for each specific requirement will be completed at tender stage.

Q. If suppliers have recently completed catalogues can these be used for additional contracts, without further updating, and without going to tender again?

There is no provision to do so under the rules. The rules envisage that each supplier will be advised every time an authority wishes to award a tender, and invited to complete/update its catalogue and confirm whether it wishes to participate. In practice, in some cases, it may be that the supplier will be able to simply confirm that a previous catalogue still stands unchanged.



NEWCASTLE
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PART F

Section F6 – Financial Regulations

INTRODUCTION

The Council has a legal responsibility to make proper arrangements for the administration of its financial affairs, and must appoint an employee to undertake that responsibility. The employee so appointed is the S151 Officer. In addition, since public money is involved, the Council should be able to demonstrate that Members and Employees are acting with openness, integrity and accountability.

The Financial Regulations of Newcastle under Lyme Borough Council as set out in the following pages are aimed at achieving four main objectives:

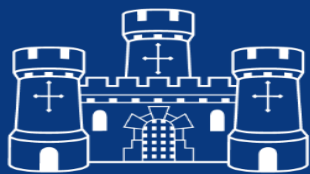
- (a) To maintain sound and proper financial records, procedures, and arrangements for the administration of all the Council's financial affairs.
- (b) To demonstrate to the public that proper safeguards and controls exist.
- (c) To assist employees and Members in their delivery of services to the public.
- (d) To safeguard Members and employees by giving them procedures to follow which ensure that the Council's expected standards are met in terms of managing public money and assets. In addition, employees can feel confident that they will have no difficulty in explaining their actions to Auditors, the Cabinet, Committees, Executive Management Team, Service Managers or the public, if they have followed Financial Regulations.

All Members and employees have a personal responsibility for taking reasonable action to provide for the security of the assets under their control, for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value. This should be done whilst acting in accordance with these regulations.

The S151 Officer is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to Audit and Standards Committee prior to being submitted to the Council. The S151 Officer is also responsible for reporting, where appropriate, breaches of Financial Regulations to the Cabinet and the Council.

The Council's detailed financial procedures, setting out how the key regulations will be implemented, are shown as procedural regulations.

Directors are responsible for ensuring that all employees in their departments are aware of the existence and content of the Council's Financial Regulations and other internal regulatory documents and that they comply with them. They must also ensure that their staff have access to

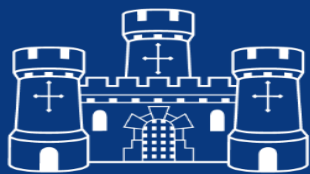


the Regulations, either via the Council's Intranet or, where appropriate, through the provision of hard copies.

The Financial Regulations have been divided into six areas based on the latest model regulations published by CIPFA. They are:

- Financial Management;
- Financial Planning;
- Risk Management and Control of Resources;
- Financial Systems and Procedures;
- External Arrangements.
- Compliance with the Local Government Transparency Code

For each of these there are key regulations and procedural regulations. Compliance to all is required. The procedural regulations are more detailed describing the actions required to ensure compliance with the key regulations. The key regulations relating to all five areas are set out first, followed by the procedural regulations relating to them.



Financial regulations and procedures must be capable of a clear “legal” interpretation. They have been written in a formal manner and **it must be remembered that it is the actual regulation and procedure that must be understood and observed.** In an effort to remove some of the complexities, each section is followed by an explanatory note, which conveys the “spirit” of the regulations. It is hoped that readers will find this helpful. **However, the explanatory notes do not form part of the Financial Regulations.** In addition where it is felt that a particular expression used in the regulations requires further definition, this has been provided in a Glossary to be found at the end of the regulations.

If you are in any doubt at all over compliance with a Financial Regulation, please consult the Financial Management Section or Internal Audit.

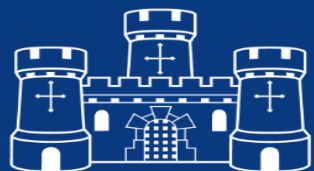
Any reference in the Council’s Financial Regulations to “the Cabinet” shall be deemed also to include any Sub-Committees of the Cabinet which may be given power to determine relevant matters.

Wherever the Council acts in a trustee capacity regarding the affairs of charities and other bodies, these Financial Regulations shall apply.

Reference to approvals may include approval by email in appropriate cases where authorisation has been obtained from the S151 Officer. References to “written approval” or “authorisation” by the S151 Officer include approval/authorisation via email.

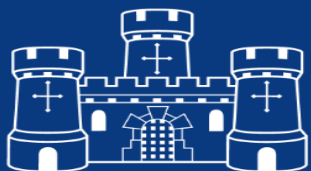
SUMMARY TABLE SHOWING CONTENTS OF FINANCIAL REGULATIONS AND PROCEDURES AT A GLANCE

Key Reg Ref.	KEY REGULATIONS	RELATED PROCEDURAL REGULATIONS (PR1-PR6)	Proc Reg Ref.
KR1	FINANCIAL MANAGEMENT includes:		
1.1-1.12 (pgs. 8-9)	The Full Council The Cabinet Scrutiny Committees Audit and Standards Committee Other Regulatory Committees	Responsibilities of the Cabinet	1.1 (pg 18)
1.13-1.22 (pgs.9-10)	The Statutory role of officers Chief Executive S151 Officer Directors	Responsibilities of the S151 Officer Responsibilities of the Chief Executive and other Directors	1.2 (pg 18) 1.3 (pgs.18-19)
1.23-1.30 (pgs.10-11)	Virement Supplementary Estimates Treatment of year end balances Accounting policies Financial records E-commerce and the Internet Final accounts	Virement Supplementary Estimates Financial Records Final Accounts Separation of Duties Grant and Other Claims	1.4 (pgs. 19-20) 1.5 (pgs. 20-21) 1.6 (pg 21) 1.7 (pg 22) 1.8 (pg 22) 1.9 (pgs. 22-23)
KR2	FINANCIAL PLANNING includes:		
2.1-2.2 (pg 11)	Policy framework	Performance plans	2.1 (pg 23)



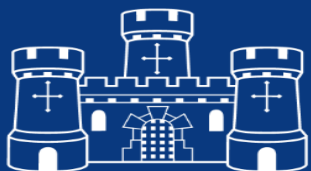
2.3-2.12 (pgs. 11-13)	Council tax Budget strategy & preparation Budget monitoring & control	General Fund Revenue Budget and Format of the budget Revenue budget, preparation, monitoring and control Trading accounts Other accounts	2.2 (pg 23) 2.3 (pgs.23-25) 2.4 (pgs. 25-26) 2.5 (pg 26)
2.13-2.15 (pgs.12-13)	Project Appraisal		
2.16 (pg 13)	Maintenance of reserves	Maintenance of reserves	2.6 (pg 26)
2.17 (pg 13)	Preparation of the capital programme	Capital programme	2.7 (pgs. 26-29)
2.18 (pg13)	Guidelines on budget preparation		

KR3	RISK MANAGEMENT AND CONTROL OF RESOURCES includes:		
3.1-3.3 (pg 13-14)	Risk Management	Risk Management Insurances	3.1 (pg 30) 3.2 (pgs. 30-31)
3.4-3.6 (pg 14)	Internal Control	Internal controls	3.3 (pgs. 31-32)
3.7-3.9 (pg 14)	Audit requirements	Internal Audit External Audit	3.4 (pgs. 32-33) 3.5 (pg 33)
3.10 (pg 14)	Preventing fraud and corruption	Preventing fraud and corruption	3.6 (pgs. 33-34)
3.11 (pg 14)	Assets	Assets Inventories Stocks Intellectual property Asset disposal Minor expenditure	3.7 (pgs. 34-35) 3.8 (pg 35) 3.9 (pgs. 36-37) 3.10 (pg 37) 3.11 (pg 37-38) 3.12 (pg 38)
3.12-3.17 (pgs. 14-15)	Treasury management	Treasury management Banking arrangements	3.13 (pgs.38-39) 3.14 (pg 39-40)
3.18-3.20 (pg 15)	Staffing	Staffing	3.15 (pgs.40-41)
3.21 (pg15)	Gifts and Hospitality		

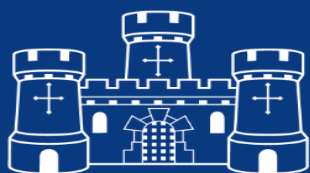


KR4	SYSTEMS AND PROCEDURES includes:		
4.1-4.2 (pg 15)	General	General Delegation Information security	4.1 (pg 41) 4.2 (pg 41) 4.3 (pgs. 41-42)
4.3 (pg 16)	Income & Expenditure	Recording & notification of sums due Separation of duties Receipts Money received Payment by credit & debit cards Direct Debit Collection Security Banking	4.4 (pg 43) 4.5 (pg 43) 4.6 (pg 43) 4.7 (pg 43) 4.8 (pgs. 43-44) 4.9 (pgs. 44-45) 4.10 (pg 45) 4.11 (pg 45)

		Records Issue of Debtors Accounts Recovery procedures Write offs Fees & Charges Changes in sources of Revenue Requisitioning and Ordering of Work, Supplies & Services Contracts Works contracts Completion of contracts Goods and materials contracts General and Variations to contracts Paying for work, supplies & services	4.12 (pg 45) 4.13 (pg 46) 4.14 (pg 46) 4.15 (pg 46) 4.16 (pg 46) 4.17 (pg 47) 4.18 (pgs.48-49) 4.19 (pg 50) 4.20 (pg 50) 4.21 (pg 51) 4.22 (pg 51) 4.23 (pgs.51-52) 4.24 (pgs.52-55)
4.4-4.6 (pg 16)	Payments to Employees & Members	Payments to Employees & Members Allowances to Members, travelling and subsistence Travelling and subsistence allowances	4.25 (pgs.55-56) 4.26 (pg 56) 4.27 (pg 56)
4.7 (pg 16)	Taxation	Taxation	4.28 (pg 57)
4.8 (pg 16)	Trading Accounts	Trading Accounts	4.29 (pg 57)
KR5	EXTERNAL ARRANGEMENTS: includes		
5.1-5.5 (pg 16)	Partnerships	Partnerships	5.1 (pgs.58-59)
5.6 (pg 16)	External funding	External funding	5.2 (pg 59)

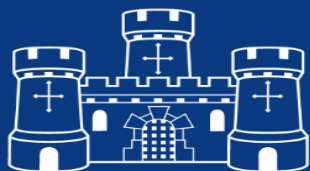


5.7 (pg 16)	Work for third parties	Work for third parties	5.3 (pgs.59-60)
KR6	COMPLIANCE WITH THE LOCAL GOVERNMENT TRANSPARENCY CODE		
6.1-6.4 (pg 17)	Publication of data	Publication of data	6.1 (pgs.60-61)
KR7	COMMERCIALISATION GOVERNANCE		
7.1 (pg 17)	Commercial Strategy Governance	Commercial Strategy Governance	7.1 (pg 61)

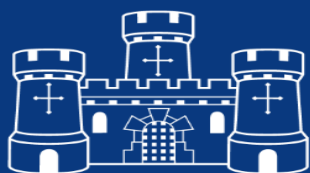


MONETARY AMOUNTS

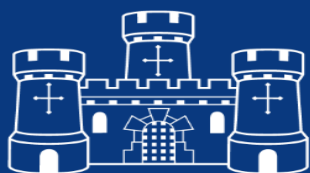
Ref.		Amount
PR1 1.3.4 (pg18)	Financial Management Amount over which the S151 Officer needs to be involved with negotiations and/or agreements/ arrangements	£50,000
PR1 1.4.1- 1.4.3 (pgs 19-20)	Virement Revenue Executive Director of relevant service area limit EMT/Portfolio Holder limit Cabinet approval limit Council approval in excess of Capital	£50,000 £100,000 £1m £1m
	S151 Officer limit EMT/Portfolio Holder limit Cabinet approval limit Council approval for in excess of	£100,000 £250,000 £2m £2m
PR1 1.5.1 & 1.5.4 (pgs 20-21)	Supplementary Estimates Revenue S151 Officer limit EMT/Portfolio Holder limit Cabinet approval limit Council approval in excess of Capital	£50,000 £100,000 £250,000 £250,000
	S151 Officer limit EMT/Portfolio Holder limit Cabinet approval limit Council approval for in excess of	£100,000 £250,000 £2m £2m
KR2 2.12 (pg12)	Variances Significant variances are those which are greater than: All variances must be investigated if in excess of:	The larger of 10% of the budget or £2,000 £15,000
KR2 2.15 (pg13)	Capital Appraisals Estimated cost of capital project above which an appraisal must be carried out	£100,000



PR3 3.2.1- 3.2.3 (pgs 30-31)	Insurances The minimum level of Product and Public Liability insurance cover as specified by the Cabinet, subject to agreement of the S151 Officer The minimum level of Employers Liability insurance cover as specified by the Cabinet, subject to agreement of the S151 Officer The minimum level of Professional indemnity insurance cover (where applicable) as specified by the Cabinet, subject to agreement of the S151 Officer	£5,000,000 £10,000,000 £2,000,000
PR3 3.8.1 (pg35)	Inventories Level above which items should be included on an inventory	£1,000
PR3 3.9.6 (pg37)	Stock levels (amounts which may be written off) (a) S151 Officer (b) Cabinet	Below £5,000 Above £5,000
PR3	Asset Disposal	



3.11.1 (pg37)	Amount above which the residual value of the asset to be written off/disposed of should be written off/disposed of in liaison with the Head of Finance.	£1,000
PR4 4.11.4 (pg45)	Banking Amount above which money is to be banked without delay	£500
PR4 4.13.1 (pg46)	Records Amount above which schedules of amounts outstanding where a debtors account has not been raised need supplying to the S151 Officer	£500
PR4 4.13.1- 4.13.4 (pg46)	Issue of debtors accounts Amount below which it is considered uneconomic to raise an account	£40
PR4 4.15.1- 4.15.2 (pg 46)	Write offs of Debtors Accounts (a) Approval from the S151 Officer (b) Approval from Portfolio Holder (c) Approval from Cabinet	£5,000 or below £5,000 to £10,000 Over £10,000
PR4 4.18.18 (pg48)	Ordering of work, supplies and services (a) Low value procurement: Where alternative prices are available for the level of estimated cost and a minimum of two written quotations is required; (b) Intermediate value procurement: Where alternative prices are available for the level of estimated cost and a minimum of three written quotations is required. (c) High value procurement: The estimated cost above which Financial Regulations and Contract Procedural Rules shall apply.	£5,000 <>£30,000 £30,000 <> £50,000 > £50,000
PR4 4.18.22 (pg49)	The amount above which Contract Procedural Rules and Financial Regulations in relation to contracts applies to orders of a repetitive nature when totalled	£50,000
PR4 4.24.12 (pg 53)	Paying for work, supplies and services. Amount above which schedules of accounts need supplying to the S151 Officer	£1,000



KEY REGULATIONS

KR1: FINANCIAL MANAGEMENT

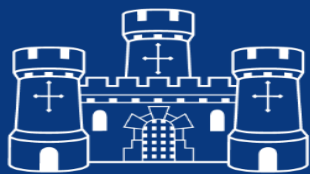
- 1.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.
- 1.2 All employees and Members have a duty to abide by the highest standards of probity in dealing with financial issues, to be aware of and comply with these Financial Regulations.
- 1.3 **DEPARTURES:** In the event of it being impracticable to apply any of these Regulations in any particular case the S151 Officer shall be authorised to waive compliance subject to reporting any major departure to the next meeting of the Cabinet.

The Full Council

- 1.4 The Full Council shall be responsible for:
 - (a) Adopting the Council's constitution and Members' code of conduct and for approving the policy framework and budget within which the Cabinet operates. It shall also be responsible for approving and monitoring compliance with the Council's overall framework of accountability and control in the form of contract procedural rules and financial regulations and for monitoring compliance with the agreed policy and related Cabinet decisions;
 - (b) Approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council and its committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution.

The Cabinet

- 1.5 The Cabinet shall be responsible for proposing the policy framework and budget to the Full Council, and for discharging executive functions in accordance with the policy framework and budget.
- 1.6 Cabinet decisions can be delegated to a committee of the Cabinet, an individual Cabinet Member, an employee or a joint committee.
- 1.7 The Cabinet has the authority:
 - (a) to consider all financial matters which are of an executive nature or not reserved by law to Full Council;
 - (b) to investigate any aspect of income and expenditure relating to all departments of the Council, and to call for the production of all relevant documentation necessary for such an investigation;



- (c) after a full investigation to make such recommendations to the Full Council as it considers necessary, with a view to securing greater economy in the administration of the services controlled by the Council and on financial matters generally.
- (d) To determine any matter, which is an executive function or not reserved by law to Full Council.

1.8 The Cabinet shall:

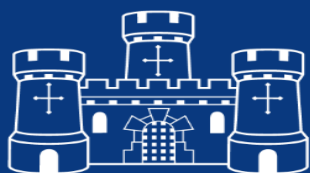
- (a) be responsible for establishing protocols to ensure that individual Members of Cabinet consult with relevant employees before taking a decision within their delegated authority. In doing so, the individual Member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

Scrutiny Committees

1.9 The Scrutiny Committees shall be responsible for scrutinising Cabinet decisions before or after they have been implemented and for holding the Cabinet to account. The Scrutiny Committees shall also be responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council.

Audit and Standards Committee

1.10 The Audit and Standards Committee shall be responsible for promoting and maintaining high standards of conduct amongst Members. In particular, it is responsible for advising the Council on the adoption and revision of the Members' Code of Conduct, and for monitoring the operation of the code.



1.11 The

Audit and Standards Committee shall have right of access to all the information it considers necessary and can consult directly with internal and external auditors. It shall be responsible for reviewing the external auditor's reports and the annual audit letter and internal audit's annual report and for approving and reviewing the internal audit plan. It shall also receive and approve the Council's Statement of Accounts and receive risk management reports and ensure that corporate business risks are being actively managed. The Audit and Standards Committee shall also receive any proposed amendments to the Council's Financial Regulations prior to these being approved by Full Council.

Other regulatory committees

1.12 Planning, Licensing, Public Protection and other regulatory functions are not Cabinet functions but are exercised

through the Planning, Licensing, Public Protection and other regulatory committees under powers delegated by the Full Council. These committees report to the Full Council.

The statutory role of officers

Chief Executive

1.13 The Chief Executive shall be designated as The Head of Paid Service and shall be responsible for the corporate and overall strategic management of the Council as a whole. They shall report to and provide information for the Cabinet, the Full Council, the Scrutiny Committees and any other committees. They shall be responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the Council. They shall also be responsible for the system of record keeping in relation to the Full Council's decisions (see below).

1.14 The Chief Executive must ensure that Cabinet decisions and the reasons for them are made public. They must also ensure that Council Members are aware of decisions made by the Cabinet and of those made by employees who have delegated executive responsibility.

S151 Officer

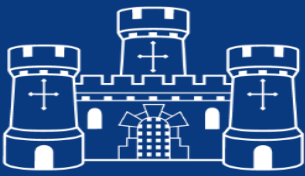
1.15 The S151 Officer is responsible for advising the Cabinet or Full Council about whether a decision is likely to be

considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:

- (a) initiating a new policy;
- (b) committing expenditure in future years to above the budget level;
- (c) incurring interdepartmental transfers above virement limits;
- (d) causing the total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.

1.16 The S151 Officer shall, in carrying out their functions, have regard to their statutory duties (which cannot be

over-ridden) in relation to the financial administration and stewardship of the Council arising from:
(a) Section 151 of the Local Government Act 1972;



- (b) The Local Government Finance Act 1972;
- (c) The Local Government Act 2003;
- (d) The Accounts and Audit (England) Regulations 2015 or any successor legislation.

1.17 The S151 Officer shall be responsible for:

- (a) the proper administration of the Council's financial affairs;
- (b) setting and monitoring compliance with financial management standards;
- (c) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- (d) preparing the revenue budget and capital programme;
- (e) treasury management.

1.18 The S151 Officer, in accordance with Section 114 of the Local Government Finance Act 1988, shall report to the Full Council, Cabinet and external auditor if the Council or one of its employees:

- (a) has made, or is about to make, a decision which involves incurring unlawful expenditure;
- (b) has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council;



(c) is about to make an unlawful entry in the Council's accounts.

1.19 The S151 Officer shall nominate a properly qualified Member of staff to deputise should they be unable to perform their duties under Section 114 personally with the first choice being the Head of Finance

1.20 The Council shall provide the S151 Officer with sufficient employees, accommodation and other resources, including legal advice where this is necessary, to carry out their duties under Section 114.

Monitoring Officer

1.21 The Monitoring Officer shall be responsible for:

- (a) reporting any actual or potential breaches of the law or maladministration to the Full Council and/or to the Cabinet and for ensuring that procedures for recording and reporting key decisions are operating effectively;
- (b) advising all Members and employees about who has authority to take a particular decision;
- (c) advising the Cabinet or Full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework; and
- (d) maintaining an up-to-date constitution.

Directors

1.22 Directors and their delegated representatives shall be responsible for:

- (a) Ensuring that Cabinet Members are advised of the financial implications of all proposals and that the S151 Officer has agreed the financial implications;
- (b) Consulting with the S151 Officer and seeking approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

Virement

1.23 The Full Council shall determine the limits, above which a Director may not approve virement without reference to the Full Council. The limits may be set by reference to an absolute amount or to a specified percentage of a budget head. Any virement between budget must be notified to and agreed **in advance** with the S151 Officer.

Supplementary Estimates

1.24 Where services wish to undertake an activity not originally identified in the budget or incur additional revenue expenditure on an existing activity where this is fully funded (for example through additional specific grant allocations), approval must be sought for a supplementary estimate in accordance with Section Ae below.

Treatment of year-end balances

1.25 Carry forward to the following financial year of under or overspendings on budget headings shall only be permitted with the prior approval of the S151 Officer.

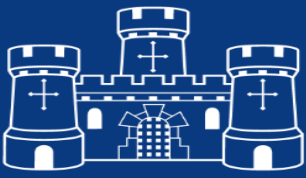
Accounting policies

1.26 The Council will comply, in all cases, with the Accounts and Audit (England) Regulations 2015 and any other Regulations, Accounting Codes of Practice or external audit requirements that may replace or supplement them.

1.27 The S151 Officer shall be responsible for selecting accounting policies and ensuring that they are applied consistently. Directors shall adhere to the accounting policies and guidelines approved by the S151 Officer.

Financial records

1.28 The S151 Officer, in consultation with Directors, shall determine all accounting procedures and the form and content of all of the Council's financial records, both manual and computerised. No introductions or amendments shall be made without their approval.



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1.29 The Council is committed to maximise the benefits available from the introduction of e-commerce and the use of the Internet. Therefore all reference to documents and procedures for their use should be taken to allow for the use of electronic facilities instead of printed matter where appropriate and where approval has been given by the S151 Officer in advance.

Final Accounts

1.30 The S151 Officer shall prepare and publish an annual statement of accounts, in accordance with the relevant code of practice currently in force and in accordance with the statutory timetable. The Audit and Standards Committee shall approve the statement of accounts and consider the external auditor's "audit findings" report submitted to it in accordance with International Standard on Auditing 260.

KR2: FINANCIAL PLANNING

Policy framework

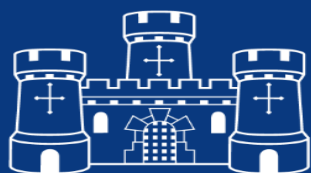
- 2.1 The Full Council shall:
- (a) Agree and approve the Council's policy framework and budget, the key elements of which will be the Council Plan, Sustainable Community Strategy, General Fund Revenue Budget and the Capital Programme;
 - (b) Approve variations to approved budgets, where those variations increase the overall amount of the budget or are contrary to the approved policy framework;
 - (c) Approve variations to plans and strategies forming the policy framework;
 - (d) Determine the circumstances in which a decision will be deemed contrary to the budget or policy framework;
 - (e) Set the level at which Directors may reallocate budget funds from one service to another. Directors shall be responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the limits set by the Full Council.
- 2.2 The Chief Executive is responsible for proposing a Council Plan to the Cabinet and scrutiny before its submission to the Full Council for approval.

Council Tax

- 2.3 The Cabinet shall recommend, and the Full Council approve, the Council Tax to be set by the Council.

Budget strategy and preparation

- 2.4 The S151 Officer shall ensure, in relation to the General Fund, that a Revenue Budget is prepared on an annual basis, together with a Medium Term Financial Strategy covering a minimum of five years beyond the current year, for submission to the Cabinet for approval. The Cabinet will recommend the budget to Full Council for approval.
- 2.5 The Cabinet shall, no later than the end of October each year, consider and agree the strategy to be followed in the preparation of the General Fund Revenue Budget and the Capital Programme, in particular, for the following year, but also generally for a number of years (the budget strategy). In order to achieve this it will:
- (a) Review the current capital and revenue service programmes and expenditure, taking into account the Council's corporate priorities and approved policies; partnership working, consultation with and the needs of the community;
 - (b) Analyse gaps in service provision and evaluate and prioritise all new initiatives and statutory duties requiring resources;
 - (c) Assess the capital and revenue resources available to the Council;
 - (d) Seek to match the resources in (c) to the priorities in (a) and (b).
- 2.6 The Cabinet shall have regard to the following factors when considering and agreeing the budget strategy in respect of its review of current programmes:
- (a) Information contained in the current budget book supported by supplementary notes and supporting information; the Council's Sustainable Community Strategy, policies and business plans; the results of any best value service reviews; the latest reports on all areas of partnership working and the results of consultation with the community, businesses and other partners; including an analysis of needs and gaps;



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- (b) In the evaluation and prioritisation of new initiatives and statutory duties whether mandatory or discretionary; the level of support for each of the Council's key priorities; the capital and revenue implications; involvement of partners and the implications if not carried out;
 - (c) In respect of its assessment of available resources: the latest information concerning available capital and revenue resources in the light of the previous year's out-turn and assumptions for the following years;
 - (d) In respect of the matching of resources to priorities: new initiatives are to be weighed and prioritised both against each other and against current programmes and services.
- 2.7 The S151 Officer shall advise the Cabinet and Full Council on the robustness of the revenue budget and provide all necessary information to the Cabinet to enable it to carry out the process of consideration and agreement of the budget strategy.
- 2.8 Following agreement of the budget strategy by the Cabinet, it shall be referred to the Finance, Resources and Partnerships Scrutiny Committee for their consideration and the results of such scrutiny shall be reported back to the Cabinet, which shall reconsider the strategy in the light of any comments made.
- 2.9 The Cabinet shall issue guidance on the general content of the General Fund Revenue Budget and, following advice from the S151 Officer, on any assumptions to be made or particular factors to be taken into account in its preparation.
- 2.10 Directors shall
- (a) Assist the S151 Officer in presenting the budget strategy to Cabinet by providing them with any supporting information or data required to enable them to adequately report to the Cabinet;
 - (b) Where required by the S151 Officer, prepare budget estimates reflecting agreed service plans in line with guidance issued by the Cabinet. These estimates shall be based on the assumptions contained in the relevant Medium Term Financial Strategy approved by the Cabinet. Otherwise, Directors shall provide them with sufficient information to enable the Medium Term Financial Strategy to be updated to reflect changes affecting the budgets of services under their control, for example in respect of new pressures or unusual or unexpected price changes. The service budgets shall be aggregated and summarised by the S151 Officer and submitted by them, in that form, to the Cabinet for approval. At the same time he will recommend proposed taxation levels and the other means of financing the proposed budget, including any contributions from reserves; and
 - (c) Prepare Service Plans to feed into the financial information collated by the Chief Executive in the format approved by them.

Budget monitoring and control

- 2.11 The S151 Officer shall provide appropriate financial information to enable Directors to monitor budgets effectively. He, assisted by Directors as set out in the Regulation below, shall monitor and control expenditure and income against budget allocations and report to the Cabinet on the overall position on a regular basis.
- 2.12 Directors shall control expenditure and income within their areas of responsibility, taking account of financial information provided by the S151 Officer. They shall report on variances within these areas and take any action necessary to avoid exceeding their budget allocation and alert the S151 Officer to any problems of which they become aware. They shall provide the S151 Officer with any information that they may require in order that they may report to the Cabinet upon expenditure or income compared to budget.
- 2.13 If a project (either of a capital or revenue nature) is proposed, for which no current provision exists in the budget, the benefits arising from the project will be identified as part of the initial proposal for the project, the business case will then be made and – in the case of approval – the project lead will be expected to monitor the realisation of the ensuing benefits.
- 2.14 If a capital project is proposed, it shall be subject to an appraisal. The appraisal shall be in a form approved by the S151 Officer but such an appraisal shall, as a minimum, set out the project's contribution towards meeting corporate objectives and service priorities, its output measures and milestones, and its cost and sources of funding. The results of this appraisal shall be included in any report made to the Cabinet or Council requesting approval to carry out the scheme. Upon completion of the project, a report shall be made to the Cabinet detailing the actual performance compared with the data contained in the original appraisal.
- 2.15 The requirement to set out a business case which includes the expected benefits from the project or to submit capital projects to appraisal will apply in cases where the proposed cost exceeds the sum specified in the table



of "Monetary Amounts". The S151 Officer may waive the requirement in cases where they consider this to be appropriate.

Maintenance of reserves

- 2.16 The S151 Officer shall carry out an annual assessment of the Council's financial risks and advise the Full Council and the Cabinet on prudent levels of reserves for the Council.

Preparation of the capital programme

- 2.17 The S151 Officer shall prepare a Capital Programme on an annual basis for consideration and approval by the Cabinet and the Full Council. They shall also update the Programme on a regular basis during each year and report thereon to the Cabinet. In considering the total amount of the capital programme the Cabinet and the Full Council shall have regard to the resources available or expected to be available, to the Council to finance such a programme over the period covered by it, including the revenue consequences of the programme. The S151 Officer shall report to the Cabinet and the Full Council at the time that the programme is considered upon the availability of such resources.

Guidelines

- 2.18 Guidelines on budget preparation are issued to Members and Directors by the Cabinet following agreement with the S151 Officer. The guidelines will be determined through the approval by the Cabinet of the Medium Term Financial Strategy and the assumptions contained therein and will take account of:
- Legal requirements
 - Pay and price increases
 - Income projections
 - Medium long term planning prospects
 - The Council Plan
 - Available resources
 - Risk factors
 - Spending pressures
 - Relevant government guidelines
 - Other internal policy documents
 - Cross cutting issues (where relevant).

KR3: RISK MANAGEMENT AND CONTROL OF RESOURCES

Introduction

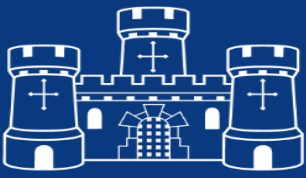
- 3.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

Risk management

- 3.2 The Audit and Standards Committee shall be responsible for approving the Council's risk management strategy and for reviewing the effectiveness of risk management. The Cabinet shall be responsible for ensuring that proper insurance exists where appropriate.
- 3.3 The Chief Executive shall be responsible for preparing the Council's Risk Management Strategy, for promoting the management of risk throughout the Council and for advising the Cabinet on proper insurance cover where appropriate.

Internal control

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



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- 3.5 The S151 Officer, in conjunction with the Chief Internal Auditor, shall be responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 3.6 Directors shall establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

Audit requirements

- 3.7 The Accounts and Audit (England) Regulations 2015 require every Council to undertake an adequate and effective internal audit of its accounting records and of its system of internal control.
- 3.8 Full Council is responsible for appointing **the Council's** external auditors. This responsibility may be delegated (e.g. Public Sector Audit Appointments acting on behalf of the Council). The basic duties of the external auditor are governed by the Local Audit and Accountability Act 2014.
- 3.9 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

Preventing fraud and corruption

- 3.10 The Head of Finance shall be responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

Assets

- 3.11 Directors shall ensure that records and assets are properly maintained and securely held. They shall ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

Treasury Management

- 3.12 The Council adopts the clauses contained in CIPFA's "**Treasury Management in the Public Services: Code of Practice**" (the Code), as described in Section 5 of that Code. Accordingly, it will create and maintain, as the cornerstones for effective treasury management:
- (a) A Treasury Management Policy Statement, stating the policies, objectives and approach to risk management of its treasury management activities;
 - (b) Suitable Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities. The content of the Policy Statement and the TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of the Council. **Such amendments will not result in the Council materially deviating from the Code's key principles.**
- 3.13 **The Cabinet shall be responsible for the implementation of the Council's treasury management policies and practices.**
- 3.14 The Audit and Standards Committee shall be responsible for the regular **monitoring of the Council's treasury** management policies and practices and shall receive a mid-year review of treasury management activities and the annual report prior to its submission to Full Council.
- 3.15 The S151 Officer shall be responsible for the execution and administration of treasury management decisions. They **shall act in accordance with the Council's Policy Statement and TMPs and if they are a CIPFA Member, CIPFA's "Standard of Professional Practice on Treasury Management"**. They may, in connection with leasing, share the responsibility with the relevant Director.
- 3.16 The Full Council shall receive reports on treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year and an annual report after its close, in the form prescribed in the TMPs.



- 3.17 The S151 Officer shall control all money in the hands of the Council and all investments of money and borrowings under its control shall be made in the name of the Council.

Staffing

- 3.18 The Full Council shall be responsible for determining how employee support for executive and non-executive roles within the Council will be organised.
- 3.19 The Chief Executive shall be responsible for determining the structure of services and for providing overall management to employees. They shall also be responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- 3.20 Directors shall be responsible for controlling total employee numbers by:
- (a) Ensuring that an approved post exists (by reference to the establishment list) and that budget provision has been made to cover the cost of filling the post for the period contemplated before commencing the recruitment process.
 - (b) Advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels
 - (c) Adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
 - (d) The proper use of appointment procedures.
- 3.21 Authorisation from the S151 Officer is required for settlements, pension strain, payments made in accordance with the Mutually Agreed Resignation Scheme and gratuities.

Gifts and Hospitality

- 3.21 Every employee has a personal responsibility to be aware of and comply with the Council's Official Gifts and Hospitality Policy.

KR4: SYSTEMS AND PROCEDURES

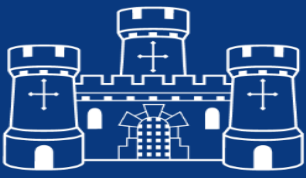
General

- 4.1 The S151 Officer shall:
- (a) be responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. The S151 Officer must approve any changes made by Directors to the existing financial systems or the establishment of new systems;
 - (b) agree any changes to agreed procedures by Directors to meet their own specific service needs.
- 4.2 Directors shall:
- (a) ensure that their employees receive relevant financial training that has been approved by the S151 Officer;
 - (b) ensure that information is held securely and in accordance with the council's information security policies and that systems are registered in accordance with the General Data Protection Regulations (GDPR);
 - (c) ensure that employees are aware of their responsibilities under Freedom of Information and GDPR;
 - (d) be responsible for the proper operation of financial processes in their own departments.

Income and Expenditure

- 4.3 Directors shall ensure that a proper and documented scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify employees authorised to act on the Director's behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their authority. The Cabinet is responsible for approving procedures for writing off debts as part of the overall framework of accountability and control.

Payments to Employees and Members



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- 4.4 The Head of Finance shall be responsible for all payments of salaries and wages to all employees, including payments for overtime. The Head of Legal and Governance is responsible for the payment of basic and special responsibility allowances to Members.
- 4.5 The Head of Legal and Governance shall be responsible for all payments of claimable allowances to Members.
- 4.6 The Chief Executive and Democratic Elections Manager are responsible for all payments to staff employed for elections.

Taxation

- 4.7 The S151 Officer shall be responsible for advising Directors, on all taxation issues that affect the Council. Such advice shall be given in the light of guidance issued by appropriate bodies and relevant legislation as it applies. Responsibility for the maintenance of tax records, authorising tax payments, calculating tax credits due and the submission of tax returns by their due date shall be on the same basis.

Trading Accounts and Wholly Owned Companies

- 4.8 The S151 Officer shall be responsible for advising on the establishment and operation of trading accounts and wholly owned companies.

KR5: EXTERNAL ARRANGEMENTS

Partnerships

- 5.1 The Cabinet:
- (a) Shall be responsible for approving delegations, including frameworks for partnerships;
 - (b) Shall be the focus for forming partnerships with other public, private, voluntary and community sector organisations to address local needs;
 - (c) May delegate their functions – including those relating to partnerships – to employees. These are set out in the scheme of delegation that forms **part of the authority's constitution. Where functions are delegated, the Cabinet remains accountable for them.**
- 5.2 Where a delegation is made the Chief Executive or employee nominated by them shall represent the Council on partnership and external bodies, in accordance with the scheme of delegation.
- 5.3 The Chief Executive shall be responsible for promoting and maintaining the same high standards of conduct in partnerships that apply throughout the Council.
- 5.4 The S151 Officer shall ensure that the:
- (a) Accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory;
 - (b) Overall corporate governance arrangements and legal issues are considered when arranging contracts with external bodies and if necessary, referred to the Chief Executive.
 - (c) Risks have been fully appraised before agreements are entered into with external bodies.
- 5.5 Directors shall be responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

External funding

- 5.6 The S151 Officer shall be responsible for ensuring that all funding notified by external bodies is received and **properly recorded in the authority's accounts.**

Work for third parties

- 5.7 The Cabinet shall be responsible for approving the contractual arrangements for any work for third parties or external bodies.

KR6: COMPLIANCE WITH THE LOCAL GOVERNMENT TRANSPARENCY CODE



- 6.1 The Council will comply with the Local Government Transparency Code 2015 and all subsequent versions of the Code.
- 6.2 Data required by the Code to be published will be published in as complete a form as practicable and within the timescales set out in the Code.
- 6.3 The S151 Officer will be responsible for co-ordinating the publication of the data required by the Code and for monitoring compliance with the Code.
- 6.4 Directors will be responsible for ensuring that data in relation to services under their control is published.

KR7: COMMERCIALISATION GOVERNANCE

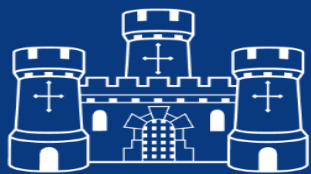
- 7.1 Commercial investment decisions linked with the Revolving Investment Fund and Investment Strategy will be taken by full Cabinet in order to achieve the following strategic outcomes:-
 - (a) To generate income through commercial activity that can be reinvested in local priorities, services and improvements for borough residents.
 - (b) To build strong working relationships with public, private and third sector partners in order to maximise collaboration and generate efficiencies.
 - (c) To embed a commercial culture within the council and ensure that Council staff are equipped with the skills they need to operate in a more commercial environment.
 - (d) To support the council in delivering the council plan and growth agenda as a key pillar of the medium term financial strategy and goal of financial self-sufficiency.
 - (e) To optimise the council's use of technology and support the digital agenda in order to enable new, more efficient and flexible ways of working and interacting with customers and residents.
- 7.2 Some changes may be required to the Council's Constitution to enable timely decision making as commercial opportunities present themselves.

PROCEDURAL REGULATIONS

PR1: FINANCIAL MANAGEMENT

1.1 Responsibilities of the Council

- 1.1.1 The Full Council shall:
 - (a) approve and publish Financial Regulations governing the conduct of the Council's financial affairs. The regulations shall be reviewed and amended as necessary;



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- (b) have regard to the observance of the Council's Financial Regulations and Contract Procedural Rules throughout all Services under its control.

1.2 Responsibilities of the S151 Officer

1.2.1 The S151 Officer shall:

- (a) ensure the proper administration of the financial affairs of the Council (s151);
- (b) set the financial management standards and monitor compliance with them;
- (c) ensure proper professional practices are adhered to and act as head of profession in relation to the standards, performance and development of finance employees throughout the Council;
- (d) advise on the key strategic controls necessary to secure sound financial management;
- (e) ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

1.3 Responsibilities of the Chief Executive and other Directors

1.3.1 Where responsibilities are attributed to the S151 Officer, ultimate authority rests with the Chief Executive, except with regard to the discharge of the responsibilities of the S151 Officer under section 151 of the Local Government Act 1972 and section 114 of the Local Government Act 1988.

1.3.2 Every Director shall:

- (a) be responsible for the accountability and control of employees and the security, custody and control of all other resources including plant, buildings, materials, cash and stocks appertaining to their service;
- (b) ensure that every employee under their control or person acting on the Council's behalf, shall be made aware of the contents of these regulations;
- (c) promote the financial management standards set by the S151 Officer in their services and monitor adherence to the standards and practices, liaising as necessary with the S151 Officer;
- (d) promote sound financial practices in relation to the standards, performance and development of employees in their departments;
- (e) provide on an annual basis written assurance as to the soundness of the systems of internal control they are responsible for.

1.3.3 All reports shall contain reference to any financial implications, which the item reported upon may have for the Council. This shall include whether the item is provided for in an approved budget, the proposed amount, any significant revenue consequences in future years, and the financing of any expenditure. The S151 Officer shall approve the wording of all such references.

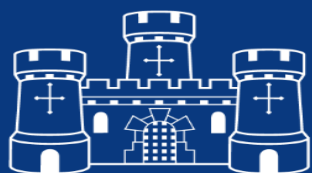
1.3.4 The S151 Officer shall be consulted in all cases where an agreement or other arrangement, **in excess of the monetary amount as specified in these regulations, with external third parties is contemplated which may have financial implications for the Council. Such consultation shall take place before such an agreement or other arrangement, is placed before the Full Council or Cabinet for its consideration, and in all cases before such an agreement or other arrangement, is formally entered into. Wherever they consider it appropriate, the S151 Officer shall take part in any negotiations or discussions concerning such an agreement or other arrangement.**

Explanatory Notes

Financial management standards need to be promoted through the Council and a monitoring system needs to be in place to review compliance with them. Regular comparisons of performance indicators and benchmark standards are reported to the Cabinet and the Full Council.

The Cabinet is responsible for all decisions made within the budget set by Full Council.

The Cabinet has delegated some of its financial responsibilities to the S151 Officer. It does however retain ultimate authority, and may at any time choose to exercise it. The S151 Officer may, in appropriate cases refer items back to the Cabinet for its consideration.



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The law requires that there must be a designated employee legally responsible for the Council's financial affairs, the Section 151 officer. The Council has therefore designated the S151 Officer as the legally responsible employee.

Financial Regulations will be drawn up by the S151 Officer and submitted to the Audit and Standards Committee prior to being approved by the Full Council to provide the framework and lay down the ground rules for the conduct of the Council's financial affairs. These Regulations will be regularly reviewed and revised to keep them up to date.

All of the following must enforce and comply with Financial Regulations: the Cabinet, Directors, Council Employees, and any other person or body acting on the Council's behalf - e.g. a contractor where services have been contracted out, secondments from other authorities or agency workers recruited to assist in the provision of a Council service.

The financial implications of any reports submitted to the Cabinet must always be outlined in the text and agreed with the S151 Officer in advance. All reports to be considered for inclusion in agendas must be signed off by the S151 Officer or Head of Finance to evidence that their financial content has been approved by them. If this is not done, the report will not be placed on the agenda by the Committee Section.

The S151 Officer must be involved in discussions, negotiations and/or arrangements with third parties where there are to be financial implications in excess of the approved monetary amount.

Financial Regulations apply to employees and Members dealing with the affairs of charities and other organisations, e.g. United Charities, etc.

1.4 Virement

1.4.1 Virement to meet an estimate variation shall not be permitted:

- (a) where the amount of the estimate variation to be met from virement exceeds the limit which has been determined by Full Council, in accordance with Financial Regulation A23, unless it has been referred to the Cabinet, or back to the Full Council if it exceeds the limits for the Cabinet;
- (b) where the budget head or heads from which virement is proposed to be made relate to any of the following centrally controlled estimates, unless it has been referred to the S151 Officer as S151 Officer, who shall determine whether the proposal may be dealt with in accordance with relevant Financial Regulations or whether it shall be referred to the Full Council:
 - i Capital Financing Charges;
 - ii Central Support Services recharges;
 - iii Contributions to reserves or provisions;
 - iv Any other budget head specified by the S151 Officer or the Cabinet;
- (c) where the saving on a budget head or heads from which virement is proposed to be made should, in the opinion of the S151 Officer, be treated as a Corporate saving;
- (d) where the Cabinet or Full Council has already turned down the project in principle.

1.4.2 Where during the course of the financial year, it is proposed to incur new or additional expenditure or to reduce income in respect of an item not provided for, or insufficiently provided for, within an approved budget, virement should be the first option which should be considered to deal with the resulting budget variation.

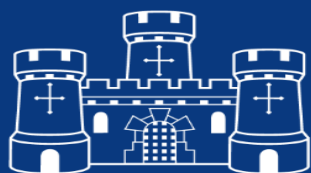
1.4.3 Approval Limits for virements are as follows:

Revenue Virements:

Virement Amount	Approval Level
Up to and including £50,000	Executive Director for relevant Service area
In excess of £50,000 and up to and including £100,000	EMT/Portfolio Holder
Over £100,000	Cabinet

Capital Virements:

Virement Amount	Approval Level
Up to and including £50,000	Executive Director for relevant Service area



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In excess of £50,000 and up to and including £250,000	EMT/Portfolio Holder
Over £250,000	Cabinet

Explanatory Notes

Virement is administered by the S151 Officer within the guidelines set by the Full Council; any variation from this requires Full Council approval.

The overall budget is set by the Cabinet and approved at Full Council. Directors are authorised to incur expenditure in accordance with the approved estimates. These procedures cover virement – the switching of resources between approved estimates or heads of expenditure.

A budget head is considered to be a line in the approved budget.

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

1.5 Supplementary Estimates

Supplementary Revenue Estimates

1.5.1 Approval limits for supplementary revenue estimates are as follows:

Supplementary Estimate Amount	Approval Level
Up to and including £50,000	Executive Director for relevant Service area
In excess of £50,000 and up to and including £100,000	EMT/Portfolio Holder Approval required
£100,000 to £1m	Cabinet
Over £1m	Council

1.5.2 In respect of additional specific grant allocations, the S151 Officer must be consulted to ensure that the funding identified can be legitimately linked to the expenditure in question.

1.5.3 Supplementary revenue estimates that are to be funded wholly or in part from general reserves must be approved by Council **regardless of Value**.

Supplementary Capital Estimates

1.5.4 Approval limits for supplementary capital estimates are as follows:

Supplementary Estimate Amount	Approval Level
Up to and including £100,000	S151 Officer
In excess of £100,000 and up to and including £250,000	EMT/Portfolio Holder
£250,000 to £2m	Cabinet
Over £2m	Council

1.5.5 Capital budget increases funded wholly or in part from additional Council resources such as capital reserves, borrowing and capital receipts, **regardless of Value**, must be approved by Council.



1.5.6 Council approval is required where there are significant revenue implications for future year's budgets.

1.6 Financial Records

1.6.1 The S151 Officer shall be consulted before the introduction of, or amendment to, any books, forms, records, administrative procedures or computerised systems used in connection with accounting for cash, income, expenditure, stocks and financial transactions generally. No such introductions or amendments shall be made without their approval.

1.6.2 All of the Council's transactions, material commitments and contracts and other essential accounting information shall be recorded completely, accurately and promptly. Directors must maintain adequate records to provide a management trail leading from the source of expenditure/income through to the accounting statements.

1.6.3 All financial records must be kept securely, and shall be retained for periods specified by the S151 Officer as per the Council's policy on the retention of records. Arrangements for the disposal of any obsolete or surplus records, including unused items, shall be agreed with the S151 Officer. Disposal of confidential waste must be made in compliance with the Council's Information Security Management Policy.

1.6.4 The S151 Officer shall keep a Cash Book or Account recording, in summary form, all receipts and payments of the Council. The Cash Book or Account shall be kept up to date and be reconciled promptly to the Council's bank accounts following the end of each calendar month.

1.6.5 Records should be in electronic form where appropriate and approved by the S151 Officer.

Explanatory Notes

All executive Members, finance employees and budget managers must operate within the required accounting standards and timetables

All of the Council's transactions, material commitments and contracts and other essential accounting information must be recorded completely, accurately and on a timely basis

Procedures are in place to enable accounting records to be reconstituted in the event of systems failure.

Reconciliation procedures are carried out to ensure transactions are correctly recorded.

Prime documents are retained in accordance with legislative and other requirements. A list of documents and the periods they must be kept for is available on the Intranet or from Internal Audit.

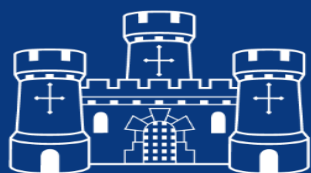
1.7 Final Accounts

1.7.1 The S151 Officer shall in accordance with the Accounts and Audit (England) Regulations 2015 or any successor legislation:

- a) prepare Final Accounts to summarise the financial transactions of the Council during each year of account and to show the financial position of the Council at the end of each year of account. Each year of account shall commence on the first of April and end on the thirty first of March;
- b) make proper arrangements for the audit of the Council's accounts.

1.7.2 Directors shall supply the S151 Officer with any information that he requires in order to produce the Council's Final Accounts and Statement of Accounts and to respond to any queries raised by auditors. Such information shall be supplied in the form requested by the S151 Officer and by the date specified by them.

Explanatory Notes



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The S151 Officer must prepare annual accounts to show the expenditure and income and balances in relation to the Council for the year. A summary of the accounts, in the form of a "Statement of Accounts", must be prepared and audited and then published by a prescribed deadline (currently 30 September).

The final accounts and the statement of accounts must be kept and prepared in accordance with proper accounting practices as set out in the Code of Practice on Local Authority Accounting in the United Kingdom (published by CIPFA). All data that the S151 Officer requests in order to produce the final accounts and the statement of accounts must be supplied promptly to the S151 Officer.

1.8 Separation of Duties

1.8.1 The task of providing information, calculating, checking and recording the sums due to or from the Council shall be separated as completely as possible from the task of collecting or paying out these sums.

1.8.2 Employees responsible for examining and checking records of cash transactions shall not themselves be engaged in any of these transactions.

1.8.3 Wherever possible, arrangements shall be made to ensure that:

- (a) the requisitioning of works, supplies and services;
- (b) the approval of requisitions in order to produce an order to be sent to a supplier;
- (c) the acknowledgement of their receipt; and
- (d) the examination /certification of invoices /accounts

are carried out by different persons. The S151 Officer shall be informed, in writing, of situations where this cannot occur in practice.

1.8.4 Each Director must notify the S151 Officer in advance of all employees authorised to approve official documents in accordance with Financial Regulations.

Explanatory Notes

The separation of duties is most important to protect the Council against the possibility of fraud, and to place its employees above suspicion. Different employees should therefore, perform the functions of requisitioning, approval of requisitions, certifying that goods and services have been received and paying for supplies and services and similarly for the collection of sums due and the verification of such operations.

1.9 Grant and Other Claims

1.9.1 The S151 Officer shall ensure, in conjunction with Directors that all claims for funds, including grants are made by the due date and that the grants coordinator, based in Financial Management, is notified of all grants and claims in advance and provided with actual forms, documents and supporting evidence verifying entries on the grants and claims in advance of their certification as required by the S151 Officer.

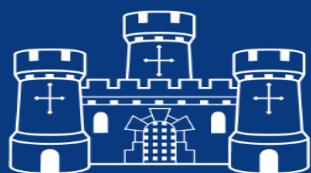
1.9.2 Officers need to have regard to the possible liability that could occur for the Council in respect of the claw back of grants. Consideration should be given to the contract being entered into, the risks involved and the likelihood and impact of any claw back occurring.

PR2: FINANCIAL PLANNING

2.1 Performance Plans

2.1.1 Directors and Heads of Service shall

- (a) supply to the Business Improvement Manager any information, relevant to services within their areas of responsibility, required for inclusion in the Council Plan or Service Plans or for monitoring performance targets included in such plans, in accordance with statutory requirements where applicable and agreed timetables.
- (b) contribute to the development of the Council Plan/Service Plans, corporate and service targets and objectives and performance information.



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- (c) ensure that systems are in place to measure activity and collect accurate information for use as performance indicators
- (d) ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met and to take any such action whenever necessary.

Explanatory Notes

The Council Plan and Service Plans should be produced so that they are consistent and in accordance with any applicable statutory provisions. Plans should meet timetables set and all performance information included in them should be accurate, complete and up to date. Plans should provide improvement targets that are SMART (specific, measurable, achievable, realistic and timed).

2.2 General Fund Revenue Budget and Format of the budget

2.2.1 Estimates shall show in convenient detail the sums required for each purpose. They shall comply with the Code of Practice currently in force in relation to financial reporting and any guidance issued by the Cabinet.

2.3 Revenue budget, preparation, monitoring and control

2.3.1 The timetable and procedures for estimate preparation and the detailed format of the estimates will be determined and co-ordinated by the S151 Officer.

2.3.2 The S151 Officer shall aggregate and summarise the estimates prepared by the Directors, based on the Medium Term Financial Strategy assumptions, in order to report thereon to the Cabinet. They shall advise the Cabinet **as to the robustness of the estimates and ensure that they are compiled on a 'proper' basis.**

2.3.3 Items which are proposed to be included in the budget and which involve a new policy, or a significant departure from present policy or create significant financial commitments in future years, shall be brought to the attention of the Executive Management Team before being included in the budget submitted to the Cabinet. Their inclusion shall be drawn to the attention of the Cabinet in the accompanying report. No commitment to any such new policies or departures shall be incurred until the Cabinet has approved their inclusion in the budget.

2.3.4 Directors shall be authorised to incur expenditure and must collect income strictly in accordance with the estimates contained in the approved budgets relating to services within their areas of responsibility.

2.3.5 Each Director shall continuously monitor the budgets relating to services within their area of responsibility in order to determine:

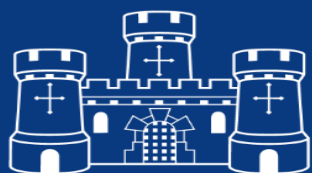
- (a) that approved estimates of expenditure within those budgets are not, or are not likely to become, overspent; and
- (b) that approved estimates of income within those budgets are likely to be matched by actual receipts of income.

2.3.6 The S151 Officer shall be responsible for overall budget monitoring. They shall provide suitable regular reports to Directors, containing details of actual expenditure and income compared to the corresponding approved estimates, to assist them to fulfil their responsibility for controlling budgeted expenditure and income under Procedural Financial Regulation 2.3. They shall also notify the Director in any case where they believe that an estimate, forming part of a budget for which the Director is responsible, has been or may become significantly exceeded by actual expenditure or, in the case of an income estimate, not matched by actual income.

2.3.7 If it appears to a Director that an excess of expenditure or a shortfall in income has occurred, or is likely to occur, in relation to any of the estimates forming part of a budget for which he is responsible, they shall take immediate steps to deal with the variation from the approved estimate.

2.3.8 In order to deal with a variation from an approved estimate a Director shall:

- (a) where a variation appears likely, but has not yet occurred, immediately take action to reduce the level of activity relating to the budget head in question, thereby containing expenditure within the approved estimate; or
- (b) after consultation with the S151 Officer, determine that the increased cost can be met from an increase in the amount of income to be received; or



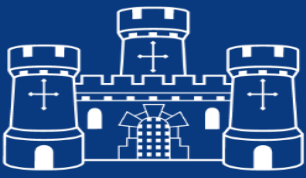
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(c) determine that the variation can be met by means of virement from another budget head or heads (in accordance with the scheme of virement set out in Procedural Financial Regulation 1.4).

All instances of the use of Directors' authority under a, b, and c above shall be recorded in a form approved by the S151 Officer.

- 2.3.9 Where they are consulted by a Director with regard to any of the proposals described in Procedural Financial Regulation 2.3, for dealing with an estimate variation, the S151 Officer shall be authorised to either approve the proposal or require it to be referred to the Cabinet for approval.
- 2.3.10 A Director shall not be permitted to take any of the measures described in Procedural Financial Regulation 2.3 if to do so would result in a significant reduction in the level of service provided to the general public. Any measure which would, for this or any other reason, constitute a material departure from the policies implicit in the approved budget shall be referred to the Cabinet.
- 2.3.11 Where a Director is unable to deal with the occurrence, or likely occurrence, of a variation from an approved budget estimate by means of any of the measures described in Procedural Financial Regulation 2.3 he shall immediately report it to the Cabinet.
- 2.3.12 All reports to the Cabinet concerning budget estimate variations shall contain the reason(s) for the variation from the approved estimate and the implications, if any, for future years' budgets and shall recommend that the Cabinet:
- (a) amends the approved estimate relating to the budget head in question by approving virement from another budget head or heads of an amount equivalent to the amount of the variation; or
 - (b) approves a supplementary estimate for the amount of the variation.
- 2.3.13 The Cabinet on receiving a report concerning budget variations shall resolve to either approve virement or a supplementary estimate.
- 2.3.14 Where a Director proposes to incur expenditure:
- (a) for a purpose which has not been estimated for within an approved budget; or
 - (b) which will result in an approved estimate relating to a budget head becoming overspent;
- this shall be treated as a variation from an approved estimate and all Financial Regulations relating to such variations shall apply.
- 2.3.15 Where it can be demonstrated that urgent Cabinet approval, outside of normal Cabinet meeting dates, is necessary for a proposal to make a supplementary estimate or approve virement the following extraordinary procedures shall apply:
- (a) The relevant Director in consultation with a Member of the Cabinet may give approval, in writing, to the proposal.
 - (b) The relevant Director should state the advice given by the S151 Officer on the financial implications of the proposal in writing to the Member.
 - (c) The proposal shall be reported to the next meeting of the Cabinet for information.
- A copy of all such approvals shall be provided to the Chief Executive.
- 2.3.16 Directors shall ensure that performance and levels of service are monitored in conjunction with the budget and that necessary action is taken to align service outputs with budgets. In order to achieve this they shall ensure that a monitoring process is in place to review performance and levels of service and that it is operating effectively.
- 2.3.17 Directors shall seek to identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery. Directors shall notify the S151 Officer of all such efficiency savings made or proposed to be made to assist budget monitoring and planning.
- 2.3.18 Within their areas of responsibility Directors shall designate particular named employees as Budget Holders, who possess the necessary competencies for the role, in respect of cost centres or groups of cost centres. Budget Holders shall be responsible for assisting the relevant Director to discharge their responsibility in respect of budget preparation, monitoring and control as set out in these regulations. Budget Holders shall be specifically responsible only for income and expenditure that they can influence. Directors shall notify the S151 Officer of the employees who have been so designated. The S151 Officer shall provide Budget Holders with the financial and other data that they may require in order to carry out their responsibilities.



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2.3.19 The S151 Officer shall, in conjunction with Directors, ensure that a monitoring process is in place to review the effectiveness and operation of budget preparation and ensure that any corrective action is taken.

Explanatory notes

There is specific budget approval for all expenditure and income.

Most parts of the budget are compiled within the Financial Management section by reference to the Medium Term Financial Strategy, using the assumptions contained therein in respect of change factors such as pay and price increases. However, there may be some areas where budget holders will compile budgets for submission to Finance. Budget holders must inform Finance of any change factors which they are aware of which may affect the budget to be compiled.

Budget holders are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet/Council for their budgets and the level of service to be delivered

A monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

There are procedures to deal with overspendings and income shortages which should be followed by budget holders. Generally these involve the use of virement or curtailing activity to stay within the available budget or sometimes increasing income to cover the overspending/shortfall.

The budget format must comply with all legal requirements, with CIPFA's Best Value Accounting Code of Practice and must reflect the accountabilities of service delivery.

Budget managers should be responsible only for the income and expenditure that they can influence. There is a nominated budget holder for each cost centre heading and they accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities. Budget managers follow an approved certification process for all expenditure and their income and expenditure is properly recorded and accounted for.

Performance levels in respect of services are monitored in conjunction with the budget and necessary action is taken to align service outputs and budgets.

2.4 Trading Accounts

2.4.1 Where the Cabinet so requires, Directors responsible for the operation of activities covered by Trading Accounts shall prepare annual budget estimates for those accounts (including any holding accounts). These estimates shall be referred for approval to the Cabinet.

2.4.2 The Cabinet shall set a timetable and, advised by the S151 Officer, lay down the procedures to be followed within which these estimates shall be prepared.

2.5 Other Accounts

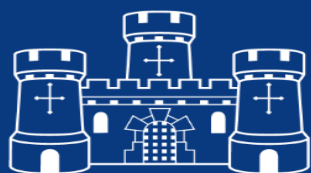
2.5.1 Expenditure proposed to be charged to any other revenue account of the Council shall be referred to the Cabinet for approval where:

- (a) the proposed expenditure is not covered by, or is likely to exceed, any existing limit or approval applicable to expenditure to be charged to that revenue account; or
- (b) in the opinion of the S151 Officer, the proposed expenditure is of such a nature or magnitude that it should be so referred.

2.6 Maintenance of reserves

2.6.1 All reserves shall be maintained in accordance with the current applicable accounting code of practice.

2.6.2 The purpose, usage and basis of transactions of each reserve established shall be clearly identified by the Full Council informed by the S151 Officer.



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2.6.3 Directors shall not incur any expenditure which is proposed to be met from reserves without consultation with the S151 Officer who may require the proposal to be submitted to the Cabinet or Full Council for approval, in which case it may not be incurred until such approval has been given.

2.6.4 In advising the Full Council or Cabinet upon the prudent levels of reserves for the Council, the S151 Officer shall consider any advice received from the **Council's external auditor**. They shall assess the adequacy of the General Fund balances by reference to a risk assessment of items contained within the General Fund Budget or which may become a charge against it.

Explanatory Notes

The Council has set aside money from various sources to be used to fund specific types of expenditure, for example buildings repairs, equipment replacement or capital expenditure or to be available to meet unexpected contingencies. The accounts holding these sums are referred to as reserves.

Reserves should be maintained in accordance with the Code of Practice on Local Authority Accounting in the UK (published by CIPFA) and agreed accounting policies. For each reserve established, the purpose, usage and basis of transactions should be clearly identified. Authorisation and expenditure from reserves by the appropriate Director will be in consultation with the S151 Officer.

No expenditure or income may be charged or credited directly to a reserve. All must be charged or credited initially to a revenue account with an appropriation (transfer) made from or to the reserve to meet the expenditure or transfer the income to it.

2.7 Capital Programme

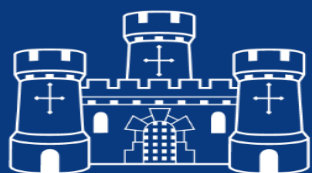
2.7.1 Only expenditure which conforms with the statutory definition of capital expenditure, as contained in the Local Government Act 2003 or any subsequent Act or Regulations shall be treated as capital expenditure and all Financial Regulations in Section Bf shall apply to it.

2.7.2 The capital programme submitted to the Cabinet and Full Council for consideration and approval shall comprise a list of General Fund capital schemes. This shall show in respect of each scheme the amount which it is intended shall be spent in the current year, the following year and, where appropriate, in future years.

2.7.3 Reports submitted by the S151 Officer to the Cabinet concerning updates to the capital programme during the year shall include reference to any significant variance in estimated scheme costs from current approved estimates or instances where schemes are proposed to be added to or deleted from the approved programme. They shall also refer to the resources available, or expected to be available, to finance the programme taking account, where necessary, of any proposed amendments to it. The revenue implications of all capital schemes in the form of the whole life cost of the project shall also be reported to ensure that the impact on the revenue budget is known and appropriate provision approved. Directors shall provide, in a timely manner, any information he requires in order to compile their report.

2.7.4 The Capital, Assets and Commercial Investment Review Group (CACIRG) monitors and reviews the capital programme. The CACIRG will be chaired by the Portfolio of Finance and Efficiency. The CACIRG shall review progress in respect of the capital programme and shall consider all proposed new projects before the Cabinet or Full Council are requested to add them to the capital programme and shall consider any revisions to the capital programme before a revised programme is submitted to Cabinet or Full Council for consideration or approval.

2.7.5 Before any order shall be placed or expenditure incurred relating to any capital scheme, the appropriate Director shall make a report in consultation with the S151 Officer to the Cabinet. The report shall state the total estimated cost of the scheme and whether provision has been made for it in the approved capital programme, together with the amount of any such provision. The report should contain a business case, the detail of which will be dependent on the cost of the proposal. The report shall refer to any costs which may fall to be met from any revenue account of the Council as a result of the scheme being carried out, and to any grant or contribution, including its amount and any conditions which may be attached to such payment, which it is expected may be payable towards its cost. The Cabinet shall determine whether the scheme is to be carried out and, if so, shall approve the estimated cost of the scheme together with any other relevant financial matters relating to the



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scheme. No such reports shall be brought to the Cabinet unless the relevant scheme has been considered and approved for submission to the Cabinet by the Capital, Assets and Commercial Investment Review Group.

2.7.6 The Cabinet may consider a new scheme for inclusion in the approved capital programme at any time. In doing so it shall:

- (a) have regard to its estimated costs, the comments of the relevant Director and the S151 Officer, the composition and total cost of the approved programme and the resources available or expected to be available to finance that programme.
- (b) either give approval for the scheme to be included in the approved programme or determine that it shall not be included in the programme.
- (c) in cases where approval is given to include a scheme in the approved programme, determine the estimated cost at which it is to be included.
- (d) Have regard to the contents of any relevant Capital Appraisal, as referred to in 2.3 and to any views expressed by the Capital, Assets and Commercial Investment Review Group which are reported to it.

2.7.7 Where the Cabinet has determined that a scheme shall be included in the approved capital programme and has also approved the estimated cost of the scheme, it shall either:

- (a) add the scheme to the approved programme at the estimated cost amending at the same time the cost of another scheme or costs of other schemes within the programme (including the deletion of such schemes in their entirety) such that the total cost of the programme remains unaltered; or
- (b) add the scheme to the approved programme, as above, with no amendment or deletion of any other schemes included in the programme, thereby increasing the total cost of the programme; or
- (c) deal with the proposal by a combination of the two methods provided for at (a) and (b) above.

2.7.8 Directors shall:

- (a) be authorised to incur expenditure upon any capital scheme within their area of responsibility strictly in accordance with the approved estimate relating to it;
- (b) continuously monitor the progress of each capital scheme within their area of responsibility, comparing actual expenditure incurred, or likely to be incurred, with the approved estimate for the scheme.

2.7.9 If it appears to a Director that an excess of expenditure has occurred, or is likely to occur, relating to a scheme within their area of responsibility, he shall immediately report the variation to the Cabinet.

2.7.10 The Cabinet on receiving a report concerning an actual or probable estimate variation shall resolve:

- (a) to reduce the extent of the scheme and approve a revised estimated cost for it in order to contain its cost within the approved estimate; or
- (b) to deal with the variation by means of virement, by reducing the estimate relating to another scheme or schemes within the approved capital programme sufficient to cover it; or
- (c) to approve a supplementary estimate for the amount of the variation; or
- (d) not to proceed with the scheme.

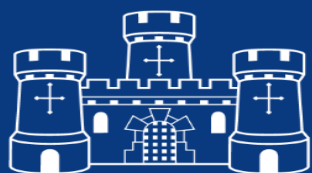
In determining how to deal with an estimate variation, the Cabinet shall have regard to the factors referred to in Financial Regulation 2.7, sub paragraphs a and d.

2.7.11 No expenditure shall be incurred on any scheme which is to be financed, in whole or in part, by means of a grant or contribution from central government or another person or body until a written commitment, to the satisfaction of the S151 Officer, has been received by the Council from the relevant government department, person, or body that it will be paid.

2.7.12 In the event of an anticipated grant or contribution not being payable or its amount being reduced to a material extent, having regard to the total cost of a scheme, or the conditions attached to its payment being materially altered, the Director responsible for the scheme shall inform the S151 Officer and immediately report this occurrence to the Cabinet.

2.7.13 Where a shortfall of grant or contribution, or a material change in conditions, is reported to the Cabinet it shall treat it as an estimate variation and follow the procedure described in Financial Regulation 2.7.

2.7.14 In cases only of genuine emergency, where it can be demonstrated that urgent Cabinet approval, outside of normal Cabinet meeting dates, is necessary to a proposal to incur capital expenditure upon a scheme, including a request for a supplementary estimate or virement as a result of an estimate variation, the extraordinary procedure permitted by Financial Regulation 2.3 shall apply.



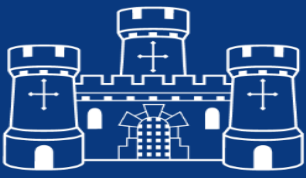
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- 2.7.15 In all cases where the extraordinary procedure permitted by this Financial Regulation is followed, the same information and advice, which would be provided, in the form of a report, to a normal meeting of the Cabinet, shall be provided to the Cabinet Member. In particular he must be informed whether the proposed expenditure is within the sum included for the scheme within the approved capital programme.
- 2.7.16 A copy of all such approvals shall be provided to the Chief Executive.
- 2.7.17 The S151 Officer shall determine the method of financing to be employed in respect of each capital scheme, subject to any instructions which may be given by the Cabinet.
- 2.7.18 Directors shall ensure that adequate records are maintained in respect of all capital contracts.
- 2.7.19 All claims or requests for any grant or contribution which may be payable towards capital expenditure incurred by the Council shall be made as soon as is possible. The S151 Officer shall be responsible for the submission of all such claims or requests and for liaison with the external auditor wherever certification of a grant claim is required. However, they may, in appropriate cases, agree that another Director shall submit a claim or request, provided that the Director complies with any instructions that he may give. In such cases the S151 Officer shall be supplied promptly with a copy of the claim or request which has been submitted. Directors shall promptly supply the S151 Officer with any information which they may require in order to submit a claim or request within any time scale laid down by the body or person to whom the claim is to be submitted.
- 2.7.20 The S151 Officer shall be responsible for the submission of all bids or requests for approval in respect of capitalisation directions or any other matter concerning capital accounting or funding (not covered by 2.7) from central government. However, they may, in appropriate cases, agree that another Director shall submit such a bid provided that the Director complies with any instructions that they may give. In such cases the S151 Officer shall be supplied promptly with a copy of the bid which has been submitted. Directors shall promptly supply the S151 Officer with any information that they may require in order to submit a bid within any timescale laid down.
- 2.7.21 No bid under any government programme shall be made for capital grant or other resources where this may commit the Council to capital expenditure not already approved until the proposed bid has been referred to and approved by the Cabinet. The Cabinet shall consider the effect that a successful bid would have upon the capital programme, taking into consideration the resources available to finance capital expenditure and may approve any schemes involved and amend the programme accordingly. The Cabinet shall be kept informed of the progress of any bid, including any changes which may be proposed to its composition or to the amount of any external resources to be provided and shall, if it considers it to be necessary require that the bid be withdrawn. The Chief Executive or their delegated employee or the Cabinet may accept any offer, which may be made to the Council as a result of a bid submission which is within the approved capital programme budget. Full Council approval will be required for a bid that exceeds the total of the approved capital programme budget.
- 2.7.22 No lease, hire, rental or other arrangement of a similar nature shall be entered into without reference to the S151 Officer to enable them to assess the implications for the capital or revenue budgets. If the S151 Officer so requires, the arrangement shall be submitted, together with the Executive Director's (Resources and Support Services) comments thereon, to the Cabinet for approval.
- 2.7.23 The S151 Officer shall be consulted before any proposal is considered to either acquire or dispose of capital assets, including by way of exchange, in order that they may advise with regard to the impact of the capital control regulations upon the proposed transaction.
- 2.7.24 Upon completion of each capital scheme a report shall be made to the Cabinet of its costs and any other relevant matters. This report may take the form of a schedule of completed schemes, reported periodically to Cabinet, showing the relevant data for each individual completed scheme.
- 2.7.25 The S151 Officer shall ensure that a Capital Strategy, that includes the Council's prudential indicators, is produced and revised annually. They shall submit the Capital Strategy to Full Council for approval.

Explanatory Notes

Capital expenditure can be defined as expenditure on the acquisition of assets to be used in the provision of Council services and will include: the acquisition, reclamation and laying out of land; the acquisition, construction, preparation, enhancement or replacement of buildings and other structures; the acquisition, installation or replacement of moveable or



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immoveable plant, machinery, apparatus and vehicles; acquisition of computer software and hardware. It may also include expenditure on improvement or enhancement works such as intended to lengthen the life of an asset, increase its market value or increase its usefulness. Major repairs, particularly structural repairs, can also meet the definition. Some expenditure which does not involve a Council owned asset may also be capitalised, for example disabled facilities grants and capital contributions towards capital projects being carried out by other bodies.

A capital programme, comprising a list of capital schemes, is compiled and approved by the Full Council each year. Schemes proposed for inclusion in the capital programme will in most cases be subject to an appraisal process.

During the year, the Cabinet is responsible for approving changes to the programme, such as additional schemes or virements between schemes, although Full Council approval may be required where a change would cause the total amount of the approved programme to increase or additional capital financing resources such as capital receipts to be used up.

Before the procurement process can be initiated in relation to individual schemes or work commence, specific approval needs to be obtained, either from the Cabinet or the Capital, Asset and Commercial Investment Review Group in the case of low cost projects where a de minimis threshold applies.

The capital programme is monitored to ensure that schemes progress in a timely manner and that the amount approved for each scheme is not exceeded. A project officer is responsible for each capital scheme and must monitor their schemes to ensure they are completed on time and within the approved budget.

If expenditure on a scheme is likely to exceed the approved amount or a grant or contribution towards the cost of a scheme is likely to be less than anticipated this must be reported to the Cabinet. Such adverse variances may be dealt with by virement from other schemes where savings can be made or their cost reduced or from schemes which are no longer needed. It may also be possible to reduce the extent of the scheme to allow it to be completed within budget.

No bids to external bodies for grants or contributions should be made without consulting the S151 Officer. Bids and claims may be made by budget holders with the approval of the S151 Officer, otherwise they will do so. No commitment to expenditure should be made until any grant or contribution towards it has been confirmed in writing by the granting body. Grants or contributions due should be claimed promptly.

No lease, hire, rental or similar arrangements should be entered into without consulting the S151 Officer and may require Cabinet approval.

PR3: RISK MANAGEMENT AND CONTROL OF RESOURCES

3.1 Risk management

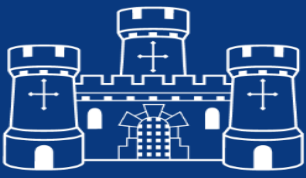
3.1.1 Risk management is the planned and systematic approach to the identification, evaluation and control of risk. The Audit and Standards Committee shall approve a Risk Management Strategy for the Council and shall promote a culture of risk management awareness throughout the Council.

3.1.2 The Chief Executive shall;

- (a) Chair the Information Governance Group (IGG), comprising of at least one representative of each Director and any other individuals he may deem appropriate. The Group ensures that Executive Management Team (EMT) are aware of any issues that have been escalated by the IGG that cannot be resolved and ensures that these are noted in minutes of EMT and actioned accordingly either by or on behalf of EMT. The IGG provides assurance to the Audit and Standards Committee as appropriate that the risks are being managed in accordance with the Risk Management Strategy.

3.1.3 Directors shall:

- (a) Be responsible for risk management and must have regard to advice from the Chief Executive and the Executive Director (Resources and Support Services and other specialist employees (e.g. crime prevention, fire prevention, health and safety and cash handling).
- (b) Ensure that there are regular reviews of risk within their departments.
- (c) Complete the Corporate Strategic/Operational Risk Assessment Control documents for each service and update them annually.
- (d) Ensure that business continuity plans are compiled and maintained in respect of all business critical systems and that comprehensive working notes - explaining those systems' mode of operation - are compiled and maintained.



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- (e) Utilise the corporate IT system for risk management (currently GRACE) to record and manage their risks and shall promptly supply any data requested for its update to the Business Improvement Manager.
- (f) Ensure that all inspections or programmes of work designed to identify or mitigate risks which are required by law or by the Council are carried out and evidence is retained to show that this has been done.

3.1.4 All reports shall contain reference to any major risks which the item reported upon may have for the Council and, where appropriate, a risk assessment in the corporate style will be appended.

Explanatory Notes

Procedures should be in place to identify, assess, prevent or contain material known risks and ensure these procedures are operating effectively throughout the Council.

A monitoring procedure is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls.

Risk management processes should be conducted on a continuing basis, managers should know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives. Provision may be made for losses that might result from the risks that remain through insurance.

The Council has prepared business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

3.2 Insurances

3.2.1 The Business Improvement Manager shall be responsible for the arrangement of appropriate insurance cover through external insurance and internal funding. He shall, after such consultation as he thinks appropriate with other employees, settle all claims within individual policy excesses, and pass on all claims over individual policy excesses to the relevant insurer.

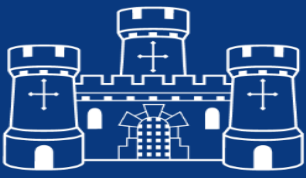
3.2.2 Directors shall:

- (a) give prompt notification to the Business Improvement Manager of all new risks, properties, vehicles or any other assets which require to be insured and of any alteration affecting existing insurances;
- (b) notify the Business Improvement Manager in writing of any loss, liability or damage or any event likely to lead to a claim against the Council together with any information or explanation required by them or the Council's insurer's, and inform the police where necessary;
- (c) ensure that all appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance;
- (d) consult the Business Improvement Manager in respect of any indemnity which the Council is requested to give;
- (e) ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

3.2.3 The Business Improvement Manager shall:

- (a) keep a register of all insurances arranged by the Council and the property and risk covered by them;
- (b) annually or at such other period as he may consider necessary, furnish Directors with details of all insurances in force affecting their Departments. Each Director shall review all such insurances, and any risks not insured against, or inadequately insured against, shall be notified immediately to the Business Improvement Manager;
- (c) ensure the adequacy of all insurances entered into by contractors of the Council. Contractors carrying out work for the Council shall have a minimum level of Public Liability insurance cover as specified by the Cabinet, unless a lower figure has been agreed in advance with the Business Improvement Manager. An employee shall not authorise work to be commenced by a Contractor until the Business Improvement Manager has advised such an employee that the appropriate insurances have been effected to their satisfaction.

Explanatory Notes



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The Business Improvement Manager is responsible for arranging insurance cover and for settling claims. It is the duty of Directors to notify the Business Improvement Manager of all new risks and possible claims.

Procedures are in place to investigate claims within required time scales

Acceptable levels of risk are determined and insured against where appropriate.

3.3 Internal controls

3.3.1 The Council accepts that controls and control systems must be in place to ensure that its financial and other activities are carried out in a secure environment, in a manner that complies with the law and that fulfils its stewardship obligations. To achieve this, the following key controls and control objectives and systems shall be in place:

- (a) key controls shall be reviewed on a regular basis and the Council shall make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively;
- (b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities;
- (c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems;
- (d) an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the joint CIPFA / IIA (Institute of Internal Auditors) auditing guideline 'Public Sector Internal Audit Standards' and with any other statutory obligations and regulations.

3.3.2 The S151 Officer, in conjunction with the Head of Finance and Chief Internal Auditor, shall assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

3.3.3 Directors shall:

- (a) manage processes to check that established controls are being adhered to and evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks;
- (b) review existing controls in the light of changes affecting the Council and establish and implement new ones in line with guidance from the S151 Officer. Directors shall also be responsible for removing controls that are unnecessary or not cost or risk effective - for example, because of duplication after consultation with the S151 Officer;
- (c) ensure that employees have a clear understanding of the consequences of lack of control.

Explanatory Notes

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

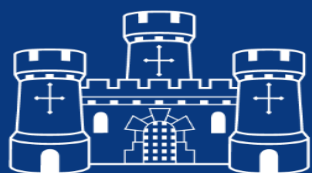
The Council has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.

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

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

- (a) efficient and effective operations
- (b) reliable financial information and reporting
- (c) compliance with laws and regulations
- (d) risk management

Audit requirements



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3.4 Internal audit

3.4.1 The Council under delegation to the S151 Officer shall maintain an adequate and effective continuous internal audit of all the Council's activities. Such internal audit is to be performed in accordance with the Accounts and Audit (England) Regulations 2015 and with the policy statements on internal audit issued by the Chartered Institute of Public Finance and Accountancy.

3.4.2 Internal Audit shall be independent in its planning and operation. The Chief Internal Auditor shall have direct access to the Head of Paid Service, all levels of management and to elected Members. Internal Auditors shall comply with the Public Sector Internal Audit Standards (PSIAS) as interpreted by the Chartered Institute of Public Finance and Accountancy's Application note.

3.4.3 Internal Auditors shall have the authority to:

- (a) enter at all reasonable times any Council establishment;
- (b) have access to all records, documents, information and correspondence relating to any financial and other transaction as he considers necessary;
- (c) evaluate the adequacy and effectiveness of internal controls designed to secure assets and data to assist management in preventing and deterring fraud;
- (d) request explanations as considered necessary to provide assurance as to the correctness of any matter under examination;
- (e) require any employee of the Council to produce cash, materials or any other Council property in their possession or under their control;
- (f) access records belonging to third parties, such as contractors, when required and
- (g) directly access the Chief Executive, the Cabinet and the Audit and Standards Committee.

3.4.4 The Chief Internal Auditor shall:

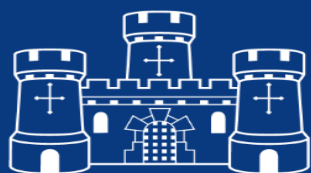
- (a) prepare the strategic and annual audit plans which will take account of the relative risks of the audit areas and submit such plans for approval to the Audit and Standards Committee;
- (b) be notified immediately by any Director, of any circumstances which may suggest the possibility of irregularity affecting cash, stocks or other property of the Council and of the potential of any fraud or corrupt activities. The Chief Internal Auditor shall report to the Chief Executive, the Section 151 Officer, the Full Council, Audit and Standards Committee, Cabinet, Standards Committee, or the external auditor any matter of a significant nature. Pending investigation and reporting, the Chief Internal Auditor shall take all necessary steps to prevent further loss and to secure records, information and documentation against removal or alteration;
- (c) exercise the utmost confidentiality in all matters relating to the audit of the Council's activities; and
- (d) ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

3.4.5 Directors shall:

- (a) ensure that all employees within their departments are aware **of the Council's fraud and corruption policy and the arrangements for "whistleblowing" contained therein;**
- (b) ensure that Internal Auditors are given access at all reasonable times to premises, personnel, documents, information and assets that the auditors consider necessary for the purposes of their work;
- (c) ensure that auditors are provided with any information and explanations that they seek in the course of their work;
- (d) consider and respond promptly to recommendations in audit reports;
- (e) ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion and
- (f) ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Section 151 Officer and the Chief Internal Auditor prior to implementation.

Explanatory Notes

The S151 Officer by delegation is required by statute to maintain an adequate and effective internal audit of the Council in order to guard against waste and fraud and is therefore, entitled to examine all documents, records and computer files maintained by the Council. Where an irregularity is suspected it is important that the Chief Internal Auditor becomes involved as quickly as possible so that for example, the rules of evidence are not breached.



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It is management's responsibility to prevent and detect fraud arising. The audit function is to investigate the surrounding circumstances and report on the adequacy of internal controls.

3.5 External audit

3.5.1 The S151 Officer shall:

- (a) ensure that external auditors are given access at all reasonable times to premises, personnel, documents, information and assets that the external auditors consider necessary for the purposes of their work;
- (b) ensure there is effective liaison between external and internal audit;
- (c) work with the external auditor and advise the Full Council, Cabinet, Audit and Standards Committee and Directors on their responsibilities in relation to external audit.

3.5.2 Directors shall:

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

Explanatory Notes

The Council's accounts and financial activities are subject to inspection by external auditors.

If the external auditor requests information or the supply of data, such as documents, staff must cooperate with the auditor. Sometimes the external auditor may channel their request via internal audit or the Council's own financial staff in which case information or data must similarly be supplied.

The external auditors were appointed following a tendering process and carry out their audit of the Council's accounts and financial activities in accordance with nationally set audit standards.

3.6 Preventing Fraud and Corruption

3.6.1 The Chief Internal Auditor shall:

- (a) develop and maintain an anti-fraud and anti-corruption policy;
- (b) maintain adequate and effective internal control arrangements;
- (c) ensure that all suspected irregularities are reported to the Chief Executive, the Section 151 Officer and the Audit and Standards Committee.

3.6.2 Directors shall:

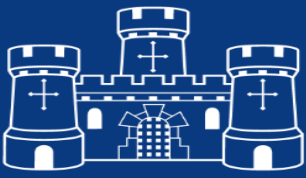
- (a) ensure that all suspected irregularities are reported to the Chief Internal Auditor;
- (b) instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour;
- (c) ensure that where financial impropriety is discovered, the Chief Internal Auditor is informed and after taking legal advice to ensure that sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place;
- (d) ensure that they and their employees complete the register of interests maintained by the Monitoring Officer;
- (e) ensure that they and their employees comply with the anti-fraud and anti-corruption policy and the advice provided to employees.

3.6.3 The Head of Legal and Governance as Monitoring Officer shall have overall responsibility for the maintenance and operation of the whistleblowing policy.

Explanatory Notes

The Council will not tolerate fraud and corruption and its expectations of propriety and accountability are that Members and employees at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The key controls regarding the prevention of financial irregularities are that: the Council has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption; all Members and employees act with integrity and lead by example; senior managers are required to deal swiftly and firmly with those who defraud or



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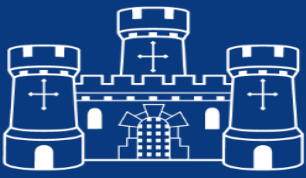


attempt to defraud the Council or who are corrupt; high standards of conduct are promoted amongst Members by the Standards Committee; the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded; whistle blowing procedures are in place and operate effectively and that legislation including the Public Interest Disclosure Act 1998 is adhered to.

Irregularities must be reported to the Chief Internal Auditor immediately when they occur in order to ensure that, amongst other things, rules of evidence are not breached.

3.7 Assets

- 3.7.1 The Executive Director (Economic Growth and Commercial Development), in conjunction with the S151 Officer, shall keep an Asset Register which shall record all of the material capital assets owned by the Council, together with their values. Assets shall be valued in accordance with the 'Code of Practice on Local Authority Accounting in the United Kingdom (published by CIPFA). The Asset Register shall be kept up to date and in accordance with the requirements of the S151 Officer. Directors shall supply any information required by the Executive Director (Economic Growth and Commercial Development) or the S151 Officer in order to maintain the Register.
- 3.7.2 The Executive Director (Economic Growth and Commercial Development) shall maintain an up to date terrier of all land owned, leased or licensed by the Council and of land sold or leased off. The terrier must:
- (a) record the purpose for which the land is held and;
 - (b) record the location, extent and plan reference of the land.
- 3.7.3 The Executive Director (Economic Growth and Commercial Development) shall maintain or compile an Asset Management Plan and ensure that it is revised annually. Assisted by relevant Directors, they shall ensure that the plan is implemented and monitor performance against the targets and outputs contained in the plan.
- 3.7.4 Directors shall:
- (a) provide information to the Executive Director (Economic Growth and Commercial Development) on an annual basis, for them to update the Asset Management Plan;
 - (b) ensure that lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved in consultation with the Business Improvement Manager and Executive Director (Economic Growth and Commercial Development) has been established as appropriate;
 - (c) ensure that arrangements exist for the proper security of all buildings, stocks, furniture, vehicles, equipment, money, and any other property under their control. They must ensure that all conditions of insurance are complied with in respect of cash and valuables;
 - (d) ensure that cash holdings on premises are kept to a minimum and do not exceed limits for unbanked money as set in Financial Regulation 4.11 without the express permission of the S151 Officer;
 - (e) ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times. The loss of any such keys shall be reported to the Chief Internal Auditor immediately;
 - (f) be responsible for conforming with GDPR, the Government's Public Services Network (PSN) and the Government Security Classifications scheme (GSC) and maintaining proper security and privacy regarding information held in the Council's computerised and manual systems;
 - (g) ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the council in some way;
 - (h) ensure that no Council asset is subject to personal use by an employee without proper authority;
 - (i) ensure that all employees are aware of their responsibilities with regard to safeguarding the security of the council's computer systems, including maintaining restricted access to the information held on them and compliance with the Council's information security and email and internet policies;
 - (j) recommend sale of an asset, subject to a joint report by themselves and the S151 Officer, where land or buildings are surplus to requirements;
 - (k) pass title deeds to the Chief Executive;
 - (l) ensure that assets are identified, their location recorded and that they are appropriately marked and insured;
 - (m) consult the S151 Officer and the Chief Internal Auditor in any case where security is thought to be defective or where it is considered that special security arrangements may be needed;
 - (n) record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the S151 Officer, the Cabinet agrees otherwise;
 - (o) ensure that all records are held in accordance with the document retention policy.



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3.7.5 All documents of title, deeds, investment certificates etc. shall be kept in a secure place by the Chief Executive.

Explanatory Notes

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

Directors are responsible for all security matters relating to assets held within their Departments.

The disposal of obsolete materials and equipment is normally by means of tenders to buy or in the case of more valuable items by public auction.

3.8 Inventories

3.8.1 Directors shall ensure that all Departments and Establishments maintain inventories under their control. Inventories shall record an adequate description of furniture, fittings, equipment, plant and machinery owned by the Council, with an initial purchase value in excess of that agreed by the Council. Directors should, where they consider it appropriate, also include items where the cumulative purchase value exceeds the figure set by the Council and those items of a portable and desirable nature below this limit.

3.8.2 All Directors shall notify the S151 Officer of details of all ICT hardware equipment and software in order that they can maintain a central inventory. Directors are responsible for ensuring that only authorised software is utilised in their Departments and that no illegal copies are obtained or made operational.

3.8.3 Inventories shall be in a form approved by the Head of Finance.

3.8.4 Each Director shall carry out an annual check of all items on the inventory in order to verify location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council.

3.8.5 The Chief Internal Auditor shall have access to all Council property and to the inventories and any relevant documents.

3.8.6 The Council's property shall not be removed except in accordance with the ordinary course of the Council's business. Council property shall only be used for the Council's purposes unless specifically authorised by the appropriate Director.

Explanatory Notes

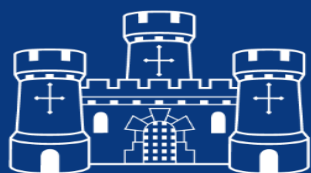
Directors are responsible for maintaining records of furniture, fittings and equipment under their control. The regulations cover movements, write offs and disposals of such property.

A check should be made at least once every year to see that the actual assets held correspond with the records. Internal Audit will also carry out periodic checks to see that this is so.

3.9 Stocks

Records

3.9.1 Each Director shall:



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- (a) be responsible for the care and custody of stocks in their department. Stock accounts and records, including records of issues, write-offs and other adjustments, shall be kept by the Director in such form as may be approved by the S151 Officer;
- (b) furnish the S151 Officer with such documentation in connection with stock records or cost records as may be necessary for the purpose of completing the accounting and financial records of the Council. The S151 Officer, in conjunction with the Director concerned, shall determine the method to be followed in the valuation of stocks.

3.9.2 A delivery note signed by the person receiving the supplies shall be obtained in respect of every delivery of supplies at the time of delivery. All supplies shall be checked for quantity at the time delivery is made and inspected for quality and compliance with the specification as soon as possible after delivery, following which FIMS shall be immediately updated with delivery details.

Verification of Stocks

3.9.3 Annually at 31st March, or such other date as may be agreed with the S151 Officer, a complete stock taking of all items shall be carried out by a responsible employee authorised for that purpose by each Director. That employee shall be responsible for ensuring that actual physical stocks agree with the stock records. However, annual stock takings may be waived in cases where the S151 Officer is satisfied that a satisfactory system of continuous stocktaking is in operation.

3.9.4 Senior Managers shall:

- (a) sign all stock sheets or stock records and certify that the particulars and prices shown on them are correct;
- (b) forward to the S151 Officer such certificates relating to stocks as the S151 Officer may require.

Stock Levels

3.9.5 Directors shall be responsible for ensuring that stocks are not held in excess of reasonable requirements.

3.9.6 No deficiency in stocks, and no items, which have become unserviceable, obsolete, stolen or irrecoverable shall be written off except on the authority of:

- (a) the S151 Officer on the recommendation of the Director if the current value on the open market is not greater than that agreed by Council;
- (b) the Cabinet on the recommendation of the Director and the S151 Officer if the current value on the open market is greater than that agreed by Council.

Explanatory Notes

It is the responsibility of Directors to keep accurate records of the stocks received, held and issued by their Departments.

Directors must also ensure that actual stock levels are verified with stock records on a continuous basis or at least annually.

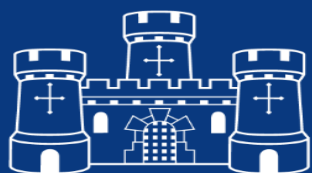
It is in the interests of the Council that stocks are kept at optimum level and Directors are responsible for ensuring that procedures exist to ensure this.

3.10 Intellectual property

3.10.1 The Chief Executive shall provide advice on intellectual property procedures.

3.10.2 Directors shall ensure that controls are in place to ensure that employees do not carry out private work in Council time and that employees are aware of an employer's rights with regard to intellectual property.

Explanatory Notes



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Certain activities undertaken within the Council may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property. In the event that the Council decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the advice.

3.11 Asset disposal

3.11.1 The S151 Officer shall:

- (a) issue guidelines representing best practice for disposal of assets;
- (b) ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds if appropriate.

3.11.2 Directors shall:

- (a) seek advice and agreement from the Chief Internal Auditor on the disposal of surplus or obsolete materials, stocks, vehicles, plant and equipment, etc before deletion from an inventory or stock list;
- (b) ensure that income received for the disposal of an asset is properly banked and coded;
- (c) notify the S151 Officer of any material surplus in stocks, etc. in excess of requirements, having a resale value. These shall be disposed of by competitive tender in accordance with the provisions in the Council's Contract Procedural Rules relating to contracts or by public auction dependant on the type of supplies and the values concerned.

Explanatory Notes

It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the Council.

Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the Council, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.

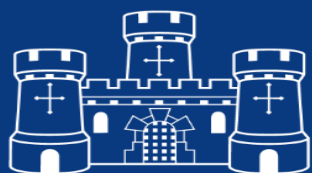
Procedures protect employees involved in the disposal from accusations of personal gain.

Where the value of the asset to be written off/disposed of exceeds the amount as per the monetary amounts table this should be done in liaison with the Chief Internal Auditor . Assets below this value should be approved for write off/disposal by the relevant Business Manager or Head of Service. Managers should ensure that following the disposal of an asset all inventories are updated accordingly.

3.12 MINOR EMPLOYEE EXPENDITURE

3.12.1 The Council has removed the previous imprest system that was in operation. Any minor expenditure that an employee has had to urgently undertake within their role shall be reclaimed through expenses. Staff shall not use loyalty cards when making petty cash purchases. Prior approval for all purchases should be obtained from a Senior Officer/Line Manager.

Explanatory Notes



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The Council's aim is to no longer utilise cash based transactions wherever possible.

Complete and comprehensive records of all transactions should be maintained.

Staff must not use loyalty cards (such as Tesco Clubcards, Boots Advantage Cards, etc) when making petty cash purchases. These are personal to the cardholder and if used to make purchases on behalf of the Council, there are tax implications for the Council.

3.13 Treasury Management

3.13.1 All treasury **management activities shall be carried out in accordance with the Council's approved Treasury Management Policy Statement**. The S151 Officer shall review the Policy Statement annually and report to the Finance, Assets & Performance Scrutiny Committee, as delegated by Full Council per the CIPFA Treasury Management Code 2017 upon any amendments that may be required to it.

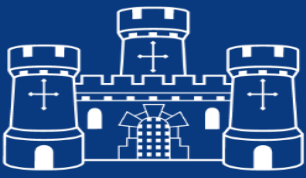
3.13.2 The S151 Officer shall:

- (a) report to Council at any time, as he considers necessary, upon matters relating to treasury management activities. All such reports shall be made to either the Full Council (or delegated committee), the Cabinet or the Audit and Standards Committee, as appropriate and consistent with these regulations;
- (b) compile a Treasury Management Strategy, covering treasury management activities to be carried out during the following financial year. The report shall be submitted to the Full Council (or delegated committee) before the commencement of the year to which it relates and the Full Council (or delegated committee) must approve such a report before the year in question commences;
- (c) **compile an annual report reviewing the previous year's treasury management** activities. The report shall be submitted to the Audit and Standards Committee prior to being submitted to the Full Council (or delegated committee) by 30th September following the end of the year to which it relates. A mid-year report, reviewing treasury management activity to that point, shall be submitted to the Audit and Standards Committee;
- (d) compile, and the Full Council (or delegated committee) approve, suitable Treasury Management Policies (TMPs). The S151 Officer shall compile and maintain up to date schedules to the TMPs;
- (e) ensure that all treasury management transactions are recorded and that there is an effective division of duties between operations;
- (f) before the start of each year, ensure compliance with the Prudential Code and that the prudential indicators are compiled and approved by the Full Council via the Capital Strategy;
- (g) monitor the prudential indicators and report to Full Council any deviations from them; and
- (h) compile an Investment Strategy, separate to the Treasury Management Strategy, as per guidelines set by (MHCLG) Guidance on Local Government Investments. This will include both treasury and non-treasury investments.

3.13.3 All securities which are the property of or in the name of the Council or its nominees shall be held in the custody of the Chief Executive except in the case of externally managed funds which shall be held by an independent custodian approved by the S151 Officer.

3.13.4 Loans shall not be made to third parties and interests shall not be acquired in companies, joint ventures or other enterprises without the approval of the Cabinet, following consultation with the S151 Officer.

3.13.5 All trust, charitable and third party funds shall be held, wherever possible, in the name of the Council. All employees acting as trustees by virtue of their official position or otherwise shall deposit all relevant securities, etc with the Chief Executive. The responsible Director shall make arrangements, approved by the S151 Officer, for the secure administration of such funds and records, approved by them, shall be maintained of all transactions. All funds dealt with on behalf of such bodies shall be operated within any relevant legislation and the specific requirements of each body.



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Explanatory Notes

Treasury Management is defined by the Chartered Institute of Public Finance and Accountancy (CIPFA) as "The Management of the Council's cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks".

Apart from some arrangements in connection with leases of plant and equipment etc, all Treasury Management functions are carried out by the S151 Officer under the direction of the Cabinet.

3.14 BANKING ARRANGEMENTS

- 3.14.1 The S151 Officer shall operate any bank accounts that are considered necessary. No bank accounts shall be opened without the approval of the S151 Officer.
- 3.14.2 Payments and receipts shall be made and received electronically wherever possible. Payments via direct debit or standing order must be approved in advance by the Head of Finance.
- 3.14.3 Payments by cheque shall only be in extreme circumstances. All cheques drawn on behalf of the Council shall be signed personally by the S151 Officer, or their designated authorised employee.
- 3.14.4 The S151 Officer shall be responsible for:
- (a) making arrangements with regard to any payments from the Council's bank accounts by means of cheques or any other method;
 - (b) all arrangements concerning the amendment, stopping, opening and cancellation of cheques.

Explanatory Notes

The S151 Officer is responsible for organising the Council's banking arrangements and only authorised signatories can sign Council cheques.

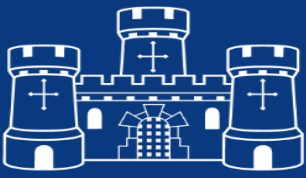
To maximise efficiency and reduce costs all transactions should be made via electronic means. In doing this the controls in relation to electronic systems have to be considered to ensure that risks are managed and minimised to prevent the possibility of fraud. Only in urgent cases can a cheque be manually issued. Due to the nature of the cheques clearing process 'urgent' instances should be minimal, with electronic payment methods being able to transfer funds instantly in some circumstances.

To combat the possibility of fraud, close supervision must be exercised over the supply, custody, preparation, signing and despatch of cheques. Procedures for amending, stopping, opening and cancellation of cheques must be tightly controlled.

It is Council policy not to issue open cheques. Persons requesting this should be informed of the policy and told to make appropriate arrangements themselves to receive value for the cheque, for example by opening a bank account. In very exceptional circumstances it may be possible to arrange for a cash payment to be made to such persons instead of the cheque but these cases must be "one-off" only not recurring.

3.15 STAFFING

- 3.15.1 The S151 Officer shall ensure that budget provision exists for all existing and new employees included on the approved establishment list.
- 3.15.2 The Head of People and Organisational Development shall:
- (a) Compile and keep up to date an establishment list. A unique reference number shall identify each post included on the list. The list shall show, for each post, the grade applicable to that post and the name of the employee currently filling that post. (Where a post is not presently filled, substituting "vacant" for the employee's name shall indicate this). The list shall be set out according to the Council's current departmental structure;
 - (b) act as an advisor to Directors on areas such as National Insurance and pension contributions, as appropriate.
 - (c) Compile and keep up to date a Corporate Workforce Development Plan, which shall be approved by the Cabinet.



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- (d) Compile and keep up to date a Pay Policy Statement in accordance with Section 38 of the Localism Act 2011. This Statement will be submitted annually to Full Council for approval and published on the Council's internet site.

3.15.3 Directors shall:

- (a) ensure that the personnel estimates are an accurate forecast of staffing levels and are equated to an appropriate revenue budget provision (including on-costs and overheads);
- (b) **monitor employee activity to ensure adequate control over such costs as sickness (where the Council's Absence Management Procedures must be applied), overtime, training and temporary employees (the procedures for the employment of agency staff, issued by the Head of People and Organisational Development must be followed where such staff are to be engaged);**
- (c) ensure that the personnel estimates are not exceeded without due authority and that they are managed to enable the agreed level of service to be provided;
- (d) ensure that the S151 Officer is immediately informed if the personnel estimate is likely to be materially over or underspent;
- (e) ensure that employees are **appointed only to posts included in the Council's establishment list and for which adequate budget provision has been made to meet the costs of employing such employees;**
- (f) have regard to the Corporate Workforce Development Plan;
- (g) **follow the Council's recruitment procedures;**
- (h) **apply the Council's Capability Procedures in relation to individual posts and staff occupying those posts.**

3.15.4 The S151 Officer shall authorise all employee settlements, pension strain payments, payments in accordance with the Mutually Agreed Resignation Scheme and gratuities in conjunction with the Head of People and Organisational Development and the Pay Policy Statement.

Explanatory Notes

In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre, knowledgeable employees, qualified to an appropriate level.

The key controls for staffing are that:

- (a) *an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched;*
- (b) *procedures are in place for forecasting staffing requirements and cost;*
- (c) *controls are implemented that ensure that staff time is used efficiently and to the benefit of the Council and*
- (d) *checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.*

PR4: FINANCIAL SYSTEMS AND PROCEDURES

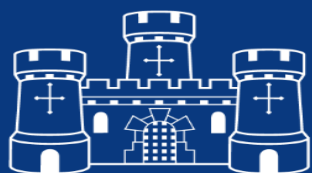
4.1 General

4.1.1 The S151 Officer **shall make arrangements for the proper administration of the Council's financial affairs,** including to:

- (a) **issue advice, guidance and procedures for employees and others acting on the Council's behalf;**
- (b) determine the accounting systems, form of accounts and supporting financial records;
- (c) **establish arrangements for audit of the Council's financial affairs;**
- (d) approve any new financial systems to be introduced and approve any changes to be made to existing financial systems.

4.1.2 Directors shall ensure:

- (a) that accounting records are properly maintained and held securely;
- (b) that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Head of Finance;
- (c) in respect of any financial system employed by incorporating appropriate controls, that:
 - (a) all input is genuine, complete, accurate, timely and not previously processed;
 - (b) all processing is carried out in an accurate, complete and timely manner;
 - (c) output from the system is complete, accurate and timely.
- (d) that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice;



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- (e) that all systems are documented and employees required to operate them are trained in their operation;
- (f) that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained;
- (g) that no existing financial system shall be changed or new system introduced without consulting the S151 Officer.

4.2 Delegation

4.2.1 Directors shall supply, in writing or by electronic means, names of authorised employees, with delegated limits and, where requested, specimen signatures to the S151 Officer, together with subsequent variations, in respect of payments, income collection and placing orders, including requisitioning.

4.3 Information Security

4.3.1 Directors shall take all necessary action to ensure compliance with the Council's Information Security Management Policies, including to:

- (a) ensure that there is a documented and tested disaster recovery plan to allow critical information system processing to resume quickly in the event of an interruption;
- (b) ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information shall be securely retained, electronically at an alternative location;
- (c) ensure that where, appropriate, computer systems are registered in accordance with data protection legislation and that employees are aware of their responsibilities under that legislation;
- (d) ensure that relevant standards and guidelines issued by the S151 Officer via the Information Security Group are observed;
- (e) ensure that software and computer equipment including all mobile computer equipment and telephony are protected from loss and damage through theft, vandalism, etc; and
- (f) comply with the copyright, design and patents legislation, in particular to ensure that only software legally acquired and installed by the Council is used on its computers, that employees are aware of legislative provisions and that in developing systems due regard is given to the issue of intellectual property rights
- (g) ensure that all unwanted ICT equipment is returned to ICT for secure disposal.

4.3.2 Directors shall have regard to the requirements of the Public Services Network (PSN) and the Government Security Classification Scheme (GSC)) in relation to information security and shall take all necessary action to ensure compliance with the directives in all respects, as notified to them by the S151 Officer and the Head of Customer and Digital Services.

Explanatory notes

The key controls for systems and procedures are:

- (a) basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated*
- (b) performance is communicated to the appropriate managers on an accurate, complete and timely basis*
- (c) early warning is provided of deviations from target, plans and budgets that require management attention*
- (d) operating systems and procedures are secure*

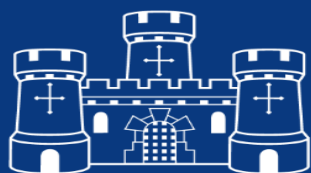
The Government has published a PSN Code of Connection (CoCo) which all public authorities who transmit or receive data to or from central government departments must comply with. The Code sets out standards and procedures relating to information security which must be complied with, otherwise the Council will not be permitted to exchange electronic data with any government departments. It is, therefore, absolutely essential that the Council complies with the Code in all respects.

Income and Expenditure

4.4 Recording and notification of sums due

4.4.1 The collection of all monies due to the Council shall be under the control of the S151 Officer.

4.4.2 The S151 Officer in conjunction with the Director concerned shall make and maintain adequate arrangements to ensure the proper recording of all sums due to the Council and for its prompt collection and the custody, control, and deposit, of all money received, and for the prompt and proper accounting of such money.



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4.4.3 Directors shall ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded

4.4.4 The Chief Executive, or Directors where appropriate, shall inform the S151 Officer as soon as possible of all monies due to the Council under contracts, leases, tenancy agreements, licenses, agreements for sales of property and any other agreements involving the receipt of monies by the Council. They shall also review leases, tenancy agreements, licences and any other agreements, which involve the receipt of money, at regular and reasonable intervals. The S151 Officer shall have the right to inspect any documents or other evidence in connection with such matters.

4.4.5 The S151 Officer shall be informed whenever significant expenditure is likely to occur in an area of activity that generates VAT exempt income and whenever a new or a one-off source of VAT exempt income is to be generated.

4.4.6 Cash payments will not be accepted by the Council.

4.4.7 All Directors shall ensure that employees involved in handling payments are aware of and comply with the Money Laundering Guidance.

4.4.8 All claims for reimbursements, contributions, grants etc. shall be made by the S151 Officer, or by arrangement with them, by the appropriate Director. Any information required for the completion of such claims shall be supplied promptly to the S151 Officer or to their Grant Coordinator by the Director concerned. All such claims shall be made promptly and by the due dates and the S151 Officer, or other Director, where the claim was made by them, shall ensure that all monies due to the Council are received.

4.5 Separation of Duties

4.5.1 Directors shall ensure that the responsibility for cash collection should be separated from that:

- (a) for identifying the amount due;
- (b) for reconciling the amount due to the amount received.

4.6 Receipts

4.6.1 Employees shall only give a receipt for money received on behalf of the Council on the official receipt form or in the event of electronic transactions by providing a receipt transaction number, no other form of receipt shall be used. Where a receipt is not required for a payment, no receipt will be issued but a separate record shall be kept of all such payments.

4.6.2 Every transfer of money from one employee to another shall be evidenced in the records of the Departments concerned. The receiving employee must sign for the transfer and the transferor must retain a copy.

4.7 Money Received

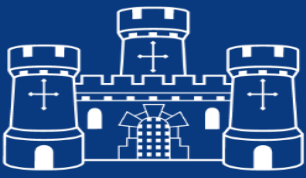
4.7.1 Income shall not be used to cash personal cheques or other payments.

4.7.2 Where cheque payments are presented personally, the receipting employee shall ensure that a cheque guarantee card supports such payments. They shall also ensure:

- (a) that the card holder signs the cheque in the presence of the receipting employee, who must ensure that the signature corresponds with that on the cheque card;
- (b) that the code number shown on the cheque guarantee card is the same as that shown on the cheque;
- (c) that the receipting employee personally writes the card number on the reverse of the cheque;
- (d) that the amount of the payment does not exceed the limit shown on the face of the card;
- (e) that the card expiry date has not passed.

Exceptions to this process will only be allowed where there is an account raised for the debt or with the written approval of the S151 Officer.

4.7.3 All cheques received shall be made payable to "Newcastle Under Lyme Borough Council". All bank payments must be into the Council's General Fund Account or other account if specified by the S151 Officer.



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4.7.4 Receipts in excess of £10,000 and any bank payments from unknown or overseas banks shall be evaluated and evidenced to ensure the legitimate source of the funds.

4.8 Payment by Credit and Debit cards

4.8.1 Directors shall consult with the S151 Officer before introducing facilities for payment by credit or debit cards.

4.8.2 All operational and commission costs relating to facilities for payment by credit and debit cards are to be met from the budget of the department offering the facilities, payments made by credit cards will not be subject to a charge.

4.8.3 Payments shall only be collected for credit income at establishments authorised by the S151 Officer and on systems approved by them. This includes payments over the Internet via the Council's website which will be permitted subject to the approval of the S151 Officer. Credit income includes council tax, business rates and debtors accounts.

4.8.4 Payments will not be accepted by this method where the Council acts as a collecting agent on behalf of another organisation unless all associated processing fees are met by the body concerned.

4.8.5 Where the cardholder is present for payment by credit and debit cards, the receipting employee shall ensure that:

- (a) the card holder presents a valid pin number, or present a card capable of contactless payment if the transaction value is less than the upper limit (currently £30);
- (b) that the amount being paid has been authorised independently through the bank's terminal where the amount exceeds the level set by Council for credit cards and debit cards;
- (c) the cardholder is given a receipt from the authorising terminal as proof of payment and as well as the official receipt from the Council;
- (d) that the expiry date on the card is still valid;
- (e) payment by this method should be rejected if the card has expired, the signature is not comparable, or the PIN is not recognised.

Exceptions to this process will only be allowed with the written approval of the S151 Officer.

4.8.6 A cash back facility shall not be available.

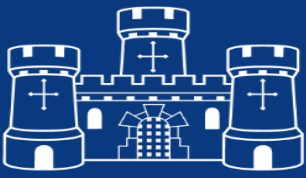
4.8.7 The Council must comply with the Payment Card Industry (PCI) Data Security Standards (DSS) and ensure the security of sensitive customer information. This specifically relates to merchant receipts produced from payment card machines. All staff involved in taking debit or credit card payments must adhere to the Council's Procedure for the Handling of Merchant Receipts and Customer Card Details.

4.9 Direct Debit Collection

4.9.1 Payments of sums due may be collected by means of Direct Debit only with the prior approval of the S151 Officer

4.9.2 The Revenues Manager shall:

- (a) process direct debit transactions for all departments in the Council (with the exception of Leisure Gym memberships);
- (b) process Direct Debit information within 48 hours (excluding weekend and bank holidays);
- (c) during processing, identify issues that will prohibit the collection of monies;
- (d) rectify any issues that will stop payment on the Direct Debit mandate;
- (e) set up Direct Debits on the customer's account;
- (f) set up Direct Debit collections to be made on 1st or 15th of the month for sundry debtors, on the 3rd, 15th or 25th of the month for Council Tax and on the 3rd of the month for National Non-Domestic Rates;
- (g) transmit claims to the bank and collect all of the returns reports, forwarding to Departments where necessary;
- (h) carry out recovery procedures for all departments in the Council (with the exception of Leisure Gym memberships) to ensure arrears are collected.



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4.9.3 The Head of Leisure and Cultural Services (in respect of Direct Debit Collection arranged through the Leisure departmental system) shall:

- (a) ensure that Leisure and Cultural Services have a unique originators number;
- (b) process Direct Debit information within 48 hours (excluding weekend and bank holidays);
- (c) during processing identify issues that will prohibit the collection of monies;
- (d) rectify any issues that will stop payment on the Direct Debit mandate;
- (e) set up Direct Debits on the member's account;
- (f) set up Direct Debit collections to be made on 1st or 15th of the month;
- (g) request BACS and AUDDIS returns to identify customer arrears and automatically update membership database (where applicable), disabling access to the facilities until any payment due in line with their membership terms is received;
- (h) request reports on payments collected and payments defaulted;
- (i) ensure arrears are collected.

4.10 Security

4.10.1 Directors shall:

- (a) hold securely unused receipts, tickets and other records of income. Used receipts, tickets and other records of income shall be held securely for the appropriate period as specified by the S151 Officer;
- (b) lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.

4.11 Banking

4.11.1 Directors shall ensure, by arrangement with the S151 Officer, that all money received on behalf of the Council in any Department or Establishment is deposited directly with the Council's bankers.

4.11.2 For the purpose of paying money to the Council's bankers, the S151 Officer shall provide a paying in book for the use of the employee; no other paying in stationery shall be used.

4.11.3 Every employee paying money to the Council's bankers shall enter on a paying in slip and on the counterfoil or duplicate, particulars of such payment, including in the case of each cheque paid in:

- (a) the amount of the cheque;
- (b) some reference (such as the number of the receipt given or the name of the debtor) which will connect the cheque with the debt or debts in discharge or partial discharge of which it was received.

4.11.4 All money shall be deposited not less than weekly or such longer periods as may be arranged with the S151 Officer. Except that whenever receipts in hand exceed the amount set by Council, or such other sum as may be specified by the S151 Officer, they shall be deposited without delay.

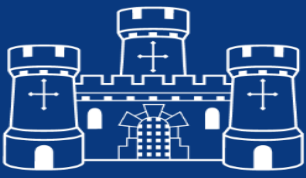
4.11.5 Money collected and deposited shall be reconciled to the Council's bank account on a regular basis by an employee not involved in the collection or banking process.

4.12 Records

4.12.1 The S151 Officer shall agree arrangements for the collection of all income due to the Council and approve the procedures, systems and documentation for its collection. Every employee who receives money on behalf of the Council shall comply with these arrangements.

4.12.2 All official receipt forms, books or tickets shall be in a form approved by the S151 Officer. All such forms, books or tickets and licenses, for which fees are chargeable, shall be ordered, controlled and issued to all departments by the Head of Customer and Digital Services. All receipts and issues thereof shall be properly recorded and acknowledged and controlled to the satisfaction of the S151 Officer.

4.12.3 Directors shall, as soon as possible after the 31st March in each year, and in all cases within the timescale set, supply to the S151 Officer schedules of all amounts outstanding where a debtors account has not been raised, in excess of the amount set by Council, or such other sum as specified by the S151 Officer, relating to their department for the previous financial year. Such schedules shall be in a form prescribed by the S151 Officer.



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4.13 Issue of Debtors Accounts

4.13.1 Directors shall:

- (a) promptly notify the S151 Officer, in a form approved by them, of all sums due. Debtors' accounts shall be raised by the S151 Officer in all cases unless arrangements have been agreed in writing between the S151 Officer and the relevant Director for accounts to be sent out directly from Departments/ Establishments. In these cases a copy of each account must be forwarded to the S151 Officer;
- (b) assist the S151 Officer in collecting debts that they have originated, by providing any further information requested by the debtor;
- (c) take all practical steps to satisfy themselves as to the correct VAT treatment of their income and shall consult with the S151 Officer when in doubt.

4.13.2 Debtors accounts shall not normally be issued for amounts less than a limit to be determined by the Council. In such cases Directors shall arrange for payment to be made before supplies/ services are supplied unless alternative arrangements are agreed with the S151 Officer.

4.13.3 There shall be no Cancellation of accounts except by full payment or final write off.

4.13.4 A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.

4.14 Recovery procedures

4.14.1 The S151 Officer will establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.

4.14.2 Directors shall assist the S151 Officer in carrying out these recovery procedures by providing any information or assistance requested.

4.15 Write offs

4.15.1 No debtor's account or part thereof due to the Council shall be written off unless authorised as follows:

- (a) for accounts not exceeding the financial limit established by the Council, by the S151 Officer in consultation with the Portfolio Holder for Finance and Efficiency;
- (b) for accounts exceeding the financial limit established by the Council, by resolution of the Cabinet on the recommendation of the S151 Officer in consultation with the appropriate Director.

4.15.2 The S151 Officer shall:

- (a) make appropriate accounting adjustments following write off action;
- (b) define timescales within which write off action must occur.

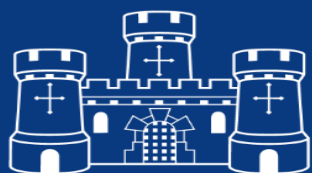
4.16 Fees & Charges

4.16.1 All fees and charges levied or made shall be in accordance with the Council's current approved scale of fees and charges and the law.

4.16.2 Directors shall review at least annually all fees and charges for which they are responsible and report to the Cabinet which shall approve or otherwise the proposals.

4.16.3 Directors shall apply the Charging Policy when setting fees and charges. Where the policy is not met, valid and acceptable reasoning must be given.

4.16.4 Any revisions to fees and charges or new fees and charges during the year can be added with the approval of the relevant Portfolio Holder and Head of Finance.



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4.17 Changes in Sources of Revenue

4.17.1 Any proposal made by a Director concerning recommended charges for new or significant variations to existing sources of revenue shall be subject to a report to the Cabinet which shall include the comments of the S151 Officer.

Explanatory Notes

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying supplies or services as this improves the Council's cashflow and also avoids the time and cost of administering debts.

Collection and Accounting for Income

Directors, in consultation with the S151 Officer, are responsible for establishing and maintaining the financial arrangements necessary to ensure proper and accurate recording of sums due to the Council, and for the prompt collection and banking of such monies.

Where cash is received or people are present when making a payment a receipt is issued. In the case of non-cash payments, or where the person is not present i.e payment through the post, over the telephone or internet, receipts are issued if requested or a transaction number is provided

Issue of Debtors Accounts

The limit set by the Council below which it is considered uneconomic to normally issue a debtors account is shown in the monetary amounts table. Accounts currently raised directly are crematorium, cemetery accounts and car park penalty charge notices. The S151 Officer still needs to be informed of the details for possible recovery action, write off information and year end information on accounts outstanding.

Debtor Account Write Offs

The limit set by the Council, to operate from the adoption of these Financial Regulations, above which Directors must seek Cabinet approval is set in the monetary amounts table. Below this the Director needs the approval of the S151 Officer.

VAT

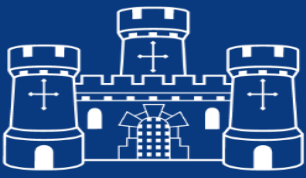
Particular care must be taken in the preparation of debtors accounts to ensure compliance with VAT regulations, given the ability of H M Revenue and Customs to impose fines for non-compliance on both the Council and in extreme cases individual employees. If an employee has any doubt about the VAT liability in relation to a particular debtor's account he should contact the S151 Officer.

Local authorities are limited as to the amount of VAT they can incur on expenditure that is connected with income generating activities that are exempt of VAT. Activities that fall into this category are: cremation; sports lessons and land transactions (i.e. sales of land, commercial rents, hire of rooms, letting of market stalls and long term hire of sports facilities). The Financial Management Section has to monitor expenditure on such activities to ensure that it remains within limits set by H.M. Revenue and Customs. Where an employee is aware that significant expenditure (i.e. over and above normal running costs) is to occur on one of the above categories, they should contact the S151 Officer. Employees should also contact the S151 Officer when the Council is to sell land or when a new source of VAT exempt income is to be generated e.g. new industrial units.

New Projects

Where a new project is going to bring in additional income or an existing project is changing significantly, i.e. being upgraded to provide a better level of service, the repercussions on income shall be reported to the Cabinet.

Charging Policy



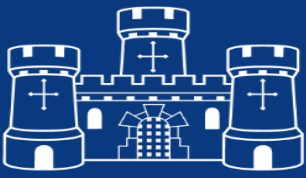
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The Charging Policy sets out the principles to be applied in setting fees and charges and these should be followed when doing this.

4.18 Requisitioning and Ordering of Work, Supplies and Services

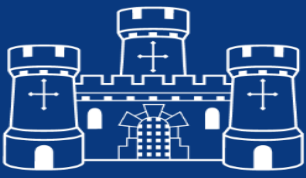
- 4.18.1 Every employee and Member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with appropriate codes of conduct.
- 4.18.2 Each order must conform to the guidelines approved by the Full Council on procurement. Standard terms and conditions must not be varied without the prior approval of the S151 Officer.
- 4.18.3 Requisitions, orders and associated terms and conditions shall be made via the FIMS except where 4.18.10 applies. They shall be issued for all works, supplies and services except for:
- (a) supplies of public utility services;
 - (b) periodical payments, e.g. rent;
 - (c) petty cash purchases; and
 - (d) other exceptions agreed and authorised in writing by the S151 Officer.
- 4.18.4 No other order shall be recognised by the Council and orders produced by FIMS will be raised automatically following the approval of the requisition. Orders may be printed for despatch to suppliers or transmitted to them electronically (the latter being the preferred method).
- 4.18.5 Requisitions shall be initiated on the FIMS and shall clearly indicate:
- (a) the nature of the purchase;
 - (b) the quantity required;
 - (c) any contract or agreed prices relating to the purchase;
 - (d) in relation to contracts, the amount of retention money to be withheld;
 - (e) the delivery date when specified and location; and
 - (f) the charge code.
- 4.18.6 The approval of a requisition shall be by an employee authorised by the Director and via the FIMS. Approval of a requisition shall lead to its conversion into an order against which, if all details match and goods have been received and recorded as such on the FIMS, payment will be made automatically on receipt of the invoice. No other approval will be required.
- 4.18.7 Requisitions and orders in excess of £50,000 shall require authorisation by a member of the Executive Management Team
- 4.18.8 The Director shall:
- (a) ensure that only those employees authorised by them approve requisitions electronically, or in the event of the FIMS not being available sign emergency orders;
 - (b) maintain an up-to-date list of such authorised employees identifying in each case the limits of their authority which is to be stated on the completed online Civica new user form;
 - (c) notify all authorisations in writing to the S151 Officer by way of completing the online Civica new user form;
 - (d) ensure that unique numbered official orders are used for all supplies and services. (Other than the exceptions specified in 4.17.1);
 - (e) ensure that requisitions and orders are only used for supplies and services provided to the Council for its own use or that of approved partnerships. Employees must not use official requisitions or orders to obtain supplies or services for their private use;
 - (f) ensure that product information is inserted and maintained regularly within the FIMS for which they are responsible and that the correct tax codes are applied to products.
- 4.18.9 The authoriser of the requisition or order must be satisfied that the supplies and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders (via either an open procurement process or use of a compliant framework (further competition or direct award)) have been obtained if necessary. Value for money should always be achieved. The Director is responsible for the control and security of unused order books retained for emergency purposes within their service.



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- 4.18.10 Where, as a consequence of the situation of using the Council's Business Continuity Procedure, supplies or services have to be ordered verbally (without using FIMS) a confirmatory order, marked as such, shall be issued as soon as possible.
- 4.18.11 Where, goods are ordered from a safe internet site and subject to settlement at a later date, an official order number shall be quoted and a confirmatory order, marked as such, shall be issued promptly.
- 4.18.12 Each order shall conform with the Contract Procedural Rules and to any other relevant directions of the Council with respect to central purchasing, standardisation of supplies and materials and any other matters.
- 4.18.13 No commitment to purchasing items where there is an approved corporate purchasing policy, even if provided for in an approved budget, shall be undertaken without prior agreement with the appropriate section to ensure that the policy is complied with. No commitment to purchasing items where there is an approved purchasing officer responsible for that type of product shall be undertaken without prior agreement with the relevant officer to ensure that any agreement is complied with, e.g. printing & publicity and stationery (other than that used in connection with a specialised system or equipment). In particular all proposed procurement of Information and Communications Technology equipment must be approved by the Head of Customer and Digital Services in advance including arranging demonstrations relating to that equipment.
- 4.18.14 All product groups shall have designated owners and only they shall update and maintain the FIMS for those products. All product owners shall identify the correct VAT codes against the products. Where product catalogues and market places are identified and are available electronically these shall be used in preference to manual sources.
- 4.18.15 Orders shall clearly indicate:
- (a) the nature of the purchase;
 - (b) the quantity required;
 - (c) any contract or agreed prices relating to the purchase;
 - (d) the delivery dates where specified and location;
 - (e) the charge code; and
 - (f) the address to which an account must be sent, which shall be the central address for invoices.
- 4.18.16 The issue of "open" orders will not be permitted unless prior written approval has been obtained from the S151 Officer.
- 4.18.17 Directors shall ensure that the department obtains value for money from purchases by taking appropriate steps to obtain competitive prices for supplies and services of the appropriate quality.
- 4.18.18 The limits will be those as specified by the Cabinet that apply to quotations in respect of orders for works, supplies and services as set out in these regulations in the monetary amounts table.
- 4.18.19 In the absence of any good reason to the contrary, which should be clearly indicated on file, the lowest quotation shall be accepted.
- 4.18.20 In cases where the minimum requirements as set out in 4.18.18 have not been satisfied, the reason for non-compliance shall be clearly indicated on the copy order and invoice.
- 4.18.21 If the works, supplies or services to be supplied consist of emergency repairs to or parts supplied in an emergency for existing machinery or plant, written quotations may not be required.
- 4.18.22 Where orders of a repetitive nature occur and it is likely that the total value will exceed the monetary amount as specified in these regulations in any twelve-month period Financial Regulations and Contract Procedural Rules shall apply.
- 4.18.23 Directors shall ensure that:
- (a) loans, leasing or rental arrangements are not entered into without prior agreement from the S151 Officer. This is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure that value for money is being obtained;
 - (b) two authorised employees are involved in the ordering, receiving and payment process. A different employee from the person entering the electronic requisition should approve it, which will then become an



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order. A different employee from the person who requisitioned and approved the online order should be involved in the payment process.

4.18.24 Regard should be had to the content of the Council's Procurement Strategy and its Commissioning Framework for the Third Sector in applicable cases.

4.18.25 Only authorised employees of the Council may approve requisitions or orders for goods and services. In exceptional circumstances the S151 Officer may grant approval rights to individuals who are overseeing service areas, but are not directly employed by the Council.

Explanatory Notes

Clearly defined standard procedures for the ordering of supplies and services are essential.

Directors are responsible for ensuring that they have appropriate authority to incur expenditure on behalf of the Council and for clearly defining those employees who have authority to approve requisitions and orders on behalf of the service.

Goods and services should not be ordered, if this would cause a budget estimate to become overspent.

The Council operates an electronic system (part of FIMS) for requisitioning, ordering and paying for goods and services. Accordingly, the approval of a requisition will be the stage at which approval is given for an order to be automatically raised and issued.

Only Council employees can approve requisitions or orders for goods or services. Interim or agency staff or consultants or other persons who are not directly employed may not perform this function unless specific approval has been sought from the S151 Officer.

In the event of a system failure it will be necessary to return to a manual ordering system and requisition authorisers under the electronic FIMS will need to sign manual orders. The details of such emergency orders will be uploaded into the FIMS as soon as possible following its revival. Reference to written confirmation orders relates to the despatch of electronic orders where possible in preference to paper copies.

Reference in the regulations is made to authorising the requisition on the FIMS and the order in the case of emergency manual orders.

All invoices must be sent to the central creditors processing team, not to departments or outlying council buildings.

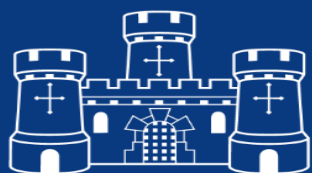
4.19 Contracts

4.19.1 All contracts for supplies or work carried out on behalf of the Council shall be subject to the Council's Contract Procedural Rules. The Council's Contract Procedural Rules must also be followed when considering a contract extension.

4.20 Works contracts

4.20.1 Each Director shall monitor expenditure under a contract and take such action, as he considers necessary to prevent the final contract sum exceeding that approved unless he certifies such excess is unavoidable. If the final contract sum appears likely to exceed the approved sum, this must be reported to the Cabinet and approval obtained for the additional spending before further payment can be made.

4.20.2 Payments to a contractor shall be made on receipt of an invoice, where interim measurements are to be authorised for payment by the Director, the details of which shall be requested prior to agreement of the submission of the invoice.



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4.21 Completion of Contracts

- 4.21.1 The final invoice on completion of any contract shall not be paid until the appropriate employee or consultant has produced to the Chief Internal Auditor a detailed statement of account, all relevant documents required and the provisions of Financial Regulations 4.23.4 and 4.23.5 are satisfied.
- 4.21.2 Internal Audit shall, to the extent that they consider necessary, examine final accounts for contracts and be entitled to make all such enquiries and receive all such explanations as they may require in order to satisfy herself/himself as to the accuracy of the accounts. The Chief Internal Auditor shall notify, in writing, the appropriate Director (or private architect, engineer, consultant as appropriate) that the examination is complete and that the final payment, less retention can be issued.
- 4.21.3 Directors shall report to the Cabinet on the final total cost of the contract giving reasons for any variations from the original approved contract amount. This may be done via the schedule of completed schemes referred to in Financial Regulation 2.7.
- 4.21.4 Where completion of a contract is delayed, the Chief Executive shall be informed by the Director concerned in order that he may take appropriate action in respect of any claim for liquidated damages.
- 4.21.5 Directors shall request payment of retention monies in writing from Internal Audit when they are due.

4.22 Goods and materials contracts

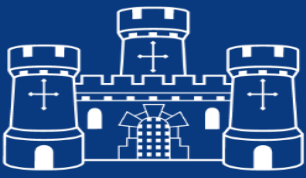
- 4.22.1 Each Director shall continually monitor expenditure under a contract and take such action as he considers necessary to prevent the contract sum exceeding approved budget limits where these are applicable.

4.23 General and Variations to Contracts

- 4.23.1 Except after consultation with the Chief Executive an employee shall not authorise work to be commenced or goods to be supplied where such work or goods are to be the subject of a formal contract, entered into between the Council and the Contractor until the Chief Executive has advised such employee that the contract has been signed by the contractor and that the appropriate insurances and bonds have been effected to their satisfaction and the S151 Officer is satisfied that the contractor is financially competent to undertake the contract.
- 4.23.2 The Chief Executive shall be responsible for keeping in secure custody all contract documents, including plans, specifications, bills of quantities, bonds etc.
- 4.23.3 Subject to the provisions of the contract and Financial Regulations 4.20 and 4.22, every variation, addition to or omission from, a contract duly authorised shall be notified in writing to the Contractor by the responsible Director. Such authorisations shall, wherever practical be given before the variation etc. is carried out.
- 4.23.4 No variation order or instruction shall be issued which would cause the expenditure on a project to exceed the amount authorised in relation to that project by the Cabinet under Financial Regulation 4.22 without first seeking and obtaining Cabinet approval.
- 4.23.5 Claims from contractors in respect of matters not clearly within the terms of an existing contract shall be referred to the Chief Executive for consideration of the Council's legal liability before a settlement is reached and any payment made.

Explanatory Notes

The Council enters into many contracts for the supply of supplies and services and the carrying out of various direct labour works. The Regulations, together with Contract Procedural Rules, are designed to ensure that the Council receives value for money under the contractual arrangements and has appropriate legal recourse in the event of a supplier failing to meet contractual conditions.



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It is the responsibility of the Director to arrange for the monitoring, verification and certification of contract payments. The S151 Officer relies on Directors informing them if account payments are to be held back.

The scope for variations to a contract will normally be governed by the terms of the contract. Directors must ensure that the terms are adhered to and/or the supplier/contractor is notified, in writing, of all variations.

Directors must ensure that the appropriate Capital and Revenue budgetary approvals (in accordance with Section B of these regulations) exist where substantial variations to contracts have occurred.

4.24 Paying for Work, Supplies and Services

4.24.1 The S151 Officer shall:

- (a) make all payments on behalf of the Council. The normal method of payment from the Council shall be by BACS or other instrument or approved method, drawn on the Council's bank account by the S151 Officer. The use of direct debit or Standing Order shall require the prior agreement of the Head of Finance;
- (b) provide advice and encouragement on making payments by the most economical means, preferably electronic. Directors shall encourage suppliers of supplies and services to receive payment by the most economical means, preferably electronic, for the Council. It is essential, however, that payments made by direct debit have the prior approval of the S151 Officer.

4.24.2 Every invoice submitted to the S151 Officer for payment shall be scanned electronically and paid where it matches the goods received amount on the order details on the FIMS. Where a match is not made, the invoice shall require further approval prior to payment in the form approved by the S151 Officer. The invoice will be forwarded to the appropriate department to enable it to be coded before requiring authorisation by the relevant Budget Holder.

4.24.3 Directors shall ensure that the department maintains and reviews periodically a list of employees approved to authorise invoices.

4.24.4 In cases where there is no electronic matching of the invoice to the order within the FIMS, the Director whose authorised employee approved the relevant requisition shall be responsible for certifying that the account is properly payable by the Council. They shall submit it to the Creditors and Purchasing Section as soon as possible and in all cases not later than fifteen working days after its receipt, unless they have established that they cannot certify the account given the requirements of Financial Regulation 4.24. Where they cannot certify an account within the fifteen-day period they shall promptly take all action necessary to permit them to certify the account as soon as possible. Where an invoice is disputed, they shall notify the S151 Officer to that effect as soon as practicable.

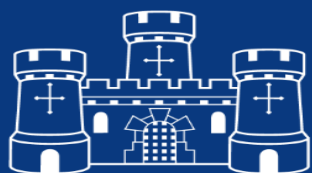
4.24.5 Every employee should be aware of and comply with "The Late Payment of Commercial Debts (Interest) Act 1998" and the corporate requirement for all invoices to be paid within 30 days of receipt unless different terms are mutually agreed with the supplier. The Council has signed up to the government's "Prompt Payment Code" and, therefore, all practicable action should be taken to ensure that its terms are complied with.

4.24.6 The S151 Officer shall:

- (a) make payments from the Council's funds on the Director's certification by authorised employees that the expenditure has been duly incurred in accordance with financial regulations;
- (b) make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- (c) Make payments where electronic matching of invoices within the FIMS has taken place once the authorised officer has approved and updated FIMS for receipt of the goods and services.

4.24.7 The approval of an invoice for payment via the FIMS, or certification if a manual system is used, shall mean:

- (a) that Contract Procedural Rules and Financial Regulations have been complied with;
- (b) that the receipt of the invoice has been registered and matched immediately to the electronic order, ;
- (c) that the works, supplies, or services have been carried out or received to the correct quantity and quality and approved as in accordance with the specification and that the prices and discounts (if any) are correct and in accordance with the contract, quotation, tenders (via either an open procurement process or use of a framework (further competition or direct award)) or order and the FIMS is updated to reflect this. The



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system shall only be updated to record receipt of goods and services received if the authorised employee is satisfied with them. Such updating shall take place as soon as practicable by the authorised employee;

- (d) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method;
- (e) that where, in exceptional circumstances, payment has to be made to a supplier/ contractor in advance of the receipt of the supplies or the work being carried out, the Business Improvement Manager and the Chief Executive shall be notified if those supplies/services fail to be provided following payment;
- (f) that the net amount of the invoice can be met from within an approved estimate;
- (g) that the invoice is arithmetically correct;
- (h) that the invoice has not previously been passed for payment;
- (i) that all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule;
- (j) that appropriate entries have been made in inventories, stock records, and the asset register as required;
- (k) that where the invoice includes VAT, it meets the requirements of H M Revenue and Customs, and it is correctly calculated on the account;
- (l) that in the case of charges for gas, electricity, and water, any standing charges are correct, consumption is charged on the correct tariff and that the consumption recorded is reasonable in the light of previous and present experience;
- (m) For non-ordered items Directors shall indicate on the FIMS against the appropriate invoice, the expenditure headings to which the invoice should be properly charged and details of the contract against which expenditure is chargeable;
- (n) that there are no outstanding credit notes which are to be applied against the invoice;

4.24.8 All amendments to an invoice, above or below the agreed tolerance levels as approved by the S151 Officer, shall be agreed with the supplier in writing by the employee making the amendment. Such amendments shall be made in ink and signed by the employee making the amendment and initialled by the certifying employee if a different person, stating briefly the reason for the amendment if it is not obvious. An employee shall not add any additional item or items to an invoice rendered by a supplier. VAT shall not be adjusted, the invoice must be returned to the supplier for amendment or a credit note obtained.

4.24.9 All payments are to be made to subcontractors, as defined by Inland Revenue regulations where the subcontractor is in possession of a valid current registration card or certificate. All suppliers' accounts submitted to the S151 Officer for payment must show that the card or certificate has been examined to ensure that the relevant deductions will be made.

4.24.10 Invoices shall not be made out by employees of the Council, except where the payment to be made is in respect of a recurring payment, or another payment for which the supplier will not issue an invoice. In all such cases the invoice made out shall be in a form approved by the S151 Officer.

4.24.11 The Director shall ensure that all invoices are stamped with the date received in the department. Invoices shall be received directly within the Creditors department. Where this has not occurred then the invoice should be immediately forwarded to the Creditors department for electronic scanning and for matching with the originating order in the FIMS. All invoices received shall be registered within the FIMS to indicate their date of receipt. Payment will only be made if goods/ services received has been updated on the FIMS or otherwise certified by a responsible officer. The S151 Officer may where they consider it appropriate, agree alternative arrangements to these procedures;

4.24.12 Each Director shall:

- (a) notify the S151 Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision; and
- (b) as soon as possible after the 31st March in each year, supply to the S151 Officer schedules of all outstanding accounts for which orders have not been matched within the FIMS, over the amount specified by Cabinet or such other sum as may be specified by the S151 Officer, in respect of the previous financial year. Such schedules shall be in a form, prescribed by the S151 Officer.

4.24.13 The S151 Officer shall have the right to carry out such additional checks as they consider appropriate in respect of an invoice, either before or after it is paid. In addition, they shall have the right to satisfy themselves that the proper procedure laid down as to the authorising and ordering of supplies and services and the examination of accounts has been properly carried out in the spending department. All explanations and information regarding such invoices and all books and documents relating to them and facilities for inspecting supplies provided or work done shall be provided to them.



- 4.24.14 All payments which include VAT shall be supported by a VAT invoice or receipt.
- 4.24.15 Payments may be made by means of corporate credit cards. All cardholders must be approved by the S151 Officer. Where such cards are used, the current Corporate Credit Card Procedures and Terms and Conditions of Use relating to corporate credit cards, issued by the Head of Finance, must be complied with.
- 4.24.16 Goods and services may also be acquired by means of Procurement Cards (P-Cards). All cardholders must be approved by the S151 Officer. Card use will be subject to procedures and terms and conditions of use laid down by the S151 Officer, which must be complied with.
- 4.24.17 Only employees of the Council may approve payments in respect of goods and services.

Explanatory Notes

Except for payments out of advance accounts and via authorised corporate credit cards, the S151 Officer makes all payments on behalf of the Council.

Invoices will be received, scanned and registered in the FIMS where they will be paid if they match with an order and the goods/ services are noted as received. In the event that they do not match to orders or receipt of goods and services has not been noted they will be queried with the relevant department which will be required to approve the invoice for payment, to update FIMS with the receipt of goods/services.

Wherever an order has been raised an authorised employee must update FIMS with details of goods received before any payment can be made. Payment of an invoice following goods receipting will be completed automatically if all aspects match.

The procedures and checks to be carried out on invoices are set out in the Financial Regulations. Whilst most invoices will automatically be matched to orders raised, where this is not the case or where the invoice does not match to the order, Directors, via their budget holders, are required to check the accuracy and validity of invoices payable by the Council. They must also ensure that only employees authorised by them certify invoices for payment.

Accurate treatment of VAT on invoices is essential; especially as H M Revenue and Customs can impose fines on the Council for non-compliance with VAT regulations. In extreme cases, H M Revenue and Customs can impose fines on individual employees. Guidance on the correct treatment of VAT can be obtained from the Financial Management Section.

The S151 Officer will agree procedures with Directors on the records to be maintained at departmental level.

The S151 Officer will carry out pre and post payment checks, as they consider necessary.

The S151 Officer needs to be informed of the details of outstanding accounts or creditors (reserves) in order that the year end accounts can be finalised.

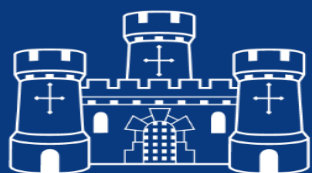
Certification – this refers to the checking and approval of invoices manually.

Approval – computerised – this refers to the matching of invoices to order details on the FIMS following the system being updated to confirm receipt of the goods and/or services.

Where corporate credit cards are used, the relevant procedures and terms and conditions applicable to their use must be complied with.

Only Council employees can approve payment in relation to goods and services. Interim or agency staff or consultants or other persons who are not directly employed may not perform this function.

It is important that the Council pays its suppliers promptly. It has, by law, to comply with a requirement to pay them within 30 days of receipt of their invoice (provided there is no dispute) and the Council itself aims to pay local businesses within 10 days. In addition, the Council has signed up to the government's "Prompt Payment Code". This says that we will pay suppliers on time, within their terms without changing them retrospectively and without altering the length of payment



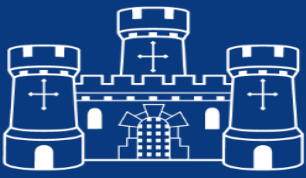
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for small firms on unreasonable grounds. We must also give clear guidance to suppliers about our payment procedures, have a disputes/complaints system and communicate this to them and we must advise them promptly if there is a reason why an invoice will not be paid.

4.25 Payments to Employees and Members

- 4.25.1 The Head of Finance shall make arrangements to:
- (a) pay all salaries, wages, pension benefits, compensation, Members allowances and other emoluments to existing and former employees, properly payable by the Council on the due date;
 - (b) record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions;
 - (c) pay Members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 4.25.2 Directors or their authorised employee shall confirm and certify the correctness of information for all appointments, resignations, dismissals, absences from duty, suspensions, secondments, transfers, and changes in remuneration (other than normal increments), of employees. The information shall then be notified to the Head of People and Organisational Development in order that records of employment and conditions of service can be maintained.
- 4.25.3 The Head of People and Organisational Development shall:
- (a) as soon as possible arrange for the necessary adjustment of any information received under 4.25 that may affect the salaries, wages or emoluments of any employee or former employee;
 - (b) provide advice and encouragement to secure payment of salaries, wages and Members allowances by the most economical means.
- 4.25.4 Directors shall notify the Head of People and Organisational Development of all matters affecting the payment of items referred to in 4.25 above as soon as possible and in the prescribed form, subject to special arrangements agreed by the Head of People and Organisational Development; and in particular of:
- (a) absences from duty for sickness or other reason, apart from approved annual, compensatory and flexitime leave with pay;
 - (b) changes in remuneration, other than normal increments and pay awards and agreements of general application;
 - (c) information necessary to maintain records of service for pension, income tax, national insurance, etc.
- 4.25.5 Directors shall:
- (a) ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule;
 - (b) ensure that appointments of all employees are made in accordance with the Council's policies and the approved establishments, grades and rates of pay and that adequate budget provision is available.
- 4.25.6 All time records shall be in a form approved by the Head of People and Organisational Development and shall be certified by the appropriate Director, or their designated employee. Timesheets shall be forwarded to the Head of People and Organisational Development in accordance with a timetable prescribed by them.
- 4.25.7 The S151 Officer shall impose such checks on wage records, as they consider desirable.
- 4.25.8 A Director may certify payment of overtime to employees on spinal column point 29 and above only where prior approval has been obtained from the relevant Cabinet Portfolio-holder
- 4.25.9 Directors shall:
- (a) ensure that adequate and effective systems and procedures are operated, so that:
 - payments are only authorised to bona fide employees,
 - payments are only made where there is a valid entitlement,
 - conditions and contracts of employment are correctly applied,
 - **employees' names listed on the payroll** are checked at regular intervals to verify accuracy and completeness;
 - (b) provide the Head of People and Organisational Development with an authorisation structure to be used in **the Payroll System "MyView"**;
 - (c) give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HM Revenue and Customs apply a tight definition for employee status, and in cases



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of doubt, advice should be sought from the S151 Officer and the Head of People and Organisational Development;

(d) ensure that payments are only allowed through the PAYE system ;

(e) ensure that the Head of People and Organisational Development is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

4.26 Allowances to Members, Travel and Subsistence

4.26.1 Members shall submit claims for travel and subsistence allowances within two months of the date of the meeting or duty to which the claim relates and, in any event, within one month of the year-end.

4.26.2 All claims by Members of the Council shall be made in a form approved by the S151 Officer. Claims shall be certified by the Member concerned as a true and correct record and certified as correct by the Chief Executive or their designated employee.

4.27 Travelling and Subsistence Allowance

4.27.1 Directors shall provide an authorisation structure to confirm who can:

(a) certify travel and subsistence claims. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved;

(b) be responsible for the arithmetical check of travelling and subsistence claims, the accuracy of the mileage claimed, the validity of the journeys undertaken and for ensuring compliance with the Council's car allowance regulations, car leasing scheme and such other decisions of the Council as may be appropriate.

4.27.2 The S151 Officer shall rely on the certification of employees authorised by each Director and shall be empowered to pay, on behalf of the Council, all claims so certified. All claims by Employees of the Council shall be made in a form approved by the S151 Officer.

4.27.3 Employees' claims must be submitted promptly and those submitted more than six months after the expenses were incurred, will only be paid with the express approval of the S151 Officer.

Explanatory Notes

Employee costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the full council.

The Head of People and Organisational Development is responsible for the payment of employees on behalf of the Council. Directors are responsible for notifying and certifying to the Head of People and Organisational Development all information necessary to ensure the correct payment of salaries, wages, etc.

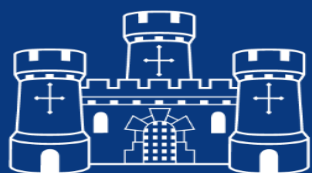
There is a presumption against the payment of overtime to employees on spinal point 29 and above. However, the regulation allows exceptions to the rule in extreme circumstances

The Chief Executive will pay allowances to Members in accordance with the procedures laid down by regulation 4.26. Directors are responsible for checking the accuracy and validity of employees' claims for travelling and subsistence allowances and for certifying the claims for payment.

4.28 Taxation

4.28.1 The S151 Officer shall retain responsibility for all HM Revenue and Customs returns regarding PAYE. Operationally this is carried out by Stoke-on-Trent City Council as part of the Council's Payroll Service Level Agreement and this will be monitored in accordance with the terms and conditions of the Service Level Agreement.

4.28.2 The S151 Officer shall:



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- (a) complete a monthly return of VAT inputs and outputs to HM Revenue and Customs;
- (b) provide details to HM Revenue and Customs regarding the construction industry tax deduction scheme;
- (c) provide details to HM Revenue and Customs regarding the Council's liability under Section 53 of the Income and Corporation Tax Act 1970.

4.28.3 Directors shall:

- (a) ensure that the correct VAT liability is attached to all income due and that all VAT recovered 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 guidance on taxation issued by the S151 Officer

Explanatory Notes

Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all employees to be aware of their role. Advice in relation to taxation issues affecting payments to employees and members may be obtained from the Head of People and Organisational Development and Head of Finance.

4.29 Trading Accounts

4.29.1 Except where specifically stated, these financial regulations apply to the activities of trading services.

4.29.2 Directors shall:

- (a) consult with the S151 Officer where a trading activity wishes to enter into a contract with a third party where the contract expiry date exceeds the arrangement previously agreed by the Council. In general, such contracts should not be entered into unless they can be terminated within the main agreement period without penalty;
- (b) observe all statutory requirements in relation to trading activities, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts;
- (c) observe all accounting requirements specific to trading accounts. Otherwise, they must ensure that the same accounting principles are applied in relation to trading accounts as for other services;

4.29.3 All proposals to establish alternative delivery vehicles (for example community interest companies) shall be subject to consultation with the S151 Officer who shall advise on the financial implications of the proposals, including with regard to taxation, and in relation to the overall financial position of the Council and their comments shall be incorporated in any reports to members thereon.

Explanatory Notes

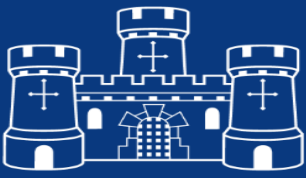
Trading accounts have become more important as local authorities have developed a more commercial culture. The best value accounting code of practice identifies when authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost.

PR5: EXTERNAL ARRANGEMENTS

5.1 Partnerships

5.1.1 Where appropriate, partnerships shall only be entered into with organisations which, in the opinion of the Chief Executive, S151 Officer and the relevant Executive Director:-

- (a) are aware of their responsibilities under the Council's Financial Regulations and Contract Procedural Rules in relation to contracts;
- (b) ensure that risk management processes are in place to identify and assess all known risks;



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- (c) ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;
- (d) agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences;
- (e) communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

5.1.2 The S151 Officer shall:

- (a) advise on effective controls that will ensure that resources are not wasted;
- (b) advise on the key elements of funding a project; they include:
 - a scheme appraisal for financial viability in both the current and future years approved by Cabinet;
 - risk appraisal and management ;
 - resourcing, including taxation issues;
 - audit, security and control requirements;
 - carry-forward arrangements.
- (c) ensure that the accounting arrangements are satisfactory.

5.1.3 Directors shall:

- (a) maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the S151 Officer
- (b) ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared and a pre partnership questionnaire completed as part of an overall evaluation of the partnership controls. This will form part of the control document that shall be approved by the Executive Management Team prior to seeking Cabinet approval;
- (c) ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council;
- (d) ensure that all agreements and arrangements are properly documented;
- (e) provide appropriate information to the S151 Officer to enable a note to be entered into the Council's statement of accounts concerning material items.

5.1.4 Regard shall be had to the content of the Council's Code of Practice for Partnerships.

Explanatory Notes

Partnerships are likely to play a key role in delivering positive outcomes and in helping to promote and improve the wellbeing of the area. Councils are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Councils will still deliver many services themselves, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.

Councils will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Councils will be measured by what they achieve in partnership with others.

The main reasons for entering into a partnership are:

- (a) *the desire to find new ways to share risk;*
- (b) *the ability to access new resources;*
- (c) *to provide new and better ways of delivering services;*
- (d) *to forge new relationship.*

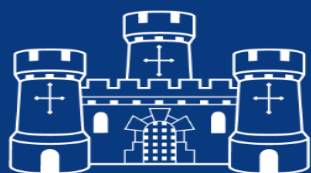
A partner is defined as either:

- (a) *an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project; or*
- (b) *a body whose nature or status gives it a right or obligation to support the project.*

Partners participate in projects by:

- (a) *acting as a project deliverer or sponsor, solely or in concert with others;*
- (b) *acting as a project funder or part funder;*
- (c) *being the beneficiary group of the activity undertaken in a project*

Partners have common responsibilities:



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- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;*
- (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives;*
- (c) be open about any conflict of interests that might arise;*
- (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;*
- (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature;*
- (f) to act wherever possible as ambassadors for the project.*

Clear reasons must be provided to Cabinet where the Council is the accountable body in the partnership and yet the regulations in Ea1 are not adopted by the partners.

5.2 External funding

5.2.1 The S151 Officer shall:

- (a) ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts;
- (b) ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements;
- (c) ensure that audit requirements are met.

5.2.2 Directors shall:

- (a) ensure that funds are acquired only to meet the priorities approved in the policy framework by the Full Council;
- (b) ensure that the key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are understood;
- (c) ensure that all claims for funds are made by the due date;
- (d) ensure that the project progresses in accordance with the agreed project plan, timetable or framework and that all expenditure is properly incurred and recorded.

Explanatory Notes

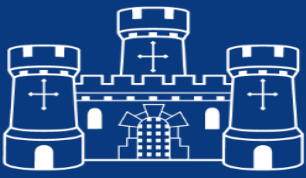
External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Councils are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies, such as the National Lottery, provide additional resources to enable the Council to deliver services to the local community. However, in some instances, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.

5.3 Work for third parties

5.3.1 The S151 Officer shall give advice with regard to the financial aspects of third party contracts and the maintenance of the contract register.

5.3.2 Directors shall:

- (a) ensure that the approval of the Cabinet is obtained where necessary before any negotiations are concluded to work for third parties;
- (b) maintain a register of all contracts entered into with third parties in accordance with procedures specified by the S151 Officer;
- (c) ensure that appropriate insurance arrangements are made;
- (d) ensure that the Council is not put at risk from any bad debts;
- (e) ensure that no contract is subsidised by the Council except where there are justifiable reasons acceptable to the S151 Officer;
- (f) ensure that, wherever possible, payment is received in advance of the delivery of the service;
- (g) ensure that the relevant department/unit has the appropriate expertise to undertake the contract;
- (h) ensure that such contracts do not impact adversely upon the services provided for the Council;
- (i) ensure that all contracts are properly documented; and drawn up using guidance provided by the Business Improvement Manager and that the formal approvals process is adhered to;
- (j) ensure that proposals are costed properly in accordance with advice provided by the S151 Officer;



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(k) provide appropriate information to the S151 Officer to enable a note to be entered into the statement of accounts.

Explanatory Notes

Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is within the law.

PR6: COMPLIANCE WITH THE LOCAL GOVERNMENT TRANSPARENCY

CODE 6.1 Publication of Data

- 6.1.1 Directors shall collate and publish all data which the Code requires to be published in relation to services for which they are responsible within the timescales set out in the version of the Code in force at the time.
- 6.1.2 Where, in order to comply with 6.1.1 above, a Director requires data from another Director, this shall be provided in a timely manner so as to enable the responsible Director to meet the deadlines for publication set out in the Code.
- 6.1.3 The S151 Officer may by agreement publish particular data on behalf of Directors. In such cases, Directors will ensure that they supply all data in a timely manner so as to enable The S151 Officer to meet the deadlines for publication set out in the Code.
- 6.1.4 The Code requires data to be published on the Council's internet site. Accordingly the Head of Communications will ensure that all data supplied to them for publication will be placed on the website in a timely manner in order to comply with the timescales set out in the Code.
- 6.1.5 Regard will be had to Guidance published from time to time by the Local Government Association in respect of data to be published and the format of publication.

Explanatory Notes

The government has issued the Local Government Transparency Code, which sets out data which must be published by local authorities on their internet sites. Data required to be published includes details of payments over £500, property assets details, procurement data, senior officer remuneration and parking information. It is a legal requirement to comply with the Code.

Data must be published within set timescales. Some data must be published quarterly and some annually.

In most cases budget holders responsible for the services for which data must be published will collate the data and supply it to Communications for placing on the website. By agreement with the S151 Officer data supplied by budget holders may be collated by the Financial Management Section and they will arrange for it to be published by forwarding it in its final form to Communications.

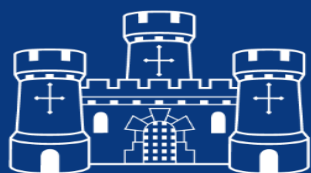
Data required for publication must be supplied to the responsible budget holder or Financial Management in a timely manner to enable it to be published in time to meet the Code's timescales.

The Local Government Association has produced Guidance which sets out what data must be published and the format in which publication should be made. An electronic copy of the Guidance may be obtained from the Financial Management Section.

PR7: COMMERCIALISATION GOVERNANCE

7.1 Commercial Strategy Governance

- 7.1.1 Commercial investment decisions linked with the Revolving Investment Fund and Investment Strategy will be taken by full Cabinet in order to achieve the following strategic outcomes:-



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- (f) To generate income through commercial activity that can be reinvested in local priorities, services and improvements for borough residents.
- (g) To build strong working relationships with public, private and third sector partners in order to maximise collaboration and generate efficiencies.
- (h) To embed a commercial culture within the council and ensure that Council staff are equipped with the skills they need to operate in a more commercial environment.
- (i) To support the council in delivering the council plan and growth agenda as a key pillar of the medium term financial strategy and goal of financial self-sufficiency.
- (j) To optimise the council's use of technology and support the digital agenda in order to enable new, more efficient and flexible ways of working and interacting with customers and residents.

7.2.1 Some changes may be required to the Council's Constitution to enable timely decision making as commercial opportunities present themselves.

Explanatory Notes

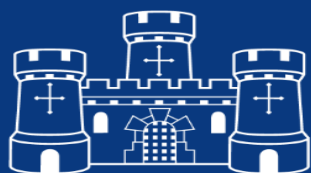
The Commercial Investment Strategy will enable the Council's vision for Newcastle-under-Lyme to be a sustainable and business-oriented Council that maximises commercial opportunities in order to deliver long-term benefits for residents of the borough and support the Council's medium-term financial strategy.

This will be achieved through:

- *Generation of service efficiencies and new income streams*
- *Maximising existing revenue streams*
- *Effective procurement and contract management*
- *Prudent investment in income generating assets*
- *Strategic asset development*

Funding and resourcing will be through:

- *Generate a return on investment to fund services*
- *Make every penny count*
- *Explore opportunities to share services with other councils*
- *Maximise existing revenue streams*
- *Effective and proportionate risk management*
- *Robust strategic and operational planning*
- *Access to government grants and other funding*
- *Invest to save*
- *Revolving Investment Fund funded from capital receipts and prudential borrowing*
- *Pump priming for initiatives through the Borough Growth Fund*



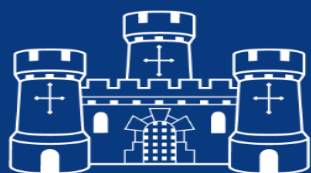
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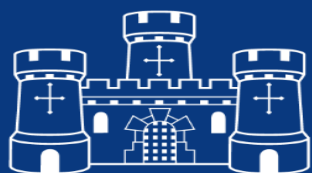
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DEFINITIONS/ GLOSSARY OF TERMS

BACS	Bankers Automated Clearing Services. A system for making payments directly from one bank account to another.
BUDGET HEAD	Every line in the detailed budget book represents a budget head
BUSINESS MANAGER	Means an employee of the Council at the Fourth Tier level, i.e. immediately below the level of Head of Service, currently comprising Business Managers, plus any other employee who may be designated to act in a Business Manager role by the Council.
CASH FIGURES	The cash limits approved by the Cabinet to apply to these Regulations exclude VAT recoverable by the Council
COMMITTEE	Where appropriate this includes Sub Committees and working parties
DIRECTOR	Means an employee who reports directly to the Chief Executive (excluding any employee in the Chief Executive's department) (currently termed Executive Directors) and the Chief Executive and shall include other such appropriate employees as may be designated by the Council as employees, or any employee authorised by a 'Director' to carry out such duties as delegated to the Head of that Service or to a Business Manager within the Service, to whom the definition shall apply. Where Directors are referred to by their specific designation, e.g. Chief Executive, the same meaning applies.
FIMS	Financial Information Management System that incorporates the general ledger and the purchase to pay system, presently Civica Financials
GRANT COORDINATOR	A Member of Accountancy responsible for collating information from Directors in respect of grants due in, payment claims and their supporting evidence
HEADS OF SERVICE	Means an employee of the Council at the Third Tier level, i.e. immediately below the level of Director, currently comprising Heads of Service, plus any other employee who may be designated to act in a Head of Service role by the Council.
INVOICE/ ACCOUNT	The terms invoice and account in relation to payments are interchangeable.
SCRUTINY COMMITTEES	Comprises the following Overview and Scrutiny Committees: • Economy, Environment & Place Scrutiny Committee; • Finance, Assets & Performance Scrutiny Committee; and • Health, Wellbeing & Partnerships Scrutiny Committee.
SECTION 151 OFFICER	The Officer designated by the Council to act in accordance with Section 151 of the Local Government Act 1972 in relation to the financial administration and stewardship of the Council.
SERVICE/ DEPARTMENT	The terms service and department are interchangeable
VIREMENT	Means the permission to spend more money on one budget head to cover unavoidable overspending when this is matched by a corresponding reduction on another head, or heads or combination of heads.



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