

CANNOCK CHASE COUNCIL

COUNCIL

23 MAY 2007

REPORT OF THE CHIEF EXECUTIVE

REVIEW OF THE CONSTITUTION 2007

1. Purpose

- 1.1 To inform Members of the recommended revisions to the Constitution to implement the Council's resolution on changes to committee structures made on 18 April 2007
- 1.2 To recommend approval of the recommended revisions.

2. Recommendation

- 2.1 That Council Procedure Rule 24 be suspended for the consideration of this Report to enable the Council Procedure Rules to be revised to reflect the decisions made by Council at its meeting on 18 April 2007 and for those revisions to be effective at this Council meeting.
- 2.2 That the revisions to the Constitution as identified in this report be approved to enable decisions made by Council at its meeting of 18 April 2007 to be implemented.
- 2.3 That all distributed copies of the Constitution be updated to reflect the approved revisions.

3. Background

- 3.1 Council at its meeting on 18 April 2007 resolved to change to the way the Leader and Cabinet will operate, to set up of a formal Shadow Cabinet led by the Leader of the Opposition and to revise committee structures.
- 3.2 To implement all the changes as from the Annual Council meeting, it is necessary to revise the Council Procedure Rules as set out in Annex \$. However, Council Procedure Rule 24 states :

'Any motion to add to, vary or revoke these Rules shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council'

It is recommended, therefore, that Council suspend Council Procedure Rule 24 during the consideration of this report to enable all the necessary revisions to be approved and adopted.

- 3.3 At the meeting on 18 April 2007, Council also adopted a revised Grievance Policy and approved revisions to the Human Resource Guidelines. The Chief Executive was authorised

to make the necessary amendments to the Appeals and Complaints Panel Terms of Reference and Scheme of Delegation to give effect to the revised Grievance Policy.

- 3.4 The revisions proposed in this report are intended to implement those resolutions and include :
- a) changes to the C.H.A.S.E. acronym to reflect the Local Area Agreement (LAA) blocks,
 - b) changes to the way the Leader and Cabinet will operate,
 - c) a new Article to set up a Shadow Cabinet
 - d) revisions to Council Procedure Rules 4A and 4B
 - e) changes to the Scrutiny and Select Committees
 - f) changes to the Financial Regulations
 - g) approved revisions to the Human Resource Guidelines and Terms of Reference of the Appeals and Complaints Panel
 - h) other changes throughout the Constitution arising from these revisions
 - i) corrections of any minor errors which have been identified.

- 3.5 Copies or extracts of various sections of the Constitution are attached as annexes on which the changes have been highlighted by underlining.

4. Proposed Revisions for approval

Members are requested to give consideration to and approve the changes which have been made to implement the Council's resolutions :-

4.1 Part 1 – Summary and Explanation

This is a summary and explanation of the contents of the Constitution and the revisions merely reflect the changes made elsewhere in the Constitution. An extract showing the revisions is attached at Annex 1.

4.2 Part 2 – Articles of the Constitution

- a) Article 1 – The Constitution; paragraph 1.3 d). This currently sets out the Council's strategic objectives as represented by the acronym C.H.A.S.E. This has been changed to reflect the LAA blocks. An extract of the revised Article 1 is attached at Annex 2.
- b) Article 2 – Members of the Council; paragraph 2.5. Reference to the Protocol for Member/Officer Relations which has already been adopted by the Council has been inserted. An extract from Article 2 is attached at Annex 3.
- c) Article 4 – The Full Council; paragraph 4.3 e). This has been amended to reflect that the Leader will appoint Cabinet Members and will report on the make up of the

Cabinet to Council; and to reflect that the Opposition Leader will appoint the Shadow Cabinet and will report on the make up of the Shadow Cabinet to the Council. An extract of the revised Article 4 is set out at Annex 4.

- d) Article 6 – Overview and Scrutiny Committees. This has been amended to reflect that a new Performance and Partnerships Select Committee is being set up to scrutinise performance of both the Council and the Chase Community Partnership and that this scrutinising role has been removed from the Scrutiny Committee. Similar amendments will need to be made to the Overview and Scrutiny Procedure Rules. An extract of the revised Article 6 is set out at Annex 5.
- e) Article 7 – The Executive (Cabinet). This has been revised to reflect Council's resolution that the Leader will appoint Cabinet Members and may decide which matters are to be dealt with by Cabinet as a whole and which matters (if any) may be delegated. The revised Article 7 is attached at Annex 6.
- f) Article 8 – The Shadow Cabinet. This is a new Article making the shadow Cabinet a part of the Council's formal structure and as far as is appropriate mirrors the provisions of Article 7. Article 8 is attached at Annex 7.

The insertion of this Article has resulted in the re-numbering of the following Articles. Where the only revision to an Article is the number, it has not been attached to this report.

- g) Article 10 – The Standards Committee; paragraph 10.2 e). Since this Article was first drafted, legislation now requires a panel made up of Members of the Standards Committee to deal with the disciplinary issues which would originally have been dealt with by the District Council Sub-Committee. Reference to this Sub-Committee has therefore been deleted with no change to the remit of the Standards Committee. An extract is attached at Annex 9.
- h) Article 13 – Officers; paragraphs 13.1 c) and 13.6. The identity of the officer designated as the Council's Monitoring Officer has been left blank in paragraph 13.1 c). A separate report dealing with the designation of the Monitoring Officer is on the agenda and this paragraph will be completed once the Council has made the designation. Reference to the Protocol for Member/Officer Relations has been added to paragraph 13.6. An extract is attached at Annex 10
- i) Article 15 – Finance, Contracts and Legal Matters. In this Article 'the Council Solicitor' is now referred to as the Solicitor to the Council and records that this will be the Director of Governance as from 1 June 2007. An extract is attached at Annex 11.
- j) Article 17 - Suspension, Interpretation and Publication of the Constitution. Paragraph 7.3 has been amended to reflect that the Head of Legal and Democratic Services is leaving the Council at the end of May. An extract is attached at Annex 12.

4.3 Part 3 – Responsibility for Functions

- a) Section 1 – Responsibility for 'Local Choice' Functions. This revision to the fourth item links into the revisions affecting the Scrutiny Committee and makes it clear that the

best value reviews are a function of the Scrutiny Committee although undertaken by a review panel. An extract is attached at Annex 13.

- b) Section 2 – Responsibility for Council Functions. The reference to the District Council Standards Sub-Committee has been removed and the functions transferred to the main Standards Committee (see paragraph 4.2 g) above). There are a couple of other minor amendments to reflect Council decisions. An extract is attached at Annex 14.
- c) Section 3 - Responsibility for Executive Functions. This has been amended to reflect the changes made to the Articles in that the Leader will appoint Cabinet Members. The Section is attached at Annex 15.
- d) Section 4 – Responsibility of Cabinet Members. The changes in this Section reflect the changes made in Article 7. The Leader will appoint Cabinet Members, determine the Portfolios and who will be the spokesperson for any particular area with an expectation that these will marry up with the LAA blocks. It is intended that the Leader's report to Council on the form and composition of the Cabinet will be inserted in this Section in due course. An extract is attached at Annex 16.
- e) Section 5 – Responsibility of Chairmen. There are minor amendments to reflect changes made in the Articles. This Section is attached at Annex 17.
- f) Section 6 - Terms of Reference of Regulatory and other Committees, Sub-Committees, Panels and Forums. The front sheet has been amended to reflect changes elsewhere within the Constitution. The terms of reference of the Grant Application and Rate Relief Committee have been changed to reflect that this committee will no longer deal with grant applications. The Terms of Reference of the Appeals and Complaints Panel have been changed to reflect changes arising from the adoption of the new Grievance Policy. The amended Terms of Reference are attached at Annex 18.
- g) Section 7 – Scheme of Delegations. This has been amended to reflect the new senior management structure but a further review of the Scheme of Delegation will be undertaken later. An extract is attached at Annex 19.

4.4 Part 4 – Procedure Rules

- a) Section 1 - Council Procedure Rules – Rules 4A and 4B. In order to be able to deal with business at the Annual Meeting of the Council, it is necessary to amend the Rule 4A to allow for the notification by the Leader of the Council and the Leader of the Opposition of the form and composition of the Cabinet and Shadow Cabinet respectively. Similarly, changes need to be made to Rule 4B to allow for notification to be given to Council should any changes occur to the form and composition of Cabinet and Shadow Cabinet during the municipal year. As explained in paragraph 3.2, it will be necessary to suspend Council Procedure Rule 24 for the consideration of this report to enable these changes to be made. An extract is attached at Annex 20.
- b) Section 5 – Overview and Scrutiny Procedure Rules. These have been amended to reflect the changes to the Scrutiny Committee and the Performance and Partnerships Select Committee. An extract is attached at Annex 21.

- c) Section 6 – Financial Regulations. These have been amended to reflect the changes flowing from the new senior management structure. An extract is attached at Annex 22.
- d) Section 8 – Human Resource Guidelines. These have been amended to reflect the new Grievance Policy adopted by the Council on 18 April 2007 and are attached at Annex 23.

4.5 Part 7 – Management Structure

The new Management Structure, as attached to the report which was submitted to Council, reflecting the current senior management structure is to be incorporated in substitution for the previous structure.

5. Human Rights Act Implications

- 5.1 There are no identified Human Rights Act implications arising directly from this report.

6. Data Protection Act Implications

- 6.1 There are no identified Data Protection Act Implications arising from this report.

7. Risk Management Implications

- 7.1 There is a statutory requirement for each local authority to adopt a constitution which sets out the way they undertake their functions.
- 7.2 The Council's Constitution therefore needs to be amended to reflect the decision made by Council on 18 April 2007. If the Council operates the approved structures without undertaking this work, the Council would be open to challenge in a variety of ways as it will not have complied with the legislation not would it be operating in accordance with its Constitution.

8. Human Resources Implications

- 8.1 There are no identified Human Resources Implications arising directly from this Report.

9. Legal Implications

- 9.1 These are set out throughout the report

10. Financial Implications

- 10.1 The only identified costs arising from this report are those of printing and distributing updated sections of the Constitution once the proposed revisions have been approved. These costs can be met from existing budgets.

Extract from the Summary and Explanation

Summary and Explanation

2. WHAT'S IN THE CONSTITUTION?

2.1 Article 1 of the Constitution commits the Council to managing its affairs in the best interest of the communities it serves. Articles 2 to 17 explain the rights of citizens and how the key parts of the Council operate. These are :

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council Meeting (Article 4)
- Chairing the Council (Article 5)
- Overview and scrutiny of decisions (Article 6)
- The Executive (Cabinet) (Article 7)
- The Shadow Cabinet (Article 8)
- Regulatory and other committees (Article 9)
- The Standards Committee (Article 10)
- Area Committees and Forums (Article 11)
- Joint Arrangements (Article 12)
- Officers (Article 13)
- Decision making (Article 14)
- Finance, contracts and legal matters (Article 15)
- Review and revision of the Constitution (Article 16)
- Suspension, interpretation and publication of the Constitution (Article 17)

3. HOW THE COUNCIL OPERATES

3.3 All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year. The Council appoints a Leader of the Council who may then appoint up to 9 other members to form the Executive called 'the Cabinet'. The Leader can only be removed from office by the Council. The Council has authorised the Leader to decide what matters are delegated to which individual members of the Executive. The Constitution provides for the actions and decisions of the Executive to be scrutinised by other elected councillors and for disputes to be resolved.

4. HOW DECISIONS ARE MADE

- 4.1 The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Leader of the Council and a cabinet of up to 9 Councillors including the Deputy Leader appointed by the Leader. Members appointed to the cabinet are known as Portfolio Leaders. When this Constitution refers to 'the Cabinet' it means the Leader of the Council and the Portfolio Leaders working together.

5. OVERVIEW AND SCRUTINY

- 5.1 There are two overview and scrutiny committees (the Scrutiny Committee and the Performance and Partnerships Select Committee) with a number of other Select Committees to support the work of the Cabinet and the Council as a whole. They hold enquiries in public into matters of local concern and may make reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery.
- 5.2 The Scrutiny Committee also monitors the decisions of the Cabinet and can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate and to make recommendations e.g. that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy. The Scrutiny Committee may set up such Panels as it considers appropriate to deal with best value reviews of service provision and delivery.

6. COMMUNITY FORUMS

- 6.1 In order to give local citizens a greater say in Council affairs, a number of Community Forums have been created. These cover Cannock; Heath Hayes Norton Canes and Rawsley; Hednesford; and Rugeley and Brereton. They provide an arena for councillors and the public to raise Ward issues, concerns and problems; for the Council to carry out consultations; and to liaise with outside bodies. They involve councillors for each particular area and are held in public.

Extract from Article 1

Article 1

The Constitution

c) The Council's strategic objectives are represented by the acronym – **C.H.A.S.E.**

Children & Young People = A place where children, young people and their families have a good start in life and remain healthy, safe from harm, achieve their potential in education and skills to make a positive contribution to their community and become economically secure

Healthier Communities, Housing and Older People = A place where people are healthy, have opportunities to live in a decent house in a good environment. Where people have greater choice and control over their own lives and have an active role in the community with access to the support they need to remain living as independently as they choose.

Access to Skills, Economic Development and Enterprise = A place with a thriving economy providing diverse employment opportunities to a workforce that is increasing its skills, knowledge and value by making the area more competitive and attractive to investors

Safer and Stronger Communities = A place where individuals, neighbourhoods and communities feel free from crime and anti-social behaviour; where communities become stronger and the quality of life is improved for all.

Environment = A place where the community values their local environment and contributes to its conservation, enhancement and management to meet the needs of the present without compromising the ability of future generations to meet their own needs.

Extract from Article 2

Article 2

Members of the Council

2.5 CONDUCT

Councillors will at all times observe the Members' Code of Conduct and the Protocol for Member/Officer Relations set out in Part 5 of this Constitution.

Extract from Article

Article 4

The Full Council

4.3 FUNCTIONS OF THE FULL COUNCIL

Only the Council will exercise the following functions :

- a) adopting and changing the Constitution
- b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer
- c) considering and approving any amendments to the Policy Framework and the Budget in accordance with the Budget and Policy Framework Procedure Rules
- d) adopting the Council's code of conduct for both Councillors and Officers
- e) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision-maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget
- f) appointing the Leader of the Council and receiving notification from the Leader of the Council on the number and nature of Cabinet Portfolios and the identity of Cabinet Members
- g) receiving notification from the Leader of the Opposition on the number and nature of the Shadow Cabinet portfolios and the identity of Shadow Cabinet Members

Extract from Article 6

Article 6

Overview and Scrutiny

Committees

6.1 TERMS OF REFERENCE

All Members of the Council are eligible to be members of the Scrutiny Committee and the Performance and Partnerships Select Committee except those who are members of the Cabinet and members of the Audit and Governance Committee. All Members of the Council are eligible to be members of the other Select Committees except those who are Members of the Cabinet.

6.2 GENERAL ROLE

- a) The Scrutiny Committee will :
 - i) review and/or scrutinise cross-cutting issues in relation to the discharge of the Council's functions,
 - ii) be available for consultation in accordance with the Policy and Budget Framework Procedure Rules
 - iii) make reports and/or recommendations to the full Council and/or Cabinet in connection with the discharge of any functions,
 - iii) exercise the right to call-in for consideration the decisions made, but not yet implemented, by the Cabinet

- b) The Performance and Partnerships Select Committee :
 - i) will scrutinise and/or review the performance of the Council and its Local Strategic Partners
 - ii) may refer performance related matters to the appropriate Select Committee for consideration

- iii) make reports and/or recommendations to Council, Cabinet, other Committees and to the Council's partners through the Local Strategic Partnership in connection with the performance of any functions which it has scrutinised.
- c) Other Select Committees will :
 - i) scrutinise and review current Council policies and consider future policy development
 - ii) consider matters referred to them by the Performance and Partnerships Select Committee
 - iii) make reports and/or recommendations to Council, Cabinet, Scrutiny and/or other Committee in connection with Council policies and their implementation, and
 - iv) consider any matter affecting the area or its inhabitants.

6.3 SPECIFIC FUNCTIONS

a) **Policy Development and Review.**

The Select Committees, other than the Performance and Partnerships Select Committee, may:

- iv) question members of the Cabinet and Directors¹ about issues and proposals affecting the area, and

b) **Scrutiny.**

The Scrutiny Committee may :

- i) review and scrutinise executive decisions made by the Cabinet in accordance with the 'call-in' procedures set out in Part 4 of this Constitution
- ii) review and scrutinise cross-cutting issues in relation to the discharge of the Council's functions
- iii) in undertaking i) and ii), question members of the Cabinet and Directors about their decisions, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions,

¹ For the purposes of these Articles, 'Directors' includes the Council's Chief Executive, the Deputy Chief Executive and Directors.

- iv) make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process, and
- v) question and gather evidence from any person (with their consent).

The Performance and Partnerships Select Committee may :

- i) review and scrutinise the performance of the Council and its Local Strategic Partners in relation to the objectives and targets set out in the Local Area Agreement
- ii) review and scrutinise the performance of the Council, Cabinet and Directors in relation to its policy objectives, performance targets and/or particular service areas,
- iii) question members of the Cabinet and Directors about their performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular initiatives or projects,
- iv) question members of the Local Strategic Partnership and senior officers from those organisations which form the Local Strategic Partnership about their performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular initiatives or projects as identified in the Local Area Agreement,
- v) make recommendations to the Cabinet, Council and/or the Local Strategic Partnership arising from the outcome of the scrutiny process, and
- vi) make recommendations to the Cabinet, Council and/or the Local Strategic Partnership arising from the outcome of the scrutiny process, and
- vii) question and gather evidence from any person (with their consent).

Other Select Committees may :

- i) review and scrutinise Council policies and policy objectives
- ii) recommend to the Performance and Partnerships Select Committee that it should undertake a review of any performance issues which have been identified by the Select Committee whilst considering policy development

- iii) review in accordance with the legislation other public bodies in the area (other than the Local Strategic Partnership), invite reports (both written and oral) from them and invite them to address the Select Committee about their activities and/or performance

- iv) question and gather evidence from any person (with their consent).

Extract from Article 7

Article 7

The Executive (Cabinet)

7.2 FORM AND COMPOSITION

The Leader shall determine the number of Cabinet members and the nature of their portfolios but will be expected to identify a lead Cabinet member for each of the service blocks represented within the Local Area Agreement as agreed by the Council and its partner local authorities within Staffordshire (or such other statutory local mechanism as may exist from time to time).

7.3 LEADER

- a) The Leader will be a councillor elected to the position of the Leader by the Council usually at its Annual General Meeting (AGM). The Leader will hold office for four years or until any of the following events occur (if earlier) :
 - iv) he/she is removed from office by resolution of the Council following consideration of a written motion of no confidence signed by a minimum of 25% of the membership of the Council, or
 - v) he/she is removed by Council in order to implement a recommendation of the Standards Board for England or the Council's Standards Committee.
- c) The Leader shall notify the form and composition of the Cabinet to the Annual Council Meeting each year and, should any changes occur during the municipal year, to the first available meeting of the Council thereafter.

7.4 OTHER CABINET MEMBERS

- a) Other Cabinet members shall be appointed by the Leader of the Council and shall hold office until any of the following events occur (if earlier) :
 - iv) they are removed from office, either individually or collectively, by the Leader, or
 - v) they are removed by Council in order to implement a recommendation of the Standards Board for England or the Council's Standards Committee.
 - vi) the Leader for the time being ceases to hold that office following the occurrence of any event listed in paragraph 7.3 a) i) to v).
- b) For the avoidance of doubt the same councillor may be re-appointed on one or more occasions if the Leader so wishes.

7.6 RESPONSIBILITY FOR FUNCTIONS

- a) The Leader may determine which Cabinet delegations are to be exercised by the Cabinet as a whole and which may be delegated to Cabinet committees and/or officers.
- b) Individual members of the Cabinet will have responsibility for speaking on service specific matters as determined by the Leader and as indicated in Part 3 of this Constitution, but the Cabinet will exercise collective responsibility for decision-making.

Article 8

Shadow Cabinet

8.1 **ROLE**

The Shadow Cabinet or any one or more members of the Shadow Cabinet will be entitled to attend and speak at any Cabinet meeting on giving at least 48 hours prior written notice to the Chief Executive

The Leader of the Council may request the attendance at a Cabinet meeting of any one or more members of the Shadow Cabinet on giving at least 72 hours prior written notice to that member; the notice to be formally given by the Chief Executive on behalf of the Leader.

8.2 **FORM AND COMPOSITION**

Should no political group on the Council consider itself to constitute the formal opposition to the Cabinet, there will be no Shadow Cabinet.

The Shadow Cabinet will consist of the Leader of the Opposition (Opposition Leader) together with at least 2 but not more than 9 councillors appointed to the Shadow Cabinet by the Opposition Leader.

The Opposition Leader shall determine the number of Shadow Cabinet members and shall identify a lead Shadow Cabinet member to be the opposition spokesperson in respect of each of the service blocks represented within the Local Area Agreement as agreed by the Council and its partner local authorities within Staffordshire (or such other statutory local mechanism as may exist from time to time).

8.3 **OPPOSITION LEADER**

- a) The Opposition Leader shall be the leader
 - i) of the largest political group which does not hold any seats on the Cabinet and considers itself to constitute the formal opposition to the Cabinet, and
 - ii) who has accepted that office at a meeting of the Council

- b) Where there is more than one opposition group of the same size who claims to be the formal opposition, the Opposition Leader shall be the leader of the group whose members have the longest combined record of service with the Council and its predecessors.
- c) The Opposition Leader shall hold that position for as long as his political group fulfil the criteria in paragraph 8.3 a) and/or b) or until any of the following events occur (if earlier) :
- i. he/she resigns from office, or
 - ii. he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension), or
 - iii. he/she is no longer a councillor, or
 - iv. he/she is removed from the position of Group Leader by his/her political group, or
 - v. he/she is removed by Council in order to implement a recommendation of the Standards Board for England or the Council's Standards Committee
- d) The Opposition Leader shall notify the form and composition of the Shadow Cabinet to the Annual Council Meeting and, should any changes occur during the municipal year, to the first available meeting of the Council thereafter.

8.4 **OTHER SHADOW CABINET MEMBERS**

- a) Other Shadow Cabinet members shall be appointed from the opposition groups on the Council by the Opposition Leader and shall hold that position for such time as the Opposition Leader determines or until any of the following events occur (if earlier) :
- d) they resign from office, or

- e) they are suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension), or
 - f) they are no longer a councillor, or
 - g) they are removed from that position, either individually or collectively, by the Opposition Leader, or
 - h) they are removed by Council in order to implement a recommendation of the Standards Board for England or the Council's Standards Committee
 - i) the Opposition Leader for the time being ceases to hold that office following the occurrence of any event listed in paragraph 8.3 c) i) to v).
-
- b) For the avoidance of doubt the same councillor may be re-appointed on one or more occasions if the Opposition Leader so wishes.

Extract from Article 10

Article 10

The Standards Committee

- e) **Sub-Committees.** The Standards Committee will include one Sub-Committee :
- i) a Parish Councils Standards Sub-Committee which will have at least one Independent Member and one Parish Member to exercise the functions set out in Article 10.3 viii) below

Article 15

Finance, Contracts and Legal Matters

15.1 FINANCIAL MANAGEMENT

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

15.2 CONTRACT

Every contract made by the Council will comply with either the Financial Regulations or the Contracts Procedure Rules set out in Part 4 of this Constitution depending on the value of the contract. Thresholds determining whether contracts are required to comply with Financial Regulations or Contracts Procedure Rules are set out in Annex 2 to the Financial Regulations.

15.3 LEGAL PROCEEDINGS

The Solicitor to the Council¹ is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interest.

15.4 AUTHENTICATION OF DOCUMENTS

- a) Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

¹ The Solicitor to the Council is the Director of Governance; effective from 1 June 2007.

15.5 COMMON SEAL OF THE COUNCIL

The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. A decision of the Council or of any part of it will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed. The affixing of the Common Seal will be attested by the Chief Executive or some other person authorised by him/her.

Extract from Article 17

Article 17

Suspension, Interpretation and Publication of the Constitution

17.3 PUBLICATION

- a) The Chief Executive will ensure that a printed copy of this Constitution is given to each member of the authority upon delivery to him/her of a copy of that individual's declaration of acceptance of office on the member first being elected to the Council
- b) The Director of Governance will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- c) The Director of Governance will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

Extract from Responsibility for Functions

Section 1

Responsibility for 'Local Choice' Functions

FUNCTION	DECISION MAKING BODY	MEMBERSHIP	DELEGATION OF FUNCTIONS
The conducting of best value reviews in accordance with the provisions of any order under S.5 of the Local Government Act 1999	<u>Scrutiny Committee</u>	Drawn from all members of the Council <u>excluding members of Cabinet</u> and Independent representatives as co-opted	<u>Cross-cutting</u> Fundamental Reviews undertaken by ad hoc time-limited Member Review Panels

Extract from Responsibility for Council Functions

Section 2

Responsibility for Council

Functions

Standards Committee

Such members of the authority (other than the Leader) as appointed by Council, such number of Independent Members as make up a quarter of the total number of members on the committee (minimum of 2) and at least one representative of the Parish Councils within the authority's area

Disciplinary functions

To undertake disciplinary action against

- District Council members, and
- senior officers in accordance with the Human Resource Guidelines

Appeals and Complaints Panel

Up to 5 members of the authority (other than any member who took part in making the original decision)

To hear various employee appeals with the exception of the Chief Executive, Section 151 Officer and the Monitoring Officer

Extract from Responsibility for Executive Functions

Section 3

Responsibility for Executive Functions

WHO IS RESPONSIBLE	MEMBERSHIP	FUNCTIONS	LIMITS OF DELEGATION
The Cabinet	The Council Leader and between 2 and 9 other members of the authority as appointed by the <u>Council Leader</u>	All functions except those specifically stated not to be the responsibility of the Cabinet	The Cabinet operates a system of collective responsibility for decision-making with Portfolio Leaders having specific areas of responsibility on which they report to and advise the Cabinet. <u>Portfolios shall be as notified to Council by the Leader of the Council. Information on the nature and composition of Cabinet and the identity of Portfolio Leaders as determined from time to time will be recorded in Council minutes and available on the Council's website.</u>

Extract from Responsibility of Cabinet Members

Section 4

Responsibility of Cabinet

Members

A. COLLECTIVE RESPONSIBILITY OF CABINET

- the consideration and submission of policies to Council for approval in respect of plans and strategies identified in Article 4 of Part 2 of this Constitution as forming part of the Council's Policy Framework including those relating to the Local Area Agreement

B. RESPONSIBILITY OF PORTFOLIO LEADERS

The responsibility of individual Portfolio Leaders to act as lead member and spokesperson for any of the following shall be as determined by the Leader of the Council :

- Financial, human and other resources to assist the Council in delivering its policies and objectives including conditions of service for employees, corporate finance and financial management services, management of the Council's land and property holdings (excluding Housing Revenue Account property), procurement, local taxation and legal and local land charges service.
- Member related matters including chairmanship of the Cabinet, Civic Regalia, hospitality accounts, the Official Car, Members allowances and functions relating to the conduct of Committee meetings
- Arrangements relating to emergency planning
- Development of the Council's budget strategy
- Corporate publicity, policy planning and review, bidding, Ombudsman and MP Liaison.
- General grants, bequests and donations by the Council
- The Sustainable Community Strategy

- Partnerships
- Children's Trust
- Leisure, sports, cultural, recreation and entertainment services and facilities, entertainment venues, arts, theatres, leisure centres, sports stadium, museums and catering
- Liaison with various bodies and agencies to tackle health inequalities across the District, including the Primary Care Trust and NHS Trusts.
- Health & Well-being Boar
- Environmental Health Services including, food hygiene and safety, disease control, health and safety, health promotion, mortuary, cemeteries and burial grounds[‡]
- Public and private sector housing services and facilities including sheltered schemes, Council houses, homelessness, disabled facilities grants, house renovation and home security grants
- Housing Investment Programme and the Housing Revenue Account, including repair and maintenance of Council housing and improving private sector housing
- The administration of Housing and Council Tax Benefits[‡]
- Promotion of the economic well-being of the District including measures to alleviate unemployment and create new employment opportunities
- The Learning, Education, Employment and Prosperity Group
- Liaison with various bodies and agencies to further the economic well-being of the District including (but not limited to) Staffordshire Small Business Service, InStaffs, Learning and Skills Council and East Mercia Chamber of Commerce and
- Services and facilities to assist tourism, town centre and other regeneration schemes, derelict land, Sure Start and other economic regeneration initiatives, town centre and industrial estate management, and programming of externally funded projects.
- Community safety arrangements (insofar as they are not the responsibility of the Chief Executive) including crime prevention and crime reduction programmes, Street Wardens, the Crime & Disorder Reduction Partnership
- Issues relating to itinerants
- Equality and Diversity
- Community engagement and consultation
- Town and country planning and transportation services and facilities including planning policy development at regional, county and local plan levels, public car and lorry parks, street lighting including Christmas lighting, public transportation policies including hackney carriages and private hire vehicles, public rights of way and travel concessions[‡]

- Landscape and countryside management services including wildlife issues, tree preservation and the Ranger service[±]
- Sustainable Development theme group of the Local Strategic Partnership
- Land drainage and watercourses, engineering services and public clocks
- Environmental protection services including, public nuisances, stray dog services, pest control, contaminated land[±]
- Refuse collection, public conveniences, waste management and recycling
- Street cleansing, graffiti, abandoned vehicles and fly-tipping[±]
- Parks, allotments and open spaces
- Licensing Services in accordance with the policies determined for service portfolios for various activities including taxi's, public entertainment, street collections, liquor licensing, etc[±]
- Street trading[±]
- All statutory and non statutory Plans and policy documents prepared by the Council relating to any of the above mentioned services and facilities.

Extract from Responsibility of Chairmen

Section 5

Responsibility of Chairmen

- j) **Chairman of the Parish Councils Standards Sub-Committee**
 - Any matter delegated to the Parish Councils Standards Sub-Committees

- k) **Chairman of the Rate Relief Panel**
 - Any matter delegated to the Rate Relief Panel

- l) **Chairman of an Appeals and Complaints Panel**
 - Any matter delegated to that Appeals and Complaints Panel

- m) **Chairman of an Appointments Panel**
 - Any matter delegated to that Appointments Panel

Extract from Terms of Reference of Regulatory and other committees, etc.

Section 6

Terms of Reference of Regulatory and Other Committees, Sub-Committees, Panels and Forums

- A. Planning Control Committee
- B. Licensing and Public Protection Committee
- C. Licensing Sub-Committee
- D. Standards Committee
- E. Parish Councils Standards Sub-Committee
- F. Audit and Governance Committee
- G. Rate Relief Committee
- H. Appeals and Complaints Panel
- I. Appointments Panel
- J. Community Forums
- K. Trade Union Consultative Forum
- L. Chairman of the Council's Civic Committee

Section 6H

Rate Relief Committee

Terms of Reference

1. STATUS

1.1 The Rate Relief Committee is a Committee of the Council.

4. ATTENDANCE BY NON-MEMBERS

4.1 Council Procedure Rules 6(6) and 19 will apply.

7. PROCEEDINGS

7.1 The Chief Executive (or his nominee) shall be the Clerk to the Rate Relief Committee.

9. FUNCTIONS

9.1 To carry out the following functions in accordance with the Scheme of Delegation and Codes of Conduct:-

- (i) Consider and determine applications for Rate Relief.

Section 6I

Appeals and Complaints Panel

Terms of Reference

4. ATTENDANCE BY NON-MEMBERS

- 4.1 Council Procedure Rules 6(6) and 19 will apply.

PROCEEDINGS

- 7.1 The Chief Executive (or his nominee) shall be the Clerk of the Panel
- 7.2 The provisions of Schedule 12A of the Local Government Act, 1972 (as amended), in respect of exempt information will apply.

Annex 1

Employee Appeals

1. FUNCTIONS

- 1.1 The Appeals and Complaints Panel is responsible for dealing with appeals relating to a decision by the Chief Executive or relevant Director to take formal disciplinary action against an employee including dismissal from the service of the Council; and

Section 7

Scheme of Delegation

- 1.1 The scheme of delegation provides the framework for day to day management of the authority. It authorises officers to exercise the functions of the Council as set out in this document. It repeals and replaces all previous schemes and amendments. Further delegations may be made by members if duly minuted in a properly constituted meeting of the Council, the executive or another council body provided that the body granting the delegation has the power so to do.
- 1.2 For the purposes of this Scheme of Delegation, the term “director” is deemed to mean an officer listed in the annex to this document as having that status.
- 1.3 This scheme contains two types of authorities:
 - a Functional, operational and day to day management of services delegated to directors.
 - b Functions delegated to specific officers.
- 1.4 The exercise of any function delegated by this scheme is subject to and must be in accordance with the following. They are listed in order of precedence, which should be followed in the event of any conflict between their provisions:
 - a European and National Law
 - b Contract Procedure Rules
 - c Financial Regulations
 - d Human Resource Guidelines
 - e The Scheme of Delegation – this document
 - f Contract Guidelines
 - g Emergency Planning Procedure
 - h Other Council policies, procedures and previous decisions
- 1.5 Authorities granted within documents b. to d. above, take precedence over this scheme (document e.), and are therefore not necessarily repeated in full within this document.

- 1.6 A reference in this scheme to a statute, includes any statutory instrument, regulation, order, rule or circular, made under it and includes any modification amendment or re-enactment of it.

Delegations to all Directors

INTRODUCTION

- 2.1** A director is authorised to delegate further the exercise of all or some of their delegated functions to named officers within their area of management, except where the law requires specific named officers to be given delegated authority. Such further delegation shall be evidenced in accordance with the requirements of the Council's financial regulations.
- 2.2** Before exercising a delegated function a director must consider whether to inform the Chief Executive, the Section 151 Officer, the Monitoring Officer, other director or member of staff, and any Members of the Council of the matter. If there is a dispute between directors about the exercise of a delegated function the matter shall be referred to the Chief Executive.

DELEGATIONS TO DIRECTORS

- 2.3** To take all steps as necessary to implement decisions taken by the Council or under any delegations made in accordance with this Scheme of Delegation.
- 2.4** To exercise day to day management of those services and resources placed under their control.
- 2.5** To agree changes to approved capital or revenue budgets in consultation with the Section 151 Officer where council policy is not changed; there is no additional call on the Council's own resources; and resource implications, financial and non-financial, are not created.
- 2.6** To be the Proper Officer for the production of background documents in respect of any report presented to Committees etc. in their name, under the Local Government Access to Information Regulations. Where a joint report has been produced, officers will agree who will undertake the responsibility as lead officer for the report.
- 2.7** Subject to Member approval of schemes and estimates, where appropriate, to invite tenders and award contracts.
- 2.8** To select and appoint specialist professional advisors in the course of implementing council policies and within available budgets.
- 2.9** To discharge his/her duties in respect of Health and Safety in the workplace.

- 2.10** To enter into arrangements with outside authorities and bodies for the delivery of professional services.
- 2.11** To determine the fees and charges for services under their control, within Council policy and the requirements of financial regulations.
- 2.12** To accept appointments to undertake professional activity at a local, regional or national level.

Functions Delegated to Specific Officers

CHIEF EXECUTIVE

- 3.1** To undertake the management of the following functions and service areas, and to appoint suitably qualified and experienced officers where appropriate to undertake those functions in accordance with the appropriate legislation and the council's agreed policies and procedures:
- a** Civic Duties and Member support
 - b** Secretariat
 - c** Electoral Registration
 - d** Functions in respect of Parish, District, County, Parliamentary and European Elections
 - e** Civil Contingencies
 - f** Community Safety
 - g** Policy Research & Development
 - h** Performance Management
 - i** Scrutiny Support
 - j** Public Consultation
 - k** Partnerships
- 3.2** To undertake all duties delegated to other officers, where permitted by law.
- 3.3** To act as the Head of the Authority's Paid Service pursuant to Section 4 of the Local Government and Housing Act 1989
- 3.4** To grant concessionary and free use of civic suite facilities to nationally recognised organisations.
- 3.5** To exercise any function of the Council not required by statute to be exercised by the Council and not otherwise delegated to Members or Officers.
- 3.6** To amend this scheme of delegations, in respect of which officer is responsible for exercising which delegation, for a period of up to six months. Beyond this time, a formal amendment to the Constitution would be required.

DEPUTY CHIEF EXECUTIVE

- 3.7** To undertake the management of the following functions and service areas, and to appoint suitably qualified and experienced officers where appropriate to undertake those functions in accordance with the appropriate legislation and the council's agreed policies and procedures:
- a** Regeneration and Economic Development
 - b** Property Management
 - c** Planning and Development Control
 - d** Housing (Strategic)
 - e** Culture, Sports and Leisure Development
 - f** Major Projects
 - g** Children's Services
- 3.8** To advise on strategic issues across all areas of the Council, and to undertake specific projects within any area at the request of the Chief Executive.
- 3.9** To undertake all duties delegated to other officers, where permitted by law.
- 3.10** To deputise for the Chief Executive in his/her absence in respect of matters not specifically delegated to other Directors by the Chief Executive for the period of that absence.
- 3.11** At a more detailed level, to be responsible for the following, including the appointment of suitably qualified and experienced officers where appropriate:

PROPERTY

- 3.12** To undertake all relevant Property Management activities including markets; the acquisition and disposal of interests in land and premises; management of property; rent reviews; lease renewal terms; granting licences; consents for assignments; variations to user clauses; proceedings for forfeiture; marketing; acquiring consents; granting wayleaves and easements; dealing with emergencies; appointing advisors; establishing and maintaining a property terrier; submitting planning and other applications.
- 3.13** To appoint a suitably qualified officer to act as the Council's land and property valuer.
- 3.14** To authorise the grant of licences on standard terms where future applications are received to take over land which has been the subject of a prior Standard Licence Agreement and there are no overriding reasons to object to such a renewal.
- 3.15** To enter land and buildings for purposes of inspection in relation to any of the Council's service activities.
- 3.16** To authorise transfer of properties subject to Council mortgages.

PLANNING

- 3.17** To process applications made under the Planning Acts, to include:
- a** Approval, with or without appropriate conditions, of applications for planning permission; approval of reserved matters; listed building consents; conservation area consents; consents to display advertisements which comply with the relevant current adopted national, regional, Development Plan and supplementary planning guidance, when there is no unresolved technical objection or there is no adverse comment from a person or body notified of the application, or when the only objections submitted are on grounds which are not material planning considerations, except that applications which are the subject of an environmental statement are not so delegated.
 - b** Refusal of applications for planning permission and approval of reserved matters, listed building consent, conservation area consent, consent to display advertisements which do not comply with the relevant current adopted national, regional, Development Plan and supplementary planning guidance, when there is no comment of support from a person or body notified of the application, except that applications which are the subject of an environmental statement are not so delegated.
 - c** Determination of applications for Certificates of Lawful Use or Development and certificates of Appropriate Alternative Development.
 - d** Determination of applications for agricultural, forestry and telecommunications prior notification when there is no unresolved objection.
- 3.18** To enforce planning control by authorisation of prosecutions and/or any of the following statutory notices:
- a** Planning Contravention Notices
 - b** Enforcement Notices
 - c** Stop Notices
 - d** Breach of Condition Notices
 - e** Notices requiring the proper maintenance of land.
 - f** Enforcement of control over advertisements.
- 3.19** To provide 'screening and scoping' opinions under the terms of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999.
- 3.20** To exercise powers to dispense with or to enforce duty to replace trees under the Planning Acts.
- 3.21** To carry out the Council's responsibilities for naming and numbering streets.

HOUSING (STRATEGIC)

- 3.22** To determine all applications for home improvement grants and to exercise all other functions in respect thereto.
- 3.23** To appoint suitably qualified and experienced persons to exercise specific enforcement powers contained within the following legislation:-
- a** Caravan Sites Act 1968
 - b** Mobile Homes Act 1975 and 1983.
 - c** Building Act 1984 – report of drains.
 - d** Housing Act 1985 - Part II – Provision of housing
 - e** Part VI - Repair Notice
 - f** Part VIII - Area improvement
 - g** Part IX - Slum Clearance
 - h** Part X - Overcrowding
 - i** Part XI - Houses in multiple occupation
 - j** Local Government and Housing Act 1980 – Part VII – renewal areas.
 - k** Environmental Protection Act 1990 – Statutory Nuisances.
 - l** Housing Act 1996 – Part II – Houses in multiple occupation.
 - m** Housing Grants, Construction and Regeneration Act 1996 – renovation grants group repair schemes and deferred action notice.
- 3.24** To authorise prosecutions and/or the issuing of Enforcement Notices in accordance with any of the legislation listed within paragraph 3.23 above.

DIRECTOR OF GOVERNANCE

- 3.25** To undertake the management of the following functions and service areas, and to appoint suitably qualified and experienced officers where appropriate to undertake those functions in accordance with the appropriate legislation and the council's agreed policies and procedures:
- a** Financial Management
 - b** Treasury Management
 - c** Accounting
 - d** Internal Audit
 - e** Risk Management & Insurances
 - f** Procurement and Efficiency
 - g** Civil Contingencies in conjunction with the Chief Executive

- h** Legal Services
- i** Local Land Charges
- j** Ethical Standards
- k** Committee Administration

- 3.26** To act as the Solicitor to the Council in accordance with Article 15.
- 3.27** To act as the Council's Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989 and the Local Government Act 2000.
- 3.28** To advise on strategic issues across all areas of the Council, and to undertake specific projects within any area at the request of the Chief Executive.
- 3.29** To undertake any specific identified responsibilities in the absence of the Chief Executive or another director.
- 3.30** At a more detailed level, to be responsible for the following, including the appointment of suitably qualified and experienced officers where appropriate:

FINANCE

- 3.31** To consider and determine applications for car loans in accordance with the Council's policies and to make arrangement for payment and collection of sums due under any car loan agreement.
- 3.32** To determine and review as necessary the interest rate payable on Council car loans and mortgages.
- 3.33** To bring back into account dividends received from receivers or liquidators and any other sums received in respect of debts previously written off.

LEGAL

- 3.34** To maintain the Council's Constitution, except to the extent that specific areas of the Constitution are specifically identified within this document as within the responsibility of
- 3.35** To instigate or defend proceedings both civil and criminal brought by or against the Council, and to authorise other officers to appear in court pursuant to section 233 of the Local Government Act 1972.

DIRECTOR OF ORGANISATIONAL IMPROVEMENT

- 3.36** To undertake the management of the following functions and service areas, and to appoint suitably qualified and experienced officers where appropriate to undertake those functions in accordance with the appropriate legislation and the council's agreed policies and procedures:

- a** Information and Communications Technology
- b** Facilities Management
- c** Customer Services
- d** Counter Services
- e** Public Relations and Marketing
- f** Human Resources
- g** Organisational Development
- h** Health & Safety at Work

- 3.37** To advise on strategic issues across all areas of the Council, and to undertake specific projects within any area at the request of the Chief Executive.
- 3.38** To undertake any specific identified responsibilities in the absence of the Chief Executive or another director.
- 3.39** At a more detailed level, to be responsible for the following, including the appointment of suitably qualified and experienced officers where appropriate:

INFORMATION & COMMUNICATIONS TECHNOLOGY

- 3.40** To prepare and maintain the Council's ICT Strategy and IT Security Policy.
- 3.41** Within the Council's ICT Strategy, to:
 - a** specify I.T. Infrastructure Products and Portfolio of Software.
 - b** specify Corporate Network protocols and LAN/WAN structure and communication devices.
 - c** negotiate Corporate Standard Hardware, Software, Support and Disaster Recovery Contracts.
 - d** determine the timing of software upgrades to newer versions.
- 3.42** To act as the Council's Data Protection Officer and Freedom of Information Officer.

HUMAN RESOURCES

- 3.43** To maintain the Council's human resources policies and procedures.
- 3.44** To be authorised in connection with the provisions relating to politically restricted posts contained within Section 1-3 of the Local Government & Housing Act 1989 to:
 - a** compile lists of politically sensitive posts.

- b** amend the list of politically restricted posts to take account of changes in salary and directions given by the Independent Adjudicator.
- c** issue certificates of opinion and such other information as may be required by the Independent Adjudicator.

DIRECTOR OF SERVICE IMPROVEMENT

3.45 To undertake the management of the following functions and service areas, and to appoint suitably qualified and experienced officers where appropriate to undertake those functions in accordance with the appropriate legislation and the council's agreed policies and procedures:

- a** Environmental Health
- b** Licensing
- c** Waste Management and Recycling
- d** Street Cleansing
- e** Parks & Open Spaces Operations
- f** Cemeteries
- g** Car Park Operations
- h** Collection of Local Taxation
- i** Benefit Administration
- j** Building Control
- k** Leisure Operations (incl. Catering)

3.46 To advise on strategic issues across all areas of the Council, and to undertake specific projects within any area at the request of the Chief Executive.

3.47 To undertake any specific identified responsibilities in the absence of the Chief Executive or another director.

3.48 At a more detailed level, to be responsible for the following, including the appointment of suitably qualified and experienced officers where appropriate:

ENVIRONMENTAL HEALTH

3.49 To exercise specific regulatory powers contained within legislation and/or any Act extending or consolidating the same or incorporated therein, Orders or Regulations made in respect of:

- a** Food Safety
- b** Control of Disease and Food poisoning
- c** Licensing of Premises, Persons and Vehicles

- d** Occupational Health and Safety
 - e** Public Health
 - f** Protection of the Environment
 - g** Control of Pollution including air and noise
 - h** Animal Welfare
 - i** Private Sector Housing
- 3.50** To administer and determine applications for licenses under the Licensing Act 2003 in accordance with the Council's Licensing Policy.
- 3.51** To determine applications for licenses under the Cinematograph Act, 1985.
- 3.52** To authorise powers of entry and the issuing of Enforcement and/or Abatement Notices in accordance with any legislation applicable to those service areas listed in paragraph 3.49 above.
- 3.53** To issue formal cautions and authorise prosecutions in respect of all matters falling within the service areas listed within paragraph 3.49 above.
- 3.54** To appoint suitably qualified and experienced persons to exercise specific enforcement powers contained within the following legislation:-
- a** Caravan Sites Act 1968
 - b** Mobile Homes Act 1975 and 1983.
 - c** Building Act 1984 – report of drains.
 - d** Housing Act 1985 - Part II – Provision of housing
 - e** Part VI - Repair Notice
 - f** Part VIII - Area improvement
 - g** Part IX - Slum Clearance
 - h** Part X - Overcrowding
 - i** Part XI - Houses in multiple occupation
 - j** Local Government and Housing Act 1980 – Part VII – renewal areas.
 - k** Environmental Protection Act 1990 – Statutory Nuisances.
 - l** Housing Act 1996 – Part II – Houses in multiple occupation.
 - m** Housing Grants, Construction and Regeneration Act 1996 – renovation grants group repair schemes and deferred action notice.
- 3.55** To authorise prosecutions and/or the issuing of Enforcement Notices in accordance with any of the legislation listed within paragraph 3.23 above.
- 3.56** To be the District Rabies Emergency Executive Officer.

- 3.57 To determine grant applications with respect to Smoke Control.
- 3.58 To undertake the duties and responsibilities arising under the Reservoirs Act 1975
- 3.59 To authorise service of notice under the Land Drainage Act, 1976, in respect of work on approved development schemes.
- 3.60 Under the Environmental Protection Act 1990 Section 34 (the Duty of Care), to authorise proceedings against persons who illegally dump waste and to issue street litter control notices.
- 3.61 To determine applications for Street Trading consents.

ENVIRONMENTAL SERVICES

- 3.62 To make Tree Preservation Orders where there are no outstanding objections.
- 3.63 To determine applications to fell, or do works to, trees which are the subject of a Tree Preservation Order.
- 3.64 To exercise powers to dispense with or to enforce the duty to replace trees which are the subject to a Tree Preservation Order.

HOUSING (HRA)

- 3.65 To enforce the Council's conditions of tenancy including authorisation of proceedings for injunctions and repossession.
- 3.66 To hear appeals in respect of introductory tenancies following a Notice of Property Repossession in accordance with legislation and the Council's agreed policies and procedures
- 3.67 To determine annual grants to tenants and Residents Associations and the Chase Tenants and Residents Federation.
- 3.68 To authorise the closure of council dwellings where the cost of improvement and repair is considered to be uneconomic.
- 3.69 To determine annual decoration, floor covering and disturbance allowances.
- 3.70 To determine social need and medical priorities (following recommendations of the Medical Assessment Panel) in respect of housing applications and transfer requests.

TRANSPORTATION

- 3.71 To appoint a suitably qualified officer to hold on behalf of the Council the Heavy Goods Vehicle Operators Licence (O Licence) and to maintain the schedule of vehicles covered by the licence.

LOCAL TAXATION AND BENEFITS

- 3.72** To determine Liable Persons, Liability Periods, Eligibility for statutory discounts, exemptions and reliefs and any other matter referred to in the appropriate statute necessary to calculate the due amount for which a local Council Taxpayer or National Non-domestic Ratepayer is liable.
- 3.73** Appointment under section 112 of the Local Government Act 1972, to collect and recover any Council Tax or National Non-Domestic Rate payable on dates previously determined. In the event of a Council Taxpayer or National Non-Domestic Ratepayer defaulting, to implement the appropriate recovery proceedings and issue appropriate notices for the recovery of the amounts due. The Solicitor to the Council or such other officers authorised by him/her will take all such proceedings as may be necessary to secure the recovery of sums due and appear on behalf of the Council at any hearing of any legal proceedings in respect thereof.
- 3.74** To determine Council Tax and Non Domestic Rate Non Valuation Appeals on behalf of the Council
- 3.75** To raise and quash penalties imposed under Schedule 3 of the Local Government Finance Act 1992.
- 3.76** To deal with other matters relating to Council Tax on behalf of the Council, with the exception of those specifically requiring Council approval in law (e.g., setting of Council Tax, determination of tax base).
- 3.77** To sign complaint lists, liability order lists and attachment of earnings orders.
- 3.78** To consider and determine discretionary housing payments.
- 3.79** To agree the appropriate allocations of occupied and unoccupied premises in order to calculate empty rate allowance under Section 44A Local Government Finance Act 1988.
- 3.80** To action all valid applications for Mandatory Rate Relief.
- 3.81** To deal with other matters relating to Non-Domestic Rates on behalf of the Council, with the exception of those specifically requiring Council approval in law.
- 3.82** To determine applications for back dating of housing and/or council tax benefits.
- 3.83** To exercise the Council's discretion in administering Regulation 11 of the Housing Benefit (General) Regulations 1987.
- 3.84** To deal with all other matters relating to Housing and Council Tax Benefits on behalf of the Council, with the exception of those specifically requiring Council approval in law.
- 3.85** To authorise sanctions including Administrative Penalties, Formal Cautions, and Prosecutions in respect of Housing Benefit and Council Tax Benefit Fraud.

- 3.86** To exercise on behalf of the Council the power to grant authorisations as contained in Section 110A sub-section (3) of the Social Security Administration Act 1992 (as amended).

BUILDING CONTROL

- 3.87** To determine all matters concerning the provision of building regulations activities including plans vetting, site inspections, enforcement of the building regulations, relaxation of building regulations, dangerous structures and ruinous and dilapidated buildings and neglected sites, demolition notifications and notifications under the Building (Approved Inspector) Regulations.
- 3.88** To obtain information and entry to land using provisions under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 and Section 95 and 96 of the Building Act 1984, in relation to the service of statutory notices under the Building Act.
- 3.89** To exercise powers under the Party Walls etc. Act 1996 to act as Appointing Officer in appointing a Third Surveyor if called upon to do so.
- 3.90** To determine the level of charges in accordance with The Building (Local Authority Charges) Regulations 1998.

LEISURE OPERATIONS

- 3.91** To appoint suitably qualified officers to apply for and hold Public Entertainment, Liquour on-licenses and all other licenses as are required to facilitate the delivery of services at Council owned venues.
- 3.92** To take action on any matter at Leisure venues to secure the safety of persons using, visiting or working at them and to ensure compliance with all aspects of the law relating thereto.
- 3.93** To determine applications for reduced hire charge for leisure facilities.

HEAD OF FINANCIAL MANAGEMENT

- 3.94** To act as the Council's Chief Finance Officer in accordance with:
- a** Section 151 of the Local Government Act 1972 (Section 151 Officer).
 - b** Section 114 of the Local Government Finance Act 1988 (Section 114 Officer), and

Annex 1

Designation of Proper Officers and Authorised Officers

Details of Proper Officers and authorised officers is set out below:

A. CHIEF EXECUTIVE

1. Local Government Act 2000

The Chief Executive is designated as ‘Proper Officer’ for the purposes of the Local Government Act 2000 and in accordance with the Council’s Constitution

2. The Chief Executive is designated as the ‘Proper Officer’ for the carrying out of specified actions or performance of certain specified duties on behalf of the Council.

a Electoral Registration Officer for the Council

b Returning Officer at Parish and District elections, Local Polls and Referendums.

c Returning Officer, Acting Returning Officer and Deputy Acting Returning Officers in connection with General Elections, European Elections, County Elections and National Referenda.

d Accepting Declarations of Acceptance of Office from elected Members within 2 months of the day of election

e Summonses to attend meetings of the Council and Cabinet

f In respect of the provisions of the Health and Safety at Work etc. Act 1974 for the Council’s operation.

B. DIRECTOR OF GOVERNANCE

3. Local Government Act 2000

The Director of Governance is designated as ‘Proper Officer’ for the purposes of the Local Government Act 2000 and in accordance with the Council’s Constitution

4. The Director of Governance is designated as the ‘Proper Officer’ for the carrying out of specified actions or performance of certain specified duties on behalf of the Council.
 - a the opening of tenders.
 - b witnessing the sealing of legal documents and orders.
 - c the signing of legal documents and contracts.
 - d maintaining the local land charges register and responding to queries
 - e unless specifically delegated to another officer, for the signing and authentication of all notices (enforcement or otherwise) issued by the Council e.g., dangerous buildings, change of use, rent review
 - f as local registrar under Section 15 of the Land Charges Act 1925

C. DIRECTOR OF SERVICE IMPROVEMENT

5. The Director of Service Improvement is designated as the ‘Proper Officer’ for the carrying out of specified actions or performance of certain specified duties on behalf of the Council.
 - a in respect of the Council’s role as Burial Authority.
 - b for the signing of notices under Section 78 of the Building Act 1984.

D. HEAD OF FINANCIAL MANAGEMENT

6. The Head of Financial Management is designated as the ‘Proper Officer’ for the carrying out of specified actions or performance of certain specified duties on behalf of the Council.
 - a for the purposes of Section 3 of the Local Government (Contracts) Act 1997 and Regulation 7 of the Local Government (Contracts) Regulations 1997.

E. HEAD OF CULTURE AND MAJOR PROJECTS

7. The Head of Culture and Major Projects is designated as the ‘District Council Lead Officer’ for Children’s Services under the ‘Every Child Matters’ legislation.

Annex 2

Directors

LIST OF OFFICERS

The officers holding the following posts are considered to be “directors” in the context of this document and others that refer to this list specifically:

- a** Chief Executive
- b** Deputy Chief Executive
- c** Director of Governance
- d** Director of Organisational Improvement
- e** Director of Service Improvement

Extract from the Council Procedure Rules

Council Procedure Rules

4A. ORDER OF BUSINESS - ANNUAL MEETING

- g) To receive notification from the Leader of the Council of the number and identity of Cabinet Members, their Portfolios and the allocation of responsibilities for leading on the Local Area Agreement blocks;
- h) To receive the acceptance of office from the Leader of the Opposition;
- j) To receive notification from the Leader of the Opposition of the number and identity of the Shadow Cabinet Members, their Portfolios and the allocation of responsibilities in respect of the Local Area Agreement blocks;

4B. ORDER OF BUSINESS - ORDINARY MEETINGS

- e) In the event of the Leader being removed following a vote of 'no confidence' or a change in the Administration, to elect a Leader of the Council;
- f) In the event of any change to the composition of the Cabinet (including the Leader), to receive notification from the Leader of the Council of the number and identity of Cabinet Members, their Portfolios and the allocation of responsibilities for leading on the Local Area Agreement blocks;
- g) In the event of a change in the Leader of the Opposition, to receive the acceptance of office from the Leader of the Opposition
- h) In the event of any change to the composition of the Shadow Cabinet (including the Leader of the Opposition), to receive notification from the Leader of the Opposition of the number and identity of the Shadow Cabinet Members, their Portfolios and the allocation of responsibilities in respect of the Local Area Agreement blocks;

Extract from the Overview and Scrutiny Procedure Rules

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. THE SCRUTINY COMMITTEE AND SELECT COMMITTEES

1.3 The Council shall appoint :

- (i) A Scrutiny Committee to provide an effective mechanism for scrutinising executive decisions using the call-in process and undertaking fundamental reviews.
- (ii) Such Select Committees as it considers necessary to provide an effective mechanism for scrutinising and reviewing current policies and considering future policy development, making recommendations to Council, Cabinet, Scrutiny or other Committees as appropriate.
- (iii) A Performance and Partnerships Select Committee to provide an effective mechanism for scrutinising the performance of the Council internally and externally when acting jointly with its partners in particular the Local Strategic Partnership.

3 MEETINGS OF THE SCRUTINY COMMITTEE AND SELECT COMMITTEES

3.1 The meetings of the Scrutiny Committee will be held as and when required to deal with call-ins and any other business as it arises.

3.2 The meetings of the Select Committees will be held generally on a six-weekly basis

4 WORK PROGRAMME

- 4.1 The work programme of the Scrutiny and Select Committees will be determined by the Committees in consultation with other stakeholders, including representatives from partner organisations.

7 REPORTS FROM SCRUTINY AND/OR SELECT COMMITTEES

- 7.2 When the Scrutiny Committee or Select Committees have considered a matter and reached a conclusion they will prepare a formal report and submit it to the Council, Cabinet, Scrutiny or other Committee as appropriate.
- 7.4 In addition, the Performance and Partnerships Select Committee may prepare reports for submission to the Local Strategic Partnership in respect of its scrutiny of the performance of Partnership in delivering its targets as set out in the Local Area Agreement.

8 ATTENDANCE OF CABINET MEMBERS AND OFFICERS

- 8.2 As well as reviewing performance and policies, in fulfilling the overview and scrutiny role, the Select Committees may require any member of the Cabinet, the head of paid service, any director¹ and/or head of service to attend before it to explain in relation to matters within their remit:
- 8.3 When any member or officer is required to attend a Scrutiny Committee or Select Committee under this provision, the Chairman of that Committee will inform the Chief Executive. The Chief Executive shall inform the member or lead officer in writing giving at least 5 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the person who has been called to attend will be given sufficient notice to allow for preparation of that documentation and its circulation at least 5 clear working days before the meeting.

¹ For the purposes of these Procedures Rules 'director' includes the Deputy Chief Executive.

9 ATTENDANCE BY OTHERS

- 9.1 The Scrutiny Committee, Select Committees and their panels/working groups may invite other people, external to the organisation, such as residents, stakeholders and members, officers and employees from other organisations, to discuss issues of local concern and/or answer questions.

11. CALL-IN

- 11.3c) All action to implement a decision subject to call-in is suspended and the matter is referred to Scrutiny Committee for consideration. A meeting of the Scrutiny Committee is to be held within 15 working days of the end of the call-in period and a formal decision will be made on the call-in within ten days thereafter unless, because of exceptional circumstances, the Committee resolves to extend this period in which case the full reasons must be stated in the Minutes of the Committee.

13. BEST VALUE REVIEWS

- 13.1 In order to discharge the statutory requirement to undertake best value reviews of all the Council's services, an annual fundamental review will be undertaken.
- 13.2 The programme and arrangements for fundamental reviews will be determined by the Scrutiny Committee.

Scrutiny Committee

Terms of Reference

1. STATUS

- 1.1 The Scrutiny Committee is a committee of the Council with the purpose of providing an effective mechanism for holding the Cabinet to account through the call-in of executive decisions, providing a forum for consultation in accordance with the Budget and Policy Framework Rules and undertaking fundamental reviews.

4. ATTENDANCE BY NON-MEMBERS

- 4.1 Council Procedure Rules 6(6) and 19 will apply.

5. FREQUENCY OF MEETINGS

- 5.1 The meetings of the Scrutiny Committee will be held as and when required

8. FUNCTIONS

- 8.1 The Scrutiny Committee may:
- a) make reports and/or recommendations to Cabinet in connection with the discharge of any function on which it has been consulted in accordance with the Budget and Policy Framework Rules
 - b) exercise the right to call-in for consideration the decisions made but not yet implemented by the Cabinet
 - c) undertake best value reviews

- 8.2 To carry out its functions, the Scrutiny Committee will be able to call upon any Member, Officer or representative of external bodies or organisations in accordance with paragraphs 8 and 9 of the Overview and Scrutiny Procedure Rules to submit written and/or oral evidence.

9 **TIME-LIMITED PANELS**

- 9.1 The Scrutiny Committee may set up panels to undertake best value reviews of specific cross-cutting issues and report back on their findings. These panels will be time-limited to the duration of the review.

Select Committees Terms of Reference

1. **STATUS**

- 1.1 The Select Committees are committees of the Council with the purpose of undertaking policy review and development and scrutinising service provision within the District with the exception of the Performance and Partnerships Select committee which has the purpose of scrutinising the performance of the Council and its partners.

2. **MEMBERSHIP AND METHOD OF APPOINTMENT**

- 2.1 All Members of the Council other than members of Cabinet are eligible to be members of Select Committees with the exception of the Performance and Partnerships Select Committee
- 2.2 Members of the Audit and Governance Committee are not eligible to be members of the Performance and Partnerships Select Committee.

4. **ATTENDANCE BY NON-MEMBERS**

- 4.1 Council Procedure Rules 6(6) and 19 will apply.

5. **FREQUENCY OF MEETINGS**

- 5.1 The meetings of the Select Committees will be held generally on a six-weekly basis with the Chairman of a Select Committee having discretion to convene additional meetings as the work programme requires.

8. **FUNCTIONS**

- 8.1 The Performance and Partnerships Select Committee may:
- (a) review and scrutinise the decisions made by and performance of the Cabinet and council officers both in relation to individual decisions and over time
 - (b) review and scrutinise the performance of the Council in relation to its performance targets and/or particular service areas
 - (c) review and scrutinise the performance of the Chase Community Partnership in relation to its performance targets as set out in the Local Area Agreement and the Sustainable Community Strategy
 - (d) question members of the Cabinet, officers and partners about their decisions and performance, whether generally or in comparison with service plans and targets over a period of time, or in relation to particular initiatives or projects
- 8.3 To carry out its functions, a Select Committee will be able to call upon any Member, Officer or representative of external bodies or organisations in accordance with paragraphs 8 and 9 of the Overview and Scrutiny Procedure Rules to submit written and/or oral evidence.
- 8.4 The Select Committees will make reports and/or recommendations to Council, Cabinet, Scrutiny and/or other Committee in connection with Council policies and their implementation and/or performance as appropriate.
- 8.5 In addition, the Performance and Partnerships Select Committee will make reports and/or recommendations to the Chase Community Partnership on its performance targets as set out in the Local Area Agreement and the Sustainable Community Strategy

Extract from the Financial Regulations

Financial Regulations

The Responsibilities of the Section 151 Officer

7.1 The Section 151 Officer will:

- b) determine and issue any accounting and financial instructions considered necessary to supplement or update these regulations.
- c) Have the power to intervene in any area of the Council's financial activity to ensure the proper conduct of the Council's financial affairs.

(The written approval of the Section 151 officer is required to change or introduce any financial service, accounts or supporting records and systems that integrate or form a fundamental part of the authority's financial records)

The Responsibilities of *Directors*

- 8.1 In order to ensure that the financial affairs of their services are properly maintained, Directors¹ will:
- c) Ensure value for money is achieved in the delivery of all services
 - d) Consult with the Section 151 Officer on any issue those impacts upon the financial affairs of the Council
 - i) Ensure the written approval of the Section 151 officer is obtained before a bid or application; grant claim etc is submitted for any external funding (revenue and capital).

¹ Directors, for the purposes of this document, are defined as those listed as Directors in the Annex to the scheme of delegations

Authority to Spend Money - Revenue

- 5.3 Money may be transferred (vired) from one revenue budget head to another, subject to the following approvals:

Within the same Service

<u>Service Manager</u>	up to the amount shown on Annex 1 where Council policy is not changed and no increase in costs will result in future years.
<u>Head of Service (*Director) and Section 151 Officer (Jointly)</u>	no limit, where Council policy is not changed and no increase in costs will result in future years.
Council	no limit

Between Services within the same Service Management Centre

<u>Service Manager</u>	up to the amount shown on Annex 1 where Council policy is not changed and no increase in costs will result in future years.
<u>Head of Service (*Director) and the Section 151 Officer (jointly)</u>	no limit, where Council policy is not changed and no increase in costs will result in future years.
Council	no limit

Between Service Management Centres within the same Directorate

<u>Both Service Managers and the Head of Service (*Director)</u>	<u>up to the amount shown on Annex 1 where Council policy is not changed and no increase in costs will result in future years.</u>
<u>Director and the Section 151 Officer</u>	<u>no limit, where Council policy is not</u>

(jointly)

changed and no increase in costs will result in future years.

Council

no limit

Between Service Management Centres in different Directorates

Both Service Directors, plus the Section 151 Officer

no limit, where Council policy is not changed and no increase in costs will result in future years.

Council

no limit

Treasury Management, Banking and Taxation Arrangements

7.2 The Section 151 Officer shall have sole discretion to determine whether assets should be leased, rented or acquired by any other form of deferred payment. No lease, rental or other form of deferred payment may be entered into without the written authority of the Section 151 Officer, other than:

- a Property leases, which may be entered into by the Director responsible for property matters (Property Officer),
- b Plant and equipment, which may be hired for a continuous period not exceeding twelve months by any Director.

7.3 The Director for human resources is delegated to liaise with HM Revenue and Customs for payroll procedural issues).

7.4 Banking arrangements and the handling of cheques or other instruments of payment must be in accordance with standards and procedures determined by the Section 151 Officer. In particular:

Only the Section 151 Officer may approve the setting up of an official Council bank account and any variation to banking arrangements. (A bank is termed to be any financial institution .bank, building society, Giro or any other similar account).

A new bank account can only be created following a written request to the bank by two designated bank signatories.

Income Collection

- 8.1 Directors are responsible for complying with any procedures and standards approved by the Section 151 Officer for the collection, custody, control and banking of money due to the Council.
- 8.2 All amounts due to the Council should be collected in full subject to the requirements of 8.3 and 8.4.
- 8.5 Invoices should be avoided wherever possible for sundry debts² below the value in Annex 1. All debts below this amount should, wherever possible, be collected in advance of any service being provided by the Council by cash, cheque, credit card or debit card.

² Sundry debts refers to all debts due to the Council except those related to council tax, housing rents, NNDR or benefits.

Estates

- 9.2 The Property Officer (or for council dwellings within the Housing Revenue Account, the Director responsible for HRA matters [Housing Officer]) will act in the capacity of “landlord” for all of the Council’s properties and will maintain a register of all properties owned by the Council, the service of the Council currently using the property, the purpose for which it is held, extent and plan reference, purchase details, latest valuation, particulars of nature of interest and rents payable and particulars of tenancy granted, together with such other further details as may be found useful after consultation with other Directors.

Stores

10.5 Directors must be able to demonstrate that in disposals of surplus stores or other items officers have followed the procedures approved by the Chief Internal Auditor³.

³ The “Chief Internal Auditor”, for the purposes of these regulations, shall be the officer nominated by the Director of Governance to undertake this role.

Inventories

- 11.1 Inventories shall be maintained by each Director in accordance with the procedures approved by the Chief Internal Auditor.
- 11.2 The Chief Internal Auditor shall also arrange such checks of the inventories as he/she considers necessary.

Orders for Work, Goods and Services and Payment of Accounts

- 12.2 The Director responsible for procurement may specify a list of “preferred suppliers” for the purchase of ranges of goods and/or services and may enter into contracts⁴ with suppliers on this list for the supply of goods and services to the Council. Where such a list is in place, officers may not purchase from suppliers outside the list without the written approval of the Procurement Officer.
- 12.3 In all cases, regardless of anticipated price, where a council wide contract has been let by or on behalf of the Procurement Officer, orders shall be placed against that contract, rather than separate quotations being obtained, unless otherwise agreed in writing by the Procurement Officer
- 12.8 For purchases made in accordance with paragraph 12.3 above, the Council’s contract procedure rules will not apply regardless of the amount of the purchase, providing that the original contract let by the Procurement Officer was itself let under the contract procedure rules and could reasonably be expected to apply to the items being purchased. The Council’s contract procedure rules will apply to the determination of the supplier and price to be paid for other items above the sum set out at Annex 1. In all other respects these financial regulations will apply to the purchase of these items.
- 12.9 Apart from payments from advance accounts (see Regulation 15) the normal methods of payment of money due from the Council shall be by BACS, or by Council payment card/single crossed cheque drawn on the Council’s Bank account(s) in accordance with the Council’s scheme. No other method of payment such as direct debits, standing orders or any form
- 12.13 In circumstances approved by the Section 151 Officer, the authority for approving accounts for payment shall fall to the head of service responsible for the payment of accounts, provided that an order has been electronically generated within the Council’s approved e-procurement system by the “buying” officer and that the receiving officer has identified via the system that the goods or services ordered have been satisfactorily received.

⁴ Such contracts should always be the subject of appropriate quotation or tendering processes in accordance with these regulations and/or the contract procedure rules.

12.14 In this case the Director responsible for placing the order will be responsible, at the time of placing the order or noting receipt of the goods as appropriate, to satisfy themselves that:

- a** The order placed has been fully priced within the Council's e-procurement system;
- b** The work, goods or services to which the order relates have been received, carried out, examined and approved, both as to quantity and quality and that the goods have been notified as "received" in the Council's system to certify that this is the case;
- c** The relevant expenditure has been properly incurred and is within the relevant budget;
- d** Appropriate entries have been made in inventories, stores records or stock books as required.

12.15 The head of service responsible for the payment of accounts, before paying any sums due in this way, shall satisfy himself that:

- e** The work, goods or services to which the account relates have been recorded within the Council's approved system as received or carried out;
- f** The priced account is in accordance with the priced order, subject to any tolerance that may be approved by the Section 151 Officer;
- g** Any request for payment which is not in accordance with the requirements above is specifically approved by the Director in addition, and that this is recorded within the Council's system.
- h** The account is an original, rather than any form of copy, has not been previously passed for payment and is a proper liability of the Council.

Advance Accounts

- 13.5 Any discrepancy in relation to an Advance Account must be reported without delay to the Section 151 Officer.

Salaries, Wages and Pensions

- 14.4 All individuals who undertake work for the Council will be paid under arrangements determined by the Director for human resources in accordance with the Councils Employee Status Guidelines.

Travelling, Subsistence and Other Allowances

- 15.3 Claims must be submitted on a monthly basis for the previous month's expenses. Any claims that cover a back dated period in excess of three months will require the approval of the Section 151 Officer before payment.

Risk & Insurances

- 16.1 Directors will be responsible for the maintenance of a Risk Register and the management of such risk.
- 16.3 Directors should notify the insurance officer of the extent and nature of all new insurable risks and any alteration affecting existing insurance risks.

The Powers and Duties of Internal Audit

- 17.1 Internal Audit is an assurance function that primarily provides an independent and objective opinion to the organisation on the control environment, comprising risk management, control and governance, by evaluating its effectiveness in achieving the organisation's objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources.

Human Resource Guidelines

Status of Human Resource Guidelines

- 20.1** The Human Resource Guidelines provide for specific delegations with regard to the management of the Council's human resources. It authorises members and officers to exercise these functions of the Council as set out in this document. It repeals and replaces all previous schemes and amendments. Further delegations may be made by members if duly minuted in a properly constituted meeting of the council, the executive or another council body provided that the body granting the delegation has the power so to do.
- 20.2** For the purposes of these Human Resource Guidelines, the term "director" is deemed to include the Chief Executive, Deputy Chief Executive and other Directors.
- 20.3** This scheme contains three types of authorities:
- a** Authorities reserved to members
 - b** Day to day management of services delegated to directors.
 - c** Functions delegated to specific officers
- 20.4** The exercise of any function delegated by this scheme is subject to and must be in accordance with the following. They are listed in order of precedence, which should be followed in the event of any conflict between their provisions:
- a** European and National Law
 - b** Contract Procedure Rules
 - c** Financial Regulations
 - d** Human Resource Guidelines – this document
 - e** The Scheme of Delegation
 - f** Contract Guidelines
 - g** Emergency Planning Procedure
 - h** Other Council procedures

- 20.5** Authorities granted within documents b. and c. above, take precedence over these guidelines (document d.), and are therefore not necessarily repeated in full within this document.
- 20.6** A reference in these guidelines to a statute, includes any statutory instrument, regulation, order, rule or circular, made under it and includes any modification amendment or re-enactment of it.

Authorities Reserved to Elected Members

APPOINTMENTS AND DISMISSALS

- 21.1** The appointment and dismissal of the Council's Head of Paid Service (the Chief Executive) shall be made by the full Council.
- 21.2** The appointment and dismissal of Directors shall be made by panels appointed by the Council in accordance with current legislation, which must include at least one member of the Cabinet.
- 21.3** Pursuant to 2.1 and 2.2, no offer of appointment shall be made until
- a** the appointing body¹ has notified the Proper Officer (See definition below) of the name of the potential successful applicant and any other particulars that the appointing body considers relevant to the appointment
 - b** the Proper Officer has notified every member of the Cabinet of:
 - i.** the name of the potential successful applicant;
 - ii.** any other particulars that the appointing body considers relevant to the appointment which have been notified to the Proper Officer; and
 - iii.** the time within which the Leader on behalf of the Cabinet must object to the potential successful applicant being offered the post, such time being no less than 10 working days

AND

- c** either:
 - i.** the Leader has within the period notified to the Cabinet informed the appointing body that none of the Cabinet has any objection to the appointment; OR
 - ii.** the Proper Officer has received no objections from the Leader within that period and has notified the appointing body of that; OR

¹ This means the Council or the Panel charged with making the appointment

- iii. the appointing body is satisfied that any objections from the Leader received within the period are either not material or not well-founded.

21.4 Pursuant to 2.1 and 2.2 notice of dismissal must not be given until:

- a the dismissing body has notified the Proper Officer of the name of the officer to be dismissed and any other particulars that the dismissing body considers relevant to the dismissal
- b the Proper Officer has notified every member of the Cabinet of:
 - i. the name of the officer to be dismissed;
 - ii. any other particulars that the dismissing body considers relevant to the dismissal which have been notified to the Proper Officer; and
 - iii. the time within which the Leader on behalf of the Cabinet must object to the dismissal, such time being no less than 10 working days

AND

- c either:
 - i. the Leader has within the period notified to the Cabinet informed the dismissing body that none of the Cabinet has any objection to the dismissal; OR
 - ii. the Proper Officer has received no objections from the Leader within that period and has notified the dismissing body of that; OR
 - iii. the dismissing body is satisfied that any objections from the Leader received within the period are either not material or not well-founded.

2.5 For the purposes of 2.3 and 2.4, “Proper Officer” means the Chief Executive except when the appointment proposed is of an officer to be Head of Paid Service or the dismissal proposed is of the current holder of that post. In these circumstances, the Monitoring Officer shall be the Proper Officer.

² This means the Council or the Panel deciding to dismiss

POLICY – TERMS AND CONDITIONS OF EMPLOYMENT

- 21.6** The Council's policies in respect of pensions shall be determined by full Council.
- 21.7** Full Council will determine any new or changed policies in respect of terms and conditions of employment and local conditions of service where agreement cannot be reached between the Chief Executive and the recognised trade unions through the Council's normal negotiating machinery.

PAY AND GRADING ISSUES

- 21.8** All pay and grading issues relating to senior officers ³ will be determined by the Cabinet.

DISCIPLINARY ACTION

- 21.9** The Council may suspend, in accordance with their relevant terms and conditions of employment, the Head of Paid Service (the Chief Executive), Monitoring Officer or Section 151 Officer whilst an investigation takes place into alleged misconduct. Such suspension must be on full pay and last no longer than two months.
- 21.10** No other disciplinary action may be taken in respect of any of these officers except in accordance with a recommendation in a report made by a designated independent person appointed pursuant to Regulation 7 of the Local Authorities (Standing Orders)(England) Regulations 2001.
- 21.11** Disciplinary action in respect of any other senior officer will be undertaken by the Standards Committee, in accordance with their relevant terms and conditions of employment and relevant local procedures. If the Standards Committee considers dismissal to be appropriate, it shall recommend accordingly to the appropriate body.
- 21.12** Councillors will not be involved in disciplinary action against any officer below head of service except where such involvement is necessary for any investigation or enquiry into alleged misconduct or as a result of an appeal to the Council's appeals and complaints panel.

GRIEVANCES

- 21.13** The Council shall consider grievances originated by or against the Head of Paid Service (the Chief Executive) in accordance with the Council's policies and procedures.

³ The term 'senior officer' within these guidelines refers to the Chief Executive, Deputy Chief Executive, Directors and Heads of Service employed on JNC conditions of services

APPEALS

- 21.14** The Council's Appeals and Complaints Panel will hear employee appeals relating to, grievance, disciplinary, competence and other related decisions, made by either the Cabinet, Standards Committee, the Chief Executive or an officer nominated by the Chief Executive, in respect of senior officer of the Council, with the exception of the Head of Paid Service, the Section 151 Officer and the Monitoring Officer whose appeal procedures should be in accordance with their conditions of service.

EARLY RETIREMENT AND VOLUNTARY REDUNDANCY

- 21.15** The Council will determine the policy for pension issues, early retirement and redundancy, including the policy in respect of granting of augmented service .
- 21.16** Any retirement, other than on the grounds of permanent ill health, where access to augmented service to an employee's pension or the payment of actuarial strain is a consideration, the Cabinet will determine whether the augmented service will be granted within the Council's policy.

Delegations to *Directors*

GENERAL

- 22.1** Appointment, dismissal and discipline of officers below senior officer level is the responsibility of the Chief Executive. That authority can be delegated to other officers nominated by the Chief Executive.
- 22.2** The appointment of Heads of Service is the responsibility of the Chief Executive. That authority can be delegated to other directors as nominated by the Chief Executive.
- 22.3** A director is authorised to delegate further the exercise of all or some of their delegated functions to named officers within their area of management, except where the law requires specific named officers to be given delegated authority. Such further delegation shall be evidenced in accordance with the requirements of the Council's financial regulations.
- 22.4** Before exercising a delegated function a director must consider whether to inform the Chief Executive, the Section 151 Officer, the Monitoring Officer, other director or member of staff, and any Members of the Council of the matter. If there is a dispute between directors about the exercise of a delegated function the matter shall be referred to the Chief Executive.

DELEGATIONS TO ALL DIRECTORS

- 22.5** Authority to determine departmental establishments, below Head of Service level, in accordance with the Council's agreed procedures, subject to such variations being in accordance with current Council policy, providing the costs can be met from approved budgets.
- 22.6** Authority to engage agency employees, in consultation with the Director of Organisational Improvement , required to fulfil service delivery requirements, providing the costs can be met from existing budgets.
- 22.7** Authority to determine applications for ex-gratia/honorarium payments, for employees below Head of Service level, in accordance with the Council's agreed procedure, and the costs being met from within existing budgets.
- 22.8** Authority to determine re-grading applications for employees below Head of Service, in accordance the Council's approved procedure, and the costs being met from within approved budgets.

- 22.9 Authority to consider grievances, originated by all employees below Head of Service level, in accordance with the Council's agreed policies and procedures.
- 22.10 Authority in consultation with the Director of Organisational Improvement to extend periods of occupational sick pay for individual employees, in exceptional circumstances, provided costs can be met from within existing budgets.
- 22.11 Authority in consultation with the Director of Organisational Improvement to suspend individual employees from the occupational sick pay scheme in accordance with national and local conditions of service.
- 22.12 Authority to approve requests for unpaid leave in accordance with the Council's agreed policies and procedures.
- 22.13 Authority, in accordance with the Council's Training Strategy, to approve applications for day release in respect of recognised professional qualifications which will be of benefit to the Council, provided the costs can be met from within existing budgets.
- 22.14 Authority to arrange for employees to attend conferences, training courses and seminars which will be of benefit to the Council, provided the costs can be met from within existing budgets.
- 22.15 Authority to transfer all new entrants to Local Government Service to the permanent establishment, subject to satisfactory completion of the relevant probationary period.
- 22.16 Authority to agree annual leave being moved between leave years.
- 22.17 Authority to approve requests for compassionate, maternity support and paternity leave in accordance with the Council's agreed policies and procedures.
- 22.18 Authority to approve reasonable requests for time off work in respect of medical appointments, trade union duties, public duties and for personal and family reasons in accordance with the Council's agreed policies and procedures.
- 22.19 Authority, in consultation with the Director of Organisational Improvement , to agree amendments to existing incentive bonus schemes and any other miscellaneous payments.

DELEGATIONS TO DIRECTORS NOMINATED BY THE HEAD OF PAID SERVICE

- 22.20 Authority to appoint employees below senior officer level, in accordance with the Council's agreed procedures.
- 22.21 Authority to appoint Heads of Service, in accordance with the Council's agreed procedures.
- 22.22 Authority, in consultation with the Director of Organisational Improvement , to approve ill health retirements, below Head of Service level, in accordance with the Council's agreed policy, providing any costs are met from within existing budgets.

- 22.23** Authority, in consultation with the Director of Organisational Improvement , to approve early retirements, below Head of Service level, on the ground of efficiency of service (with no augmentation), in accordance with the Council's agreed policy, providing there is no actuarial strain and any costs are met from within existing budgets.
- 22.24** Authority to approve the filling of vacant posts, below Director level, within the approved establishment, in accordance with the Council's agreed procedure, providing the costs can be met from approved budgets.
- 22.25** Authority to approve temporary and interim variations to departmental establishments, below Director grade, in accordance with the Council's agreed procedures, subject to such variations being in accordance with Council policy, and the costs being met from approved budgets.
- 22.26** Authority, to conduct formal capability proceedings, including dismissal of employees below senior officer level, in accordance with the Council's agreed policies and procedures.
- 22.27** Authority, to approve requests from officers to undertake secondary employment in accordance with the Council's agreed policies and procedures.
- 22.28** Authority jointly with the Director of Organisational Improvement , in consultation with the Leader of the Council and the Resources Portfolio Leader, to determine claims made in accordance with the Council's Injury Allowance Scheme, providing the costs are met from within existing budgets.

Functions Delegated to Specific Officers

CHIEF EXECUTIVE

- 23.1** Appointed Head of the Authority's Paid Service pursuant to Section 4 of the Local Government and Housing Act, 1989.
- 23.2** Authority to determine any new or changed policies in respect of terms and conditions of employment and local conditions of service where agreement can be reached with the recognised trade unions through the Council's normal negotiating machinery.
- 23.3** Authority to consider grievances originated by Directors, in accordance with the Council's agreed policies and procedures.
- 23.4** Authority, in consultation with the Director of Organisational Improvement , to approve ill health retirements for Directors and Heads of Service, in accordance with the Council's agreed policy, providing any costs are met from within existing budgets.
- 23.5** Authority, in consultation with the Director of Organisational Improvement , to approve early retirements for Directors and Heads of Service on the ground of efficiency of service (with no augmentation), in accordance with the Council's agreed policy, providing there is no actuarial strain and any costs are met from within existing budgets.
- 23.6** Authority, to conduct formal capability proceedings, excluding the authority to dismiss - which must be in accordance with paragraphs 2.2 and 2.3 above, for senior officers, in accordance with the Council's agreed policies and procedures and the relevant national conditions of service.

DIRECTORS' MANAGEMENT TEAM ⁴

- 23.7** Authority to determine, implement and review of corporate human resource procedures and best practice guidance designed to deliver Council policy.
- 23.8** Authority to approve and implement any actions, procedures or practices to ensure that the Council continues to meet the Investors in People principles and retain recognised status for the Authority.

⁴ The Chief Executive in consultation with the Directors

- 23.9** Authority to determine, implement and review all aspects of single status, including job evaluation, except where such authority has been specifically reserved to members.
- 23.10** Authority, for one independent member of the Directors' Management Team, to hear employee appeals relating to pay, grading, grievance, competence or other related decisions, made by a director or other formally nominated officer, in respect of all employees of the Council, with the exception of senior officers whose appeal procedures should be in accordance with paragraph 2.14 above and/or their relevant national conditions of service.
- 23.11** Authority to undertake, determine and implement an annual review of the Council's subsistence rates for employees, including the rates applied as part of the post entry training facilities, and the relocation package offered to newly appointed employees, in line with inflation.

DIRECTORS

- 23.12** Authority, where nominated by the Head of Paid Service, to conduct formal disciplinary and capability proceedings, including the dismissal of employees below senior officer level, in accordance with the Council's agreed policies and procedures and relevant national conditions of service.
- 23.13** Authority to consider grievances originated by or against Heads of Service, in accordance with the Council's agreed policies and procedures.
- 23.14** Authority, in consultation with the Director of Organisational Improvement, to approve ill health retirements for Heads of Service, in accordance with the Council's agreed policy, providing any costs are met from within existing budgets.
- 23.15** Authority, in consultation with the Director of Organisational Improvement, to approve early retirements for Heads of Service on the ground of efficiency of service (with no augmentation), in accordance with the Council's agreed policy, providing there is no actuarial strain and any costs are met from within existing budgets.

DIRECTOR OF ORGANISATIONAL IMPROVEMENT

- 23.16** Authority to implement any nationally agreed changes to levels of remuneration or conditions of service.
- 23.17** Authority to undertake the evaluation of appropriate grades for posts under the Council's job evaluation scheme.
- 23.18** Authority in connection with the provisions relating to politically restricted posts contained within Sections 1-3 of the Local Government and Housing Act, 1989, to:

- a** compile lists of politically sensitive posts;
- b** amend the list of politically restricted posts to take account of changes in salary and directions given by the Independent Adjudicator;
- c** issue certificates of opinion and such other information as may be required by the Independent Adjudicator.

- 23.19** Authority to obtain independent medical advice on the health of individual employees.
- 23.20** Authority, in consultation with the relevant Director/Head of Service, to refer individual employees to the Council's occupational health counselling service, provided costs can be met from existing departmental budgets.
- 23.21** Authority to undertake, determine and implement an annual review of long service awards for employees in accordance with the Council's scheme.
- 23.22** Authority to obtain specialist independent legal advice on human resource issues, provided the costs can be met from existing budgets.