

# CANNOCK CHASE COUNCIL



# CONSTITUTION

# Constitution of the Council

## Index

| Part          | Contents                                                       | Pages           |
|---------------|----------------------------------------------------------------|-----------------|
| <b>Part 1</b> | <b>Summary and Explanation</b>                                 | 1-1 – 1-3       |
| <b>Part 2</b> | <b>Articles of the constitution</b>                            | -               |
| Section 1     | The Constitution                                               | 2-1-1           |
| Section 2     | Members of the Council                                         | 2-2-1 – 2-2-2   |
| Section 3     | Citizens and the Council                                       | 2-3-1 – 2-3-2   |
| Section 4     | The Full Council                                               | 2-4-1 – 2-4-3   |
| Section 4a    | Honorary Titles                                                | 2-4a-1          |
| Section 5     | The Chair of the Council                                       | 2-5-1           |
| Section 6     | The Cabinet                                                    | 2-6-1 – 2-6-2   |
| Section 7     | The Opposition and Shadow Cabinet                              | 2-7-1 – 2-7-2   |
| Section 8     | Joint Arrangements                                             | 2-8-1 – 2-8-3   |
| Section 9     | Officers                                                       | 2-9-1 – 2-9-4   |
| Section 10    | Decision Making                                                | 2-10-1 – 2-10-3 |
| Section 11    | Finance, Contract and Legal Matters                            | 2-11-1          |
| Section 12    | Review and Revision of the Constitution                        | 2-12-1 – 2-12-2 |
| <b>Part 3</b> | <b>Responsibility for Functions</b>                            | -               |
| Section 13    | Allocation of Functions                                        | 3-13-1 – 3-13-3 |
| Section 14    | Responsibility for Functions – Leader and Cabinet              | 3-14-1          |
| Section 15    | Allocation of Portfolio Responsibilities to Cabinet Members    | 3-15-1 – 3-15-5 |
| Section 16    | Scrutiny Committees – Terms of Reference                       | 3-16-1 – 3-16-5 |
| Section 17    | Planning Control Committee – Terms of Reference                | 3-17-1 – 3-17-2 |
| Section 18    | Licensing and Public Protection Committee – Terms of Reference | 3-18-1 – 3-18-3 |
| Section 19    | Licensing Sub-Committee – Terms of Reference                   | 3-19-1 – 3-19-2 |

| <b>Part</b>   | <b>Contents</b>                                                                              | <b>Pages</b>     |
|---------------|----------------------------------------------------------------------------------------------|------------------|
| Section 20    | Standards Committee – Terms of Reference                                                     | 3-20-1 – 3-20-2  |
| Section 21    | Audit and Governance Committee – Terms of Reference                                          | 3-21-1 – 3-21-3  |
| Section 22    | Appeals and Complaints Panel – Terms of Reference                                            | 3-22-1 – 3-22-6  |
| Section 23    | Joint Appointments Committee and Investigatory & Disciplinary Committee – Terms of Reference | 3-23-1 – 3-23-3  |
| Section 24    | Trade Union Consultative Forum – Terms of Reference                                          | 3-24-1 – 3-24-4  |
| Section 25    | Substitution Scheme for Committees                                                           | 3-25-1 – 3-25-2  |
| Section 26    | Scheme of Delegations                                                                        | 3-26-1 – 3-26-36 |
| <b>Part 4</b> | <b>Rules of Procedure</b>                                                                    | -                |
| Section 27    | Council Procedure Rules                                                                      | 4-27-1 – 4-27-19 |
| Section 28    | Access to Information Procedure Rules                                                        | 4-28-1 – 4-28-8  |
| Section 29    | Budget and Policy Framework Procedure Rules                                                  | 4-29-1 – 4-29-3  |
| Section 30    | Cabinet Procedure Rules                                                                      | 4-30-1 – 4-30-3  |
| Section 31    | Scrutiny and Call-In Procedure Rules                                                         | 4-31-1 – 4-31-5  |
| Section 32    | Financial Regulations                                                                        | 4-32-1 – 4-32-23 |
| Section 33    | Procurement Regulations                                                                      | 4-33-1 – 4-33-25 |
| <b>Part 5</b> | <b>Codes and Protocols</b>                                                                   | -                |
| Section 34    | Code of Conduct for Members                                                                  | 5-34-1 – 5-34-14 |
| Section 35    | Code of Conduct for Employees (Sept 2008)                                                    | 5-35-1 - 5-35-13 |
| Section 36    | Gifts and Hospitality Protocol for Members                                                   | 5-36-1 - 5-36-8  |
| Section 37    | Protocol for Member/Officer Relations                                                        | 5-37-1 - 5-37-10 |
| Section 38    | Monitoring Officer Protocol (Sept 2008)                                                      | 5-38-1 - 5-38-5  |
| Section 39    | Local Protocol for Planning Decision Making                                                  | 5-39-1 – 5-39-19 |
| Section 40    | Protocol for Filming, Recording and Social Media at Meetings                                 | 5-40-1 – 5-40-2  |
| Section 41    | Protocol for Conferring Honorary Titles                                                      | 5-41-1 – 5-41-2  |
| <b>Part 6</b> | <b>Members' Allowances</b>                                                                   | -                |
| Section 42    | Members' Allowances Scheme                                                                   | 6-42-1 – 6-42-11 |

# Part 1

## Summary and Explanation

### **1. The Council's Constitution**

- 1.1 Cannock Chase District Council has adopted this Constitution setting out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent, and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to determine.
- 1.2 The Constitution explains the rights of citizens and how they can interact with the Council.
- 1.3 The Constitution is divided into Parts and Sections each of which set out the structure of the Council, who does what and the basic rules governing the Council's business.
- 1.4 The Council has adopted the 'Leader and Cabinet' executive arrangements after consultation and careful consideration of the needs of the community in order to provide effective leadership and the best quality of service.

### **2. The Constitution**

- 2.1 The Constitution commits the Council to managing its affairs in the best interest of the communities it serves. The Constitution is both the legal mechanism for, and description of, how the Council organises and does its work.

### **3. How the Council Operates**

- 3.1 The Council is composed of 36 Councillors. Elections are held for approximately one third of Councillors three years out of every four. Councillors are normally elected to serve for four years. Councillors are democratically accountable to residents in their Ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their Ward constituents, including those who did not vote for them.
- 3.2 Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties.
- 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 for 4 years who may then appoint up to 9 other members to form 'the Cabinet'. The Leader can only be removed from office by the Council. The Leader decides what matters are delegated to Cabinet or to individual members of the Cabinet, called Portfolio Leaders. The Constitution provides for the actions and decisions of the

Cabinet to be scrutinised by other elected Councillors and for disputes to be resolved.

#### **4. How Decisions Are Made**

- 4.1 The Council (where all 36 Councillors meet as a single decision-making body) is the most important meeting of the Authority. Significant decisions affecting the District and how the District should be governed are decided by Council. The Council elects the Leader of the Council and appoints Councillors to committees, forums, and panels and allocates functions to these bodies. The Council sets the Policy Framework and annual Budget within which the whole Council should work.
- 4.2 The Leader of the Council and their Cabinet of up to 9 Councillors, including a Deputy Leader appointed by the Leader, is the part of the Council responsible for most day-to-day decisions. (The Leader and Cabinet are sometimes referred to as 'the Executive'.) Members appointed to the Cabinet are given specific areas of responsibility known as Portfolios. These members of Cabinet are also known as 'Portfolio Leaders'. When this Constitution refers to 'the Cabinet' it means the Leader of the Council and the other members of the Cabinet working together.
- 4.3 When key decisions are to be made, these are published in the Cabinet's forward plan in so far as they can be anticipated. Meetings of the Cabinet will generally be open for the public to attend except where personal or confidential matters are being discussed.
- 4.4 The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If Cabinet considers a matter which is outside the budget or policy framework, this must be referred to the Council for determination.
- 4.5 The Council appoints Committees to discharge its obligations. The Cabinet may appoint Sub-Committees of the Cabinet. Working groups may also be set up from time to time to deal with specific tasks and to provide the Council and/or Cabinet with information and advice.
- 4.6 The Council has Committees which carry out a number of regulatory functions, including dealing with planning applications and licensing matters. Meetings of these Committees are open to the public except where personal or confidential matters are being discussed.

#### **5. Overview and Scrutiny**

- 5.1 The Council is required to appoint at least one Overview and Scrutiny Committee (usually called a 'Scrutiny Committee') each year. A Scrutiny Committee holds enquiries in public into matters of local concern and may make reports and recommendations which advise the Cabinet and the Council on its policies, budget and service delivery and performance.
- 5.2 A 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. A Scrutiny Committee may set up such Panels as it considers appropriate to deal with reviews of service provision and delivery.

## **6. The Council's Employees**

- 6.1 The Council employs staff (called 'Officers') to give advice, implement decisions and manage day-to-day delivery of its services. Certain specific officers have specific duties to ensure that the Council acts within the law and uses its resources wisely.

**NB. Councillors are also referred to as "Members".**

# **PART 2**

## **ARTICLES OF THE CONSTITUTION**



# Section 1

## The Constitution

### 1.1 POWERS OF THE CONSTITUTION

The Council will exercise all its powers and duties in accordance with the law and this Constitution

### 1.2 THE CONSTITUTION

This Constitution, and all its appendices, is the Constitution of Cannock Chase District Council

### 1.3 PURPOSE OF THE CONSTITUTION

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help Councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure no-one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions, and;
- (h) provide a means for improving delivery of services to the community.

### 1.4 INTERPRETATION AND REVIEW OF THE CONSTITUTION

1.4.1 Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option which it considers is most appropriate to achieve its objectives.

1.4.2 The Council will monitor and evaluate the operation of the Constitution as set out in Section 12.

# Section 2

## Members of the Council

### 2.1 Composition and Eligibility

**Composition:** The Council comprises 36 Councillors (otherwise called Members).

**Eligibility:** To be eligible to stand as a Councillor, candidates must satisfy the relevant legislative criteria.

### 2.2 Election and Terms of Councillors

It is customary that the ordinary election of a third (or as near as may be) of all Councillors will be held on the first Thursday in May in each year. In every fourth year when there is a County Council election after there will be no election for Cannock Chase District Councillors. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### 2.3 Roles and Functions of All Councillors

All Councillors will:

- (a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions.
- (b) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making.
- (c) represent their communities as 'community leaders' and bring their views into the Council's decision-making process i.e. become the advocate of and for their communities.
- (d) participate in the governance and management of the Council and as necessary with other organisations and institutions in the District.
- (e) balance different interests identified within their Ward and represent the interest of the Ward as a whole.
- (f) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances.
- (g) be involved in decision making.
- (h) be available to represent the Council on other bodies.
- (i) maintain the highest standards of conduct and ethics.

## **2.4 Rights and Duties**

- (a) Councillors will have rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (b) Councillors will not make public information, which is confidential personal or exempt, or divulge information given in confidence to anyone other than to a Councillor or officer entitled to know it, unless done so in accordance with the Law.
- (c) For these purposes “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.
- (d) All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession of or under the control of the Cabinet (or any of its committees or panels) which relates to any key decision or which contains material relating to any business to be transacted at a public meeting, unless it contains information falling within the categories of exempt information (see Access to Information Procedure Rules in Part 4).

## **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.

## **2.6 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution.

# Section 3

## Citizens and the Council

### 3.1 CITIZENS' RIGHTS

Citizens have the following rights:

(a) **Information.** Citizens have the right to:

- (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and that part of the meeting is therefore held in private;
- (ii) attend open meetings of the Cabinet;
- (iii) find out from the forward plan what key decisions will be taken by the Cabinet and when in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution;
- (iv) see reports and background papers, and any records of decisions made by the Council in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution;
- (v) inspect the Council's accounts and make their views known to the external auditor; and
- (vi) copies of public documents including this Constitution– a charge may be made for this.
- (vii) inspect the Register of Member's Interests and other public registers during normal office hours at the Civic Offices Beecroft Road Cannock.

(b) **Participation.**

- (i) Citizens have the right to attend Council meetings and submit questions to Council and present deputations in accordance with the Council Procedure Rules (see Part 4).
- (ii) Citizens who are applicants or objectors to a planning application have a right to address the Planning Control Committee under the Protocol for Public Speaking at the Planning Control Committee in Part 4.

(c) **Complaints.** Citizens have the right to complain to:

- (i) the Council itself under its complaints procedure (information on how to complain may be obtained from Customer Services or the Council website);
- (ii) the Local Government Ombudsman, having first used the Council's own complaints procedure;
- (iii) the Council's Monitoring Officer about a breach of the Councillors' Code of Conduct;
- (iv) their local Councillor.

(d) Citizens have the right to:

- (i) vote at local elections if they are registered;
- (ii) contact their local Councillor about any matters of concern to them;
- (iii) petition to request a referendum on a mayoral form of executive;
- (iv) participate in the Council's Community Forums to raise issues of concern and to provide information for feedback to the Cabinet. Such Forums will be held when:
  - There is a specific issue that the Council wants to engage with the community on, or;
  - The community requests that a public meeting be held (a minimum of 10 members of the public need to support the request for a public meeting).

### **3.2 CITIZENS' RESPONSIBILITIES**

Citizens must not be violent, abusive, threatening or discriminatory to Councillors or Officers and must not damage things owned by the Council, Councillors or Officers.

# Section 4

## The Full Council

### 4.1 INTRODUCTION

The Local Government Act 2000 gives the Council responsibility for approving the Policy Framework and Budget.

### 4.2 DEFINITIONS

- (a) **Policy Framework** – the policy framework means the following plans and strategies:
- (i) The Corporate Plan and Performance Plans;
  - (ii) Plans and strategies which together comprise the Local Development Framework, including Neighbourhood Plans;
  - (iii) The Housing 30 year Business Plan;
  - (iv) The Code of Corporate Governance;
  - (v) Codes of Conduct for Members and Officers;
  - (vi) Licensing Act Policy;
  - (vii) Gambling Act Policy;
  - (viii) Food Safety Service Plan;
  - (ix) Hackney Carriage and Private Hire Licensing Policies;
  - (x) Pensions Discretion Policy;
  - (xi) Pay Policy Statement;
  - (xii) Treasury Management Policy;
  - (xiii) Minimum Revenue Provision Policy;
  - (xiv) Any other Policy required by law to be approved by the full Council.
- (b) **Budget** – the budget includes:
- (i) the allocation of financial resources to different services and projects;
  - (ii) proposed contingency funds, i.e. how much money the Council should keep as a reserve;

- (iii) the council tax base, i.e. how the Council Tax should be fixed;
- (iv) setting the council tax;
- (v) decisions relating to the control of the Council's borrowing requirements, i.e. when and how much it should borrow;
- (vi) the control of its capital expenditure, and;
- (vii) the setting of virement limits, i.e. limits on the movement of money from one budget to another.

### **4.3 FUNCTIONS OF THE FULL COUNCIL**

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution or any part;
- (b) approving or adopting the Policy Framework and the Budget;
- (c) making any decision which is contrary to the approved Policy Framework and/or approved Budget;
- (d) considering and approving any amendments to the Policy Framework and Budget in accordance with the Budget and Policy Framework Procedure Rules;
- (e) electing the Leader of the Council and receiving notification from the Leader of the Council of the number and identity of the Cabinet Members and their Portfolios and the identity of the Deputy Leader;
- (f) 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;
- (g) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
- (h) appointing representatives to outside bodies in accordance with the provisions specified in Part 4 of this Constitution, unless the appointment is an executive function or has been delegated by the Council;
- (i) adopting a Members' Allowances Scheme;
- (j) changing the name of the area;
- (k) determining electoral matters which fall within the remit of the Council;
- (l) confirming the appointment of and removal of the three statutory officers; Head of Paid Service, the Monitoring Officer and 'S.151' Officer (Chief Finance Officer);

- (m) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation;
- (n) and all other matters which, by law, must be reserved to the Council. This includes all those functions defined by either statute or by Section 13 in Part 3 of this Constitution as non-executive functions. This Council allocates these functions to various Committees and Officers in Part 3.

#### **4.4 COUNCIL MEETINGS**

There are three types of Council meetings:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings

and they will be conducted in accordance with the Council's Procedure Rules in Part 4 of this Constitution.

# Section 4a

## Honorary Titles

### 4a. HONORARY TITLES

- 4a.1 Under Section 249 of the Local Government Act 1972, the Council has the power to confer the titles of:
- Honorary Alderman/Alderwoman on persons who have rendered eminent services to the Council as past Members of the Council, but who are not then Members of the Council;
  - Freedom of the District to persons of distinction, and, in the opinion of the Council, have rendered eminent services to the District; and
  - Freedom of Entry to current serving uniformed organisations which have rendered conspicuous service and are associated with the District.
- 4a.2 These titles can only be conferred by resolution passed by not less than two-thirds of the Members voting at a meeting specially convened for such purpose.
- 4a.3 No Honorary Alderman/Alderwoman shall, while serving as a Member of the Council, be entitled to be addressed as Alderman/Alderwoman, or to attend or take part in any civic ceremonies of the Council as an Alderman/Alderwoman.
- 4a.4 An Honorary Alderman/Alderwoman may attend and take part in such civic ceremonies as the Council may from time to time decide, but shall not, as such, have the right –
- (a) to attend meetings of the Council or a Committee of the Council; or
  - (b) to receive any allowances or other payments
- 4a.5 The Council may spend such reasonable sums as it thinks fit for the purpose of presenting an address or casket containing an address, to a person or organisation on whom they have conferred the title of Honorary Alderman/Alderwoman, Freedom of the District or Freedom of Entry.
- 4a.6 Freedom of Entry grants military organisations the freedom to march through the streets of the District with Colours flying, drums beating and bayonets fixed.
- 4a.7 Awarding the title of Freedom of the District or Freedom of Entry does not confer any rights or responsibilities on that individual or organisation.
- 4a.8 The criteria and process to be followed for conferring honorary titles is set out in Part 5, Section 41 of the Constitution.

# Section 5

## The Chair of the Council

### 5.1 Role and Function of the Chair

The Chair and Vice-Chair will be elected at the Annual Meeting of the Council. The Chair and Vice-Chair may not be members of the Executive.

The Chair of the Council and, in their absence, the Vice-Chair, will have the following roles and functions:

- (a) the Chair of the Council is the civic head of the Council and will represent the Council at such civic and ceremonial functions, including at the funerals of past or serving Members (subject to the wishes of the families) as the Council and they determine appropriate and will also act as the Council's ambassador within and outside the District.
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and effectively having regard to the rights of Councillors and the interests of the community.
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members determine strategic objectives, policies, and programmes to be followed.
- (d) to promote public involvement in the Council's activities.
- (e) to maintain the dignity of the office and at no time bring discredit to it or the Council.
- (f) to be available for consultation on any matter upon which consultation with the Chair of the Council is required under this Constitution.

### 5.2 Chair's Fundraising

- (i) The Chair may organise, engage in or otherwise be involved in events for the purposes of fund raising for their chosen charities as determined at the start of the municipal year.
- (ii) The Chief Executive shall, in consultation with the Chair of the Council, determine the distribution of the Chair's fundraising and all matters including events, town twinning arrangements and monies raised throughout the year.

# Section 6

## The Cabinet

### 6.1 Role

The Cabinet (acting in the capacity of an Executive) will carry out all of the Council's functions that it is required to do by law or be allowed to do under this Constitution. These are identified in Part 3 of this Constitution.

### 6.2 Form and Composition

- (a) The Cabinet will consist of the Leader of the Council (the Leader), together with at least 2 but not more than 9 Councillors appointed to the Cabinet by the Leader, one of which shall be the Deputy Leader should the Leader so determine that a Deputy be appointed.
- (b) The Leader shall determine the number of Cabinet members and the nature of their Portfolios.
- (c) The Leader shall report 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.
- (d) The Cabinet may create such Committees (referred to as Cabinet Committees) for any such purposes if deemed necessary.

### 6.3 Leader

- (a) The Leader will be a Councillor elected to the position of the Leader by the Council, usually at the first Annual General Meeting (AGM) after the previous Leader's normal day of retirement as a Councillor. The Leader will hold office until the first AGM after their normal day of retirement as a Councillor or until any of the following events occur (if earlier):
  - (i) they resign from office, or
  - (ii) they are suspended from being a Councillor under Part III of the Local Government Act 2000 (as amended) (although they may resume office at the end of the period of suspension), or
  - (iii) they are no longer a Councillor, or
  - (iv) they are 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.
- (b) If the Leader ceases to hold office under the provisions of 6.3(a)(i)-(iv) above, the Council shall elect a new Leader either at the Council meeting at

which they are removed or at a Council meeting to be called as soon as practicable.

- (c) For the avoidance of doubt, the same Councillor may be re-elected as Leader on one or more occasions if the Council so wishes.
- (d) The Leader shall not cease to be a member of the Council on their ordinary day of retirement as a Councillor but shall continue to be a member during their term of office as Leader.

#### **6.4 Other Cabinet Members**

- (a) Other Cabinet members shall be appointed by the Leader at the Annual Council Meeting and shall hold office for such time as the Leader determines or until any of the following events occur (if earlier):
  - (i) they resign from office, or
  - (ii) they are suspended from being a Councillor under Part III of the Local Government Act 2000 (as amended) (although they may resume office at the end of the period of suspension), or
  - (iii) they are no longer a Councillor, or
  - (iv) they are removed from office, either individually or collectively, by the Leader, or
  - (v) the Leader for the time being ceases to hold that office.
- (b) For the avoidance of doubt, the same Councillor may be re-appointed on one or more occasions if the Leader so wishes.
- (c) The Leader may co-opt any such Member as they deem appropriate to assist the Cabinet (or its Cabinet Committees) in its decision making. Such co-opted Members shall not have voting rights and shall not constitute a 'member' for the purposes of a quorum. The co-optee shall be an advisory appointment only.

#### **6.5 Deputy Leader**

The Leader shall appoint a member of the Cabinet as Deputy Leader who shall hold office until:

- (i) The Leader for the time being ceases to hold that office; or
- (ii) they resign from office; or
- (iii) they cease to be a member of the Cabinet; or
- (iv) they are removed from that office by the Leader.

# **Section 7**

## **The Opposition and Shadow Cabinet**

### **7.1 Role of Shadow Cabinet**

- (a) The role of the Shadow Cabinet shall be to oppose, question, challenge and support the decisions of Cabinet as they see fit.
- (b) The Shadow Cabinet shall not act as a Scrutiny Committee or undertake a Scrutiny role as defined in the legislation.

### **7.2 Form and Composition**

- (a) 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.
- (b) The Opposition Leader shall determine the number of Shadow Cabinet members and shall identify lead Shadow Cabinet members to be the opposition spokespersons in respect of each of the services areas and executive functions as they shall choose.
- (c) The Opposition Leader or any member 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.
- (d) The Leader of the Council may on giving at least 48 hours prior written notice request the attendance at a Cabinet meeting of any one or more members of the Shadow Cabinet.

### **7.3 Opposition Leader**

- (a) The Opposition Leader shall be the Leader:
  - (i) of the largest political group that does not hold any seats on the Cabinet, provided that if there are two or more parties of equal size that would qualify under 7.3(a)(i), the Opposition Leader will be the member nominated unanimously by the Leaders of those groups; and
  - (ii) who has accepted that office at a Council meeting.
- (b) Should no Member qualify under 7.3(a), there will be no Opposition Leader and no Shadow Cabinet.

- (c) The Opposition Leader shall hold that position for as long as they fulfil the criteria in paragraphs 7.3(a) and/or (b), or until any of the following events occur (if earlier):
  - (i) they resign from office; or
  - (ii) they are suspended from being a Councillor under Part III of the Local Government Act 2000 (as amended) (although they may resume office at the end of the period of suspension); or
  - (iii) they are no longer a Councillor; or
  - (iv) they are removed from the position of Group Leader by their political group.
- (d) The Opposition Leader shall report 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.
- (e) For the avoidance of doubt, the same Councillor may be reappointed as Opposition Leader on one or more occasions if the Council so wishes.

#### **7.4 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):
  - (i) they resign from office; or
  - (ii) they are suspended from being a Councillor under Part III of the Local Government Act 2000 (as amended) (although they may resume office at the end of the period of suspension); or
  - (iii) they are no longer a Councillor; or
  - (iv) they are removed from that position, either individually or collectively by the Opposition Leader; or
  - (v) the Opposition Leader for the time being ceases to hold that office following the occurrence of any event listed in paragraphs 7.3(c)(i)-(iv).
- (b) For the avoidance of doubt, the same Councillor may be re-appointed on one or more occasions if the Opposition Leader so wishes.

# Section 8

## Joint Arrangements

### 8.1 Arrangements to Promote Wellbeing

The Cabinet, in order to promote the economic, social or environmental well-being of its area, and subject to statutory requirements, may:

- (a) enter into arrangements or agreements with any person or body.
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body, and
- (c) exercise on behalf of that person or body any functions of that person or body.

### 8.2 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the joint authority as a whole.
- (d) Cabinet may appoint Members to a joint committee from outside the Executive in the following circumstances:
  - (i) the joint committee has functions for only part of the area of the authority and that area is smaller than two-fifths of the authority by area or population. In such cases, Cabinet may appoint to the joint committee any Councillor who is a member for a Ward which is wholly or partly contained within the area.
  - (ii) the political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of authorities in Part 3 of this Constitution.

### **8.3 Access to Information**

- (a) The Access to Information Procedure Rules set out in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then the Access to Information Procedure Rules as applied to the executive will apply.
- (c) If the joint committee contains members who are not on the executive of any participating authority the Access to Information rules in Part VA of the Local Government Act 1972 will apply.

### **8.4 Delegation To and From Other Local Authorities**

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### **8.5 Contracting Out**

The Council, in respect of non-executive functions, and Cabinet, in respect of executive functions, may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to specific legislative provisions, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

### **8.6 Joint Health Scrutiny Arrangements**

8.6.1 The Council has agreed a Code of Joint Working between the District Council and Staffordshire County Council in relation to Overview and Scrutiny of health matters.

8.6.2 In accordance with the Code:

- (a) The County Council shall discharge the overview and scrutiny function under the Health and Social Care Act 2001 and subsequent guidance including the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.
- (b) The Chair of the Health, Wellbeing and the Community Scrutiny Committee will be appointed to Staffordshire County Council's Health and Care Overview & Scrutiny Committee.
- (c) The County Council is entitled to appoint one of its members to the Health, Wellbeing and the Community Scrutiny Committee in relation to health matters.

## **8.7 Shared Services with Stafford Borough Council**

- 8.7.1 In April 2023, the Council approved a Framework Agreement with Stafford Borough Council to enable the sharing of staffing resource across both authorities ("shared services").8.7.2 Under section 101 of the Local Government Act 1972, and section 9EA of the Local Government Act 2000, a local authority may arrange for the discharge of any of its functions by any other local authority. Cabinet and Council agreed to delegate authority to Stafford Borough Council to discharge the Council's functions in respect of Economic Development and Planning, Operations, Transformation and Assurance (Human Resources and Technology) and Law and Governance. The Council also agreed to accept delegated authority from Stafford Borough Council to discharge that Council's functions in respect of Regulatory Services, Wellbeing, Housing and Corporate Asset Management, Finance and Transformation and Assurance. It was also agreed that those functions would be delegated to officers in accordance with the Council's scheme of delegation to officers.
- 8.7.3 Under section 113 of the Local Government Act 1972, a local authority may enter into an agreement with another local authority for the placing at the disposal of the latter authority the services of staff employed by the former authority. In April 2023, both Councils agreed to place its officers at the disposal of the other Council for the purpose of delivering any services shared between them.
- 8.7.4 By virtue of the above, the functions delegated to the Council by Stafford Borough Council can be carried out by officers under the Council's scheme of delegation regardless of whether the officer is employed by the Council or by Stafford Borough Council.

# Section 9

## Officers

### 9.1 Management Structure

- (a) **General** – the Council may engage such employees (called ‘Officers’) as it considers necessary to carry out its functions.
- (b) **Statutory Officers** – the Council will engage persons for the following posts:
  - Chief Executive (and Head of Paid Service)
  - Monitoring Officer, and.
  - Chief Finance Officer (also referred to as the ‘S.151 Officer’).
- (c) **Management Structure** – the Head of Paid Service will publicise a description of the overall management structure of the Council. This is set out in the Annex to this Section.

### 9.2 Functions of the Head of Paid Service

- (a) The Head of Paid Service will report to full Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) The Head of Paid Service may not be the Monitoring Officer. For the purposes of good governance, the Head of Paid Service is preferably not the Chief Finance Officer.
- (c) Overall corporate management and operational responsibility (including overall management responsibility for all Officers).
- (d) Provision of professional advice to all parties in the decision-making process.
- (e) Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council’s decisions.

### 9.3 Functions of the Monitoring Officer

In addition to the statutory functions listed in the Monitoring Officer Protocol set out in Section 38 of this Constitution, the Monitoring Officer has the following functions:

- (a) **Maintaining the Constitution** – the Monitoring Officer will ensure that an up-to-date version of the Constitution is maintained and will ensure that it is widely available for consultation by Members, Officers, and the public.

- (b) **Ensuring lawfulness and fairness of decision making** – after consulting only with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to full Council, or to the Cabinet in relation to an executive function, if they consider that any proposal, decision, or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee** – the Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support and services to the Standards Committee.
- (d) **Proper Officer for Access to Information** – the Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.
- (e) **Advising whether Cabinet decisions are within the Budget and Policy Framework** – the Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (f) **Restrictions on posts** – the Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### 9.4 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making** – after consulting only with the Head of Paid Service and Monitoring Officer, the Chief Finance Officer will report to the full Council, or to the Cabinet in relation to an executive function and the Council's external auditors, if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs** – the Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management** – the Chief Finance Officer will contribute to the corporate management of the Council, in particular, through provision of professional financial advice.
- (d) **Providing advice** – the Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.
- (e) **Give financial information** – the Chief Finance Officer will provide financial information to the media, members of the public and community.

## **9.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer**

The Council will provide the Monitoring Officer and Chief Finance Officer with such Officers, accommodation and other resources as are sufficient in the Monitoring Officer's and the Chief Finance Officer's opinions respectively to allow them to perform their duties.

## **9.6 Conduct**

Officers will comply with such protocol that is specific to their role, the Protocol for Member/Officer Relations and the Officers' Code of Conduct set out in Part 5 of this Constitution.

# Annex 1 – Management Structure

Effective from 1 April 2023

## Chief Executive (and Head of Paid Service)

### Deputy Chief Executive - Place

### Deputy Chief Executive - Resources (and S151 Officer)

| Head of Economic Development & Planning                                                                                                                               | Head of Regulatory Services                                                                                                                                                                                                                                                           | Head of Operations                                                                                                                                                                                                                                     | Head of Wellbeing                                                                                                                                                                                                                                                                                                                                                                               | Head of Housing & Corporate Assets                                                                                                                                                        | <i>Direct reports to the DCE - Resources</i>                                                   | Head of Law & Governance<br>(and Monitoring Officer)                                                                                                                                                     | Head of Transformation & Assurance                                                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>- Economic Development</li> <li>- Planning Policy</li> <li>- Development Management</li> <li>- Planning Enforcement</li> </ul> | <ul style="list-style-type: none"> <li>- Climate Change</li> <li>- Environmental Health</li> <li>- Licensing</li> <li>- Private Sector Housing</li> <li>- Civil Contingencies</li> <li>- Building Control</li> <li>- Land Charges</li> <li>- Street Naming &amp; Numbering</li> </ul> | <ul style="list-style-type: none"> <li>- Streetscene (incl. Parks &amp; Open Spaces)</li> <li>- Waste Contract</li> <li>- Bereavement Services</li> <li>- Fleet Management &amp; Vehicle Workshop</li> <li>- Markets</li> <li>- Car Parking</li> </ul> | <ul style="list-style-type: none"> <li>- Housing Strategy / Homelessness</li> <li>- Housing Register (SBC only)</li> <li>- Disabled Facilities Grants</li> <li>- Leisure</li> <li>- Health in All Policies</li> <li>- Reducing Inequalities</li> <li>- Asylum Seekers &amp; Refugees</li> <li>- Vulnerable People</li> <li>- Community Safety &amp; CCTV</li> <li>- Voluntary Sector</li> </ul> | <ul style="list-style-type: none"> <li>- Housing-HRA (CCDC)</li> <li>- Housing Register (CCDC only)</li> <li>- Corporate Asset Management</li> <li>- Caretaking &amp; Cleaning</li> </ul> | <ul style="list-style-type: none"> <li>- Finance</li> <li>- Revenues &amp; Benefits</li> </ul> | <ul style="list-style-type: none"> <li>- Legal Services</li> <li>- Democratic Services</li> <li>- Electoral Services</li> <li>- Information Governance</li> <li>- Civic and Corporate Support</li> </ul> | <ul style="list-style-type: none"> <li>- Human Resources</li> <li>- Information Technology</li> <li>- Business Planning &amp; Performance</li> <li>- Projects &amp; Transformation</li> <li>- Customer Services</li> <li>- Communications</li> <li>- Internal Audit &amp; Risk</li> <li>- Health &amp; Safety</li> <li>- Procurement</li> </ul> |

# Section 10

## Decision Making

### 10.1 RESPONSIBILITY FOR DECISION MAKING

This Constitution allocates to the Cabinet and Committees and Forums the functions described for each in their respective sections of Part 3 and allocates to Officers the powers and functions under the section headed Scheme of Delegations of Part 3. Where no such allocation is made the power or function lies either with the Council or the Executive in accordance with the law pertaining at the time of the decision.

### 10.2 PRINCIPLES OF DECISION MAKING

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality – (i.e. the action must be proportionate to the desired outcome). This is a defining principle of the approach to implementation of the Human Rights Act 1998 and reflects the need to find a fair balance between the protection of individual rights and the interests of the community at large;
- (b) due consultation and the taking of professional advice;
- (c) a presumption in favour of openness;
- (d) clarity of aims and desired outcomes;
- (e) respect for human rights, including equality and non-discrimination;
- (f) explaining what options were considered; and
- (g) giving reasons for the decision.

### 10.3 TYPES OF DECISIONS

- (a) **Decisions reserved to full Council** – decisions relating to the functions listed in Part 2, Section 4, of this Constitution will be made by the full Council and not delegated.
- (b) **Key Decisions by the Cabinet** –
  - (i) A key decision is defined by the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 as an executive decision likely:

- to result in the Council incurring expenditure or making savings which are significant having regard to the Council's budget for the service or function to which the decision relates, or
  - to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Council's area.
- (ii) It is for the Council to determine what is 'significant' in each case. For Cannock Chase Council this is:
- a threshold for expenditure or savings of 0.5% of the gross turnover of the Council, or
  - a decision affecting communities living or working in two or more Wards.
- (iii) A decision taker may only may a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

#### **10.4 DECISION MAKING BY THE FULL COUNCIL**

The Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **10.5 DECISION MAKING BY THE CABINET**

The Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matters.

#### **10.6 DECISION MAKING BY SCRUTINY COMMITTEE**

The Scrutiny Committee will follow the Scrutiny and Call-In Procedure Rules set out in Part 4 of this Constitution when considering any matters.

#### **10.7 DECISION MAKING BY OTHER COMMITTEES AND SUB-COMMITTEES ESTABLISHED BY THE COUNCIL**

Other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

#### **10.8 DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS**

- (a) The Council, any of its Committees or Panels or an Officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in the Human Rights Act 1998 and the European Convention on Human Rights.

(b) Examples of such decisions are:

- determining a planning application;
- determining an application for a licence;
- determining a complaint made against the Council in accordance with the Council's Comments, Compliments and Complaints Procedure;
- reviewing a decision on entitlement to Housing or Council Tax Benefit;
- reviewing a decision to terminate an Introductory Tenancy of a Council house;
- determination of Members' conduct in accordance with the Members' Code of Conduct.

*This list is not exhaustive.*

# **Section 11**

## **Finance, Contracts and Legal Matters**

### **11.1 Financial Management**

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

### **11.2 Contracts**

Every contract made by the Council will comply with the Procurement Regulations set out in Part 4 of this Constitution.

### **11.3 Legal Proceedings**

The Monitoring Officer (or whosoever they delegate) 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 authorised person considers that such action is necessary to protect the Council's interest.

### **11.4 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 Chief Executive or Monitoring Officer or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- (b) Any contract entered into on behalf of the Council in the discharge of an executive function shall be made in writing. Unless otherwise authorised under the Procurement Regulations, any such contract with a value exceeding £50,000 must either be signed by a duly authorised officer or where the value exceeds £100,000, made under the Common Seal of the Council attested by at least one authorised officer.

### **11.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer (or whoever they delegate). 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.

# **Section 12**

## **Review and Revision of the Constitution**

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

The Monitoring Officer in conjunction with a Working Group of Members will annually monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect, and that the Constitution accurately reflects current law and practice.

### **12.2 Changes to the Constitution**

- (a) Subject to (b) below, changes to the Constitution will only be approved by the full Council after consideration of a report by the Monitoring Officer whether this report results from the annual review or the exercise of Council Procedure Rule 24 or following a request by an Officer or Notice of Motion.
- (b) Where the Council has approved a document forming part of the Constitution such as the Members' Allowance Scheme, Procedure Rules, Codes of Conduct or has added to or amended delegations, these will be incorporated into the Constitution without further resort to the Council. Where there are changes to the Management Structure, or legislation, the Council's Monitoring Officer and Solicitor is authorised to make consequential amendments to the Constitution without further resort to the Council.

### **12.3 Interpretation**

Where in a meeting of the Council any meaning or application of any part of this Constitution is in question, the ruling of the Chair shall be final and not be challenged.

### **12.4 Suspension**

- (a) The only parts of the Constitution which may be suspended are:
  - Council Procedure Rules,
  - Cabinet Procedure Rules,
  - Financial Regulations,
  - Procurement Regulations.
- (b) These may only be suspended in the case of Council or Cabinet Procedure Rules for the duration of the meeting and where at least two-thirds of Members are present and only to the extent proportionate to the result to be achieved taking into account the purposes and principles of this Constitution, and only provided the suspension is lawful.

- (c) Financial Regulations or Procurement Regulations may only be suspended to the extent needed and proportionate to the needs of the particular matter and with the approval of the Chief Financial Officer or Monitoring Officer.

## **12.5 Publication**

- (a) The Chief Executive or person appointed by them for this purpose will ensure that electronic copies of this Constitution are available to each Councillor and are made available on the Council's Website. Printed copies will be made available to Councillors on request.
- (b) Printed copies will be made available for inspection during office hours at the Council's offices and may be purchased on payment of a reasonable fee.

# **PART 3**

## **RESPONSIBILITY FOR FUNCTIONS**

# Section 13

## Allocation of Functions

These are functions which the Council may decide should be exercised by the Executive (Leader and Cabinet) or by full Council, a Committee, Sub-Committee or Officers.

Details of the onward delegation of functions to Officers are set out in the Scheme of Delegation in Part 3, Section 26 of this Constitution.

| Function                                                                                                               | Decision Making Body                                                         |
|------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| Any function under a local Act other than a function which is specified not to be the responsibility of the Executive: | Executive                                                                    |
| Any function relating to contaminated land:                                                                            | Executive                                                                    |
| except where it involves:                                                                                              |                                                                              |
| (a) determining an application from a person for a licence, approval, consent permission or registration.              | These fall within the remit of the Licensing and Public Protection Committee |
| (b) direct regulation or a person (with substantial discretion as to the regulatory action), or                        |                                                                              |
| (c) enforcement of any such licence, approval, consent, permission, or direct regulation.                              |                                                                              |
| The discharge of any function relating to the control of pollution or the management of air quality:                   | Executive                                                                    |
| except where it involves:                                                                                              |                                                                              |
| (a) determining an application from a person for a licence, approval, consent permission or registration.              | These fall within the remit of the Licensing and Public Protection Committee |
| (b) direct regulation or a person (with substantial discretion as to the regulatory action), or                        |                                                                              |
| (c) enforcement of any such licence, approval, consent, permission, or direct regulation.                              |                                                                              |
|                                                                                                                        |                                                                              |

| <b>Function</b>                                                                                            | <b>Decision Making Body</b>                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The service of an abatement notice in respect of a statutory nuisance:                                     | Council                                                                                                                                                                               |
| except where it involves:                                                                                  |                                                                                                                                                                                       |
| (a) determining an application from a person for a licence, approval, consent permission or registration.  | These fall within the remit of the Licensing and Public Protection Committee                                                                                                          |
| (b) direct regulation or a person (with substantial discretion as to the regulatory action), or            |                                                                                                                                                                                       |
| (c) enforcement of any such licence, approval, consent, permission, or direct regulation.                  |                                                                                                                                                                                       |
|                                                                                                            |                                                                                                                                                                                       |
| The inspection of the Authority's area to detect any statutory nuisance:                                   | Council                                                                                                                                                                               |
| except where it involves:                                                                                  |                                                                                                                                                                                       |
| (a) determining an application from a person for a licence, approval, consent permission or registration.  | These fall within the remit of the Licensing and Public Protection Committee                                                                                                          |
| (b) direct regulation or a person (with substantial discretion as to the regulatory action), or            |                                                                                                                                                                                       |
| (c) enforcement of any such licence, approval, consent, permission, or direct regulation.                  |                                                                                                                                                                                       |
|                                                                                                            |                                                                                                                                                                                       |
| The investigation of a complaint as to the existence of a statutory nuisance                               | Council                                                                                                                                                                               |
| except where it involves:                                                                                  |                                                                                                                                                                                       |
| (a) determining an application from a person for a licence, approval, consent permission or registration.  | These fall within the remit of the Licensing and Public Protection Committee                                                                                                          |
| (b) direct regulation or a person (with substantial discretion as to the regulatory action), or            |                                                                                                                                                                                       |
| (c) enforcement of any such licence, approval, consent, permission, or direct regulation.                  |                                                                                                                                                                                       |
|                                                                                                            |                                                                                                                                                                                       |
| The obtaining of information under S.330 of the Town and Country Planning Act 1990 as to interest in land: | Executive – only to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders |
|                                                                                                            |                                                                                                                                                                                       |

| Function                                                                                                                                                                                                                                                                                                                                                                                           | Decision Making Body                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The obtaining of particulars of persons interested in land under S.16 of the Local Government (Miscellaneous Provisions) Act 1976:                                                                                                                                                                                                                                                                 | Executive –<br>only to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders                                                                                                                                                                                                                                                                                                                                                     |
| The passing of a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply to the Authority's area:                                                                                                                                                                                                                                                                     | Council                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>The appointment of any individual to:</p> <ul style="list-style-type: none"> <li>(a) any office other than an office in which they are employed by the Authority.</li> <li>(b) any-body other than the Authority or a joint committee of two or more authorities.</li> <li>(c) any committee or sub-committee of any such a body.</li> </ul> <p>and the revocation of any such appointment.</p> | <p>Council</p> <ul style="list-style-type: none"> <li>(a) the Executive may request Council to recommend nominations in connection with executive functions.</li> <li>(b) Council in all other circumstances unless such appointment is directly related to the functions of a Committee. In such circumstances, the relevant Committee shall make the appointment from the Committee's membership (e.g., Scrutiny Committee may appoint one of its members to the Scrutiny Committee (or similar body) of another organisation).</li> </ul> |

# **Section 14**

## **Responsibility for Functions**

### **– Leader and Cabinet**

All executive functions (as defined by statute) shall be exercised by the Executive, i.e. the Leader and Cabinet. The Leader will determine which executive functions will be the responsibility of the Cabinet collectively and which shall be the responsibility of each Portfolio Leader. Any executive functions not allocated to the Cabinet collectively or to a Portfolio Leader shall be the responsibility of the Leader.

The current allocation of responsibilities to the Cabinet and the Portfolio Leaders is recorded in Section 15.

The Executive may delegate any of its functions to Officers of the Council where the law permits. The current delegations to Officers are set out in Part 3, Section 26, of this Constitution.

# **Section 15**

## **Allocation of Portfolio Responsibilities to Cabinet Members**

### **15.1 Collective Responsibility of the Cabinet**

Cabinet will exercise collective responsibility in exercising its functions including the following:

- The consideration of proposals involving any growth or service development and the making of recommendations to Council for approval if those proposals are contrary to the Policy Framework or not in accordance with the Budget.
- The consideration and submission of proposals to Council for approval in respect of the allocation of resources including consideration of the Council's Budget and the Council Tax to be set.
- The consideration and submission of policies to Council for approval in respect of plans and strategies identified in Section 4 of Part 2 of the Constitution as forming part of the Council's Policy Framework.
- The consideration and determination of plans and strategies which do not form part of the Council's Policy Framework.
- The appointment of representatives to other bodies and attendance at annual conferences where these relate to executive functions.
- The consideration of the implications of new or proposed legislation.
- The implementation of the Policy Framework and the Budget as approved by Council.
- Overall responsibility for good governance and value for money.
- The implementation of Council functions except those which are specifically stated not to be the responsibility of the Cabinet.

### **15.2 Leader of the Council**

The Leader is responsible for speaking at Council, Cabinet, Committees, and other meetings on any matter which falls within the Collective Responsibility of Cabinet as detailed above and in particular:

- Member related matters including chairing of Cabinet, Civic Regalia, hospitality accounts, the Official Car, Members' allowances, and functions relating to the conduct of Committee meetings.

- Local Government and Social Care Ombudsman and MP liaison.
- All statutory and non-statutory plans and policy documents prepared by the Council (insofar as they are not the responsibility of any other Committee, Member or Officer of the Council) including (but not limited to):
  - o the Corporate Plan, and
  - o Priority Delivery Plans.
- Bequests and Donations to the Council.
- Development of the Council's Budget Strategy / Planning
- Museum of Cannock Chase

The Leader also retains discretion to speak on any matter which falls within the remit of a specific Portfolio Leader; although they may delegate the responsibility for speaking on such matters to the Portfolio Leaders in the manner described in paragraphs 15.4 to 15.9.

### **15.3 Deputy Leader**

The Deputy Leader will substitute for the Leader when necessary and be allocated one of the Portfolios referred to in paragraphs 15.4 to 15.9 as so desired by the Leader.

### **15.4 Portfolio Leader for Community Wellbeing**

The Portfolio Leader will be responsible for speaking at Council, Cabinet, Committees, and other meetings on the following:

- Housing Strategy
- Housing Options and Rough Sleeping
- Housing Adaptations and Assistance
- Poverty and Food Justice
- Leisure Centres and Sports
- Health and Wellbeing
- Community Safety & CCTV (insofar as they are not the responsibility of the Chief Executive)
- Crime Reduction and Prevention (insofar as they are not the responsibility of the Chief Executive)
- Voluntary Sector and Communities
- Asylum and Resettlement
- Disabled Facilities Grants (except where it involves determining any grant)
- All statutory and non-statutory plans and policy documents prepared by the Council relating to the above-mentioned services and facilities.

## **15.5 Portfolio Leader for Environment and Climate Change**

The Portfolio Leader will be responsible for speaking at Council, Cabinet, Committees, and other meetings on the following (except where it involves determining any application, taking direct regulation or enforcement action):

- Waste and Recycling
- Engineering Services
- Markets
- Pest Control
- Fleet Management and Vehicle Workshop
- Car Parks and Lorry Parks
- Highways Liaison
- Climate Change
- Abandoned Vehicles
- Food Hygiene
- Health and Safety (Commercial Premises)
- Environmental Protection
- Licensing Services
- Civil Contingencies
- All statutory and non-statutory plans and policy documents prepared by the Council relating to the above-mentioned services and facilities.

## **15.6 Portfolio Leader for Housing and Corporate Assets**

The Portfolio Leader will be responsible for speaking at Council, Cabinet, Committees, and other meetings on the following (except where it involves determining any application, taking direct regulation or enforcement action):

- Housing Tenancy Services
- Housing Property Services
- Housing Maintenance
- Renovation Grants and Stock Decarbonisation
- Sheltered Housing
- Disabled Facilities Works
- Asset and Commercial Estate Management
- Caretaking and Cleaning
- All statutory and non-statutory plans and policy documents prepared by the Council relating to the above-mentioned services and facilities.

### **15.7 Portfolio Leader for Parks, Culture, and Heritage**

The Portfolio Leader will be responsible for speaking at Council, Cabinet, Committees, and other meetings on the following (except where it involves determining any application, taking direct regulation or enforcement action):

- Parks and Open Spaces
- Grounds Maintenance
- Cannock Chase National Landscape
- Drainage and Watercourses
- Arboricultural and Ecology
- Landscaping and Countryside Services
- Cemeteries and Burial Grounds
- Allotments
- Street Cleansing and Graffiti Removal
- Theatres and the Arts
- Culture and Heritage
- All statutory and non-statutory plans and policy documents prepared by the Council relating to the above-mentioned services and facilities.

### **15.8 Portfolio Leader for Regeneration and High Streets (*allocated to the Deputy Leader of the Council*)**

The Portfolio Leader will be responsible for speaking at Council, Cabinet, Committees, and other meetings on the following:

- Economic Development
- Business Support and Enterprise
- Regeneration Delivery
- Industrial Estates
- Town Centres
- Car Parking Strategy
- Planning Policy and Enforcement
- Local Development Framework
- Neighbourhood Plans
- Section 106 / Community Infrastructure Levy
- Tourism
- Conservation and Heritage
- Building Control
- Land Charges

- Street Naming and Numbering
- All statutory and non-statutory plans and policy documents prepared by the Council relating to the above-mentioned service areas and facilities.

### **15.9 Portfolio Leader for Resources and Transformation**

The Portfolio Leader will be responsible for speaking at Council, Cabinet, Committees, and other meetings on the following (except where it involves determining any application, taking direct regulation or enforcement action):

- Legal Services
- Information Governance
- Democratic Services
- Electoral Services
- Civic, Corporate and Support Services
- HR, Pensions, and Employee Services
- Equality and Diversity
- Information Technology
- Business Planning and Performance
- Projects and Transformation
- Customer Services
- Communications and Engagement
- Audit, Insurance, and Risk Management
- Health and Safety (Council Premises)
- Procurement
- Corporate Policy and Performance
- Revenues and Benefits
- Management Accounts
- Budget Planning / Strategy
- Housing Revenue Account Finance
- All statutory and non-statutory plans and policy documents prepared by the Council relating to the above-mentioned services and facilities.

# Section 16

## Scrutiny Committees

### 16.1 Status

The Council will appoint such Overview & Scrutiny Committees as it considers appropriate (referred to as “Scrutiny Committees”). The current Scrutiny Committees are listed in the **Appendix** to this Section with their membership and Terms of Reference.

### 16.2 Membership and Method of Appointment

Every Member of Cannock Chase District Council is eligible to be member of Scrutiny Committees except those who are members of the Executive.

Membership of Scrutiny Committees will be subject to the requirements as to political balance set out by Section 15 of the Local Government and Housing Act 1989 (as amended).

Each Scrutiny Committee will have 11 members except that:

- (i) The Council has agreed a Code of Joint Working between the District Council and Staffordshire County Council in relation to Overview and Scrutiny of health matters.
- (ii) In accordance with the agreed Code:
  - (a) The County Council shall discharge the overview and scrutiny function under the Health and Social Care Act 2001 and subsequent guidance including the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.
  - (b) The Chair of the Health, Wellbeing, and The Community Scrutiny Committee will be appointed to Staffordshire County Council’s Health and Care Overview and Scrutiny Committee.
  - (c) The County Council is entitled to appoint one of its members to the Health, Wellbeing, and The Community Scrutiny Committee who will sit as an additional member on that committee in relation to health matters.

The Council’s ‘Substitution Scheme for Committees (Part 3, Section 25 of this Constitution) shall apply, with each political group entitled to nominate one named substitute.

Scrutiny Committees shall be entitled to appoint individuals and/or representatives of organisations as non-voting co-optees.

### 16.3 Chair and Vice-Chair

The Chairs and Vice-Chairs will be appointed by Council.

#### **16.4 Frequency of Meetings**

The meetings of each Scrutiny Committee will be held in accordance with the schedule of meetings agreed by the Council and other arrangements regarding the calling of meeting.

The Chair of a Scrutiny Committee shall convene additional meetings of that Scrutiny Committee as required to deal with 'call-ins' and matters referred to that Scrutiny Committee which cannot reasonably be considered at the next scheduled meeting.

The meetings of any time-limited panels or working groups set up by a Scrutiny Committee will be convened as their work programme requires.

#### **16.5 Agenda**

Prior to the meeting of each Scrutiny Committee, the Chief Executive will circulate to all Members of the Scrutiny Committees the Agenda and Reports to be considered by the relevant Scrutiny Committee(s) for which they are Members.

#### **16.6 Proceedings**

The Chief Executive (or nominee) shall be the Clerk to the Scrutiny Committees.

The Council's Procedure Rules listed in Council Procedure Rule 22 will apply.

#### **16.7 Work Programme and Agenda Items**

The work programme of a Scrutiny Committee will be determined by the Committee in consultation with other stakeholders, including representatives from partner organisations.

Any Member of the Council who wishes to do so may refer an item to be included on an agenda for consideration at a future meeting of a Scrutiny committee. Such referrals must be in writing and received by the Chief Executive at least 7 working days prior to the date of the meeting at which the matter is to be considered. Such referrals must be relevant to the functions of the particular Scrutiny Committee and relate to the discharge of any function of the Council.

#### **16.8 Reports to Council or Cabinet**

Reports detailing the recommendations will be submitted to the Council or the Executive, which may accept, amend, or reject any recommendations of a Scrutiny Committee.

#### **16.9 Attendance by Non-Committee Members**

Any member of the Executive may, if invited by the Chair, attend a meeting of a Scrutiny Committee. They may answer questions and at the invitation of the Chair, speak.

If the Cabinet member attends to speak on a specific item, they may leave at the conclusion of that item, but are welcome to remain at the Chair's discretion.

A Scrutiny Committee may require any member of the Cabinet, the Head of Paid Service, or any Head of Service to attend before it to explain in relation to matters within their remit:

- (i) any particular decision or series of decisions,
- (ii) the extent to which the actions taken implement Council policy, and/or
- (iii) the performance of the service delivered,

and it is the duty of those persons to attend if so required.

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

#### **16.10 Liaison with Cabinet and Other Chairs**

Liaison meetings will be held between the Cabinet Portfolio Leader and the Chairs of the relevant Scrutiny Committee as required to facilitate a working relationship between the Executive and Scrutiny.

#### **16.11 General Role**

Scrutiny Committees will:

- (i) be available for consultation in accordance with the Budget and Policy Framework Procedure Rules.
- (ii) review and scrutinise decisions made by the Executive within their Terms of Reference.
- (iii) review and scrutinise current Council policies and consider future policy development within their Terms of Reference.
- (iv) review and scrutinise decisions of the Council, committees, and officers within their Terms of Reference.
- (v) receive and review, having regard to the Council's Performance Management Framework, that part of the Council's Annual Performance Management report which is within their Terms of Reference.
- (vi) receive and review all matters referred to it by other committees Council Cabinet or Members relevant to the scrutiny function within their Terms of Reference.
- (vii) monitor, review and/or scrutinise the performance of the Council and its Local Strategic Partners including cross-cutting issues in relation to the discharge of the Council's functions within their Terms of Reference.
- (viii) make reports and/or recommendations to Council and/or Cabinet in connection with the discharge of any functions within their Terms of Reference.
- (ix) In respect of the Committee with responsibility for Health-related matters, the Chair of that Committee shall attend all Staffordshire County Council Health and Care Overview and Scrutiny Committee meetings. In the event of not being able to attend a substitute will be nominated.

## **16.12 Specific Functions**

- (i) exercise the right to 'call-in' for consideration the decisions within their Terms of Reference made but not yet implemented by the Cabinet (see Overview and Scrutiny Procedure Rules set out in Part 4, Section 31, of this Constitution).
- (ii) question and gather evidence from any person (with their consent) deemed reasonably necessary to discharge its role and functions.
- (iii) review and scrutinise the performance of the Council, Cabinet and Officers in relation to Council priorities, policy objectives, performance & partnership matters, performance targets and/or particular service areas within their Terms of Reference.
- (iv) question members of the Cabinet and Chief Officers about their performance in relation to significant and/or major initiatives or projects within their Terms of Reference.
- (v) if a Scrutiny Committee thinks that a key decision has been taken without compliance with the provisions of the Constitution, it may require the Cabinet to submit a report to the Council.

## **16.13 Proceedings of a Scrutiny Committee**

A Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4, Section 31, of this Constitution.

## **16.14 Time-limited Panels**

A Scrutiny Committee may set up panels to consider specific issues and report back on their findings. These panels will be time-limited to the duration of the review.

A Scrutiny Committee may also set up working groups as it considers appropriate to investigate and report back on issues.

# Appendix

| Scrutiny Committee                                                                                                    | Terms of Reference                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Economic Prosperity</p> <p>(11 Members)</p>                                                                        | <p><b>Corporate Plan Priority: Economic Prosperity</b></p> <p><b>Services / Functions</b></p> <ul style="list-style-type: none"> <li>• Economic Development</li> <li>• Planning Policy and Development Control</li> <li>• Building Control</li> <li>• Markets</li> <li>• Town Centre Regeneration</li> <li>• Car Parking Strategy</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p>Health, Wellbeing, and The Community</p> <p>(11 Members +1 SCC Member for Health Scrutiny Statutory Functions)</p> | <p><b>Corporate Plan Priorities: Health &amp; Wellbeing and The Community</b></p> <p><b>Services / Functions</b></p> <ul style="list-style-type: none"> <li>• Culture and Sport</li> <li>• Commonwealth Games</li> <li>• Health Scrutiny Statutory Functions</li> <li>• Housing and Homelessness</li> <li>• Community Safety, CCTV and Partnerships</li> <li>• Disabled Facilities Grants</li> <li>• Voluntary Organisations and Funding</li> <li>• Poverty Emergency</li> <li>• Asylum Seekers and Refugees</li> <li>• Building of Council Housing and Retrofitting</li> <li>• Parks and Open Spaces</li> <li>• Grounds Maintenance</li> <li>• Countryside Services, Trees, and Allotments</li> <li>• Environmental Health and Licensing</li> <li>• Environmental Protection</li> <li>• Private Sector Housing</li> <li>• Street Cleansing</li> <li>• Waste &amp; Engineering Services</li> <li>• Bereavement Services</li> </ul> |
| <p>Responsible Council</p> <p>(11 Members)</p>                                                                        | <p><b>Corporate Plan Priority: Responsible Council</b></p> <p><b>Services / Functions</b></p> <ul style="list-style-type: none"> <li>• Budget Consultation</li> <li>• Corporate / Cross Cutting Issues</li> <li>• Finance</li> <li>• Council Tax and National Non-Domestic Rates Collection</li> <li>• Housing Benefit and Local Council Tax Reduction</li> <li>• Corporate, Support and Shared Services</li> <li>• Civic Support</li> <li>• Land and Property Holdings (excluding HRA Property)</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                        |

# **Section 17**

## **Planning Control Committee**

### **17.1 Status**

The Planning Control Committee is a Committee of the Council.

### **17.2 Membership and Method of Appointment**

The Committee will comprise of 13 Members as appointed by the Council in compliance with Section 15 and Schedule 1 of the Local Government and Housing Act 1989 concerning Political Balance.

The Council's 'Substitution Scheme for Committees (Part 3, Section 25 of this Constitution) shall apply, with each political group entitled to nominate one named substitute.

### **17.3 Chair and Vice-Chair**

The Chair and Vice-Chair of the Committee will be appointed by Council in accordance with Council Procedure Rule 17.

### **17.4 Attendance by Councillors Who Are Not Members of the Committee**

Council Procedure Rule 6(6) will apply.

The Local Protocol for Planning Decision Making (Part 5, Section 39, of this Constitution) provides the process for non-Committee Councillors to make representations at the Committee and those Councillors of the Committee who may have a personal or personal and prejudicial interest.

### **17.5 General Public Speaking to Committee**

A copy of the protocol for public speaking adopted by this Committee is in Part 5 of this Constitution.

### **17.6 Frequency of Meetings**

Meetings of the Committee will be held in accordance with the schedule of meetings agreed by the Council and other arrangements regarding the calling of meetings.

### **17.7 Agenda**

Prior to the meeting of the Committee, the Chief Executive will circulate to Members of the Committee the Agenda and Reports to be considered.

## **17.8 Proceedings**

The Chief Executive (or nominee) shall be the Clerk to the Planning Control Committee.

The Council's Procedure Rules listed in Council Procedure Rule 22 will apply.

## **17.9 Functions**

To carry out the following functions in accordance with the Codes of Conduct, Local Protocols and Planning Guidance:

- (i) determining applications made under the Town and Country Planning Acts (applications for planning permission, approval of reserved matters, listed building consent, conservation area consent, consent to display advertisements, certification of lawful use for development, , applications for prior notification of agricultural, forestry, telecommunications development and demolition) other than those delegated to Officers under the Scheme of Delegation to Officers.
- (ii) making of comments on applications made to Staffordshire County Council and adjoining local planning authorities.
- (iii) enforcement of planning control.
- (iv) the confirmation of Tree Preservation Orders where there are unresolved objections.
- (v) Providing 'screening' and 'scoping' opinions on behalf of the Council under the Terms of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999.

## **17.10 Delegated Powers**

The Committee is empowered to deal with any functions detailed above, in accordance with the Officer Scheme of Delegation.

## **17.11 Other Matters**

No Committee Member can attend the Committee before they have attended relevant training in relation to the functions of the Committee.

# **Section 18**

## **Licensing and Public Protection Committee**

### **18.1 Status**

The Licensing and Public Protection Committee is a Committee of the Council to make decisions required by statute to be made by Council and/or Committee which cannot be delegated to Cabinet and not otherwise delegated to Officers.

### **18.2 Membership and Method of Appointment**

The Committee will comprise of 10 Members as appointed by the Council in compliance with Section 15 and Schedule 1 of the Local Government and Housing Act 1989 concerning Political Balance.

The Council's Substitution Scheme for Committees (Part 3, Section 25 of this Constitution) shall apply, with each political group entitled to nominate one named substitute.

### **18.3 Chair and Vice-Chair**

The Chair and Vice-Chair of the Committee will be appointed by Council in accordance with Council Procedure Rule 17.

### **18.4 Attendance by Councillors Who Are Not Members of the Committee**

Council Procedure Rule 6(6) will apply.

### **18.5 Frequency of Meetings**

Meetings of the Committee will be convened as required to effectively discharge the Committee's functions.

### **18.6 Agenda**

Prior to the meeting of the Committee the Chief Executive will circulate to Members of the Committee (and where necessary, Applicants, Licensees, and appropriate interested parties) the Agenda and Reports to be considered and the procedure for dealing with applications.

## **18.7 Proceedings**

The Chief Executive (or nominee) shall be the Clerk to the Licensing and Public Protection Committee.

The provisions of Schedule 12 of the Local Government Act 1972, as amended, will apply where appropriate.

## **18.8 Functions**

To carry out the following functions in accordance with the Codes of Conduct:

- (a) Determine applications for the grant or renewal of licences, other than those submitted under the Licensing Act 2003 and the Gambling Act 2005 where:
  - (i) adverse comments have been received in the processing of the application, and
  - (ii) Officers with delegated authority have indicated that there are circumstances which may warrant a refusal of the application.
- (b) Determine any issues relating to revocation, suspension, or variation of licences, other than those submitted under the Licensing Act 2003 and the Gambling Act 2005.
- (c) Consider all issues relating to Public Protection encompassing all Environmental Health matters (other than matters relating to the Licensing Act 2003 and the Gambling Act 2005) not delegated to Officers and required to be made by the Council.
- (d) Those functions required to be carried out by a licensing committee pursuant to Section 7\* of the Licensing Act 2003 and Section 154(1)\*\* of the Gambling Act 2005 and for those functions the Committee shall be the Council's Licensing Committee.

\*(Section 7 of the Licensing Act 2003 states that – “All matters relating to the discharge by a licensing authority of its licensing functions are, by virtue of the subsections of the Act, referred to its licensing committee and, accordingly, that committee must discharge those functions on behalf of the authority.”)

\*\*Section 154(1) of the Gambling Act 2005 states that - “The functions under this Part of a licensing authority in England and Wales are by virtue of this subsection delegated to the licensing committee of the authority established under section 6 of the Licensing Act 2003.”)

(Note: The Committee may arrange for the determination of applications for the grant or renewal of licenses submitted under the Licensing Act 2003 to be determined by either licensing committee/or sub-committees/ or an Officer of the Council.)

## **18.9 Procedure for Dealing with Applications and Other Matters**

The Licensing and Public Protection Committee shall determine the procedure to be followed on the hearing of matters before it as required by legislation.

### **18.10 Delegated Powers**

The Committee is empowered to deal with any functions detailed above, other than those delegated to Officers under the Scheme of Delegation to Officers.

### **18.11 Other Matters**

Where not already provided for above, the Council Procedure Rules for the regulation of proceedings and business will apply.

It is compulsory for Members of the Committee to attend relevant training events in respect of the functions of the Committee.

# **Section 19**

## **Licensing Sub-Committee**

### **19.1 Status**

The Licensing Sub-Committees are Sub-Committees of the Licensing and Public Protection Committee established to discharge the Licensing Authority's licensing functions under Section 7(1) of the Licensing Act 2003 and Section 154(1) of the Gambling Act 2005.

### **19.2 Membership and Method of Appointment**

In accordance with Section 9(1) of the Licensing Act 2003, each Sub-Committee will comprise of three Members of the Licensing and Public Protection Committee. Section 15 and Schedule 1 of the Local Government and Housing Act 1989 concerning political balance will not apply.

### **19.3 Chair and Vice-Chair**

At each meeting of the Licensing Sub-Committee the Chair shall be appointed by and from the Members of the Council present.

### **19.4 Quorum**

No business shall be dealt with at the meeting unless all three Members of the Sub-Committee are present. In the event of one or more Members being unable to attend, their place will be substituted by another Member taken from the membership of the Licensing and Public Protection Committee.

### **19.5 Attendance by Councillors Who Are Not Members of the Sub-Committee**

Council Procedure Rule 6(6) will apply.

### **19.6 Frequency of Meetings**

Meetings of the Sub-Committee will be convened in accordance with the requirements of the Licensing Act 2003 and the Gambling Act 2005.

### **19.7 Agenda**

Prior to the meeting of the Sub-Committee the Chief Executive will circulate to Members of the Sub-Committee (and where necessary, Applicants, Licensees, and appropriate interested parties) the Agenda and Reports to be considered and the procedure for dealing with applications.

## **19.8 Proceedings**

The Chief Executive (or nominee) shall be the Clerk to the Licensing Sub-Committees.

The provisions of Schedule 12 of the Local Government Act 1972, as amended, will apply where appropriate.

Where not already provided for above, the Council's Procedure Rules will apply.

## **19.9 Reports to Council**

Reports in the form of Minutes detailing action taken under delegated powers and recommendations will be submitted to the Licensing and Public Protection Committee which may then accept, amend, or reject any recommendations, but not a resolution made by the Sub-Committee.

## **19.10 Functions**

Pursuant to Section 10(1) of the Licensing Act 2003, the Licensing and Public Protection Committee delegates to the Licensing Sub-Committee all of its functions under the Licensing Act 2003 and the Gambling Act 2005

(Note: Where such functions have also been delegated to an Officer, the Sub-Committees shall only exercise those functions where the Officer is unable to exercise them or has declined.)

## **19.11 Procedure for Dealing with Applications and Other Matters**

The Licensing and Public Protection Committee shall determine the procedure to be followed on the hearing of matters before the Licensing Sub-Committee as required by legislation.

## **19.12 Delegated Powers**

The Sub-Committees are empowered to deal with any of the functions detailed above.

## **19.13 Other Matters**

Where not already provided for above, the Council Procedure Rules for the regulation of proceedings and business will apply.

It is compulsory for Members of the Sub-Committee to attend relevant training events in respect of the functions of the Sub-Committee.

# **Section 20**

## **Standards Committee**

### **20.1 Status**

The Standards Committee is a standing committee of the Council with the purpose of determining standards to be observed by Members.

### **20.2 Membership and Method of Appointment**

The Committee will comprise no more than 6 Members appointed by the Council in accordance with Section 15 and Schedule 1 of the Local Government and Housing Act 1989 concerning Political Balance.

The Standards Committee may not include the Leader of the Cabinet.

The Council will appoint 8 representatives of the Parish/Town Councils within the District to serve on the Committee as non-voting members.

The Independent Person and any reserve Independent Person may attend any meeting of the Committee as a non-voting member.

No more than one member of the Standards Committee may be a member of Cabinet.

The Standards Committee may appoint Sub-Committees hearings panels.

### **20.3 Chair and Vice-Chair**

The Chair and Vice-Chair will be appointed by the Council and shall not be members of the Cabinet.

### **20.4 Attendance by Councillors Who Are Not Members of the Committee**

Any Member of the Council may attend meetings of the Committee except when it is considering confidential business.

### **20.5 Frequency of Meetings**

Meetings of the Committee will be held in accordance with the schedule of meetings agreed by the Council and other arrangements regarding the calling of meetings.

### **20.6 Agenda**

Prior to the meeting of the Committee, the Monitoring Officer will circulate to all Members of the Committee (and Parish/Town Council representatives), the Agenda and Reports to be considered.

## **20.7 Proceedings**

The Chief Executive (or nominee) shall be the Clerk to the Committee.

The provisions of Schedule 12 of the Local Government Act 1972, as amended, will apply where appropriate.

No Parish/Town Council matter may be discussed unless a Parish representative is present.

## **20.8 Functions**

To undertake the following functions:

- (a) To promote and maintain high standards of conduct by Members and co-opted Members.
- (b) To assist Members and co-opted Members to observe the Council's codes of conduct.
- (c) To advise Council on the adoption or revision of its code of conduct for Members.
- (d) To advise, train or arrange to train Members and co-opted Members on matters relating to the Council's codes of conduct.
- (e) To monitor the operation of the Council's codes of conduct.
- (f) If requested, consider whether to grant dispensations in relation to a District Councillor or Councillors with a pecuniary interest in a matter proposed for discussion.
- (g) Hold hearings into complaints against Councillors and former Councillors of the District and Parish/Town Councils relating to potential breaches of the Code of Conduct which are referred to it.

To deal with any other matter referred to it by Council or the Monitoring Officer.

## **20.9 Delegated Powers**

The Committee is empowered to deal with any of the functions detailed above.

The Committee is empowered to determine and amend its own procedures for dealing with complaints and holding hearings.

# **Section 21**

## **Audit & Governance Committee**

### **21.1 Status**

The Audit & Governance Committee is a standing committee of the Council with the purpose providing independent assurance of the adequacy of the governance framework and the associated control environment.

### **21.2 Membership and Method of Appointment**

The Committee will comprise no more than 6 Members, appointed by the Council in compliance with Section 15 and Schedule 1 of the Local Government and Housing Act 1989 concerning political balance.

The Audit & Governance Committee may not include any member of the Cabinet or the Chair of a Scrutiny Committee.

Members will be properly trained to fulfil their role.

### **21.3 Chair and Vice-Chair**

The Chair and Vice-Chair will be appointed by the Council.

### **21.4 Attendance by Councillors Who Are Not Members of the Committee**

The Committee may invite or allow representations from Members, Officers, members of the public, and experts so far as these relate to the matter before them and so far as they are appropriate and proportionate.

### **21.5 Frequency of Meetings**

Meetings of the Committee will be held in accordance with the schedule of meetings agreed by the Council and other arrangements regarding the calling of meetings.

### **21.6 Agenda**

Prior to the meeting of the Committee, the Chief Executive will circulate to all Members of the Committee the Agenda and Reports to be considered.

### **21.7 Proceedings**

The Chief Executive (or nominee) shall be the Clerk to the Committee.

The provisions of Schedule 12 of the Local Government Act 1972, as amended, will apply where appropriate.

Where not already provided for above, the Council's Procedure Rules will apply.

## **21.8 Core Functions**

### **Audit Activity:**

- Approve internal audit's strategy and audit plan.
- Approve the Audit Charter and the Quality Assurance & Improvement Programme.
- Consider reports dealing with the management and performance of Internal Audit.
- Consider the level of assurance Internal Audit can give over the Council's corporate governance arrangements.
- Consider periodic reports from Internal Audit on the main issues arising from their work and "fundamental" recommendations not implemented within a reasonable timescale and seek assurance that action has been taken where necessary.
- Consider the reports of the External Auditor and monitor the implementation of any recommendations made.

### **Regulatory Framework:**

- Consider the internal control environment and the level of assurance that may be given as to its effectiveness, to include approval of the Annual Governance Statement.
- Satisfy itself that the authority's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it.
- Monitor the effectiveness of the authority's risk management arrangements, including the actions taken to manage risks and to receive regular reports on risk management.
- Monitor the effective development and operation of the corporate governance framework in the Council and to recommend to the Cabinet or the Council, as appropriate, the actions necessary to ensure compliance with best practice.
- Monitor the effectiveness of the Council's policies and arrangements for anti-fraud and bribery, Money Laundering and Confidential Reporting.
- Consider the Council's annual Regulation of Investigatory Powers report.

**Accounts:**

- Approve the financial statements following consideration of the External Auditor's opinion and reports to Members.

**21.9 Delegated Powers**

The Committee is empowered to deal with any of the functions detailed above.

# **Section 22**

## **Appeals and Complaints Panel**

### **22.1 Status**

The Appeals and Complaints Panel is a committee of the Council with the purpose of:

- (a) hearing employee appeals in respect of Chief Officers of the Council, with the exception of the Chief Executive, the Section 151 Officer and the Monitoring Officer for whom other national and local procedures take precedence.
- (b) hearing requests for review of decisions delegated to officers in respect of various Housing issues.
- (c) dealing with requests for review of decisions made by Officers in the Urban Forestry Section in response to requests to carry out work to Council owned trees.

The Panel shall not hear any matters where the decision on the matter is delegated to another body within the Council. If a matter brought before the Panel includes such matters, or it becomes apparent during the hearing that it includes such matters, the Panel will refer that aspect of the matter to the appropriate body for decision.

### **22.2 Membership and Method of Appointment**

The Appeals and Complaints Panel will comprise of 5 eligible Members of the Council, appointed by the Council in compliance with Section 15 and Schedule 1 of the Local Government and Housing Act 1989 concerning political balance. A Member should not hear an appeal or complaint in circumstances which might give rise to doubt as to their impartiality. Accordingly, a Member should not sit at the hearing of a case if they have any prejudicial or professional interest in the case or had involvement in the original decision against which an appeal or complaint is being made.

### **22.3 Chair and Vice-Chair**

At each meeting of the Appeals and Complaints Panel the Chair shall be appointed by and from the Members of the Council present.

### **22.4 Attendance by Councillors Who Are Not Members of the Panel**

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

## **22.5 Frequency of Meetings**

Meetings of the Appeals and Complaints Panel will be convened by the Chief Executive normally within 30 working days following receipt of notice of an appeal or complaint except where statute requires otherwise e.g., homelessness appeals. The Chief Executive will give notice in writing at least 10 working days in advance of the time and place of the hearing.

## **22.6 Agenda**

Prior to the meeting of the Panel, the Chief Executive will circulate to all Members on the Panel (and appellants or complainants where relevant) the Agenda and Reports to be considered.

## **22.7 Proceedings**

The Chief Executive (or nominee) shall be the Clerk of the Panel.

The provisions of Schedule 12A of the Local Government Act 1972, as amended, in respect of exempt information will apply.

## **22.8 Exchange of Documents**

At least 8 working days before the date of the hearing the parties will exchange statements and relevant documents which it is intended shall be presented to the Appeals and Complaints Panel. Copies of these documents should also be sent to the Chief Executive.

## **22.9 Functions and Procedure**

To undertake the following functions in accordance with the scheme of delegation and codes of conduct:

- to be responsible for and to hear matters in accordance with Annexes 1, and 2 as appropriate to the appeal or complaint being considered it (the Panel).

## **22.10 Delegated Powers**

The Appeals and Complaints Panel is empowered to deal with any of its functions and has delegated authority to resolve any appeal or complaint referred to it for determination by Council. In the case of equality of votes, the Chair shall give a casting vote provided they have already voted in their capacity as a member of the Appeals and Complaints Panel.

The Panel does **not** have the power or authority to award financial compensation to appellants and/or complainants.

## **22.11 Other Matters**

Where not already provided for above, the Council's Procedure Rules for the regulation of proceedings and business will apply.

# Annex 1

## Housing Related Appeals and Complaints

### 1. Functions

The Appeals and Complaints Panel is responsible for dealing with appeals and complaints relating to any decision delegated to an officer in respect of various Housing issues, for example:

- breach of tenancy conditions
- neighbour complaints
- access to the Housing Register
- refusal of mutual exchange

### 2. Procedure

The Appeals and Complaints Panel will hear the matter in accordance with the following procedure:

- (a) If, following a request for an Officer review, the original decision is upheld, the applicant will be notified of the decision in writing and of their right, if still dissatisfied, to ask for a further review to be carried out by the Appeals and Complaints Panel.
- (b) The Panel shall be convened on receipt of a request for a further review.
- (c) The Head of Housing and Corporate Assets will submit a report to the Panel setting out the circumstances and Council's Policies.
- (d) The applicant shall be invited to attend to state their case and shall have the right to be represented/accompanied by a legal representative or any other person of their choice.
- (e) The applicant shall be provided with a copy of the Head of Housing and Corporate Assets' Report and will be requested to supply a statement of their case at least 8 working days prior to the meeting.
- (f) Members of the Panel may ask questions of all present as necessary and will deliberate in private. The Panel may call for legal or procedural advice at any time during its deliberations.

- (g) The Panel, having considered all the information, shall determine whether:
  - (i) to uphold the original decision or
  - (ii) to allow the appeal
- (h) If the appeal is allowed, the Panel shall determine what action should be taken.
- (i) The applicant shall be notified in writing of the decision and the reasons for the decision within 5 working days of the decision being made (or as soon as possible if this cannot be complied with). This must be within 56 days of the date on which the review was requested unless a longer period has been agreed in writing.

# Annex 2

## Council owned Trees

### 1. Functions

The Appeals and Complaints Panel is responsible for dealing with appeals complaints relating to:

- (i) any decision delegated to an Officer in respect of various tree issues, for example.
- (ii) declining requests to carry out works to Cannock Chase DC owned trees and against the Council's set policies, or
- (iii) declining requests to carry out works to trees under the management and maintenance of Cannock Chase DC and against the Council's set policies.
- (iv) officers' decision to carry out works to Cannock Chase DC owned trees, or
- (v) officers' decision to carry out works to trees under the management and maintenance of Cannock Chase DC.

### 2. Procedure

The Appeals and Complaints Panel will hear the matter in accordance with the following procedure:

#### **Review of Delegated Decisions:**

- (a) If, following a request for an Officer review, the original decision is upheld, the applicant will be notified of the decision in writing and of their right, if still dissatisfied, to ask for a further review to be carried out by the Appeals and Complaints Panel.
- (b) The Panel shall be convened on receipt of a request for a further review.
- (c) The Head of Operations will submit a report to the Panel setting out the circumstances and the Council's Policies.
- (d) The applicant shall be invited to attend to state their case and shall have the right to be represented/accompanied by a legal representative or any other person of their choice.
- (e) The applicant shall be provided with a copy of the Head of Operations Report and will be requested to supply a statement of their case at least 8 working days prior to the meeting.
- (f) Members of the Panel may ask questions of all present as necessary and will deliberate in private. The Panel may call for legal or procedural advice at any time during its deliberations.

- (g) The Panel, having considered all the information in line with the Council's Urban Forestry Strategy, shall determine whether:
  - (i) to uphold the original decision or
  - (ii) to allow the appeal.
- (h) If the appeal is allowed, the Panel shall determine what action should be taken in line with best practice and current legislation.
- (i) The applicant shall be notified in writing of the decision and the reasons for the decision within 5 working days of the decision being made (or as soon as possible if this cannot be complied with). This must be within 56 days of the date on which the review was requested unless a longer period has been agreed in writing.

# **Section 23**

## **Joint Appointments Committee and Investigatory & Disciplinary Committee**

### **Joint Appointments Committee**

#### **23.1 Status**

The Joint Appointments Committee is a joint committee of Cannock Chase District Council and Stafford Borough Council, established in accordance with Section 102(1)(b) of the Local Government Act 1972.

#### **23.2 Functions**

Appointment of Chief Officers:

- (i) Subject to (ii), below, to undertake and determine on behalf of the Councils all aspects of the process for the recruitment and selection of Joint Chief Officers, including final approval of the terms and conditions of employment (based on current provisions) for that post.
- (ii) The final decision as to the appointment of the Joint Chief Executive, Section 151 Officer, and Monitoring Officer, shall be reserved to full meetings of both Councils, and subject to no material or well-founded objection to the making of an offer of appointment being received by either Leader on behalf of their respective executives.

#### **23.3 Delegations**

The Joint Appointments Committee shall have delegated power to act on any matter within its terms of reference which may be lawfully delegated to it.

#### **23.4 Frequency of Meetings**

Meetings of the Committee will be convened by the Chief Executive, or the Monitoring Officer, as required.

#### **23.5 Membership and Method of Appointment**

The Joint Appointments Committee shall comprise of six Members, including the respective Leaders of both Councils, plus two Members appointed by Cannock Chase District Council and two Members by Stafford Borough Council.

Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1990.

### **23.6 Quorum**

The quorum of the Joint Appointments Committee shall be 3 Members (subject to each Council being represented at a meeting by at least 1 Member).

### **23.7 Host Chair**

The Joint Appointments Committee shall be chaired by the Leader of the council (or substitute executive member) who will act as the employer of the relevant Chief Officer.

### **23.8 Substitutes**

Substitutes shall be allowed as notified in advance by the relevant Group Leader, provided that there must be at least 1 member of the Executive of each Council present.

### **23.9 Voting**

Any matter will be decided by a simple majority of those Members of the Joint Appointments Committee present and voting at the time the question was put. A vote shall be taken either by show of hands, or, if there is no dissent, by the affirmation of the meeting. In the event of a tie in voting, the Host Chair will have a second and casting vote.

## **Investigatory and Disciplinary Committee**

### **23.10 Status**

The Investigatory and Disciplinary Committee is a committee of the Council with the purpose of considering allegations relating to the conduct, capability, or breakdown of trust of the Chief Executive, S.151 Officer and the Monitoring Officer.

### **23.11 Membership and Method of Appointment**

The Council will appoint the membership to the Investigatory and Disciplinary Committee which will include at least one Cabinet Member.

### **23.12 Chair**

The appointment, by election, of the Chair of the Investigatory and Disciplinary Committee amongst those Members present shall be the first item of business of the Investigatory and Disciplinary Committee.

### **23.13 Attendance by Councillors Who Are Not Members of the Panel**

There is no provision for attendance by non-members.

### **23.14 Frequency of Meetings**

Meetings of the Investigatory and Disciplinary Committee will be convened by the Chief Executive, or the Monitoring Officer, as required.

### **23.15 Agenda**

Prior to the meeting of the Committee, the Chief Executive, or the Monitoring Officer, will circulate to all Members on the Committee the Agenda and Reports to be considered.

### **23.16 Functions**

The Investigatory and Disciplinary Committee will consider allegations relating to the conduct, capability, or breakdown of trust of the Chief Executive, the Section 151 Officer, and the Monitoring Officer.

### **23.17 Delegated Powers**

- (a) To consider allegations relating the conduct, capability, or breakdown of trust of the Chief Executive, the Section 151 Officer, and the Monitoring Officer, and to take action in accordance with the Council's approved disciplinary procedure for these officers, including suspension, appointment of an Independent Investigator, and disciplinary action short of dismissal.
- (b) Suspend those employees in the posts of Head of Paid Service, Monitoring Officer and/or Section 151 Officer, whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months. The suspension periods may only be extended beyond two months following a decision by the Investigatory and Disciplinary Committee.

# Section 24

## Trade Union Consultative Forum

### 24.1 Status

The Trade Union Consultative Forum is a committee of the Council with the purpose of providing a means of joint consultation between Members of the Council and representatives of all employees of the Council, to consider matters of common interest, generally further good relations, and make recommendations to Council.

### 24.2 Membership and Method of Appointment

The Forum shall consist of:

- (i) A 6 Members of the Council appointed by Council in compliance with Section 15 of Schedule 1 of the Local Government and Housing Act 1989, concerning political balance, and
- (ii) A minimum of 11 employee representatives nominated to represent the employees of the Council. These employee representatives will be nominated shop stewards of the recognised trade unions and nominated jointly by them and ensuring fair representation based on proportionality of union membership; the number of employee representatives to be confirmed at the first meeting of the Forum in each municipal year.
- (iii) The full-time officials of the trade unions recognised by the Council for consultation and negotiating purposes may be called to meetings by the Chair or Vice-Chair of the Forum.
- (iv) Casual vacancies caused by death, resignation or disqualification of representatives shall be filled by the Council or employees, as the case may require.
- (v) The employee side may appoint substitutes to attend on their behalf.
- (vi) The Chief Executive shall act as co-ordinator to the Trade Union Consultative Forum.

### 24.3 Chair and Vice-Chair

The Chair of the Forum shall be appointed from the employer's side in accordance with Council Procedure Rule 17 at the Annual Council Meeting.

The Forum shall appoint a Vice-Chair from the employee's side at the first meeting in a new municipal year.

#### **24.4 Quorum**

A quorum for the meeting shall be a minimum of three representatives from each side.

#### **24.5 Attendance by Councillors Who Are Not Members of the Forum**

The Council's Procedure Rule 6(6) shall apply.

Whenever matters relating to any particular Services(s) are under consideration, the Chief Executive shall have the right to request the attendance of any person, being an employee of the Council or a Member thereof, for the purposes of conferring with the Forum. Similarly, the appropriate employee side representative shall have the right to request the attendance of advisers on specific issues.

Meetings of the Forum will not be open to members of the public because of the likely disclosure of exempt information as defined in paragraphs 1 and 11 of Part 1 of Schedule 12A of the Local Government Act 1972.

#### **24.6 Frequency of Meetings**

Meetings of the Forum will be held in accordance with the schedule of meetings agreed by the Council and other arrangements regarding the calling of meetings.

The Forum will be scheduled to meet a minimum of twice in a municipal year.

#### **24.7 Agenda**

Prior to the meeting of the Forum, the Chief Executive will circulate to all elected Members on the Forum and the employee representatives on the Forum the Agenda and Reports to be considered.

The matters to be discussed at any meeting of the Forum shall be stated on the Agenda for the meeting.

Matters initiated for discussion on the Agenda for the next meeting shall be submitted in writing to the Chief Executive at least 20 working days before the anticipated date of the meeting.

#### **24.8 Proceedings**

The Chief Executive (or nominee) shall be the Clerk to the Forum.

#### **24.9 Reports to Cabinet**

Reports in the form of Minutes detailing recommendations made by this Forum will be submitted to the Cabinet, which may accept or reject any recommendations.

## 24.10 Functions

To undertake the following functions in accordance with the scheme of delegations and codes of conduct.

Without prejudice to the rights of Management to manage and of employees to make representations in their interests through their own organisations, the general functions and objectives of this Forum are:

- (a) To be a forum for discussion and to secure the largest possible measure of agreement for joint action between the Council and its employees for the development of good industrial relations.
- (b) To consider any matters which may affect the common interests of the Council and its employees and to make suggestions to the appropriate Committee of the Council, including terms and conditions of employment which are not reserved for negotiation at National, provincial or agreed local levels.
- (c) To receive the minutes of the Corporate Joint Consultative Committee and Corporate Joint Consultative Committee (Health and Safety).
- (d) To act as a forum for communication between the Council and its employees and to develop and carry out measures to ensure the health, safety and welfare of employees and make recommendations as to remedial action, as necessary.
- (e) To act as a focal point for employee participation in the prevention of accidents and avoidance of industrial diseases.

With regard to any of the functions of this Forum, when an individual employee or group of employees wish to refer any matter to the Forum, the process which must be followed is:

- (1) It should firstly be taken to their Service or Sectional Representative who shall endeavour to reach agreement on a course of action with the Section Head/Supervisor concerned in the first instance.
- (2) Failing to reach agreement at this level, the Section Head/Supervisor and the Representative should jointly refer the matter to the appropriate Manager/Head of Service.
- (3) Failing to reach agreement at this level, the matter shall be considered by the appropriate Departmental Joint Consultative Committee.
- (4) Failing to reach agreement at this level, the matter shall be considered by the Corporate Joint Consultative Committee or Corporate Joint Consultative Committee (Health and Safety) as appropriate, and if not resolved at this level, the matter shall come before this Forum.

In cases where the Forum cannot agree on an issue which is appropriate for consideration at a higher level, the initiative for raising the matter at such level will rest with the Council side or the employees' representation acting either

jointly or separately. Failing agreement at the higher level within the Authority, matters may be referred for consideration to provincial or national machinery.

The employees' representatives on the Forum shall be paid at their normal rates of pay during that time spent travelling to and from, as well as at any meeting of the Forum. Ordinary rates of pay include average bonus earnings and overtime (if appropriate). Hours of attendance at meetings are also subject to the hours set down in the Flexible Working Hours Scheme, if applicable. Every facility shall be afforded to the employees to enable them to be present at meetings which they are summoned to attend.

Facilities will be available for the employees' representatives to hold a pre-meeting prior to the formal meeting of the Forum.

The Forum shall have the power to appoint Working Groups to consider specific issues and report to the Forum unless an alternative reporting procedure has been agreed by the Forum.

The Forum shall not have power to make recommendations inconsistent with legislative requirements or decisions negotiated by the appropriate National or Provincial Council.

A copy of the Agenda and reports be circulated also to the full-time officials of the unions which are recognised by the Council for the purpose of consultation and negotiation.

#### **24.11 Delegated Powers**

The Forum has no delegated powers.

#### **24.12 Other Matters**

Where not already provided for above, the Council Procedure Rules for the regulation of proceedings and business will apply.

# Section 25

## Substitution Scheme for Committees

### 25.1 Introduction

In addition to appointing usual Members to Serve on Committees, the Council may also appoint the number of Councillors shown below, on the nomination of the Political Groups, to act as the substitute members for the following Committees:

- (i) Planning Control Committee – one substitute for each political group represented on the committee.
- (ii) Scrutiny Committees – one substitute for each political group represented on each of the committees.
- (iii) Licensing and Public Protection Committee – one substitute for each political group represented on the committee when it is acting in its remit as the Licensing Committee.
- (iv) Licensing and Public Protection Committee – one substitute for each political group represented on the committee when it is acting in its remit as the Public Protection Committee.

The substitute members of the Planning Control Committee and the Licensing and Public Protection Committee shall have had the relevant training before sitting on the committee as a substitute member.

### 25.2 Procedure

- (a) If a usual member of the Committee is unable to attend a meeting, or act in their capacity as a Committee member for part or all of that meeting, they may make the necessary arrangements with the named substitute members for that Committee from that Political Group.
- (b) The usual member will either give or arrange for the Group Leader (or their nominee) to give, written notice (or by e-mail) of the substitution to the Chief Executive by 5:00pm on the day before a meeting scheduled to commence before 3:00pm and by 10:00am on the day of a meeting scheduled to commence at 3:00 pm or later. The Chief Executive or their appointee will record the substitution in a book kept for the purpose.
- (c) The effect of a valid substitution notice will be that the usual member will cease to be a member of the Committee for the duration of that meeting and for the duration of any adjournment of it. The substitute member shall be a full member of the Committee for the same period.

- (d) Once a valid substitution notice has been given for a meeting of a Committee, it may not be revoked.
- (e) All usual members and all substitute members of the Committee will be given notice of Committee meetings in the normal way. If any substitution notices are received after the notification of the meeting has been sent, the usual member who is being substituted for will ensure that the substitute members are made aware of the date and time of the meeting and will send all substitute members copies of the papers for each meeting.
- (f) A Member who is acting as a substitute for a usual member who is the Chair or Vice-Chair of the Committee will not, by virtue of that substitution, be entitled to act in that capacity.
- (g) When a Member attends a meeting as a substitute for a usual member, the Minutes and any report of that meeting will include the name of the substitute, in alphabetical order, amongst those attending the meeting, followed by "(substitute for)" indicating the name of the usual member.

### **25.3 Application**

The list of substitute members is to be approved by the Council Meeting.

# Section 26

## Scheme of Delegations

### 26.1 Introduction

The Scheme of Delegations (“Scheme”) authorises officers to exercise the functions of the Council as set out in this document. This Scheme repeals and replaces all previous schemes of delegation and all amendments made thereto.

For the purposes of this Scheme, the term “Chief Officer” shall have the following meaning:

- (a) The Chief Executive,
- (b) Deputy Chief Executive, and
- (c) Heads of Service.

This Scheme contains two types of authorities:

- (i) Functional, operational and day to day management of services delegated to Chief Officers; and
- (ii) Functions delegated to specific officers.

Annex 1 details Reserved Authorities.

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) Procurement Regulations
- (c) Financial Regulations
- (d) The Scheme of Delegations
- (e) Emergency Planning Procedures
- (f) Other Council policies, procedures, and previous decisions

Authorities granted within b) and c) above, take precedence over this Scheme and accordingly the implementation and interpretation of the Scheme must be considered in conjunction with both b) and c) above.

Any reference in this Scheme to a statute includes any statutory instrument, regulation, order, rule, guidance, or circular made under it and includes any modification amendment or re-enactment thereto.

# Delegations to Chief Officers

## **26.2 General Obligations**

- 26.2.1 Subject to paragraphs 26.2.1(a) below, Chief Officers are entitled, in their absolute discretion, to authorise named officers within their area of management to exercise all or some of their delegated functions, unless the law requires specific named officers to be given delegated authority.
- (a) Any authorisation of named officers by Chief Officers under paragraph 26.2.1 above shall:
- (i) comply with the Council's financial regulations (if applicable),
  - (ii) be appropriately documented, and
  - (iii) only occur after the relevant Chief Officer has informed the Chief Executive, the Section 151 Officer, and the Monitoring Officer. The Chief Executive shall have the power to veto any such authorisation.
- 26.2.2 In accordance with all relevant and applicable legislation and Council approved/adopted policies and procedures, undertake the management of those services or functions under their management including the discharge of all responsibilities, duties and obligations, exercise of all powers relating thereto and the delegation and/or authorisation of the same to suitably qualified and experienced officers.
- 26.2.3 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.
- 26.2.4 To invite tenders and award contracts in accordance with Financial Regulations and Procurement Regulations.
- 26.2.5 To determine the fees and charges for services under their control, within Council policy and the requirements of financial regulations.
- 26.2.6 In consultation with the Section 151 Officer, authorise the submission of external funding bids for projects/schemes that support the delivery of the Council's Corporate Plan or equivalent.
- 26.2.7 To select and appoint specialist professional advisors within approved budgets.
- 26.2.8 To discharge their duties in respect of Health and Safety in the workplace.
- 26.2.9 To accept appointments to undertake professional activity at a local, regional, national, or international level in consultation with the Chief Executive.

- 26.2.10 So far as the matter relates to a function for which the relevant Chief Officer is responsible to the Council:
- (a) to serve notices under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
  - (b) to exercise any power of the Council relating to entry on land or other property for the purposes of inspection.
- 26.2.11 To provide goods and services and plant to other local authorities and other bodies (where permissible), in consultation with the Head of Paid Service.
- 26.2.12 To sell surplus materials, vehicles, plant, equipment and goods, salvage scrap, and other waste (in accordance with financial regulations).
- 26.2.13 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.
- 26.2.14 To be the Proper Officer for the opening of tenders received as appropriate.
- 26.2.15 To negotiate and settle contract disputes relating to their service area.
- 26.2.16 To manage and settle terms and conditions of contract tendering processes for their service area and ensure EU and other legal compliance.
- 26.2.17 To authorise the instigation of civil and criminal proceedings including the defending or opposing of any litigation for and on behalf of the Council in relation to any service area under their management control in consultation with the Legal Service.
- 26.2.18 Unless otherwise falling within the remit and/or responsibility of the Council's relevant Insurer, to settle, compromise, discontinue or otherwise dispose of any claim, appeal, action or complaint falling within their area of management (irrespective of whether any proceedings have been instigated), providing that legal advice has first been obtained and the relevant Chief Officer can meet the costs of the settlement, compromise, discontinuance or disposal from approved budgets.
- 26.2.19 To issue press statements in respect of high-profile matters, in consultation with the Leader and/or relevant Portfolio Holder and the Policy & Communications Manager unless otherwise directed by the Chief Executive.

### **Human Resources Delegations**

- 26.2.20 To determine permanent, temporary and interim departmental establishments, below Head of Service level, in accordance with Council approved/adopted procedures, subject to such variations being in accordance with current Council policy, providing the costs can be met from approved budgets.

- 26.2.21 To approve the filling of and appointment to vacant posts below Head of Service level within the approved establishment in accordance with Council approved/adopted procedure, providing the costs can be met from approved budgets.
- 26.2.22 To engage agency personnel, in accordance with Council policy, within approved budgets to fulfil service delivery requirements.
- 26.2.23 To determine applications for ex-gratia/honorarium payments, for employees within their area of management control, in accordance with Council approved/adopted policy, and the costs being met from within approved budgets.
- 26.2.24 To determine re-evaluation applications for employees below Head of Service level, in accordance the Council's approved procedure, and the costs being met from within approved budgets.
- 26.2.25 To suspend individual employees, within their area of management control, from the occupational sick pay scheme in accordance with national and local conditions of service and, in consultation with the HR service.
- 26.2.26 Where there is discretion within the Council's Employer Discretions Policy relating to the Local Government Pensions Scheme, to exercise those discretions on behalf of the Council where the cost is contained within existing budgets, unless the discretion is specifically reserved to another person or body.
- 26.2.27 To approve requests for unpaid leave in accordance with Council adopted/approved policies and procedures. In the absence of such policies and procedures, to exercise such discretion as is deemed fair, just and equitable in the circumstances.
- 26.2.28 To approve applications for requests to undertake recognised professional qualifications which will be of benefit to the Council, provided the costs can be met from within approved budgets.
- 26.2.29 To approve annual leave being moved between leave years.
- 26.2.30 To approve requests for compassionate, maternity support, paternity leave (including additional paternity leave and pay) and adoption leave in accordance with the Council's approved/adopted policies and procedures and legislation. In the absence of such policies and procedures, to exercise such discretion as is deemed fair, just, and equitable in the circumstances.
- 26.2.31 To approve reasonable requests for time off work in respect of medical appointments, trade union duties and public duties in accordance with Council approved/adopted policies and procedures.
- 26.2.32 To approve requests from officers to undertake secondary employment in accordance with Council approved/adopted policies and procedures.
- 26.2.33 To consider, hear and/or determine grievances raised by employees within their area of management control in accordance with Council adopted/approved policies and procedures.

- 26.2.34 To conduct formal disciplinary, capability and sickness proceedings, including dismissal of employees below Head of Service level, in accordance with Council approved/adopted policies and procedures.
- 26.2.35 To hear employee appeals relating to pay, grading, grievance, capability, discipline, sickness procedures or other related decisions, made by another Chief Officer or other formally nominated officer, in respect of all employees of the Council, with the exception of senior officers whose appeal should be conducted in accordance with the Council's approved/adopted policies and procedures and/or the relevant national conditions of service.
- 26.2.36 Undertake, adhere to, implement, endorse and/or ensure compliance with all the Council's approved/adopted human resource policies and procedures.
- 26.2.37 Where a dispute and/or conflict arises between this Scheme and the terms and conditions of Chief Officers then the relevant terms and conditions shall take precedence over this Scheme.
- 26.2.38 In the event that paragraph 26.2.37 applies and this Scheme fails or is otherwise deficient in enabling the Chief Executive to give effect to the terms and conditions of Chief Officers, the Chief Executive shall, after taking legal and human resources advice, implement, arrange and/or establish a framework/mechanism and/or undertake any steps, actions or measures as deemed necessary and appropriate to give effect to the said terms and conditions.

# Functions Delegated to Specific Officers

## **26.3 Chief Executive**

- 26.3.1 The Chief Executive is designated as the Head of Paid Service (see Section 4 of the Local Government and Housing Act 1989).
- 26.3.2 To undertake all duties delegated to Chief Officers, or to delegate such duties to another Chief Officer, where permitted by law.
- 26.3.3 To be the authorised person for the signing of Certificates of Opinion to accompany applications for exemption for posts from political restrictions.
- 26.3.4 To grant concessionary and free use of civic suite facilities to recognised organisations.
- 26.3.5 To exercise any function of the Council not required by statute to be exercised by Full Council and not an executive function and not otherwise delegated under this Scheme.
- 26.3.6 To amend this Scheme, 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 will be required.
- 26.3.7 To incur expenditure in respect of any major incident/emergency within or adjoining the District until the Cabinet meets. To designate any officers to carry out such functions as are deemed necessary in the circumstances.
- 26.3.8 To attest the Common Seal and sign and/or execute any form, notice, order or document as required on behalf of the Council.
- 26.3.9 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 frameworks.
- 26.3.10 To consider, hear and/or determine grievances raised by Heads of Service in accordance with Council approved/adopted policies and procedures. In the absence of any such policies or procedures, in accordance with legal requirements and recognised good practice/principles.
- 26.3.11 To conduct capability proceedings in respect of Heads of Service excluding the authority to dismiss - which must be in accordance with the relevant and applicable paragraphs of this Scheme, Council approved/adopted policies and procedures and relevant national conditions of service.
- 26.3.12 In consultation with the HR service, to approve ill health retirements for employees i.e., Heads of Service and below, in accordance with Council approved/adopted policies, providing any costs are met from within approved budgets.

- 26.3.13 In consultation with the HR service, to approve early retirements for employees, i.e., Heads of Service and below, on the ground of efficiency of service (with no augmentation), in accordance with Council approved/adopted policy, providing there is no actuarial strain, and any costs are met from within approved budgets.
- 26.3.14 To determine, implement and review corporate human resource procedures and best practice guidance designed to deliver Council policy in consultation with the HR service.
- 26.3.15 To determine, implement and review all aspects of Single Status Scheme, including job evaluation, except where such change will or may have a direct or potential impact on the Single Status Scheme and/or budgetary framework.
- 26.3.16 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).
- 26.3.17 Following consultation with the Leader of the Council, to implement any decisions of the Cabinet made in relation to changes to the Council's membership arrangements of any Local Enterprise Partnerships.
- 26.3.18 To determine any review of decisions made by the Monitoring Officer in respect of assets of community value, as detailed in paragraph 26.10.2(d) of this Scheme.
- 26.3.19 Authority to designate an officer as Data Protection Officer.

#### **26.4 Deputy Chief Executive**

- 26.4.1 To exercise the powers of the Chief Executive in the event of their incapacity, absence or unavailability.
- 26.4.2 To undertake all duties delegated to other Chief Officers (in their service areas), or delegate such duties to another Chief Officer, where permitted by law.

#### **26.5 Head of Wellbeing**

- 26.5.1 To update, amend or vary Annexe 6 of this Section as required to ensure all relevant and necessary statutes (and associated legislation) relating to the service areas under their management control is listed.

##### **Leisure Services**

- 26.5.2 To appoint suitably qualified officers to apply for and hold Premises and Personal Licences, and all other licences as are required to facilitate the delivery of services at Council owned venues.
- 26.5.3 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.
- 26.5.4 To determine all applications for reduced hire charges for leisure facilities.
- 26.5.5 To manage the leisure facilities and/or to manage the culture and leisure service contracts and contractors.

- 26.5.6 In consultation with the Portfolio Leader, to review, amend and prioritise actions in the Indoor and Built Sports Facilities Strategy and Action Plan 2019-2036, and Playing Pitch Strategy 2019-2036, in line with the expectations of the Council, Sport England and National Governing Bodies for Sport, available funding and project sustainability and delivery.
- 26.5.7 With the Head of Economic Development and Planning, explore and develop any future projects, opportunities and initiatives in the Cannock Chase District that may arise from hosting the Commonwealth Games Mountain Biking event, in consultation with the Portfolio Leaders for Economic Development & Planning and Culture and Sport.

### **Strategic Housing**

- 26.5.8 To determine the Council's annual Homelessness Prevention Programme.
- 26.5.9 To discharge any and all duties, obligations and responsibilities arising under Part VII of the Housing Act 1996 (as amended).
- 26.5.10 To exercise any and all powers and authorities available under Part VII of the Housing Act 1996 (as amended) as deemed necessary and appropriate to discharge any and all duties, obligations and responsibilities arising under Part VII of the Housing Act 1996 (as amended).
- 26.5.11 To review the Tenancy Fraud Policy every three years, or in the event of changes in legislation, in consultation with the Housing Portfolio Leader.
- 26.5.12 To determine all applications for home improvement grants and to exercise all other functions in respect thereto.
- 26.5.13 In consultation with the Environment and Climate Change Portfolio Leader, to make minor amendments to the Housing Assistance Policy – Independent Living 2020 which do not affect the broad thrust of the Policy's purpose and direction.

### **Partnerships & Community Safety**

- 26.5.14 To give consent to the exercise by police of powers to disperse groups of young persons under Part 5 of the Anti-Social Behaviour Act 2003.
- 26.5.15 Subject to Council policy (where applicable), to exercise all regulatory powers, including issuing permits and notices and warrants, making inspections, maintaining registers, and discharging all obligations, duties and responsibilities contained within legislation listed in Annex 6 of this Section.
- 26.5.16 To prepare and issue notices and authorise prosecutions in respect of all matters falling within the service areas within their management control or within any of the legislation listed in Annex 6 of this Section.
- 26.5.17 To update, amend or vary Annex 6 of this Section as required to ensure all relevant and necessary statutes (and associated legislation) relating to the service areas under their management control is listed.
- 26.5.18 To apply for a warrant to enter premises where the legislation listed in Annex 6 so permits.

## **26.6 Head of Operations**

- 26.6.1 With the Head of Economic Development & Planning, to identify the likely car parking needs arising from the proposed Levelling Up Fund Project and undertake any feasibility work as necessary to inform a future business case.

### **Parks and Open Spaces**

- 26.6.2 To:
- (a) Make, vary, modify, revoke (and confirm unless there are substantial unresolved objections) tree preservation orders (TPOs) under section 198 of the Town and Country Planning Act 1990 (as amended).
  - (b) Determine applications made under TPOs and determine notifications made in respect of trees in Conservation Areas (S211 notices).
  - (c) Exercise all powers in relation to the duty to replace trees protected by TPO or within Conservation Areas.
  - (d) Deal with any appeals in relation to the determination of TPO applications.
  - (e) Exercise all powers relating to countryside hedgerows as set out in the Hedgerows Regulations 1997 and the Environment Act 1995.

### **Transportation**

- 26.6.3 To hold, or to appoint a suitably qualified officer, on behalf of the Council the Heavy Goods Vehicle Operators Licence (O Licence) and to maintain the schedule of vehicles covered by the O Licence.
- 26.6.4 To undertake and implement all necessary measures necessary to comply with all relevant and associated legislation governing the O Licence.
- 26.6.5 To undertake management of the Councils retail markets, including granting and terminating licences for market stalls.

## **26.7 Head of Regulatory Services**

### **Environmental Protection**

- 26.7.1 To enter into agreements under Prevention of Damage by Pests Act 1949.
- 26.7.2 To determine grant applications with respect to Smoke Control.
- 26.7.3 Appoint Proper Officers under Public Health (Control of Diseases) Act 1984 and National Assistance Acts 1948 and 1951.
- 26.7.4 To appoint suitably qualified and experienced persons to undertake remedial action and represent the Council at Court, under Sections 188, 193, 211 and 212 of the Housing Act 1996 (as amended by the Homelessness Act 2002).
- 26.7.5 Where permissible, appoint persons not employed by the Council as required to assist the Council in discharging its duties in respect of any legislation listed in Annex 5 of this Section.

- 26.7.6 Power to enforce the provisions of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 (S.I. 2002 No. 1808) and issue Fixed Penalty where driver refuses to co-operate.
- 26.7.7 To issue and enforce licences and inspect and enforce compliance with the law for residential caravan sites.
- 26.7.8 Subject to Council policy (where applicable), to exercise all regulatory powers, including issuing licences permits and notices and warrants, making inspections, maintaining registers, and discharging all obligations, duties and responsibilities contained within legislation listed in Annex 5 of this Section.
- 26.7.9 To issue and administer formal cautions, prepare and issue notices and authorise prosecutions, in consultation with the Legal service, in respect of all matters falling within the service areas within their management control or within any of the legislation listed in Annex 5 of this Section.
- 26.7.10 To apply for a warrant to enter premises where the legislation listed in Annex 5 of this Section so permits.
- 26.7.11 To issue and enforce fixed penalty notices where the legislation listed in Annex 5 of this Section so permits.
- 26.7.12 Power to authorise the institution / enforcement of civil proceedings under section 126 and schedule 9 of the Housing and Planning Act 2016.
- 26.7.13 To review and make any amendments in respect of arrangements for the Mobile Homes 'Fit and Proper Person' requirements in the interests of operational efficiency and / or due to changes in legislation or government guidance.
- 26.7.14 In consultation with the Housing, Heritage & Leisure Portfolio Leader, to approve subsequent 'Statements of Intent' following approval of the 'Energy Company Obligation Statement of Intent'.

### **Building Control**

- 26.7.15 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.
- 26.7.16 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.
- 26.7.17 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.
- 26.7.18 To determine the level of charges in accordance with The Building (Local Authority Charges) Regulations 2010.

- 26.7.19 To sign and serve notices under the following sections of the Building Act 1984:
- (a) Section 32 - Lapse of deposit of plans.
  - (b) Section 35B - Compliance Notices
  - (c) Section 35C - Stop Notices
  - (d) Section 36 (removal or alteration of +offending work).
  - (e) Section 73 (raising of chimney).
  - (f) Section 77 and 78 (dangerous building).
  - (g) Section 79 (verminous and dilapidated buildings and neglected sites).
  - (h) Section 81 (control of demolition).
- 26.7.20 To sign and serve Decision Notices and letters giving notice of the Council's decision in relation to Building Regulations applications, Building Notices, Initial Notices, plans, certificates and final certificates, Regularisation Certificates and Completion Certificates.

### **Environmental Health**

- 26.7.21 To enforce Section 20 Local Government (Miscellaneous Provisions) Act 1976 and associated legislation – provision of sanitary accommodation at places of entertainment.
- 26.7.22 To appoint such officers to be inspectors pursuant to Section 19 of the Health & Safety at work etc Act and authorised to exercise the powers of an Inspector within the District of Cannock Chase under Sections 20, 21, 22, 25, 38 and 39 of the Act and any Regulations made by the Secretary of State under Section 15.
- 26.7.23 To appoint and authorise officers pursuant to Section 5 of the Food Safety Act 1990 and is authorised to exercise statutory powers and duties granted to the Council by Regulations, Orders and Statutory Instruments exacted pursuant to any provisions of the Act.
- 26.7.24 Where permissible, appoint persons not employed by the Council as required to assist the Council in discharging its duties in respect of any legislation listed in Annex 5 of this Section.
- 26.7.25 Subject to Council policy (where applicable), to exercise all regulatory powers, including issuing licences permits and notices and warrants, making inspections, maintaining registers, and discharging all obligations, duties and responsibilities contained within legislation listed in Annex 5 of this Section.
- 26.7.26 To issue and administer formal cautions, prepare, and issue notices and authorise prosecutions, in consultation with the Legal service, in respect of all matters falling within the service areas within their management control or within any of the legislation listed in Annex 5 of this Section.
- 26.7.27 To apply for a warrant to enter premises where the legislation listed in Annex 5 of this Section so permits.
- 26.7.28 To issue and enforce fixed penalty notices where the legislation listed in Annex 5 of this Section so permits.

- 26.7.29 To review, amend, update, and approve future Food Law Enforcement Service Plans
- 26.7.30 To review, amend, and/or update the Environmental Health & Public Protection Enforcement Policy as necessary, due to changes in legislation, government guidance, and in the interests of operational efficiency.

### **Licensing**

- 26.7.31 The determination of sexual entertainment venues licences except where there are relevant objections to the application where the application and determination will be referred to the Public Protection Committee.
- 26.7.32 The enforcement of all licensing matters in any manner permitted by law.
- 26.7.33 To issue hackney carriage and private hire drivers licences with the discretion to refer applications where offences by the applicant have been revealed, or proposed revocations or refusal of renewals where objections of relevance have been made, to the Public Protection Committee in accordance with Council policy and guidelines.
- 26.7.34 To issue hackney carriage and private hire vehicle licences and private hire operators licences and any other related licence with the discretion to refer applications where offences by the applicant have been revealed, or proposed revocations or refusal of renewals where objections of relevance have been made, to the Public Protection Committee in accordance with Council policy and guidelines.
- 26.7.35 To issue revoke and enforce all permits and licences within the remit of a District Council in any legislation listed in Annex 5 of this Section (with the exception of the Licensing Act 2003 and the Gambling Act 2005) with discretion to refer any controversial matter to the Public Protection Committee.
- 26.7.36 To process all applications under the Licensing Act 2003 and Gambling Act 2005.
- 26.7.37 To refer all applications made under the Licensing Act 2003 and Gambling Act 2005 to the Licensing Committee (or sub-committee) where there are relevant objections, or matters of public interest, and in accordance with the law, policy, and national and local guidelines.
- 26.7.38 To determine all applications made under the Licensing Act 2003 and Gambling Act 2005 other than those referred to the Licensing Committee (or sub-committee).
- 26.7.39 To make any amendments to the Licensing Policy; the Street Trading Policy (in consultation with the Environment & Climate Change Portfolio Leader); and the Gambling Act 2005 Policy required due to changes in legislation or government guidance and minor variations to the Policies in the interests of operational efficiency and service improvement.
- 26.7.40 In consultation with the Environment & Climate Change Portfolio Leader, to make amendments to the Hackney Carriage/Private Hire Driver, Vehicle & Operator Licensing Policy and the CCTV & Dashcam Policy required due to changes in

legislation or government guidance and variations to the Policies in the interests of service improvement / operational efficiency.

- 26.7.41 To determine the mechanisms for implementation of all driver training requirements within the Hackney Carriage/Private Hire Driver, Vehicle & Operator Licensing Policy.
- 26.7.42 To determine applications for Street Trading consents.
- 26.7.43 To grant and/or revoke pavement licences, refuse applications for pavement licences, attach conditions to pavement licences and serve relevant notices under the provisions of Business and Planning Act 2020, including the duration of licences and any conditions attached.
- 26.7.44 Subject to Council policy (where applicable), to exercise all regulatory powers, including issuing permits and notices and warrants, making inspections, maintaining registers, and discharging all obligations, duties and responsibilities contained within legislation listed in Annex 6 of this Section.
- 26.7.45 To carry out the Council's responsibilities for naming and numbering streets.

## **26.8 Head of Economic Development and Planning**

- 26.8.1 Subject to all Council policy (where applicable), to exercise all regulatory powers, including issuing licences, permits, notices and warrants, making inspections, maintaining registers, and discharging all obligations, duties and responsibilities contained within legislation listed in Annex 4 to this Section.
- 26.8.2 To issue and administer formal cautions, prepare and issue notices and, in consultation with the Legal Service, authorise prosecutions in respect of all matters falling within the service areas within their management control or within any of the legislation listed in Annex 4 to this Section.
- 26.8.3 To apply for a warrant to enter premises where the legislation listed in Annex 4 of this Section so permits.
- 26.8.4 To issue and enforce fixed penalty notices where the legislation listed in Annex 4 of this Section so permits.
- 26.8.5 To update, amend or vary Annexes 4 and 5 of this Section as required to ensure all relevant and necessary statutes (and associated legislation) relating to the service areas under their management control is listed.
- 26.8.6 With the Head of Operations, explore and develop any future projects, opportunities and initiatives in the Cannock Chase District that may arise from hosting the Commonwealth Games Mountain Biking event, in consultation with the Portfolio Leaders for Economic Development & Planning and Culture and Sport.
- 26.8.7 In consultation with the s.151 Officer and the Portfolio Leader, to take any associated decisions as required to ensure the Levelling Up Fund Project is delivered on time and on budget, including, but not limited to:

- (a) The Council appointment and contract award for any specialist advisers and consultants (in accordance with the Council's Procurement / contract regulations).
  - (b) To enter into any necessary negotiations with relevant landowners and/or third parties regarding the acquisition of property/land interests as deemed necessary for delivery of the Levelling Up Fund Project, this will include the agreement of any financial compensation measures for owners/tenants/occupiers affected by the proposed development.
  - (c) To investigate, determine and secure the most appropriate way in which to provide additional Specialist Project Management Services (subject to the availability of resources), to assist with delivery of the Levelling Up Fund Project. This will be necessary to safeguard the Council's interests and to provide sufficient delivery capacity to the Economic Development Team.
- 26.8.8 With the Head of Operations, to identify the likely car parking needs arising from the proposed Levelling Up Fund Project and undertake any feasibility work as necessary to inform a future business case.

### **Planning**

- 26.8.9 Subject to 26.8.16 below, to process and determine or instruct a suitably qualified person(s) to do so, all applications submitted under Town and Country Planning legislation, make assessments, discharge all obligations, duties, and responsibilities, and exercise all powers and authorities that fall within the legislation (and any modifications thereto or re-enactments thereof) listed at Annex 4 to this Section, and in particular, but not exclusively:
- 26.8.10 To agree, in consultation with the Legal Service, planning obligations under the Town and Country Planning legislation and any variation thereto.

### **(Tree Preservation Orders)**

- 26.8.11
- (a) To deal with any unopposed applications to lop, top or fell legally protected trees and trees within conservation areas, and give grant aid therefore pursuant to Council policy.
  - (b) Determine applications to fell or do works to trees that are subject of a TPO.
  - (c) Make TPOs, and, where there are no objections, to confirm them when dealing with planning related matters, and
  - (d) To exercise powers to dispense with or to enforce the duty to replace trees which are the subject to a Tree Preservation Order.
- 26.8.12 To appoint suitably qualified officers and enforce planning control or instruct a suitably qualified person(s) to do so through the provisions of that legislation set out in Annex 4 and where considered necessary and appropriate the authorisation of criminal and civil proceedings (and the defence/opposition thereof if necessary and/or the acceptance and administration of formal cautions) and/or the use of the following statutory notices:

- (a) Planning Contravention Notices.
- (b) Enforcement Notices.
- (c) Stop Notices and Temporary Stop Notices, in consultation with the Legal Service.
- (d) Breach of Condition Notice.
- (e) Notices requiring the proper maintenance of land.
- (f) Enforcement of control over advertisements.
- (g) Discontinuation Notices in respect of Advertisements.
- (h) Any other statutory notice available to the Council under any legislation referred to in Annex 4 of this Section.

26.8.13 To issue:

- (a) Certificates of lawfulness of proposed use and development.
- (b) Certificate of lawfulness of use or development.
- (c) Building Preservation Notices.

26.8.14 Remove unauthorised advertisements and recover the cost of removal from the offender(s).

26.8.15 Represent the Council in appeals, inquiries, and hearings, or instruct an appropriately qualified person to do so.

26.8.16 The following matters shall be reported to the Planning Control Committee for determination:

- (a) All Planning Applications which in the reasonable opinion and judgement of the Officer(s) duly authorised by the Chief Executive to determine planning applications (the Authorised Officer(s)) should be approved despite not fully complying with applicable Council policies, shall be reported to the Planning Control Committee for determination (whether or not any objections are received).
- (b) All Planning Applications which in the reasonable opinion of the Officer(s) duly authorised by the Chief Executive to determine planning applications (the Authorised Officer(s)):
  - (i) Is a major application which although complying with all policy requirements generates/leads to significant public opposition.
  - (ii) Has been made by a serving Member of the Council or an employee of the Council.
  - (iii) Is a major application and has been made by or on behalf of the Council.
  - (iv) Relates to a telecommunications development which involve the erection or installation of new masts to which there has been recorded public opposition and are not proposed to be refused by officers; and/or

- (v) Results in a request being received from an objector or the applicant seeking to address the Planning Control Committee in connection with the determination of the Planning Application.
    - (vi) When a Parish/Town Council has objected to an Application with a valid planning reason which Officers are not intending to refuse under delegated powers.
  - (c) All Planning Applications where a Member of the Council has made a formal written request (using the necessary referral form available from the Council's Planning Section), which must:
    - (i) set out the clear and relevant material planning reasons for why the request is being made for the Planning Application to be referred to the Planning Control Committee for determination, and
    - (ii) be received by the Council's Planning Section within the initial 21-day consultation period.
  - (d) All decisions to make Tree Preservation Orders (TPO) and there is an unresolved objection to the proposed TPO.
- 26.8.17 To make non-substantive amendments to adopted Supplementary Planning Documents (SPDs) in consultation with the Economic Development and Planning Portfolio Leader.
- 26.8.18 To approve the publication of future Cannock Chase Authority Monitoring Reports (AMRs), including minor revisions to the format and content of the AMR as required, in consultation with the Economic Development and Planning Portfolio Leader.
- 26.8.19 In consultation with the Economic Development & Planning Portfolio Leader, to approve any consultations related to the Brownfield Land Register and the publication of future versions of the Council's Part 1 Brownfield Land Register until such time as a Part 2 Register is produced.
- 26.8.20 The taking of all steps in the preparation of a Neighbourhood Plan by the Council, except for the final making (adoption) of a Neighbourhood Plan, which is a matter reserved for full Council for determination.
- 26.8.21 With the s.151 Officer, to jointly make decisions on whether or not to offer exceptional relief from the Community Infrastructure Levy and accept payments in kind on a case-by-case basis, in consultation with the Leader of the Council and the Corporate Improvement Portfolio Leader.
- 26.8.22 To make any minor amendments required to the Community Infrastructure Levy Guidance for Parish and Town Councils to reflect regulatory changes.
- 26.8.23 To make any non-substantive changes considered necessary to the Statement of Community Involvement, in consultation with the Economic Development and Planning Portfolio Leader.
- 26.8.24 With the s.151 Officer, to approve whether conditions attached to grant agreements in respect of Community Infrastructure Levy funding allocations have been met, before such funds can be released.

- 26.8.25 In consultation with the Portfolio Leader, to make minor changes to the Community Infrastructure Levy (CIL) Allocations Protocol, necessitated by changes to CIL related legislation.
- 26.8.26 In consultation with the Portfolio Leader, to agree future Statements of Common Ground related to Local Plan matters.
- 26.8.27 In consultation with the Environment and Climate Change Portfolio Leader, agree future allocation of funds to mitigation projects (in respect of the Cannock Chase Special Area of Conservation) and to agree and enter into any business plans and governance arrangements agreed by the Cannock Chase Special Area of Conservation Partnership to implement the mitigation policy.
- 26.8.28 In consultation with the Regeneration and High Streets Portfolio Leader, to review and update the Development Management Pre-application Charging Schedule as necessary.
- 26.8.29 The signing of authorisations under the Council's Great Crested Newt District Level Licence.
- 26.8.30 To waive or reduce the administrative fees in exceptional circumstances for the processing of invalid planning applications and the monitoring of Section 106 agreements.

## **26.9 Head of Housing HRA & Corporate Assets**

### **Property**

- 26.9.1 To undertake all relevant property management activities including the acquisition and disposal of interests in land and premises; management of property; rent reviews; lease renewal terms; accepting the surrender of leases (in consultation with the Legal service); 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.
- 26.9.2 To appoint a suitably qualified Officer(s) or agent(s) (where applicable and permitted):
  - (a) to act as the Council's land and property valuer.
  - (b) To fulfil the Council's obligations as Client under the Construction (Design and Management) Regulations 2015, and/or
  - (c) to undertake any aspects, scope or remit of industry recognised roles for any schemes or projects or development on land designed and managed by the Council, and
  - (d) to undertake and discharge all enforcement powers, duties, obligations, and responsibilities arising out of the Council having an interest in land and premises including, but not limited to, the role of the Council as landowner.

- 26.9.3 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.
- 26.9.4 To decline on behalf of the Council, offers to purchase or dispose of land where such a purchase or disposal does not accord with Council policy.
- 26.9.5 To proceed with the acquisition of areas of open space or amenity land required as a consequence of planning consent, providing:
- (a) the land has been laid out and maintained to the satisfaction of the Council and a commuted maintenance payment has been received, or
  - (b) the Council is in receipt of a commuted maintenance payment sufficient to carry out the necessary works and maintenance.
- 26.9.6 To settle claims for compensation made in consequence of land use or management or regeneration or planning, having taken appropriate legal and technical advice, in consultation with the Chief Executive.

#### **Housing Revenue Account**

- 26.9.7 To enforce the Council's conditions of tenancy including authorisation of proceedings for injunctions and repossession and possession made under "absolute grounds".
- 26.9.8 To hear and determine appeals in respect of introductory tenancies in accordance with legislation and Council approved/adopted policies and procedures.
- 26.9.9 In compliance with the Homes & Communities Agency (Tenant Involvement & Empowerment Standard) to fund Residents Groups, Scrutiny Panel and a range of tenant involvement activities.
- 26.9.10 To determine, within agreed budgets, planned maintenance programmes in accordance with the results of the stock condition survey.
- 26.9.11 To determine annual decoration and disturbance allowances.
- 26.9.12 To determine social need and medical priorities (following recommendations of the Medical and Social Assessment Panels) in respect of housing applications and transfer requests.
- 26.9.13 To undertake the day-to-day administration and management of the housing register and the allocation of houses (whether by secure tenancy, by nominations to the properties of another body, by licence, or otherwise) in accordance with the approved policies of the Council and including in respect of property rejected by all qualified applicants, to an applicant who would not normally qualify within the Council's existing allocations policy.
- 26.9.14 To fix rents for all Council dwellings in accordance with the Council's rent policy.
- 26.9.15 To deal with claims for home loss or disturbance payments.

- 26.9.16 To determine, in accordance with approved policy, the eligibility of tenants in respect of the Social Alarms Service and the vulnerable grass cutting and internal decoration scheme.
- 26.9.17 To explore and consider additional and alternative sites for delivery of housing units under the Housing Investment Fund Programme, as circumstances dictated.
- 26.9.18 In accordance with the Housing Services Compensation Policy, compensation can be paid at the discretion of the appropriate section of Service Manager up to the amounts detailed below:
- Team Leader: up to £100
  - Service Manager: up to £500
  - Head of Service: up to £1,500
- 26.9.19 Authority to approve repairs to property damage which are covered by the Council's insurance.

## **26.10 Head of Transformation and Assurance**

- 26.10.1 To administer the Corporate Training budget and to approve spending against that budget in consultation with the lead HR Professional.

## **26.11 Deputy Chief Executive - Resources**

- 26.11.1 To apply for a warrant to enter premises where the legislation listed in Annex 7 of this Section so permits.
- 26.11.2 To update, amend or vary Annex 7 of this Section as required to ensure all relevant and necessary statutes (and associated legislation) relating to the service areas under their management control is listed.
- 26.11.3 With the Head of Economic Development and Planning, to jointly make decisions on whether or not to offer exceptional relief from the Community Infrastructure Levy and accept payments in kind on a case-by-case basis, in consultation with the Leader of the Council and the Portfolio Leader.
- 26.11.4 With the Head of Economic Development and Planning, to approve whether conditions attached to grant agreements made in respect of Community Infrastructure Levy (CIL) funding allocations have been met before such funds can be released.

### **Finance**

- 26.11.5 To bring back into account dividends received from receivers or liquidators and any other sums received in respect of debts previously written off.

### **Local Taxation**

- 26.11.6 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 Council Taxpayer or National Non-domestic Ratepayer is liable.

- 26.11.7 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.
- 26.11.8 To determine Council Tax and Non-Domestic Rate Non-Valuation Appeals on behalf of the Council.
- 26.11.9 To raise and quash penalties imposed under Schedule 3 of the Local Government Finance Act 1992.
- 26.11.10 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).
- 26.11.11 To sign complaint lists, liability order lists, attachment of earnings orders and deductions of benefit orders and to authorise the levy of distraint on behalf of the Council.
- 26.11.12 To agree and authorise the appropriate allocations of occupied and unoccupied premises in order to calculate empty rate allowance under Section 44A Local Government Finance Act 1988.
- 26.11.13 To confirm all valid applications for Mandatory Rate Relief.
- 26.11.14 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.
- 26.11.15 To administer, collect and recover Business Improvement District (BID) levies in respect of any BID established and approved within the Cannock Chase District.
- 26.11.16 In consultation with the Leader of the Council and relevant Portfolio Leaders, to undertake any future amendments to the Discretionary Rates Relief Policy to ensure that it remains consistent with the business support policy objectives of the Council.

### **Benefits**

- 26.11.17 To determine all applications for Housing Benefit and Council Tax Benefit.
- 26.11.18 To consider and determine discretionary housing payments.
- 26.11.19 To calculate and recover overpayments of Housing Benefit and Council Tax Benefit in accordance with relevant legislation.
- 26.11.20 To determine applications for back dating of housing and/or council tax benefits.
- 26.11.21 To exercise the Council's discretion in administering Regulation 11 of the Housing Benefit (General) Regulations 1987.
- 26.11.22 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.

- 26.11.23 To authorise and issue sanctions including Administrative Penalties, Formal Cautions, and Prosecutions in respect of Housing Benefit and Council Tax Benefit Fraud.

### **Elections and Electoral Registration**

- 26.11.24 To set and/or amend from time to time the scale of fees, costs, charges and expenses to be allowed for the discharge of District elections.
- 26.11.25 To approve changes to polling districts polling places, and polling stations as may be required, in between formal reviews.
- 26.11.26 To appoint Deputy Electoral Registration Officers to carry out the powers and duties of the Electoral Registration Officer either in part or in full in accordance with section 52(2) of the Representation of the People Act 1983.

### **26.12 Section 151 Officer (Chief Finance Officer)**

- 26.12.1 To act as the Council's Chief Finance Officer in accordance with:
- (a) Section 151 of the Local Government Act 1972 (Section 151 Officer), and
  - (b) Section 114 of the Local Government Finance Act 1988 (Section 114 Officer).
- 26.12.2 To exercise (so far as may be lawful) the powers of the Council to borrow and invest; and to lend (including loans on mortgage), and to determine rates of interest and terms of repayment on such loans as may be required or prudent from time to time, and to administer any mortgage.
- 26.12.3 To determine the method of financing of capital projects within the overall financing reserves strategy of the Council.
- 26.12.4 To maintain a Registrar of Council Bonds and Stock Issues and declarations and certificates relating to securities.
- 26.12.5 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).

### **26.13 Monitoring Officer**

- 26.13.1 To undertake all duties of the Monitoring Officer as provided by law.
- 26.13.2 The person appointed by the Council as Monitoring Officer, in addition to undertaking the statutory functions of the post as listed in the Monitoring Officer Protocol shall:
- (a) Review and maintain the Council's Constitution.
  - (b) To appoint and/or instruct any legal advisor or investigator (or such other persons) as required for the benefit of the Council.
  - (c) To attest the Common Seal and sign and/or execute and/or attest any form, notice, order or document as required on behalf of the Council.

- (d) Determine any application to list any building and / or other land as an asset of community value, and / or claim for compensation arising from an asset being listed, in consultation with the Leader of the Council and Members of the ward in which the asset is located, where practicable.
- (e) Appoint persons to serve on the Council's Independent Remuneration Panel in accordance with the provisions of the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended).

# Annex 1

## Reserved Authorities

### **Preamble**

- (i) For the avoidance of any doubt, not all functions, powers or tasks have been delegated to Chief Officers or officers under this Scheme.
- (ii) The functions, powers and tasks set out in this Annex are not intended to be and are not delegated to officers.
- (iii) This Annex sets out and confirms which functions, powers, and tasks (which must be considered in conjunction with the Council's Constitution) that have been reserved to Council, Cabinet and specific Council committees and panels.

### **Council**

- 1.1 To approve the senior management structure of the Council above Service Manager level and any amendments thereto.

### **Appointments and Dismissals**

- 1.2 The appointment and dismissal of the Chief Executive.
- 1.3 The allocation of the responsibilities to the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, and the removal thereof.

### **Policy – Terms and Conditions of Employment**

- 1.4 The Council's policies in respect of pensions shall be determined by full Council.
- 1.5 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.

### **Early Retirement and Voluntary Redundancy**

- 1.6 The Council will determine the policy for pension issues, early retirement, and redundancy.

### **Disciplinary Action**

- 1.7 In the following paragraphs—
  - (a) “the 2011 Act” means the Localism Act 2011(1).
  - (b) “chief finance officer”, “disciplinary action”, “head of the authority's paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001(2).
  - (c) “independent person” means a person appointed under section 28(7) of the 2011 Act.

- (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts.
  - (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972(3) for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority.
  - (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer, and
  - (g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.
- 1.8 A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.
- 1.9 The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- 1.10 In paragraph 1.10 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
- 1.11 Subject to paragraph 1.13, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 1.10 in accordance with the following priority order—
- 1.12
- (a) a relevant independent person who has been appointed by the authority and who is a local government elector.
  - (b) any other relevant independent person who has been appointed by the authority.
  - (c) a relevant independent person who has been appointed by another authority or authorities.
- 1.13 An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 1.13 but may do so.
- 1.14 The authority must appoint any Panel at least 20 working days before the relevant meeting.
- 1.15 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular:
- (a) any advice, views or recommendations of the Panel.
  - (b) the conclusions of any investigation into the proposed dismissal, and
  - (c) any representations from the relevant officer.

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

### **Grievances**

- 1.17 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.

## **Cabinet**

### **Early Retirement and Voluntary Redundancy**

- 2.1 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, or actuarial strain paid within the Council's policy.
- 2.2 Subject to paragraph 2.3 below, for any early retirement/termination or redundancy where the payment of actuarial strain is a consideration Cabinet approval shall first be required before any proposed early retirement/termination redundancy can take effect.
- 2.3 Cabinet approval, as referred to in paragraph 2.2 above shall not be required where early retirement/termination or redundancy has been approved as part of the annual budget setting process and details of the associated costs of any proposed redundancies or early retirements/terminations set out in the "Savings Option Taken from the Budget" Annex of the Budget Statement, or other report to Council as part of the annual budget.

## **Standards Committee**

- 3.1 Disciplinary action in respect of any other Chief 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.

## **Joint Appointments Committee and Investigatory and Disciplinary Committee**

- 4.1 The appointment of Heads of Services shall be made by the Joint Appointments Committee appointed by the Council.
- 4.2 Subject to the Terms of Reference, the Investigatory and Disciplinary Committee may suspend the Head of Paid Service (the Chief Executive), Monitoring Officer or Section 151 Officer, in accordance with their relevant terms and conditions of employment, whilst an investigation takes place into alleged misconduct.

Such suspension must be on full pay and last no longer than two months. The suspension periods may only be extended beyond two months following a decision by the Investigatory and Disciplinary Committee.

## **Appeals and Complaints Panel**

- 5.1 The Council's Appeals and Complaints Panel will hear appeals relating to decisions, made by either the Cabinet, Standards Committee, the Chief Executive, or an officer nominated by the Chief Executive, in respect of Chief Officers 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.
- 5.2 Chief Officers may appeal against the salary for post to a Panel appointed by the Council, comprising elected Members and / or management. This Panel should be chaired by an independent person.

## **Procedural Requirements**

- 6.1 Pursuant to 1.2 and 4.1, no offer of appointment shall be made until:
- (a) the appointing body<sup>1</sup> 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
    - (iii) the appointing body is satisfied that any objections from the Leader received within the period are either not material or not well-founded.
- 6.2 Pursuant to 1.2 notice of dismissal must not be given until:
- (a) the dismissing body<sup>2</sup> 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.

6.3 For the purposes of 6.1 and 6.2, "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.

<sup>1</sup> This means the Council or the Panel charged with making the appointment

<sup>2</sup> This means the Council or the Panel deciding to dismiss

# Annex 2

## Designation of Proper Officers and Authorised Officers

Details of Proper Officers and Authorised Officers are set out below:

### **A. Chief Executive**

1. 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) Accepting Declarations of Acceptance of Office from elected Members within 2 months of the day of election.
  - (b) Summonses to attend meetings of the Council.
  - (c) In respect of the provisions of the Health and Safety at Work etc. Act 1974 for the Council's operation.

### **B. Head of Operations**

1. The Head of Operations 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.

### **C. Deputy Chief Executive (Resources)/Section 151 Officer**

1. The Deputy Chief Executive (Resources)/Section 151 Officer 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 purpose of Section 151 of the Local Government Act 1972 (Section 151 Officer).
  - (b) For the purpose of Section 114 of the Local Government Finance Act 1998 (Section 114 Officer).
  - (c) Electoral Registration Officer for the Council.
  - (d) Returning Officer at Parish and District elections, Local Polls and Referendums.
  - (e) Returning Officer, Acting Returning Officer, and Deputy Acting Returning Officers in connection with General Elections; County Elections; Police, Fire & Crime Commissioner Elections; and National Referenda.

### **D. Head of Regulatory Services**

1. The Head of Regulatory Services 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) Maintaining the local land charges register and responding to queries.
  - (b) As local registrar under Section 15 of the Land Charges Act 1925.
  - (c) For the signing of notices under Section 78 of the Building Act 1984.

**E. Council Solicitor and Monitoring Officer**

1. The Council Solicitor and Monitoring Officer 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) The signing of legal documents and contracts.
  - (c) 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.
  - (d) For the purposes of Section 3 of the Local Government (Contracts) Act 1997 and Regulation 7 of the Local Government (Contracts) Regulations 1997.
  - (e) In the absence of the Chief Executive, to issue summonses to attend meeting of the Council.

# Annex 3

## Legislation – Operations

- Cinemas Act 1985
- Theatres Act 1968
- Sections 197-214 of the Town & Country Planning Act 1990
- Hedgerow Regulations 1997
- Town and Country Planning (Trees) Regulations 1999

and all Regulations and Orders made or deemed to be made under those Acts or relating to the foregoing or having effect by virtue of the European Communities Act 1972, and any amendments, modifications, or re-enactment to the foregoing.

# Annex 4

## Legislation – Economic Development and Planning

### **Planning:**

- Housing and Planning Act 2016
- Parts II, III, IV, V, VII, VIII, ss257-260, of the Town and Country Planning Act 1990
- Town and Country Planning (Development Management Procedure) (England) Order 2010
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning and Compensation Act 1991
- Planning Act 2008
- Town and Country Planning (Control of Advertisements) (England) Regulations 2007
- Town and Country Planning (General Permitted Development Order) 1995 (1995/418)
- Town and Country Planning (General Permitted Development) (England) Order (2015/596)
- Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999
- Hedgerow Regulations 1997
- Town and Country Planning (Trees) Regulations 1999
- Business and Planning Act 2020
- Anti-Social Behaviour Act 2003

### **Regeneration:**

- The Local Government Act 2000
- The Planning and Compulsory Purchase Act 2004
- The Local Government and Public Involvement in Health Act 2007
- The Local Democracy, Economic Development & Construction Act 2009

and all Regulations or Orders made or deemed to be made under those Acts or relating to the foregoing or having effect by virtue of the European Communities Act 1972, and any amendments, modifications, or re-enactment to the foregoing.

# Annex 5

## Legislation – Regulatory Services

- Animal Health & Welfare Acts 1981 and 1984
- Animal Welfare Act 2006
- Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018
- Anti-Social Behaviour Act 2003
- Anti-Social Behaviour Crime and Policing Act 2014
- Building Act 1984
- Business and Planning Act 2020
- Caravan Sites Act 1968
- Caravan Sites and Control of Development Act 1960
- Charities Acts 1992 and 2006
- Clean Air Act 1993
- Clean Neighbourhoods & Environment Act 2005
- Control of Pollution Act 1974
- Criminal Justice and Police Act 2001
- Criminal Justice and Public Order Act 1994
- Dangerous Dogs Acts 1989 and 1991
- Dangerous Wild Animals Act 1976
- Energy Act 2013
- Environment Act 1995
- Environmental Protection Act 1990
- Food & Environment Protection Act 1985
- Food Hygiene (England) Regulations 2006
- Food Safety Act 1990
- Gambling Act 2005
- General Food Regulations 2004
- Guard Dogs Act 1975
- Health Act 2006
- Health & Safety at Work etc Act 1974
- House to House Collections Act 1939
- Housing Acts 1985 and 2004

- Housing (Grants, Construction & Regeneration) Act 1996
- Land Compensation Act 1973
- Land Drainage Act 1991
- Licensing Act 2003
- Litter Act 1983
- Local Government & Housing Act 1989
- Local Government (Miscellaneous Provisions) Acts 1976 and 1982
- Mobile Homes Acts 1975 ,1983 & 2013
- Mines and Quarries Act 1954
- National Assistance Act 1948
- Noise Act 1996
- Noise and Statutory Nuisances Act 1993
- Offices, Shops & Railway Premises Act 1963
- Police Factories etc (Miscellaneous Provisions) Act 1916
- Pollution Prevention & Control Act 1999
- Prevention of Damage by Pests Act 1949
- Private Security Industry Act 2001
- Protection from Eviction Act 1977
- Public Health Acts 1875, 1936 and 1961
- Public Health (Control of Diseases) Act 1984
- Radioactive Substances Act 1993
- Refuse Disposal (Amenity) Act 1978
- Regulatory Enforcement and Sanctions Act 2008
- Regulatory Reform (Housing Assistance) (England and Wales) Order 2002
- Rent (Agriculture) Act 1976
- Road Traffic Act 1988
- Slaughter of Poultry Act 1967
- Sunday Trading Act 1994
- Town Police Clauses Act 1847
- Traffic Management Act 2004
- Transport Act 1985
- Scrap Metal Dealers Act 2013
- Vehicles (Crime) Act 2001
- Water Industry Act 1991
- Zoo Licensing Act 1981

**Building Control:**

- Building Act 1984
- The Building Regulations 2010
- Building (Approved Inspector etc) Regulations 2010
- The Building (Local Authority Charges) Regulations 2010

and all Regulations or Orders made or deemed to be made under those Acts or relating to the foregoing or having effect by virtue of the European Communities Act 1972, and any amendments, modifications, or re-enactment to the foregoing.

# Annex 6

## Legislation – Wellbeing

- Anti-social Behaviour Act 2003
- Anti-social Behaviour, Crime and Policing Act 2014
- Homelessness Act 2002
- Housing Acts 1985, 1996, and 2004
- Housing (Grants, Construction & Regeneration) Act 1996
- Housing and Planning Act 2016
- Homelessness Reduction Act 2017
- Housing and Regeneration Act 2008
- Local Government & Housing Act 1989
- Local Government (Miscellaneous Provisions) Acts 1976 and 1982
- Control of Off-Street Parking (England and Wales) Order 1978
- Environment Act 1995
- Environmental Protection Act 1990
- Land Drainage Act 1991
- Local Government & Housing Act 1989
- Local Government (Miscellaneous Provisions) Acts 1976 and 1982
- Local Transport Act 2008
- Refuse Disposal (Amenity) Act 1978
- Water Industry Act 1991

and all Regulations or Orders made or deemed to be made under those Acts or relating to the foregoing or having effect by virtue of the European Communities Act 1972, and any amendments, modifications, or re-enactment to the foregoing.

# Annex 7

## Legislation – Financial Management

- Housing Benefit (General) Regulations 1987
- Council Tax Benefit (General) Regulations 1992
- Council Tax (admin& enforcement) Regulations 1992
- Social Security Admin Act 1992
- NNDR (Collection and Enforcement) Regulations 1989
- General Rate Act 1967
- Social Security Contributions and Benefits Act 2002

and all Regulations or Orders made or deemed to be made under those Acts or relating to the foregoing or having effect by virtue of the European Communities Act 1972, and any amendments, modifications, or re-enactment to the foregoing.

# Section 27

## Council Procedure Rules

### 1. Meetings of the Council

- (1) The annual meeting of the Council must be held as provided by the Local Government Act 1972 on a date and at a time fixed by the Council.
- (2) Other meetings of the Council shall be held at such other days as the Council may fix.
- (3) An extraordinary meeting of the Council may be called at any time by the Chair, Chief Executive, Chief Finance Officer or the Monitoring Officer.
- (4) An extraordinary meeting of the Council may also be called provided that at least 5 Members have signed a requisition to that effect and have passed that to the Chair of the Council. If, at the expiry of 5 clear working days from the receipt of the request the Chair fails to call the requested extraordinary meeting within 10 clear working days then any 5 Members (which can be the same Members as made the initial request) may call an extraordinary meeting of the Council to which the Proper Officer shall so arrange.
- (5) The date, time and place of meetings will be determined by the Proper Officer.
- (6) The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules and current regulations. The Proper Officer will send a summons by post or electronic means to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

### 2. Chair and Vice-Chair of the Council

- (1) The election of the Chair of the Council shall be the first business to be transacted at the annual meeting of the Council.
- (2) The Council shall at the annual meeting appoint, by election, a Vice-Chair.
- (3) The Chair of the Council or if they are absent, the Vice-Chair preside. If the Chair and Vice-Chair are absent a Member who is not a Member of the Executive, shall be appointed, by election, by those present to preside.
- (4) Any power or duty of the Chair of the Council in relation to the conduct of a meeting may be exercised by the Member presiding at a meeting.

- (5) The Chair and Vice-Chair will hold office for the municipal year and shall not be removed from office unless they resign or are disqualified by law from remaining as a Councillor or if there is a change in the administration of the Council, whereupon a Member may move that the Chair and Vice-Chair be removed and that a new Chair and Vice-Chair be nominated and appointed. For the avoidance of doubt, the Chair or Vice-Chair cannot be removed by a motion of “no confidence” or other similar motion.

### **3. Quorum**

No business shall be dealt with at a meeting of the Council unless one quarter of the whole number of Members of the Council is present. If there is no quorum the meeting must be adjourned immediately and any remaining business postponed either to a time fixed by the Chair at the adjournment or if no time is fixed, the next ordinary meeting.

### **4A. Order of Business – Annual Meeting**

- (1) In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual meeting will take place in March, April or May:
- (a) To elect a person to preside if the Chair or Vice-Chair of the Council is not present.
  - (b) To elect the Chair of the Council.
  - (c) To appoint, by election, the Vice-Chair of the Council.
  - (d) To approve the minutes of the last meeting.
  - (e) To receive any announcements from the Chair of the Council, the Leader of the Council, or the Chief Executive.
  - (f) To elect the Leader of the Council in accordance with the provisions set out in Part 2, Section 6, Paragraph 6.3 of the Constitution.
  - (g) To receive notification from the Leader of the Council of the number and identity of Cabinet Members and their Portfolios.
  - (h) To receive the acceptance of office from the Leader of the Opposition.
  - (i) To receive notification from the Leader of the Opposition of the number and identity of the Shadow Cabinet Members and their Portfolios.
  - (j) To appoint at least one Overview and Scrutiny Committee (referred to as a Scrutiny Committee), a Standards Committee, a Licensing and Public Protection Committee, a Planning Control Committee and such other Committees as the Council considers appropriate.
  - (k) To decide the size and terms of reference for those Committees for the municipal year and other bodies including any such scheme for substitute Members.
  - (l) To decide the allocation of seats to political groups in accordance with the current legislation.

- (m) To appoint to Committees those Councillors named by the Group Leader.
  - (n) To appoint the Chairs and Vice-Chairs of Committees provided that advance notification of any Political Group's proposed Chairs, Vice-Chairs and membership has been circulated by the Proper Officer to all Members at least 24 hours prior to the Annual Meeting.
  - (o) To appoint representatives to outside bodies provided that Group Leaders have submitted their nominations to the Proper Officer at least 48 hours prior to the commencement of the Annual Meeting. The submitted nominations shall be circulated to Members of the Council at least 24 hours prior to the meeting and no amendments shall be permitted once the nominations are received by the Proper Officer.
  - (p) To receive and adopt any changes to the Constitution.
  - (q) To consider any other business set out in the notice convening the meeting.
- (2) The order of business may be changed, insofar as it is statutorily possible, at the discretion of the Chair or by motion passed without discussion. The motion need not be in writing.

#### **4B. Order of Business – Ordinary Meetings**

The order of business at every meeting of the Council shall be:

- (a) To choose the person to preside if the Chair and Vice-Chair are absent.
- (b) To approve as a correct record and sign the minutes of the last meeting of the Council.
- (c) To deal with any deputations or public questions received in accordance with the Council's approved schemes.
- (d) To receive any announcements from the Chair of the Council, the Leader of the Council, or the Chief Executive.
- (e) In the event of the Leader being removed following a vote of 'no confidence' or a change in 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 and their Portfolios.
- (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 and their Portfolios.
- (i) In the event of any change in the Chair or Vice-Chair of a Committee, to appoint the Chair and Vice-Chair to such Committee.
- (j) In the event of any change in named membership of a Committee by a Group Leader, to appoint the newly named Member(s).

- (k) To dispose of business (if any) remaining from the last meeting.
- (l) To answer questions asked under Rule 8.
- (m) To consider reports and recommendations of the Cabinet, Committees and Panels.
- (n) To consider motions under Rule 6 in the order in which notice has been received.
- (o) To deal with comments and questions under Rule 9.
- (p) To consider other business, if any specified in the summons.
- (q) The order of business may be changed, insofar as it is statutorily possible, at the discretion of the Chair or by motion passed without discussion. The motion need not be in writing.

#### **4C. Order of Business – Extraordinary Meetings**

- (a) To choose a person to preside if the Chair and Vice-Chair are absent.
- (b) To consider the business specified in the summons for which the extraordinary meeting was called.

#### **4D. Petitions**

- (a) At a meeting of the Council any member of the Council may present a petition to the Chair. The petition must be signed by at least 10 residents of the District, other than members of the Council (to assist with the verification of their status as residents, petitioners must print their name and address). The Member presenting the petition shall satisfy themselves that the petition complies with this rule.
- (b) A petition may be on any matter related to the Council's functions except an application for a licence, permission, or certificate to be considered under the Council's regulatory functions.
- (c) A Member wishing to present a petition shall give notice of their intention to do so to Head of Law & Governance or the person presiding at the meeting before the start of the meeting at which they wish to present it.
- (d) On presentation of the petition the Member may read out or summarise the request of the petition, indicate the number of and description of the signatories but may not speak otherwise.
- (e) A petition properly presented under this rule shall be reported to the Cabinet for consideration.

#### **5. Minutes**

- (1) The Chair will move that the minutes of the previous Council meeting be signed as a correct record.
- (2) No discussion shall take place on these minutes, except as to their accuracy. The Chair shall sign the minutes when they have been agreed.
- (3) Extraordinary Meetings shall not be used to sign minutes. Minutes of Council Meetings shall only be approved by the Annual Meeting or an ordinary meeting of the Council.

## **6. Notices of Motion**

### **(1) Delivery of Notice of Motion**

- (a) Notice of a motion other than one referred to in Rule 7 must be given in writing and signed by the Member(s) giving notice. It must be delivered to the Proper Officer at least 7 clear working days before the meeting of the Council at which it is to be considered.
- (b) The Proper Officer must ensure a record is kept of notices of motion received. Members are entitled to see this record.

### **(2) Motions to be set out in Summons**

The summons to a meeting of the Council must set out motions in the order in which they have been received unless they have been withdrawn in writing or relate to a later meeting.

### **(3) Motions not Moved**

Unless postponed with the consent of the Council a motion in the summons which is not moved (by the person who has given notice or a Member on their behalf) is deemed to be withdrawn.

### **(4) Motions Having Financial Impact**

Motions containing proposals which would:

- (a) Increase the capital and/or revenue expenditure of the Council and/or,
- (b) Reduce the income of the Council,

must first be referred to the Cabinet by the Chief Executive, prior to consideration by Council.

### **(5) Automatic Reference to Cabinet, Committee or Sub-Committee**

If the subject matter of any motion of which notice has been duly given comes within the province of the Cabinet or any Committee or Sub-Committee, or falls within rule 6(4), above, it shall formally be moved and seconded and stand referred without discussion to the next (where practicable) Cabinet or to such Committee or Sub-Committee or to such other Committee or Sub-Committee as the Council may determine for consideration and report; provided that the Chair may, if the Chair considers it convenient and conducive to the despatch of business, allow the motion to be dealt with at the meeting at which it is brought forward.

### **(6) Scope of Motions**

Every motion shall be relevant to some matter in relation to which the Council has powers or duties, or which affects the district.

### **(7) Mover of Motion may attend Cabinet, Committee or Sub-Committee**

A Member of the Council who has moved a motion which has been referred to the Cabinet or any Committee or Sub-Committee shall have notice of the meeting at which it is proposed to consider the motion. The Member shall have the right to attend the meeting and speak but shall not vote upon that motion unless the Member is a Member of the Cabinet, Committee or Sub-Committee considering the motion.

**(8) Motions Considered Under Rule 6(4)**

Motions that are referred to Cabinet by virtue of rule 6(4), above, shall be considered at the next practicable Council meetings following its consideration by Cabinet, and the following procedures will have effect:

- (a) The motion will already be deemed to have been moved and seconded at the previous Council meeting.
- (b) The mover of the motion will present the motion again.
- (c) The relevant Cabinet Portfolio Holder, or other Cabinet member if unavailable, shall present the report or recommendations of Cabinet, but may also speak again during the debate on the motion.
- (d) The original motion will then be discussed under the normal rules of debate.

**7. Motions Which May be Moved Without Notice**

The following motions and amendments may be moved without notice:

- (1) appointment of a Chair of the meeting at which the motion is made.
- (2) motions relating to the accuracy of the minutes.
- (3) that an item of business specified in the summons has precedence.
- (4) a motion by the Chair of the Council (or Member presiding) that a deputation or public question be allowed in accordance with the approved schemes.
- (5) refer the item or motion to the Cabinet or a Committee or Sub-Committee.
- (6) appointment of a Committee, Sub-Committee or Members thereof arising from an item mentioned in the summons to the meeting.
- (7) receipt of reports and adoption of recommendations of the Cabinet, Committees, Sub-Committees Panels or Officers and any consequent resolutions.
- (8) that leave be given to withdraw a motion.
- (9) extending the time limit for speeches.
- (10) amendments to motions.
- (11) that the Council proceed to the next business.
- (12) that the question be now put.
- (13) that the debate be now adjourned.
- (14) that the Council do now adjourn.
- (15) suspending Rules in accordance with Rule 24.
- (16) the Chair (only) may move that a Member named under Rule 11 be not further heard or that they leave the meeting.
- (17) giving consent of the Council where the consent of the Council is required by the Constitution.
- (18) a motion under the Local Government Act 1972 to exclude the public.

## **8. Questions by Members**

### **(1) On reports of the Cabinet or Committees**

A member of the Council may ask the Leader of the Council or portfolio Lead or the Chair of a Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

### **(2) Questions on notice at full Council**

Subject to Rule 8(4), a member of the Council may ask:

- the Chair.
- a member of the Cabinet.
- the Chair of any Committee or Sub-Committee, Panel or other Body.

a question on any matter in relation to which the Council has powers or duties or which affects the area.

### **(3) Questions on notice at Committees, Sub-Committees and Panels**

Subject to Rule 8, a member of a Committee, Sub-Committee or Panel may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affect the area, and which falls within the terms of reference of that Committee, Sub-Committee or Panel.

### **(4) Notice of questions**

A member may only ask a question under Rule 8(2) or 8(3) if either:

- (a) they have given at least 7 clear working days notice in writing of the question to the Proper Officer, or
- (b) the question relates to urgent matters, and they have the consent of the Chair of the Council to the question being asked provided that such request is received not less than four hours before the start of the meeting. The relevant Portfolio Holder, Leader, or Committee Chair shall respond at the Council meeting.

If the Member who submitted the original question wishes to ask one supplementary question on any matter arising out the original question or response, they may do so.

### **(5) Response**

An answer may take the form of:

- (a) a direct oral answer.
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication, or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later and within a reasonable time to the questioner.

## **9. Minutes of Meetings of the Cabinet, Committees, Sub-Committees and Panels**

- (1) A document called The Minutes Record (the "Record") containing the minutes of Cabinet, Committees, Sub-Committees and Panels shall be circulated to all Members at least 5 clear working days before each Council meeting.
- (2) The Record shall contain the minutes of all meetings that have taken place since the last Record was issued. If the minutes have not at the time of publication been approved as a correct record, they shall clearly be marked as "DRAFT".  
  
(NB: Minutes appearing in the Record marked "DRAFT" will not appear again in the Record once approved but will be published on the Council's website.)
- (3) The Record will be circulated electronically but Members may request a paper copy. A paper copy of the Record will be placed in each Group Room.
- (4) Any Member who wishes to ask a question or make a comment on any item in the Record at the Council meeting must give written notice to the Chief Executive at least 3 clear working days before the start of the meeting, giving the minute number of the item and setting out clearly the question to be asked or comment to be made. Questions may be asked of the Leader, the Cabinet member who holds the relevant portfolio or the Chair of the relevant meeting. Comments and questions shall be confined to the subject matter of the item.  
  
(N.B. For a normal Council meeting held on a Wednesday the deadline is 5:00 p.m. on the previous Thursday.)
- (5) A maximum of 10 questions or comments will be permitted for each meeting and no member may submit more than 2 questions or comments for each Council meeting. Questions and comments will be accepted in the order in which they are received.
- (6) A written response from the Leader, Cabinet Member or Chair will be compiled. A document containing all questions and comments together with the responses will be circulated to all Members at or before the commencement of the Council meeting. For the avoidance of doubt the response may be that the person declines to give a response to the question or comment.
- (7) The person chairing the Council meeting will call each of the Members who have submitted a question or comment in the order in which they appear in the document and that Member may ask a supplementary question or make a supplementary comment confined to the subject matter of the original question or comment or the content of the response. The Leader, Cabinet Member or Chair who gave the original response may answer the supplementary question or respond to the supplementary comment but there shall be no further questions, comments or discussion.

- (8) This Rule is not intended to restrict Member's access to information or to restrict their ability to ask questions or seek information by other means or at other times. Members should before using this Rule contact the Leader, Cabinet Members or the Chairs of Committees or Officers to ask questions or seek information. Any questions or comments received after the deadline or which exceed the number allowed under this Rule will be passed to the appropriate person but will not be circulated at the Council meeting.
- (9) Any recommendations of the Cabinet, Committees, Sub-Committees, Panels or Forums which requires a decision by Council shall be considered as a separate agenda item on the Council agenda. Any questions or comments in relation to such an item will be taken with that item.

## **10. Rules of Debate for Council Meetings**

- (1) **No speeches until motion seconded**  
No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.
- (2) **Right to require motion in writing**  
Unless notice of the motion has already been given, the Chair of the Council may require it to be written down and handed to them before it is discussed.
- (3) **Seconders' speech**  
When seconding a motion or amendment, a Member may reserve their right to speak until later in the debate.
- (4) **Content and length of speeches**  
Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chair of the Council.
- (5) **Only one member to stand at a time**  
A member when speaking shall stand and address the Chair. If two or more members rise, the Chair shall call on one to speak; the other or others shall then sit. While a member is speaking the other members shall remain seated, unless rising to a point of order.
- (6) **When a member may speak again**  
A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:
  - (a) on an amendment moved by another member.
  - (b) to move a further amendment if the motion has been amended since they last spoke.
  - (c) if their first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which they spoke was carried).
  - (d) in exercise of a right of reply.
  - (e) on a point of order or personal explanation.

**(7) Alteration of motion**

- (a) A member may amend a motion of which they have given notice with the consent of the meeting. The meeting's consent by way of a vote will be signified without discussion.
- (b) A member may amend a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified by way of a vote without discussion.
- (c) Only amendments under Rule 10(7)(a) are permitted.

**(8) Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration.
  - (ii) to leave out words.
  - (iii) to leave out words and insert or add others, or
  - (iv) to insert or add words.as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of in accordance with Rule 15. Amendments will be considered in the order upon which they are received.
- (c) Except as set out in Rule 10(11) below, and as provided for in Rule 10(8)(d), no amendment to a motion (including an amendment to refer back any business for further consideration) shall be moved at any meeting of the Council unless notice thereof in writing setting out the amendment and signed by the Member giving it, has been received by the Chief Executive no later than 10 am on the second working day preceding the day of the meeting.
- (d) If a Member wishes to move a second or further amendment and has not given due notice thereof where required in accordance with Rule 10(8)(c) the Member shall give notice of the proposed amendment during the discussion on the first or other earlier amendment and, subject to the consent of the Chair (whose decision shall not be open to discussion), may move this amendment at such time as the Chair shall decide. Subject to this, all amendments shall be considered in the order in which notice has been given.
- (e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (f) After an amendment has been carried, the Chair of the Council will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

- (g) No amendments to the motions may be moved in respect of the Council determination of the Budgetary Framework as specified in Part 4, Section 29.

**(9) Withdrawal of motion**

A member may withdraw a motion which they have moved with the consent of the seconder. No member may speak on the motion after the mover has withdrawn the motion.

**(10) Right of reply**

- (a) The mover of the motion (or substantive motion) has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the amendment has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

**(11) Motions which may be moved during debate**

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

- (a) to withdraw a motion.
- (b) to proceed to the next business.
- (c) that the question be now put.
- (d) to adjourn a debate.
- (e) to adjourn a meeting.
- (f) that the meeting continue beyond five hours in duration.
- (g) to exclude the public and press in accordance with the Access to Information Rules.
- (h) to not hear further a member named under Rule 11.3 or to exclude them from the meeting under Rule 11.4, and
- (i) a requisition for a named vote under Rule 15.5.

**(12) Closure motions**

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
  - (i) to proceed to the next business.
  - (ii) that the question be now put.
  - (iii) to adjourn a debate, or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the motion or the amendment the right of reply and then put the procedural motion to the vote without further debate or discussion.

- (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote without further debate or discussion. If it is passed they will give the mover of the motion or the amendment the right of reply before putting the motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving any right of reply and without further debate or discussion.
- (e) Items of business not dealt with prior to the meeting being adjourned shall be considered at the re-convened meeting of Council which shall take place 14 calendar days following the decision to adjourn.

### **(13) Points of Order and Personal Explanations**

- (a) A Member may raise a point of order at any time. The Chair will hear the argument immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which they consider it has been broken without which the alleged breach shall be disregarded. Unless the Member refers explicitly to the relevant Rule of Procedure or law they shall not be heard.
- (b) A Personal Explanation shall be confined to some material part of a former speech made by that Member which may have been misunderstood in the present debate and to provide clarification. The ruling of the Chair on these matters will be final.
- (c) In both (a) and (b) above the Member must AT THE START of their address refer to the Rule of Procedure, law or matter of Personal Explanation they wish to raise.

## **11. Conduct of Members**

### **(1) Standing to speak**

When a Member or member of the public speaks at full Council they must stand (unless they are disabled from doing so) and address the meeting through the Chair. If more than one Member stands, the Chair will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

### **(2) Chair standing**

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

### **(3) Member not to be heard further**

If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair at their absolute discretion may move that the Member be not heard further

for the remainder of that item. If seconded, the motion will be voted on without discussion.

**(4) Member to leave the meeting**

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

**(5) General disturbance**

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

**12. Disturbance by Members of the Public**

(1) If a member of the public interrupts the proceedings at any meeting, the Chair shall issue a warning. If the member of the public concerned continues the interruption, the Chair shall order the removal of that person from the Council Chamber.

(2) In case of general disturbance in any part of the Chamber open to the public, the Chair shall order that part to be cleared.

**13. Suspension of Sitting**

If the business of the Council be not disposed of at the expiration of the fifth hour after commencement of the meeting, the Chair shall ask for an immediate vote to be taken of the Members present as to whether they desire to proceed with the remaining business. If the Members decide to adjourn they shall fix upon a date when the adjourned meeting shall take place or, if no date and time is fixed, the remaining business will be included in the agenda for the next ordinary meeting.

**14. Rescission of Resolution**

No motion to rescind any resolution passed by the Council within the preceding six months and no motion or amendment to the same effect as one which has been rejected within the preceding six months shall be proposed unless notice is given in accordance with Rule 6 and bears the names of at least fourteen Members of the Council. When any such motion or amendment has been disposed of by the Council it shall not be open to any Member to propose a similar motion within a further period of six months. This Rule shall not apply to motions moved following a recommendation of a Committee to the Council.

**15. Voting**

**(1) Majority**

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

**(2) Chair's casting vote**

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

If the Chair chooses not to exercise their casting vote and an equality of vote remains, the motion shall fall.

**(3) Show of hands**

Unless a recorded vote is demanded the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

**(4) Named vote**

In the circumstances set out in (a) or (b) below the names of those Members who vote for or against a motion or amendment or who abstain from voting will be taken down and recorded in the minutes of the meeting.

(a) If before a vote is taken a Member so requests and is supported by six other Members (signified by the Members rising in their places).

(b) Immediately after any vote is taken at a budget decision meeting of the Council.

(c) In paragraph 15.5(b) "budget decision meeting" means a meeting of the Council at which it makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992(3) and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting "vote" means a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

**(5) Recorded Vote**

Prior to the vote being taken (and where no named vote has been requested) at least 6 Members of Council (indicating their support by rising in their place) may request that the numbers of votes for, against and abstentions be recorded in the minutes.

**(6) Right to require individual vote to be recorded**

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

**(7) Voting on appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

**16. Record of Attendance**

Members must sign the attendance book for every meeting at which they are present. This shall be the responsibility of every Member.

**17. Appointment of Chairs and Vice-Chairs of Committees, Sub-Committees and Other Bodies**

- (1) Members shall, at the annual meeting, in conjunction with the appointment of Committees, Sub-Committees and other bodies, also appoint the Chairs and Vice-Chairs thereof.
- (2) If the Chair and Vice-Chair are absent from a meeting, a Chair for that meeting must be appointed by the other Members of the Committee, Sub-Committee or other body present at that meeting.

**17A. Vice-Chairs of Scrutiny Committees**

The Vice-Chair of a Scrutiny Committee shall, where the Council is divided into political groups so far as possible be appointed according to the following principles:

- (a) where the Executive comprises Members of one or more groups the combined membership of which comprise less than 24 members of the Council the Vice-Chairs of the Scrutiny Committees shall be allocated to the groups not having members on the Executive in proportion to the number of Members in those groups.
- (b) where the Executive comprises Members of one or more groups the combined membership of which comprise 24 or more Members of the Council the Vice-Chairs of the Scrutiny Committees shall be allocated to the groups in proportion to the number of Members in the groups.
- (c) the Vice-Chair of a Scrutiny Committee shall not be a member of the same political group as the Cabinet Member whose portfolio corresponds wholly or mainly with the terms of reference of the Scrutiny Committee.

**18. Proceedings of Committees, Sub-Committees and Other Bodies**

All agenda, reports and other documents and all proceedings of Committees, Sub-Committees and other bodies shall be subject to the Access to Information provisions.

**19. Representatives on Committees, Sub-Committees and Other Bodies**

Where a Committee, Sub-Committee or other body of the Council so wishes it shall, as necessary or appropriate, produce schemes to allow the public to attend meetings so as to:

- (a) make representations and/or
- (b) provide information to assist the Committee, Sub-Committee or other body in its consideration or determination of a particular matter.

**20. Sub-Committees**

The Council and every Committee appointed by the Council may appoint Sub-Committees for purposes to be specified by the Council or Committee. Except where powers or duties are delegated to a Sub-Committee by the Council or a Committee to expedite decisions or whose acts in pursuance of any statutory enactment need not be submitted to the Committee for approval, no act of a Sub-Committee shall have effect until approved by the Committee.

## **21. Quorum of Committees, Sub-Committees and Other Bodies**

The Quorum of any committee or sub-committee or Panel or other body not being Full Council shall be one quarter of the membership or 3 members whichever is the larger.

## **22. Rules to Apply to Committees, Sub-Committees and Other Bodies**

Unless otherwise stated in other sections, the following Council Procedure Rules will apply to meetings of Committees, Sub-Committees:

|                        |                                                           |
|------------------------|-----------------------------------------------------------|
| 4B (a) (b) (o) and (p) | Order of Business                                         |
| 5 (1) and (2)          | Minutes                                                   |
| 6 (6)                  | Attendance of Mover of Motion of referred to committee    |
| 10 (4) (9) and (10)    | Length of speech, withdrawal of notice and right of reply |
| 11 (3) (4) and (5)     | Chair's removal of Member and adjournment                 |
| 12                     | Disturbance by members of the Public                      |
| 15                     | Voting                                                    |
| 16                     | Record of attendance                                      |
| 17 (2)                 | Absence of Chair and Vice-Chair                           |
| 18                     | Application of Access to information                      |
| 19                     | Public representations                                    |
| 20                     | Sub-committees                                            |
| 21                     | Quorum                                                    |
| 23                     | Recording Apparatus at Meetings                           |

## **23. Recording Apparatus at Meetings**

- (a) Audio and video/visual recording, photography, blogging, tweeting or use of other social media by members of the public or the press at meetings open to the public are allowed subject to compliance with the Protocol for Recording, Filming and Social Media at Meetings in Part 5, Section 40 of the Constitution.
- (b) Members of the Council may make an audio recording of a meeting which is open to the public, so long as it does not cause a disturbance to other Members present but may not make a video or other visual recording.

## **24. Suspension of Rules**

The Council can suspend the provision of these Rules in respect of any business at the meeting at which its suspension is authorised subject to the Monitoring Officer advising whether or not such suspension is permitted in law. However, no motion to suspend these Rules can be moved unless at least two-thirds of the whole number of the Council are present and only to the extent proportionate to the result to be achieved and provided that the suspension is lawful.

**25. Rules to be Given to Members**

A printed copy of these Rules shall be given to each Member of the Council upon delivery to the Proper Officer of the Members' declaration of acceptance of office on the Members being first elected to the Council.

**26. Interpretation of Rules**

The ruling of the Chair of the meeting as to the construction or application of any of these Rules or as to any proceedings shall not be challenged and shall be final.

# Scheme for Receiving Questions From the Public at Ordinary Meetings of the Council

- (a) The public may ask questions at any ordinary meeting of the Council so long as:-
  - (i) Written notice of a question is received by the Chief Executive no later than midday 6 clear working days before the meeting. The question will be recorded in such a way as can be inspected by any Member of the Council or a Member of the public.
  - (ii) Questions will be heard in the order in which notice was received. The question and the name(s) of the person(s) attending the meeting to ask the question will be included on the summons for the meeting.
  - (iii) Every question must be about something for which the Council has a responsibility, or which affects the area and must be addressed to the Chair of the Council.
  - (iv) Any questions which are not dealt with will be heard at the next meeting or following meetings in the order in which notice was received.
  - (v) The questioner is a resident of the district or conducts their business within the district.
  - (vi) If, in the opinion of the Chair of the Council, the subject of the question has not been the subject of a question asked within the last six months or is on a relevant issue or matter arising from that question.
- (b) If any public questions relate to information that is already in the public domain, Officers are able to respond to the question directly without the question needing to be put at full Council.
- (c) Public questions shall be the first item on the Council Meeting Agenda after confirmation of the Minutes of the previous meeting and any statutory business to be transacted.
- (d) If the questioner is not present in person to ask the question, then the question will not be dealt with.
- (e) The questioner shall ask the question as submitted and shall not otherwise address the meeting.
- (f) The Chair of the Council will then call upon the Council Leader, or appropriate Portfolio Leader to reply.
- (g) There will be no debate on either the question or the reply.
- (h) One supplementary question as a response to the reply to the first question will be permitted to which a reply may also be given. No further question or debate will be allowed on the matter.

# Scheme for Receiving Deputations at the Ordinary Meetings of the Council

- (a) Deputations may be received at any ordinary Council meeting of the Council so long as:
  - (i) Written notice of a deputation is received by the Chief Executive no later than midday 6 clear working days before the meeting. It must give the subject of the deputation and will be recorded in such a way as can be inspected by Members of the Council and Members of the public.
  - (ii) Deputations will be heard in the order in which notice was received. The name(s) of the organisation(s) or person(s) attending, and the subject of every deputation will be included on the summons for the meeting.
  - (iii) Every deputation must be about something for which the Council has a responsibility, or which affects the area.
  - (iv) Any deputations which are not dealt with will be heard at the next meeting or following meetings in the order in which notice was received.
  - (v) There can be no more than five people in a deputation all of whom shall be residents of the district or conducts their business within the district. Two of these may speak and the speeches, including the reading of any written material must not last longer than five minutes.
  - (vi) The subject of the deputation has not been the subject of a Council decision made within the last six months or is on a relevant issue or matter arising from that decision.
- (b) Deputations shall be the first item on the Council Meeting Agenda after confirmation of the Minutes of the previous meeting and any statutory business to be transacted.
- (c) After a deputation has addressed the Council, Members of the Council may ask questions of the deputation. Questions and answers must not last longer than ten minutes in total.
- (d) If at the conclusion of questions and answers it is considered the subject matter should be discussed by the Council at that meeting a Member may move 'That the subject matter of the deputation be discussed' whereupon the Chair shall put the motion without further discussion. If the motion is carried, the subject matter shall be discussed at the conclusion of any other non-confidential business on the agenda. However, if the subject matter is such that it introduces an item of business not included in the agenda it shall not be considered unless the Chair of the meeting under the Local Government (Access to Information) Act 1985, by reason of special circumstances, which shall be specified in the Minutes, is of the opinion that the item should be considered at the meeting as a matter of urgency.
- (e) If the subject matter is not discussed as aforesaid at the Council meeting, the matter shall stand referred to the Cabinet or the appropriate Committee or Sub-Committee for consideration.

# **Section 28**

## **Access to Information Procedure Rules**

### **1. Scope**

- 1.1 These rules apply to all meetings of the Council, the Cabinet, and any Committee or Sub-Committee appointed by them.

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

- 2.1 These rules do not affect any more specific rights to information contained elsewhere in the Constitution or law.

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

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

### **4. Notice of Meetings**

- 4.1 The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the Civic Offices, Beecroft Road, Cannock ("the Civic Offices") and by electronic means on its web page.

### **5. Access to Agenda and Reports Before the Meeting**

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the Civic Offices, and by electronic means, at least five clear days before the meeting. If an item is added to the agenda later, any papers relating to that item will be open to public inspection from the time the item was added to the agenda.

- 5.2 The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection.
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda.
- (c) if the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item.

to any person on payment of a charge for postage and other costs.

## **6. Access to Minutes Etc. After the Meeting**

6.1 The Council will make available copies of the following for six years after a meeting:

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

## **7. Background Papers**

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

- (a) disclose any facts or matters on which the report or an important part of the report is based.
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of a political advisor.

7.2 The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

7.3 In relation to Cabinet decisions, the Council will make available on the Council's website a copy of the background papers included within the list.

## **8. Exclusion of Press and Public from Meetings**

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

8.2 Exempt Information – the public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

8.3 Meaning of Confidential Information – confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed.

8.4 Meaning of Exempt Information – exempt information means information falling within the categories and subject to the qualifications set out below:

| <b>Part 1: Categories of Exempt Information</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8.4.1                                           | Information relating to any individual.                                                                                                                                                                                                                                                                                                                                                                                                             |
| 8.4.2                                           | Information which is likely to reveal the identity of an individual.                                                                                                                                                                                                                                                                                                                                                                                |
| 8.4.3                                           | Information relating to the financial or business affairs of any particular person (including the Council).                                                                                                                                                                                                                                                                                                                                         |
| 8.4.4                                           | Information relating to any consultations or negotiations, contemplated consultations or negotiations, in connection with any labour relations matter arising between the Council or a Minister of the Crown and employees of, or office holders under, the Council.                                                                                                                                                                                |
| 8.4.5                                           | Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings                                                                                                                                                                                                                                                                                                                                    |
| 8.4.6                                           | Information which reveals that the Council proposes:-<br>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person;<br>(b) to make an order or direction under any enactment.                                                                                                                                                                                                                       |
| 8.4.7                                           | Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.                                                                                                                                                                                                                                                                                                                   |
| <b>Part 2: Qualifications</b>                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 8.4.8                                           | Information falling within 8.4.3. above is not exempt information by virtue of that paragraph if it is required to be registered under:-<br>(a) the Companies Acts (as defined in section 2 of the Companies Act 2006).<br>(b) the Friendly Societies Act 1974.<br>(c) the Friendly Societies Act 1992.<br>(d) The Co-operative and Community Benefit Societies Act 2014.<br>(e) the Building Societies Act 1986, or<br>(f) the Charities Act 2011. |
| 8.4.9                                           | Information is not exempt if it is held by the Council in its capacity as local planning authority and relates to proposed development for which the local planning authority may grant itself planning permission (or permission in principle) pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.                                                                                                                 |
| 8.4.10                                          | Information which:-<br>(a) falls within any of paragraphs 8.4.1 to 8.4.7 above; and<br>(b) is not prevented from being exempt by virtue of paragraph 8.4.8 or 8.4.9 above;<br><br>is exempt information if and so long as, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.                                                                          |

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

- 9.1 If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 8, the meeting is likely not to be open to the public. Such reports will be marked 'Not for Publication' together with the category of information likely to be disclosed.

## **10. Application of Rules to the Cabinet**

- 10.1 Rules 11-17 apply to the Cabinet in addition to Rules 1-9.

## **11. Procedure Prior to a Private Meeting of the Cabinet**

- 11.1 Subject to 11.2 below, a decision made by Cabinet to hold a meeting or part of a meeting in private may not be taken unless:

- (a) a notice has been published in the Forward Plan at least 28 clear days before the meeting in question and made available on the Council's website. This notice is to include a statement of the reasons for the meeting being held in private.
- (b) a further notice is included on the agenda and published on the Council's website five clear days before the meeting. This notice should include:
  - (i) a statement of the reasons for the meeting to be held in private.
  - (ii) details of any representations received by the Cabinet about why the meeting should be open to the public.
  - (iii) A statement of its response to any such representations.

- 11.2 If a matter has not been included in accordance with Rule 11.1 above, then the decision to hold a meeting or part of a meeting in private may still be taken if agreement that the meeting is urgent and cannot reasonably be deferred is obtained from the Chair of the relevant Scrutiny Committee (or in that person's absence the Chair of the Council or in their absence the Vice-Chair of the Council). As soon as it is practicably possible a notice will be published on the Council's website setting out the reason why the meeting is urgent and cannot be reasonably deferred.

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

- 12.1 Subject to Rule 14 (General Exception) and Rule 15 (Special Urgency), a Key Decision may not be taken unless:

- (a) a notice has been published in the Forward Plan in connection with the matter in question.
- (b) the notice referred to in (a) has been available for public inspection for at least 28 clear days on the Council's website.
- (c) where the decision is to be taken at a meeting of the Cabinet, notice has been given in accordance with Rule 4 (Notice of Meetings).

### **13. The Forward Plan**

13.1 The Forward Plan must be published on the Council's website, at least 28 clear days before a Key Decision is made.

13.2 The Forward Plan will contain notice of matters which the Proper Officer has reason to believe will be the subject of a Key Decision to be taken by the Cabinet or other Officers, in the course of discharge of an Executive function during the period covered by the Plan. It will give the following details:

- (a) that a key decision to be made.
- (b) the matter in respect of which a decision is to be made.
- (c) where the decision taker is an individual, their name or title, if any, and where the decision taker is a body, its name.
- (d) the date on which, or the period within which, the decision will be taken.
- (e) a list of documents to be submitted to the decision taker for consideration.
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies or, or extracts from, any document listed is available.
- (g) that other documents relevant to the matter may be submitted to the decision maker.
- (h) the procedure for requesting details of those documents (if any) as they become available.
- (i) if the decision is to be taken at a private meeting, the notice required by Rule 11.1(a).

### **14. General Exception**

14.1 Subject to Rule 15 (Special Urgency), where the publication of the intention to make a Key Decision under Rule 12 is impracticable, that decision may only be made where:

- (a) Notice of the matter about which the decision is to be made and the reasons why it has been impracticable to apply Rule 12 has been given in writing to the Chair of the relevant Scrutiny Committee or, in their absence, to each member of that Committee and made available on the Council's website.
- (b) At least five clear days have elapsed since the notice given in paragraph (a) was made available.

### **15. Special Urgency**

15.1 Where the date by which a Key Decision must be made makes compliance with Rule 14 (General Exception) impracticable, the decision may only be made when agreement has been obtained from the Chair of a relevant Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If there is no Chair of a relevant Scrutiny Committee or if the Chair of the relevant

Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice-Chair of the Council, will suffice.

- 15.2 As soon as reasonably practicable after this agreement has been obtained, a notice must be published on the Council's website setting out the reasons why the decision is urgent and cannot reasonably be deferred.

## **16. Reports to Council**

- 16.1 If a relevant Scrutiny Committee thinks that an executive decision has been taken and was not treated as a Key Decision, and the Committee are of the opinion that the decision should have been treated as Key Decision, the Committee may require the Leader of the Council to submit a report to the Council within such reasonable time as the Scrutiny Committee specifies. The power to require a report rests with the Committee and may be raised by resolution passed at a meeting of the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chair of the Committee. The request must be made in writing.
- 16.2 The Leader will prepare a report for submission to the next available meeting of the Council following at least 10 clear days after the receipt of the written notice, or the resolution of the Committee.
- 16.3 The report to Council will set out particulars of the decision and the reasons for the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision, the reasons for that opinion.
- 16.4 The Leader of the Council will submit an annual report to the Council containing details of each executive decision taken where the making of the decision was agreed as urgent in accordance with Rule 15 (Special Urgency) since the last such report.

## **17. Record of Decisions**

- 17.1 After any meeting of the Cabinet or a decision-making body at which an executive decision was made, the Proper Officer will produce a record of every decision taken at that meeting as soon as practicable. The record must include:
- (a) a record of the decision including the date it was made.
  - (b) a record of the reasons for the decision.
  - (c) details on any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made.
  - (d) a record of any conflict of interest relating to the matter decided which is declared by any Member of the decision-making body which made the decision, and
  - (e) in respect of any declared conflict of interest, a note of any dispensation granted.

## **18. Executive Decisions Taken by Officers Under Delegated Authority**

18.1 This Rule 18 applies to any Key Decision taken by an Officer and executive decisions taken by an Officer under a specific delegation relating to that particular decision.

18.2 A copy of any report or part report relevant to a decision to which this Rule applies made by an Officer will be open to inspection by the public for six years from the date the decision was made. Documents containing confidential or exempt information or the advice of a political adviser or assistant need not be disclosed. If a document is not disclosed because it contains exempt information, the statement will describe the category of exempt information which applies.

18.3 As soon as reasonably practicable after a decision to which this Rule applies has been taken by an Officer, they will prepare a record of the decision, the record will include:

- (a) a record of the decision including the date it was made.
- (b) a record of the reasons for the decision.
- (c) details of any alternative options considered and rejected by the Officer when making the decision.

18.4 The provisions of Rules 6 and 7 will also apply to records of decisions by Officers to which this Rule applies.

## **19. Overview and Scrutiny Committees Access to Documents**

19.1 Subject to Rule 19.2 below, a Member of a Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive, and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Executive, or
- (b) any decision taken by an individual Member of the Executive or an Officer where Rule 18.1 applies.

19.2 No Member of a Scrutiny Committee will be entitled to any part of a document, including background papers that contain exempt or confidential information, unless the information is relevant to:

- (a) an action or decision that the Member is reviewing or scrutinising, or
- (b) any review contained in any program of work of the Scrutiny Committee.

19.3 If a member of a Scrutiny Committee is not entitled to a copy of a document, the Executive must provide the relevant Scrutiny Committee with a written statement setting out the reasons for its decision.

## **20. Additional Rights of Access for Members**

20.1 Subject to paragraph 20.2, all Members will be entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business transacted at a private meeting or any decision made by an individual Member of the Cabinet or an Officer where Rule 18.1 applies.

20.2 Notwithstanding Rule 20.1, nothing in these Rules requires any document to be made available for inspection if it appears to the Proper Officer that:

- (a) it discloses confidential or exempt information as defined in Rule 8.
- (b) it discloses the advice of a political adviser.

# **Section 29**

## **Budget and Policy Framework**

### **Procedure Rules**

#### **Process for Developing the Framework**

- 1.1 The Council will be responsible for the adoption of its budget and policy. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.

#### **Pre-Adoption Policy**

- 2.1 The Cabinet shall publicise in the Council's Annual Schedule of Meetings a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Scrutiny Committee that has 'budget consultation' within its terms of reference, and the Shadow Cabinet, shall be consulted as part of this process.
- 2.2 At the end of the consultation period, the Cabinet will draw up firm proposals having regard to the responses received. The Chief Executive (as Proper Officer) shall summons a Council meeting (called the First Council meeting) to consider the Cabinet proposals within 10 working days after the Cabinet have resolved on its proposals.
- 2.3 At least 5 working days prior to the First Council meeting any Political Group and/or any member of the Council shall advise the Chief Executive of any alternatives to the Cabinet proposals which are to be presented at the First Council meeting. Each Political Group/Council Member shall only present one alternative proposal as a request for a referral back to the Cabinet by the Council. Such requests shall detail the reasons for the alternative/referral back to Cabinet and must have the effect of providing the Council with a "balanced budget" as determined by the S.151 officer. Any alternative proposals submitted will be circulated to all Councillors 4 working days before the First Council meeting.

#### **The First Council Meeting**

- 2.4 In reaching a decision, the Council may:
  - (a) Adopt the Cabinet's proposals as presented.
  - (b) Consider the previously advised alternative proposals (referred to in 2.3 above) as a request for a referral back of the proposals to the Cabinet for consideration.

- (c) Following advice from the S.151 officer, approve and/or determine aspects of the Budget/Policy framework as required to comply with statutory requirements and/or Ministerial/Governmental guidance/requirements. The S.151 officer will advise the Council at the meeting of the minimum decisions and resolutions the Council must make at that meeting.
  - (d) When considering the alternative budgets referred to in 2.4 (b) the Council shall consider each alternative budget presented by the Political Group/Council Members individually. Each alternative proposal shall be moved and if seconded shall be debated. At the conclusion of the debate on that individual motion a vote shall be taken as to whether the Council wishes to refer that alternative proposal to the Cabinet for consideration. This process shall apply to each alternative proposal in turn. No amendments to the alternative proposals previously advised (in accordance with 2.3) shall be allowed.
- 2.5 Where the Council resolves in accordance with paragraph 2.4(b) to refer alternative proposals back to the Cabinet for re-consideration, the Proper Officer shall make the necessary arrangements for the Cabinet to meet as soon as practicably possible and will also summons a Second Council meeting (the Second Council meeting) to consider the Cabinet's response to the matters referred back to it for consideration. The Second Council meeting shall take place within 10 working days of the First Council meeting.

### **The Second Council Meeting**

- 2.6 The Chief Executive will call a Council meeting (the Second Council meeting) to consider:
- (a) the Cabinet proposals following the referral back from the First Council meeting.
  - (b) adopting (with or without modification) the plan or strategy.
  - (c) such decisions required to comply with statutory requirements and/or Ministerial/Governmental guidance/requirements as advised by the S.151 Officer.
- 2.7 At the Second Council meeting where there is no consensus on the matters before Council and the S.151 Officer advises that the Council is required to make decisions in accordance with 2.6(c) above, the Council shall continue to meet until such matters (as specified by the S.151 Officer) are determined. Council Procedure Rules shall apply to this meeting. The Council shall only consider the Cabinet's Budget and those alternative proposals presented to the Council for consideration at the First Council meeting.
- (Note: An example of a requirement to pass a resolution in law as advised by the S.151 officer may include the setting of a lawful budget by a certain date, or the determination of the Council Tax).
- 2.8 In approving the budget and policy framework, the Council will also specify if it wishes to limit the extent of virement within the budget in any way other than that specified in financial regulations, and the degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with section 4 of these Rules (in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

## **Decisions Outside the Budget or Policy Framework**

- 3.1 Subject to the provisions of financial regulations, the Executive and any officers discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to sections 3.2 – 3.4 below.

### **Emergency Provisions**

- 3.2 The Executive or an Officer may only take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency, and:
- (a) it is not practical to convene a quorate meeting of the full Council, and
  - (b) the Chair or, in the Chair's absence, the Vice-Chair of the Scrutiny Committee agrees, in writing, that the decision is a matter of urgency.
- 3.3 The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the scrutiny committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.
- 3.4 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.
- 3.5 Failure to comply with these provisions will render the decision liable to the Call-in procedure (Part 4 - Section 31).

### **In-year Changes to Policy Framework**

- 4.1 The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive and officers must be in line with it. No changes to the policy framework may be made by the Executive or officers except those changes:
- (a) which will result in the closure or discontinuance of a service or part of service to meet an approved budgetary constraint only (as opposed to a Policy change).
  - (b) which are necessary to ensure compliance with the law, ministerial direction, or government guidance.
  - (c) where the existing policy document is silent on the matter under consideration.

# **Section 30**

## **Cabinet**

### **Procedure Rules**

#### **1. Operation of the Cabinet**

##### **1.1 Cabinet functions may be discharged by:**

(i) the Cabinet as a whole, or by delegation from Cabinet to:

(a) a Committee established by the Cabinet, or to

(b) an Officer, or to

(c) a Joint Authority.

##### **1.2 Time, Date, and Location of Cabinet Meetings**

The Cabinet will meet at such time or day or location to be agreed by the Leader of the Council.

##### **1.3 Public/Private meetings of the Cabinet**

The Cabinet will meet in public subject to the right to meet in private under the Access to Information Rules.

##### **1.4 Quorum**

The quorum for a meeting of the Cabinet shall be 3 Cabinet members.

##### **1.5 How Decisions Will be Taken by the Cabinet**

Cabinet decisions will be taken at a meeting convened in accordance with the Access to Information Rules following presentation and a debate on the agenda item and by voting on a show of hands.

The Cabinet will make a decision on all matters for which it has statutory powers to determine but may defer making decisions to enable it to obtain further information, undertake consultation or seek views of others, including Council Committees or outside bodies. Where matters are outside the Cabinet's statutory powers to make decisions, these will be deferred for determination by the Council or such other Committee of the Council as appropriate.

The Cabinet will only make Key Decisions in accordance with the Access to information Rules.

## **2. Conduct of Cabinet Meetings**

### **2.1 Chair**

If the Council Leader is present, they will preside. In their absence the Deputy Council Leader will preside. In the absence of both, a person appointed to do so by those present shall preside.

### **2.2 Business to be Transacted**

At each meeting of the Cabinet the following business will be conducted:

- (i) adoption of the minutes of the last meeting.
- (ii) declarations of interest, if any,
- (iii) reports and updates from the Council Leader, Deputy Council Leader, and Portfolio Leaders.
- (iv) the agenda shall indicate which are key decisions and which are not to be considered in public in accordance with the Access to Information Procedure Rules set out in Section 28 of this Constitution ('Key decisions' are defined in Section 10).

### **2.4 Consultation**

All reports to the Cabinet on proposals relating to the budget and policy framework must contain in a standard paragraph of the report details of the nature and extent of consultation with stakeholders and the Scrutiny Committee, and where known the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### **2.5 Items for the Cabinet Agenda**

- (i) The Leader of the Council may put on the agenda of any Cabinet meeting any matter that they wish, whether or not authority has been delegated to the Cabinet, or to an officer in respect of that matter.
- (ii) Any member of the Cabinet may require the Leader of the Council to place an item on the agenda of the next available meeting of the Cabinet for consideration. If they receive such a requirement in writing the Leader of the Council will comply with it.
- (iii) The Proper Officer will place on the agenda of the next or next but one meeting of the Cabinet any item which Scrutiny Committee or the Council has resolved that it be considered by the Cabinet.
- (iv) Any Councillor may ask the Leader of the Council to put an item on the agenda of a Cabinet meeting for consideration and the item will be considered at the next or next but one meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to

be considered. The Councillor will be invited to attend the meeting, whether or not it is a public meeting.

- (v) The Monitoring Officer and/or the Chief Financial Officer may require the Proper Officer to place an item for consideration on the agenda of a Cabinet meeting and may request them to call such a meeting in pursuance of their statutory duties.

Items to be included on the agenda shall be notified to the Proper Officer at least 5 working days before the date of the meeting when the matter is to be considered.

### **3. Record of Decisions and Call-In**

- 3.1 When a decision is made by the Cabinet, the decision shall be published within 3 working days of being made. These records will contain sufficient information to explain the decision and the reason behind it. They will also indicate clearly which matters are subject to the call-in. Copies of the records of all such decisions will be sent to all members of the Council within 3 working days of being made, by the person responsible for publishing the decision.
- 3.2 That notice will bear the date on which it is published and will specify that the decision will come into force and may then be implemented on the expiry of 5 working days after the publication of the decision. The process for call-in is explained in detail in the Scrutiny Procedure Rules.

#### **When the Scrutiny Committee Can Require A Report to Council**

- 3.3 If the Scrutiny Committee thinks that a key decision has been taken otherwise than in accordance with the provisions of the Constitution it may, by resolution passed at a meeting of the Scrutiny Committee, require the Cabinet to submit a report to the Council.

#### **Cabinet's Report to Council**

- 3.4 If required to do so under Rule 3.3 above, the Cabinet will ensure that a report is prepared for and submitted to the next available meeting of the Council. However, if the next meeting of the Council is within 5 working days of receipt of the written notice, or the resolution of the Scrutiny Committee, then the report may be submitted to the Council meeting after that. The report to Council will set out particulars of the decision and the reasons for the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

# **Section 31**

## **Scrutiny and Call-In Procedure Rules**

### **1. Reports to Scrutiny Committee**

1.1 Cabinet, other Committees, and Members may refer matters to the relevant Scrutiny Committee for their consideration.

1.2 When a Scrutiny Committee have considered a matter and reached a conclusion, they will minute their decision and, if it is considered necessary, prepare a formal report and submit it to the Cabinet, or other Committee or Council as appropriate.

Once a report has been submitted, it shall be considered by Cabinet or the appropriate committee as soon as practicably possible. If for any reason, there is an undue delay it will be referred to Council for review. The Chief Executive will call a Council meeting to consider the report and make an appropriate recommendation.

1.3 On consideration of a called-in decision, if it is determined that the recommendations would require a departure from or a change to the agreed budget and policy framework, Cabinet will refer its recommendations to Council for consideration.

### **2. Committee Procedure Rules**

2.1 Council Procedure Rules applicable to committees under Council Procedure Rule 22 will apply to all Scrutiny Committee meetings.

2.2 Where any Member or Officer is required to attend a Scrutiny Committee the Chair will inform the Chief Executive. The Chief Executive shall notify the Member or lead Officer in writing giving at least 8 working days notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are 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.

2.3 Where the Member or lead Officer is unable to attend on the required date, then the Chair of the relevant Scrutiny Committee shall in consultation with that Member or lead Officer arrange an alternative date for attendance.

### **3. The Call-In Procedure**

- 3.1 A key function of a Scrutiny Committee is to hold the Executive to account for the discharge of its functions including scrutinising Executive decisions before they are implemented – known as ‘Call-In’.
- 3.2 Call-in can be used whenever an Executive decision, which is not made under Special Urgency Rule 14 of Section 28 is not yet implemented. The effect is to prevent implementation until the relevant Scrutiny Committee has examined the decision and made no referral and recommendation to either Cabinet or Council, or the referral has been decided by Cabinet or Council in favour of the decision.
- 3.3 The Statutory Guidance requires local authorities to make provision in their executive arrangements:
- (i) To ensure that there is an appropriate balance between effectively holding the executive to account, being able to question decisions before they are implemented and allowing effective and efficient decision making by the executive within the Policy Framework and Budget.
  - (ii) To ensure that any call-in procedure is not abused or used unduly to delay decisions or slow down the process of decision making, and
  - (iii) To develop local conventions and protocols to prevent abuse of a Scrutiny Committee’s powers to recommend that decisions made, but not yet implemented, be reconsidered.
- 3.4 In order to meet these requirements the Council adopts the following procedure:
- (i) The Cabinet (Executive) publishes within 3 working days decisions made at a Cabinet meeting. There is then a period of 5 working days during which decisions can be subject to call-in.
  - (ii) To call-in a decision five Members, of whom two must be members of the relevant Scrutiny Committee and none of whom may be Cabinet Members, must complete and return a form requesting and supporting the request for a decision to be called in, within 5 working days after the publication of the decision.
  - (iii) The call-in form should also present a motion which will be proposed at the Scrutiny Committee, and which will contain a request that the decision is referred back to Cabinet or on to Council to be re-considered, and a proposed recommendation to accompany the referral.
  - (iv) The call-in form must also include clear reasons why the motion is being requested. Examples of sound reasons are listed in Section 10 (Decision Making).
  - (v) The Chief Executive is responsible for notifying the appropriate Officer to ensure that all action to implement a decision subject to call-in is suspended and that the decision is not implemented for the duration of the call-in. The matter is then referred to the relevant Scrutiny Committee for consideration.

- (vi) A meeting of the relevant Scrutiny Committee is to be held within 20 working days from the end of the call-in period. A report will be prepared by the appropriate Officer (which identifies those Members who have made and support the call-in), containing the original Cabinet report and an extract from the Cabinet Minute.
- (vii) Arrangements will be made by the Chief Executive to invite to the Scrutiny Committee those persons who the Members requesting the call-in wish to be present (as specified on the call-in form).

3.5 The procedure for debating the call-in at the meeting will be as follows:

- (i) A Proposer, who shall be one of the Members of the Scrutiny Committee requesting the call-in, shall read their motion, formally propose the motion and give the reasons for the call-in.
- (ii) If none of the members of the Scrutiny Committee who requested the call-in are present the Chair shall ask if any other member of the Scrutiny Committee will propose the motion. If no member proposes the motion the call-in will be deemed to have been withdrawn.
- (iii) Once the motion has been seconded the Chair shall allow those others of the five members who requested the call-in and who are present to speak before any debate.
- (iv) Scrutiny meeting Procedure Rules will apply (see 2 above).
- (v) A Scrutiny Committee may exercise their statutory powers to invite such persons and request such information as they consider necessary to facilitate their examination of the matter and they may adjourn the meeting if necessary to facilitate this.
- (vi) Prior to Members of the Committee debating the call-in, other Members of the Council present and other invited persons who are not Members of the Scrutiny Committee will be requested to sit in the public gallery.
- (vii) The relevant Cabinet Member may remain in the chamber and answer questions put through the Chair. The Cabinet Member may speak at any time if invited by the Chair. The Chair will invite the Cabinet Member to exercise a right of reply at the end of the debate before the proposer of the motion exercises their right of reply.
- (viii) During the course of the debate Members of the Committee may propose minor amendments to the motion with the consent of the Proposer (or the stand-in Proposer).
- (ix) The Committee may:
  - (a) reject the motion, or
  - (b) refer the decision back to the Cabinet for reconsideration with a recommendation.
  - (c) refer the matter to full Council with a recommendation for a decision.
- (x) A formal written decision will be made on the call-in within ten days of the Scrutiny Committee first meeting.

## **Call-In and Urgency**

- 3.6 The call-in procedure shall not apply where the Leader of each political Group (or, in their absence, their deputy or nominee) has agreed that any delay likely to be caused by a call-in would seriously prejudice the Council's or the public's interests.
- 3.7 The record of the decision and notice by which it is made public shall state that the decision is an urgent one, and therefore not be subject to call-in and the matter shall be reported to the next meeting of the relevant Scrutiny Committee for information.
- 3.8 In the absence of agreement in accordance with paragraph 3.6 a meeting of the relevant Scrutiny Committee shall be convened as soon as reasonably practicable to consider the matter without the necessity of the call-in procedure being invoked.
- 3.9 On consideration of the matter the Committee may:
- (a) Take no action allowing the Cabinet decision to be implemented.
  - (b) Refer the decision back to the Cabinet for reconsideration with a recommendation.
  - (c) Agree an amended decision with the relevant Cabinet Member which may then be implemented.
- 3.10 If a motion in accordance with 3.9 is proposed and seconded the debate shall be conducted in accordance with the Scrutiny Committee Procedure Rules (see 2 above).
- 3.11 The Chair will invite the Cabinet Member to exercise a right of reply at the end of the debate before the proposer of the motion exercises their right of reply.
- 3.12 If no member of the Committee proposes a motion the Cabinet decision may be implemented.

## **Safeguards**

- 3.13 The following safeguards will apply so as to ensure that decisions are not called in unnecessarily or that the call-in process is abused:
- (i) The Cabinet (Executive) minutes contain sufficient information to explain the decision and the reasoning behind it. The Cabinet (Executive) minutes are structured in such a way as to indicate clearly which matters are subject to call-in.
  - (ii) No matter may be called-in more than once.
  - (iii) Any Member proposing that a matter be called-in should first discuss this with the appropriate portfolio Leader or in their absence the Council Leader or Deputy Leader. This provides opportunity for detailed explanation of the decision and further information.

- (iv) Members of the Scrutiny Committee should be present for all of the debate prior to them exercising their vote to ensure that Members of the Committee make an informed decision based on the evidence presented.

### **Support from Officers**

- 3.14 The role of Officers is to support both the Scrutiny and Executive functions and as such they will provide impartial and objective advice to all Members. Officers will avoid being drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by Officers on the Executive's policies and actions will always be consistent with the requirement for officers to remain politically impartial.
- 3.15 Officers in supporting the Scrutiny function may exercise this role in person, they may be supported by other officers, or they may choose to nominate a particular officer to assist a Scrutiny Committee with a specific issue.
- 3.16 Members of a Scrutiny Committee may wish to seek the advice of the Monitoring Officer where it is considered that a decision of the Executive might be contrary to the policy framework.
- 3.17 Any Member submitting a request for a matter to be called-in, will be entitled to receive advice and support from Officers as appropriate and/or the Chief Executive.

## **4. Scrutiny Committee Access to Documents**

- 4.1 Subject to the limit below, members of a Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive, and which contains material relating to any business transacted at a meeting of the Cabinet, or any key decision taken by an Officer within the Terms of Reference of the Committee.

### **Limit on rights**

- 4.2 Members of a Scrutiny Committee will not be entitled to:
  - (a) any document that is in draft form, or
  - (b) any part of a document that contains exempt or confidential information unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise or which is contained in any programme of work for the Committee.

## **5. The Party Whip**

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

# Section 32

## Financial Regulations

### 1. Introduction

- 1.1 These regulations set out a minimum level of good financial practice which must be adopted by all Members and employees of the Council in relation to all of the financial affairs of the authority including partnership arrangements and particularly where the Council is the accountable body. Financial Management is the responsibility of all employees of the Council with the delegation of Financial Responsibility being directly linked to the delegation of functions and responsibilities (service provision) as detailed separately in the Constitution. The Regulations provide the control framework to be applied but are only concerned with financial matters, and therefore constitute only one of the aspects to be considered by employees in exercising their duties.
- 1.2 In this respect, particular (but not exclusive) attention should be paid to the following documents, which define the Council's overall control and main procedural environment. They are listed in the order of the precedence which should be followed in the event of any conflict between their provisions:
  - a) European and National Law.
  - b) Financial Regulations (this document).
  - c) Procurement Regulations.
  - d) The Scheme of Delegations.
  - e) Emergency Planning Procedures, and
  - f) Other Council procedures, including elements of the Constitution not included above.
- 1.3 The Council is responsible for many millions of pounds of public money and has a number of statutory responsibilities in relation to its financial affairs.
- 1.4 The Local Government Act 1972 directs that Authorities shall make arrangements for the proper administration of their financial affairs and one of their officers be responsible for the administration of those affairs. The Council's Constitution designates the Head of Finance as the Council's 'Section 151' Officer.
- 1.5 Under powers contained in the Local Government Finance Act 1982, the Secretary of State also makes regulations as to the accounts themselves and requires them to be audited. The "Accounts and Audit Regulations" require that the "Responsible Financial Officer" must determine and be responsible for the accounting systems and the form of both the accounts and all supporting records of the authority.

They must further ensure (by maintaining an effective and adequate internal audit) that rules so made are observed and that all records are maintained in a satisfactory manner. To conduct its business efficiently, a local authority needs to ensure that it has sound financial management policies in place and that they are adhered to. Part of this process is the establishment of financial regulations that set out the financial policies of the Authority.

### **The Status of Financial Regulations**

- 1.6 Financial regulations provide the framework for managing the authority's financial affairs. **They apply to every Member and employee of the Authority and anyone acting on its behalf.**
- 1.7 The regulations identify the financial responsibilities of the full Council, Members, the Chief Executive/, the Monitoring Officer, the Section 151 Officer, Heads of Service and Service Managers/Budget Holders.
- 1.8 All Members and employees have a responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money, and achieves best value.
- 1.9 The Section 151 Officer is responsible for:
  - maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the full Council for approval.
  - Providing and issuing further advice, training, and guidance in relation to how the financial regulations are to be implemented in context of the prevailing financial position of the Council and statutory or local deadlines.
  - They are also responsible for reporting, where appropriate, breaches of these Financial Regulations to the Council and/or to the members of the Cabinet and Audit & Governance Committee.
- 1.10 Managers are responsible for ensuring that all employees in their services are aware of and comply with the Authority's Financial Regulations and seek clarification on any issue that is uncertain or potentially conflicts with the regulations and/or supplementary advice and guidance.

### **Statement of Principles**

- 1.11 The Council expects high standards of conduct from its Members and employees and those with whom it has dealings. As such, the Council's value of "Integrity" underpins these Financial Regulations.
- 1.12 Compliance with Financial Regulations will protect Members and employees in the event of potential allegations of wrongdoing. Failure to comply with the Financial Regulations may result in disciplinary action being taken.

## **The Principles**

- 1.13 The Council is responsible for the stewardship of public money and will make arrangements to safeguard the interests of taxpayers and other stakeholders.
- 1.14 The Council expects its Members and employees to exercise high standards in financial management and administration.
- 1.15 The planning, monitoring, and controlling the use of resources is of vital importance to the Council and it will make arrangements for these activities to be undertaken effectively.
- 1.16 Issues of probity will be dealt with effectively and the Council will work to meet its duty to maintain proper accounts and related records.
- 1.17 Value for money is at the core of the Council's financial activity and the way in which it administers its financial affairs.
- 1.18 Compliance with statutory requirements, accounting standards and appropriate codes of practice will be inherent in the Council's arrangements for financial matters.
- 1.19 Allocation of responsibility and authority in relation to financial matters will be clearly identified.
- 1.20 The Council is a large organisation and is mindful of the need for consistent standards in financial administration and management across all its operations and will set in place guidance to be adhered to by all its services. In particular, it expects staff to consult with and use all of the expertise in financial matters that it has available and act on advice from such sources.
- 1.21 The assets and resources of the Council must be protected from loss, damage, and theft.
- 1.22 Identifying and quantifying risks to the Council is of key importance and arrangements must be made to reduce, eliminate, or insure against them as appropriate.
- 1.23 The accurate, appropriate, and timely payment and collection of monies forms much of the routine financial business of the Council and arrangements will be made for its proper administration.

## **Exceptions to Financial Regulations**

- 1.24 Exceptions to Regulations 1 to 5 can only be authorised by the Council unless it is determined that an emergency situation exists. In the event of an emergency, the Chief Executive/, Head of Service or Section 151 Officer, in consultation with the Leader or Deputy Leader of the Council can authorise an exception. The Section 151 officer may vary the provisions of Regulations 6 to 18, providing that the variation is evidenced in writing (one-off variation, or by the issuing of ongoing revised guidance through a Financial Guideline or Detailed Procedure Note to all relevant officers). In the latter case the changes will be reflected in the update to the Financial Regulations as part of the annual review of the Constitution.

## **2. The Responsibilities of the Section 151 Officer**

- 2.1 The Section 151 Officer is a key member of the Leadership Team, helping it to develop and implement strategy and to resource and deliver the Council's objectives sustainably and in the public interest.
- 2.2 The Section 151 Officer must be actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and longer-term implications, opportunities and risks are fully considered, and alignment with the Council's financial plan.
- 2.3 The Section 151 Officer must also lead the promotion and delivery by the whole authority of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.
- 2.4 The Section 151 Officer will:
  - a) determine the procedures for reporting to elected Members on financial matters incorporating the medium-term financial plan, detailed budget preparation and monitoring of in-year spend against budget.
  - b) determine and issue any accounting and financial instructions considered necessary to supplement 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.
  - d) determine the form of the accounts and supporting records of the Council
  - e) determine the form of financial services and systems.
  - f) ensure that the financial implications of any grant application is correctly assessed pre submission.
  - g) ensure that appropriate financial training is provided for employees of the Council.
- 2.5 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.
- 2.6 The Section 151 Officer is also responsible for maintaining a continuous review of the Financial Regulations and recommending updates as appropriate.

## **3. The Responsibilities of Heads of Service / All Managers<sup>1</sup>**

- 3.1 The responsibility for the management of the financial aspects of service provision is, within the framework of Financial Regulations, delegated to Heads of Services and Managers.

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<sup>1</sup> For the purposes of these Financial Regulations all references to Managers includes Heads of Services and Service Managers

- 3.2 If Managers are unclear about any aspects of these regulations or their interpretation, they must seek clarification from the Section 151 Officer or their representative. Failure to comply with them may result in maladministration or an illegal act, which might be the subject of an investigation by, for example, the Monitoring Officer, Internal Audit, External Audit, the Local Government Ombudsman and/or the Police.
- 3.3 Managers are advised to consider whether any action they wish to take on behalf of their own service may conflict with the interests of another service. If this is the case, the Chief Executive/ and the Head(s) of Service(s) for the services involved must be advised in advance. If the Chief Executive/ and Head of Service considers that there is a conflict, then they will determine the course of action to be taken.
- 3.4 All managers are responsible for ensuring that all employees in their service are aware of the existence and contents of the Financial Regulations and that they comply with them. The Financial Regulations apply to all employees of the Council.
- 3.5 In order to ensure that the financial affairs of their services are properly maintained, all Managers will:
- a) ensure that the scheme of Financial Delegations for their services is maintained up to date.
  - b) be accountable for the security of all resources (including cash and keys) and assets within their area of responsibility.
  - c) report any thefts or losses of Council assets or income.
  - d) to plan, account for, monitor and control their budget.
  - e) ensure value for money is achieved in the delivery of all services.
  - f) consult with the Section 151 Officer on any issue that impacts, or could potentially, upon the financial affairs of the Council.
  - g) ensure that effective internal control procedures are in place for their service area.
  - h) maintain any accounts and records under their control to the standard required by these regulations and any directions issued by the Section 151 Officer.
  - i) ensure that their staff are aware of these regulations and their significance, and that they have access to copies.
  - j) ensure that the written permission of the Section 151 Officer is obtained before the establishment of any unofficial or voluntary funds under the control of a Council employee in their official capacity, and that such funds are subject to audit as prescribed by the Chief Internal Auditor.
  - k) 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).

- l) facilitate the Chief Internal Auditor or their authorised representatives to:
- enter at any time onto any premises or land used or owned by the Council without necessarily giving prior warning.
  - have access to any information that they require in order to carry out their duties, including access to all records, correspondence and computer systems.
  - make checks and seek explanations as they consider necessary.
  - require any employee to produce cash, stores, or other Council property under their control, and to remove the same for a short period, having consulted with the appropriate Head of Service regarding the needs of the Council for the ongoing provision of services.

#### **4. Authority to Spend Money - Capital**

- 4.1 All Council expenditure is deemed to be revenue expenditure, to be met in the year of account in which it is incurred, unless it is specifically deemed to be capital expenditure by the Council by inclusion in an approved capital programme.
- 4.2 Capital programmes for a three-year period are determined and approved (by Full Council) as part of the annual Budget Setting process. Inclusion in year will only take place in exceptional circumstances and will require full Council approval.
- 4.3 Before expenditure can be included within the Council's capital programme it must:
- a) Be planned to be spent on an item of lasting nature, having benefit to the Council for more than one year.
  - b) Have a gross cost, including fees, in excess of £20,000.
- 4.4 Inclusion within an approved capital programme does not confer authority to spend but simply earmarks future expenditure for a scheme level. Any scheme in the Capital Programme will require permission to spend to be approved by Cabinet and will be subject to key milestones being in place/delivered such as Planning Permission, External Funding approval etc. A separate Capital Budget will exist which will analyse expenditure over the duration of the scheme for approved schemes only. If no commitment to spend is made within a three-year period; the programmed spending will be removed from the Capital Programme.
- 4.5 Cabinet approval will be required to change the use of a previously approved capital expenditure scheme.
- 4.6 Schemes will be designated 'stage 1' (approved and uncommitted) and 'stage 2' (approved and committed) in the published multi-year Capital Programme and the annual Capital Budgets for clarity. Stage 1 confers approval in principle only and stage 2 confers full approval to spend.
- 4.7 The Section 151 Officer will issue detailed procedures regarding capital expenditure, including annual procedures and timetables, monitoring requirements and outturn reporting which must be adhered to as part of these regulations.

4.8 Sums within the Capital Budget may be vired between approved schemes and moved between financial years by the Cabinet, providing that the corresponding funding can also be transferred. Any approved amounts within schemes included in the Capital Budget remaining unspent at the end of a financial year may be carried forward to the following year by a Head of Service, providing that the Head of Service has:

- (i) Satisfied themselves that the funding for the scheme will transfer to the following year.
- (ii) Ensured that no additional expenditure will fall to the Council as a result of the delay.
- (iii) Notified the Section 151 Officer within 30 days of the year end that the scheme is subject to rollover, and of the revised timetable for implementation.

## **5. Authority to Spend Money - Revenue**

5.1 Managers must prepare a revenue budget of income and expenditure in accordance with the timetable issued by the Section 151 Officer and in the form required by the Section 151 Officer.

5.2 The Section 151 Officer will, after consultation with the relevant Head of Service, prepare a detailed budget for each service area having taken into account the submissions of managers; the priorities of the Council and the resources available to the Council that determine a balanced budget in accordance with the Council's Budget and Policy Framework.

5.3 No money can be spent out of that budget until the budget has been approved by the Council.

5.4 Money may be spent on any item considered by the appropriate Manager to be reasonably required to carry out the policies of the Council and at any time in the financial year concerned provided that:

- a) The expenditure is in accordance with the budget, and,
- b) The item concerned is fit for the purpose, and,

EITHER

- Enough money has been provided in the budget for the item.

OR

- Enough money can be transferred (vired) from another budget, subject to the virement rules set out below.

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

**1. Within the same cost centre:**

|                                                       |                                                                                                               |
|-------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| Service Manager                                       | up to <b>£10,000</b> where Council policy is not changed and no increase in costs will result in future years |
| Head of Service and the Section 151 Officer (Jointly) | no limit, where Council policy is not changed and no increase in costs will result in future years            |
| Council                                               | no limit, where Council Policy is to be changed.                                                              |

**2. Between Cost Centres within the same Service (as designated within the Approved Budget Booklet:**

|                                                       |                                                                                                               |
|-------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| Service Manager                                       | Up to <b>£10,000</b> where Council policy is not changed and no increase in costs will result in future years |
| Head of Service and the Section 151 Officer (Jointly) | no limit, where Council policy is not changed and no increase in costs will result in future years            |
| Council                                               | no limit where Council Policy is to be changed.                                                               |

**3. Between Services within the same Portfolio and Head of Service:**

|                                                       |                                                                                                               |
|-------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| Both Service Managers and the Head of Service         | up to <b>£10,000</b> where Council policy is not changed and no increase in costs will result in future years |
| Head of Service and the Section 151 Officer (Jointly) | no limit, where Council policy is not changed and no increase in costs will result in future years.           |
| Council                                               | no limit where Council Policy is to be changed.                                                               |

**4. Between services under different Heads of Service:**

|                                                     |                                                                                                     |
|-----------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| Both Head of Services, 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 where Council Policy is to be changed.                                                     |

- 5.6 In conjunction with the above, the following overriding principles shall apply:

- a) Virements between the General Fund; Housing Revenue Account; Collection Fund or any other “Funds” shall not be permitted under any circumstances.
- b) The employee budget is “ring fenced” meaning that funds cannot be transferred in or out of employee budgets without the Section 151 Officer’s prior approval.

- c) All employees shall inform the Section 151 Officer in writing of all virements approved by them within five working days, and the reason for the transfer.
  - d) The Section 151 Officer will keep an up-to-date record of the Council's "approved budget", including all agreed virements and will inform the relevant delegated officer of any changes to such budgets.
  - e) The Council shall specify any budget head against which no virement should be made without its express approval.
  - f) Cabinet may specify any budget head against which no virement should be made without their express approval.
  - g) Leadership Team may specify any budget head against which no virement should be made without their express approval.
  - h) The Section 151 Officer may make any virement resulting from changes in accounting practices which do not affect Council policies or result in an overall increase in Council expenditure and may amend the budget and other accounting records accordingly.
- 5.7 The 'roll-over' of budgets is defined as the carrying over from year to year of unspent or overspent balances into succeeding years.
- 5.8 A formal request is required for the rollover of any budget heading whereby the rollover is greater or equal to £2,500. Where additional income (other than grant funding) has been received this would not normally be considered for rollover as this is not part of a change in planned spending but fortuitous income.
- 5.9 Any unspent or overspent sums within the 'supplies and services' revenue budgets, or other budgets specifically agreed by the Section 151 Officer, shall be carried forward ('rolled-over') and added to or subtracted from the subsequent year's budget except:
- a) Where virements have been made into a budget head, any under spending as a result of sums vired shall not be rolled-over.
  - b) The total of underspends rolled-over from a 'budget page' shall not exceed the total underspending by the 'budget page' under all controllable budget heads.
- The carry-over of a budget for more than one year i.e., any roll-over that relates to a previous year roll-over, will require approval regardless of the amount concerned.
- 5.10 Special rules apply to employee budgets:
- a) Employee costs will only be included in the budget where the post is included in the approved establishment and at the grade included in the approved establishment.
  - b) New posts may only be created in the establishment where there is sufficient budgetary provision as contained in the employee budget and approval of the Section 151 officer sought.

- c) Where posts are re-graded, the additional costs of the re-grading and the source of additional funding must be approved by the Section 151 officer.

5.11 In general, any budgets consistently under or over-spending will be reviewed as part of the budget setting process, to ensure that the Council's budgets match the Council's priorities as closely as possible.

## **6. Trading Accounts**

6.1 Certain parts of the Council "trade" with third parties where the Council has the legal powers to undertake such work on the basis of true commercial competition. Services to be classed as trading accounts will be as determined by the Section 151 Officer in conjunction with the Head of Legal Services, The circumstances surrounding these "trading accounts" are such that a modified form of accountability is needed.

6.2 In circumstances where it is permitted by legislation, the Head of Service responsible for the trading account will also be permitted to submit tenders for work outside the Council up to a total cumulative value of 10% of an individual trading account's annual turnover. Any tenders which could cause the total to exceed this sum will need approval by the Council. If successful, the Head of Service will be responsible for:

- approving the contractual arrangements for any work undertaken by their services for third parties or external bodies.
- Maintaining a Register of contracts.
- Ensuring that the appropriate expertise exists to fulfil the contract.
- Ensuring that no contract adversely impacts upon the services provided by the Council and that appropriate insurance arrangements are in place and the financial standing of the organisation is assessed.
- authorised to incur expenditure in accordance with the tender.

6.3 This section thus overrides the provisions for virement, and roll-over contained in section 0 above. All other provisions of the section will, however, apply.

6.4 As part of the Council's budget, a "target" will be established for each trading account as the surplus or deficit for the year on a "full cost<sup>2</sup>" basis. The Target will reflect the cost-of-service provision for the Council and the external trading activities undertaken.

6.5 The Head of Service responsible for a trading account will be expected to manage the income and expenditure of the trading account at such a level that the target or a favourable variance is achieved. A schedule of additional contracts entered into in the financial year will be forwarded to the Section 151 Officer as soon as practically possible to ensure the Trading account Budgets are updated accordingly.

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<sup>2</sup> Full cost includes all charges to a trading account, including internal recharges and capital charges.

The service will be charged with the marginal costs of additional service provision, unless a contract requires a change in the level of support services required.

- 6.6 Unless otherwise required legally, 50% of all “surpluses” received above target will be paid into General Fund reserve accounts, with the remaining 50% carried forward to invest in the service or offset any potential deficits on individual trading accounts in future years. Any “deficits” would be initially charged against surpluses held in reserve in respect of the service incurring the deficit. Beyond this amount, targets for the service would be increased in subsequent years in order to recover the deficits made.

## **7. Banking & Treasury Management and Taxation Arrangements**

- 7.1 The Section 151 Officer has a personal fiduciary duty in respect of all monies of the Council and shall determine how decisions are made in respect of banking, borrowing, investment, and financing, in accordance with:

- a) CIPFA’s “Code for Treasury Management in Local Authorities,” and
- b) the Council’s own Treasury Policy Statement as approved from time to time by the Council, and its Treasury Strategy Statement, as approved annually by the Council.

- 7.2 The Section 151 Officer must report at least twice annually to the Council and the respective Monitoring Committee for treasury management activities and decisions implemented in the form of a mid-year review and an annual report.

- 7.3 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 authorised by the Head of Service responsible for the property.
- b) plant and equipment, which may be hired by a Manager for a continuous period not exceeding twelve months.

In both such cases budgetary provision must exist for the lease or rental payment.

- 7.4 All discussions and negotiations with HM Revenue and Customs on taxation related matters should be undertaken by the Section 151 Officer, who shall also arrange for the completion of all taxation related returns on behalf of the Council. The Head of Human Resources has delegated authority to liaise with HM Revenue and Customs in respect of payroll issues only.

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

- a) Only the Section 151 Officer may approve the setting up of any bank account associated with the Council in relation to its own affairs/partnership arrangements or accountable body and any variation to banking arrangements

including direct debit mandates (a bank is termed to be any financial institution, bank or building society). A new bank account can only be created following a written request to the bank by two designated bank signatories.

- b) Cheques produced as output from the Council's computerised financial systems bear the printed signature of the Section 151 Officer. No further signature is required except for a second authorised signature for cheques exceeding **£50,000**.
- c) Any alterations to a cheque must be initialled by an authorised signatory.
- d) The opening of cheques for cash is to be authorised in exceptional circumstances only and must be in accordance with the Cheque Opening Guidelines issued by the Section 151 Officer.
- e) No employee shall arrange to make payments from any Council bank account other than in accordance with these regulations.
- f) New Purchase Cards will only be issued by the Council's bankers upon approval of the Section 151 Officer.
- g) The use of Purchase Cards (Government Procurement Cards) must be in accordance with the Purchase Card Guidelines issued by the Section 151 Officer.

## **8. Fees & Charges and Income Collection**

- 8.1 All managers must review their fees and charges at least annually, having regard to any general policy on fees and charges agreed by the Council and the guidelines issued by the Section 151 officer as part of its annual budget setting strategy.
- 8.2 Heads of Services have authority to set fees and charges at the level considered most appropriate to secure the achievement of the approved income budget for the service concerned, except where the level of fees and charges are set by an outside body, or where the power has been specifically reserved by the Council. Any fee or charge set by a Head of Service should not have an adverse impact on the service's overall budget.
- 8.3 Council approval will be required for any proposed change in fees and charges if an adverse impact on current or planned income budgets outside that anticipated in the Medium-Term Financial Strategy is expected to result.
- 8.4 All changes to fees and charges must be notified in writing to the Section 151 Officer before implementation.
- 8.5 Managers are responsible for ensuring that:
  - Fees and Charges correctly identify whether the charge is liable for VAT in accordance with current VAT regulations.
  - Any charge indicates whether it is inclusive or exclusive of VAT.
  - VAT is charged correctly when raising invoices or collecting income.

- 8.6 If Managers are unclear about any aspects of VAT requirements, they must seek clarification from the Section 151 Officer or their representative.
- 8.7 Managers 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.
- 8.8 Managers are responsible for ensuring that income is paid fully and promptly into the Council's bank account in the form in which it is received. Paying in slips must be completed to evidence the banking and provide an audit trail.
- 8.9 All amounts due should be collected in full **in advance of service provision where possible** by the following payment methods:
- Direct Debit.
  - Cheque.
  - Credit or debit card.
- 8.10 The following payment options are available for customers wishing to make a payment:
- in person at the point of service provision/sale.
  - by telephone, assisted by the Council's Contact Centre staff.
  - by telephone via the Council's automated telephone payment system.
  - via the internet using the links to the Council's internet payment system on its website.
- 8.11 Where it is not possible to obtain payment in advance of service provision, Managers are responsible for ensuring that an invoice for the amount due is raised promptly in the Council's finance system.
- 8.12 Invoices should be avoided wherever possible for sundry debts below the value of £20.00 and the income should be collected in advance of a service being provided by the Council.
- 8.13 Managers are responsible for following the Council's Joint Credit Control Policy so that appropriate recovery procedures are followed for debts that are not paid promptly, including legal action where appropriate.
- 8.14 Managers are responsible for assisting the Section 151 Officer in collecting debts that they have originated, by providing any further information and appropriately signed documentation required by the Debtors Officer (Finance Section).
- 8.15 Where a situation arises after the raising of any invoice, that the invoice appears not to be valid, the invoice may be cancelled by the Section 151 Officer, on recommendation of the appropriate Head of Service.

8.16 Where debts are due and have actively been pursued, but remain unpaid, the Section 151 Officer is authorised to write-off bad debts up to £10,000 on recommendation of the appropriate Service Manager.

8.17 For debts over £10,000, outstanding amounts may, on recommendation of the Section 151 Officer, be referred to the Cabinet for consideration for write off.

## **9. Estates**

9.1 The ownership of all of the Council's properties shall be vested in the Cabinet, except those properties legally required to be held elsewhere.

9.2 The Property Officer, as determined by the relevant scheme of delegation, will act in the capacity of "landlord" for all of the Council's properties as vested in the Cabinet 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 Heads of Services.
- ensure that appropriate insurance arrangements are in place for all properties

9.3 The Council's Solicitor (or other such person nominated by the Council's Solicitor in writing) shall ensure the safe custody of all title deeds.

## **10. Stock and Inventories**

10.1 In order to ensure that the financial affairs of their services are properly managed, Managers will be accountable for the security of all resources and assets within their area of responsibility.

10.2 Any Manager who holds items for future consumption, other than normal "office consumables", such as paper, pens, or computer consumables, must inform the Section 151 Officer, who must then determine whether the provisions of these regulations will apply. All items for which such a determination has been made are referred to as either "stock" or "inventory" for the purposes of these regulations.

10.3 Stocks should be kept at a minimum level consistent with meeting service needs and having regard for obtaining the best value for the authority.

10.4 Inventories shall be maintained by each Manager in accordance with the procedures approved by the Chief Internal Auditor. (The Head of Technology is responsible for ensuring that an appropriate inventory is maintained detailing all IT equipment and Software of the Council.

10.5 The Council's assets shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except where a specific arrangement has been approved and evidenced in writing by the appropriate Head of Service.

- 10.6 Managers will be responsible for the accuracy of their services' stock and inventory records and will ensure that appropriate checks are made regarding their accuracy. As a minimum, checks should be carried out annually.
- 10.7 For the purposes of these regulations, it is not necessary to maintain an inventory for items whose aggregate value is below £50.00.
- 10.8 An annual statement of quantities in stock as at 31 March, together with a valuation, must be supplied to the Section 151 Officer, certified by the responsible Manager, no later than two weeks after the end of the financial year, unless a specific exemption has been agreed in writing between the Section 151 Officer and the Manager concerned. Where, in the view of the Section 151 Officer and the responsible Manager, the stock holding is of sufficient value, the responsible Manager will be required to make arrangements for stocktaking at least annually or alternatively that an independent stocktaking valuation certificate is obtained.
- 10.9 Any stock adjustments must be approved by the appropriate Manager and reported immediately to the Section 151 Officer.
- 10.10 Losses or thefts of stock or inventory items must be reported to the Chief Internal Auditor as soon as practicably possible.
- 10.11 Managers must be able to demonstrate that the disposal of surplus stocks and stores and inventory items, employees have followed the procedures approved by the Chief Internal Auditor.

## **11. Orders for Works, Goods, and Services and Payment of Accounts**

- 11.1 All purchases of goods, service or works should be made in accordance with the Procurement Regulations.
- 11.2 The ordering of, and payment for, goods and services shall only be undertaken in the format and using procedures approved by the Section 151 Officer. All work, goods, or services to be supplied to the Council shall be ordered via the Council's electronic purchase ordering system, reflecting the "No Purchase Order No Pay" policy of the Council. Standing exceptions only exist for procurement card purchases, petty cash payments and work which is part of a formal contract. Requests for other exceptions must be approved by the Section 151 Officer.
- 11.3 Orders for goods and services shall not be issued unless the expenditure is included in an approved estimate or other specified financial provision.
- 11.4 No employee should enter into an agreement to make a payment other than in accordance with these regulations, though the Section 151 Officer is authorised to give written approval to the variation of this section where necessary for the efficient conduct of the Council's activities.
- 11.5 Apart from payments from advance accounts (see Regulation 12) or utilisation of Purchasing Cards, the normal methods of payment of money due from the Council shall be by BACS, or by single crossed cheque drawn on the Council's Bank account in accordance with the Council's scheme. No other method of payment

including direct debits, standing orders or any form of deferred payment such as leasing, or rental shall be used without the written approval of the Section 151 Officer.

- 11.6 The appropriate Manager, or such other employee authorised by them in writing in accordance with the scheme of Financial Delegations, shall be authorised to approve payment of supplier invoices, having satisfied themselves that, save to the extent that the Section 151 Officer may otherwise approve:
- a) The work, goods, or services to which the account relates have been received, carried out, examined and approved, both as to quantity and quality by another authorised officer.
  - b) The prices, extensions, calculations, trade discounts, other allowances, credits, and tax are correct, having been checked against prior quotes, tenders, or price lists by another authorised officer.
  - c) The relevant expenditure has been properly incurred and can be met from the relevant budget.
  - d) Appropriate entries have been made in inventories, stores records or stock books as required.
  - e) The account is an original, rather than any form of copy, has not been previously passed for payment and is properly due from the Council.
- 11.7 Accounts shall be certified without delay in the format, and with any supporting documentation, specified in guidance approved by the Section 151 Officer, who shall be entitled to make such enquiries and to receive such information and explanations as they may require.
- 11.8 Incorrect supplier invoices should not be amended by Council employees. They should be returned to the supplier with a request to provide an invoice for the correct amount or a credit note. Where the item of expenditure is subject to VAT either:
- A VAT invoice is obtained to ensure that the appropriate amount can be recovered, or
  - A VAT receipt is obtained and forwarded to the Chief Finance Officer.
- 11.9 In exceptional certain circumstances, it will be necessary to make payments to external bodies where the placement of an order is not possible, and no invoice will be submitted to the Council for payment. The Section 151 Officer will maintain a list of items falling into this category, which must be authorised for payment using the appropriate “payment request” forms instead of a supplier invoice. In all other respects, these payments must be processed in the same way as payments to suppliers.
- 11.10 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, provided that an order has been electronically generated within the Council's

finance system and that the goods or services ordered have been satisfactorily goods received in the system.

11.11 The Manager responsible for 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 finance 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 finance 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.

11.12. The Principal Accountant – Exchequer Services responsible for the payment invoices will, before paying any sums due in this way, shall satisfy themselves:

- a) The work, goods, or services to which the account relates have been recorded within the Council's approved system as received or carried out.
- b) The priced account is in accordance with the priced order, subject to any tolerance that may be approved by the Section 151 Officer.
- c) Any request for payment which is not in accordance with the requirements above is specifically approved by the Head of Service in addition, and that this is recorded within the Council's system.
- d) 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.

11.13 No employee shall certify any account for payment where that employee is to benefit from the payment. In such cases an independent certification must be obtained.

## **12. Advance Accounts**

12.1 Heads of Services shall provide such advance accounts or floats as considered appropriate for such employee of the Council as may need them for the purposes of defraying petty cash and other expenses, subject to the approval of the Section 151 Officer should such an advance exceed **£500**. Such accounts shall be maintained on the imprest system and will be identified as "advance" accounts.

12.2 The conduct of advance accounts or floats must be in accordance with instructions approved by the Chief Internal Auditor, and should not, in particular, be used as a means of circumventing other parts of these regulations. No income received on behalf of the Council may be paid into an advance account but must be banked or paid to the Section 151 Officer as provided elsewhere in these regulations.

12.3 Any employee responsible for an advance account or float shall, if so requested, give to the Section 151 Officer a certificate of the value of the account.

12.4 On leaving the employment of the Council, or otherwise ceasing to be entitled to hold an advance account or float, an employee shall account to the relevant Head of Service for the amount advanced to them.

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

### **13. Salaries and Wages**

13.1 The payment of all salaries, wages, compensation, allowances and other emoluments to all Members, employees or former employees of the Council shall be made by the Head of Human Resources under arrangements approved by the Section 151 Officer. The Head of Human Resources shall have the power to make changes to such payments reflecting changes in local or national pay rates or conditions of service. Such payments shall be made by BACS, unless otherwise agreed in writing by the Section 151 Officer.

13.2 The Head of Human Resources shall retain records of all matters affecting the payment of such emoluments and in particular:

- a) Appointments, resignations, dismissals, suspensions, secondments, and transfers.
- b) Absences from duty for sickness or other reason which may affect payment.
- c) Changes in remuneration.
- d) Information necessary to maintain records of service for pension, income tax and national insurance.

13.3 Appointments of all employees shall be made in accordance with the Council's Scheme of Delegations and the approved grades and rates of pay.

13.4 All individuals who undertake work for the Council will be paid under arrangements determined by the Head of Human Resources in accordance with the Council's guidelines.

13.5 All time records or other documents shall be in a form approved by the Section 151 Officer and shall be certified by or on behalf of a Manager by an Officer so approved in accordance with the scheme of Financial Delegations.

### **14. Travelling, Subsistence, and Other Allowances**

14.1 All claims for payment of car allowances, subsistence allowances, travelling and training and other expenses shall be submitted to the Head of Human Resources in a format approved by the Section 151 Officer, duly certified by an authorised employee in accordance with the scheme of Financial Delegations.

14.2 A schedule of applicable rates will be maintained by the Head of Human Resources.

14.3 The certification by or on behalf of the Manager shall be taken to mean the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

- 14.4 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 special approval of the Section 151 Officer before payment.
- 14.5 All claims received by the notified monthly deadline will be paid with that month's salary. Claims must be accompanied by appropriate receipts to evidence expenditure incurred.
- 14.6 Employees who are required to use their private vehicle for work purposes on an ad hoc or regular basis must ensure that their car is insured for business use.
- 14.7 Managers must check, at least once a year, that their employees who are required to use their private vehicle for work purposes on an ad-hoc or regular basis have:
- a) valid car insurance for business use, and
  - b) a valid driving licence.
- 14.8 Payment of Members' travelling, or other allowances, will be made by the Head of Human Resources on receipt of the appropriate form duly completed and submitted by the Member. All claims received by the notified monthly deadline will be paid with that month's basic allowance.
- 14.9 The Section 151 Officer shall be responsible for determining the Council's scheme for car loans and its operation. The Section 151 Officer shall be responsible for updating and approving the interest rate payable on car loans.

## **15. Risk & Insurances**

- 15.1 Managers will be responsible for supporting the delivery of the Council's Risk Management Policy and Strategy.
- 15.2 Managers should notify the Insurance Officer of the extent and nature of all new insurable risks and any alteration affecting existing insurance risks.
- 15.3 Managers shall notify the Insurance Officer<sup>3</sup> of all appropriate employees of the Council to be included in suitable fidelity guarantee insurance.
- 15.4 The Insurance Officer shall effect all insurance cover in respect of insurable risks, including fidelity guarantee insurance, in consultation with the Section 151 Officer.
- 15.5 Managers shall give prompt notification to the Insurance Officer in writing of any loss, liability or damage or any event likely to lead to a claim and inform the police in appropriate cases.
- 15.6 The Insurance Officer shall undertake all liaison with the Council's insurers in respect of the negotiation and payment of all claims in consultation with Heads of Services where necessary.

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<sup>3</sup> The "Insurance Officer" for the purposes of these regulations shall be the service manager who has responsibility for the Insurance function within their job description

- 15.7 No Council Member or employee shall be permitted to discuss or admit liability to a third party, other than the Insurance Officer, in consultation with the Council's Solicitor where appropriate, in the course of settling a claim.
- 15.8 Managers shall provide the Insurance Officer with the information available to deal with any claim arising.
- 15.9 Where claims under the Council's public liability policy fall below the excess limit, and the Manager concerned has accepted liability, the Insurance Officer in shall consider, negotiate, and make any payment due in settlement of the claim.
- 15.10 Formal indemnity can only be granted by the Council's Solicitor in consultation with the Insurance Officer.
- 15.11 The Insurance Officer shall annually, or at such other period as they may consider necessary, review all insurances in consultation with Managers as appropriate.

## **16. The Powers and Duties of Internal Audit**

- 16.1 Internal Audit is an assurance function that primarily provides an independent and objective opinion to the Council on its governance arrangements and internal controls.
- 16.2 Managers, and not Internal Audit, have ultimate responsibility for ensuring that internal controls throughout the Council are adequate and effective. This responsibility includes the duty to continuously review internal controls and ensure that they remain suitable in design and effective in operation. The existence of Internal Audit does not diminish the responsibility of management to establish and maintain systems of internal control to ensure that activities are conducted in a secure, efficient, and effective manner.
- 16.3 The Chief Internal Auditor and the Section 151 Officer have a responsibility for ensuring that the Council has an adequate and effective internal audit service in operation in accordance with Section 151 of the Local Government Act 1972 and the Accounts and Audit Regulations 2015.
- 16.4 The work of the Internal Audit Section will be performed with due professional care and in accordance with the Accounts and Audit Regulations 2015, the Public Sector Internal Audit Standards (PSIAS) and any subsequent guidance that updates or replaces these.
- 16.5 The Chief Internal Auditor will fulfil the role and responsibilities of the "Chief Audit Executive" as set-out in the PSIAS.
- 16.6 In order to perform their duties, the Chief Internal Auditor or their nominated representatives have authority to:
- a) enter at all reasonable times, any Council premises or land.
  - b) have access to all records, documents, correspondence, and computer systems relating to the Council and its activities.

- c) require and receive such explanations as necessary concerning any matter under examination.
  - d) require any employee of the Council to produce records, cash, stores, or any other Council property under their control, necessary to carry out their duties.
- 16.7 Where necessary such rights of access may be called upon and should be granted to Internal Auditors on demand and not subject to prior notice or approval. All employees are required to assist Internal Audit in fulfilling its roles and responsibilities.
- 16.8 For Internal Audit to fulfil its responsibilities effectively, it must be independent of the activities it audits. In order to achieve this, it should not be involved, as a matter of routine, in the operation of procedures or financial services within the Council. Where the Chief Internal Auditor's independence is comprised, this must be agreed with the Section 151 Officer and suitable alternative arrangements put in place.
- 16.9 The Chief Internal Auditor has the right to direct access to the Section 151 Officer; Chief Executive/; Heads of Services; Chair of the Audit & Governance Committee; Leader of the Council; and External Auditors, where it is deemed necessary.
- 16.10 Internal Audit supports the Section 151 Officer in carrying out their statutory duty to providing an effective system of internal control at the Council. Internal Audit shall report any significant control weaknesses in systems to the appropriate Head of Service and the Section 151 Officer. If action is not taken within the time specified by the Chief Internal Auditor, escalation procedures will be commenced, including reporting the matter to the Head of Service, the Monitoring Officer, the Head of Governance and Corporate Services, Section 151 Officer, Chief Executive/, Head of Service and/or the Council's Audit & Governance Committee.

## **17. Fraud & Irregularities**

- 17.1 Managers are responsible for establishing procedures to prevent and detect fraud occurring within their service area.

Any Officer who suspects that these regulations have been or may be breached, that any financial records may have been falsified or that resources of the Council have been or may be stolen, must immediately notify the Head of Governance and Corporate Services, Section 151 Officer, or the Chief Internal Auditor.

- 17.2 The Chief Internal Auditor in consultation with the Section 151 Officer<sup>4</sup> will be responsible for involving the Police in any matters relating to fraud or breaches of these regulations.
- 17.3 Where there is a suspicion that Money Laundering may be occurring, the Chief

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<sup>4</sup> In the absence of the S151 Officer, the Monitoring Officer or the Head of Governance and Corporate Services will be consulted

Internal Auditor or Head of Governance and Corporate Services must be informed immediately, and the Council's Money Laundering Framework must be followed.

- 17.4 The Chief Internal Auditor, in consultation with the Section 151 Officer<sup>5</sup>, shall take such steps as they consider necessary by way of investigation, reporting and commencement of disciplinary procedures for all cases of fraud/irregularity.
- 17.5 The Section 151 Officer shall have the right to be represented and give evidence at any proceedings under the Council's disciplinary procedures relating to any employee breaching the Council's Financial Regulations.
- 17.6 At an employee's option, the processes in paragraph 17.1 may be replaced by the provisions of the Council's Confidential Reporting Framework or the Council's Anti-Fraud and Bribery Framework.

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<sup>5</sup> As for footnote 4 above

**Values Referred to within Financial Regulations**

| <b>Paragraph</b> | <b>Item</b>                                                                                                                         | <b>Value</b> |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------|--------------|
| 5.5              | Limit on virement authority for items within the same Service, Service Division, and fund.                                          | £10,000      |
| 7.5              | Threshold above which second signature is required for cheques produced as output from the Council's computerised financial systems | £50,000      |
| 8.12             | Threshold below which sundry debtor invoices should not be raised.                                                                  | £20          |
| 8.16             | Maximum individual debt that can be written off by Section 151 Officer.                                                             | £10,000      |

# Section 33

## Procurement Regulations

### Contents

| Section Number | Section Title                                                                                                            | Page Number    |
|----------------|--------------------------------------------------------------------------------------------------------------------------|----------------|
|                | <a href="#">Glossary</a>                                                                                                 | 4-33-2         |
|                | <a href="#">Summary of Options Available for the Procurement Process</a>                                                 | 4-33-4         |
| 1              | <a href="#">Introduction</a>                                                                                             | 4-33-5         |
| 2              | <a href="#">Context</a>                                                                                                  | 4-33-6         |
| 3              | <a href="#">Before We Start</a>                                                                                          | 4-33-7         |
| 4              | <a href="#">Commissioning the Procurement</a>                                                                            | 4-33-10        |
| 5              | <a href="#">How We Buy The Goods And Services We Need</a>                                                                | 4-33-12        |
| 6              | <a href="#">Quotations Process</a>                                                                                       | 4-33-12        |
| 7              | <a href="#">Tendering Process</a>                                                                                        | 4-33-14        |
|                | <ul style="list-style-type: none"> <li>• <a href="#">Tenders below the Procurement thresholds</a></li> </ul>             | 4-33-14        |
|                | <ul style="list-style-type: none"> <li>• <a href="#">Tenders above the Procurement thresholds</a></li> </ul>             | 4-33-15        |
|                | <ul style="list-style-type: none"> <li>• <a href="#">Tender Documents</a></li> </ul>                                     | 4-33-16        |
|                | <ul style="list-style-type: none"> <li>• <a href="#">Insurance Requirements</a></li> </ul>                               | 4-33-16        |
|                | <ul style="list-style-type: none"> <li>• <a href="#">Advertising</a></li> </ul>                                          | 4-33-17        |
|                | <ul style="list-style-type: none"> <li>• <a href="#">Issuing and Return of Tenders</a></li> </ul>                        | 4-33-17        |
|                | <ul style="list-style-type: none"> <li>• <a href="#">Receiving And Opening Tenders</a></li> </ul>                        | 4-33-17        |
|                | <ul style="list-style-type: none"> <li>• <a href="#">Evaluating Tenders</a></li> </ul>                                   | 4-33-18        |
|                | <ul style="list-style-type: none"> <li>• <a href="#">Awarding Contracts</a></li> </ul>                                   | 4-33-20        |
|                | <ul style="list-style-type: none"> <li>• <a href="#">Award of Contracts below the Procurement Threshold</a></li> </ul>   | <b>4-33-20</b> |
|                | <ul style="list-style-type: none"> <li>• <a href="#">Award of Contracts above the Procurement Threshold</a></li> </ul>   | <b>4-33-20</b> |
|                | <ul style="list-style-type: none"> <li>• <a href="#">Standstill Period (For Above-Threshold Tenders Only)</a></li> </ul> | 4-33-21        |
|                | <ul style="list-style-type: none"> <li>• <a href="#">Tender Records and Audit Trail</a></li> </ul>                       | 4-33-21        |
| 8              | <a href="#">Framework Agreements</a>                                                                                     | 4-33-21        |
| 9              | <a href="#">Concession Contracts</a>                                                                                     | 4-33-22        |
| 10             | <a href="#">Conditions Of Contract</a>                                                                                   | 4-33-22        |
| 11             | <a href="#">Changes to Contracts</a>                                                                                     | 4-33-23        |
| 12             | <a href="#">Exceptions From The Regulations</a>                                                                          | 4-33-24        |

## Glossary of terms

| Term                                          | Definition / Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Chief Officer</b>                          | This means all Members of Leadership Team                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Central Digital Platform</b>               | This is the online central system provided by the Cabinet Office for the publication of notices, documents, and other information in relation to the Procurement Act 2023. It is used by the public sector to advertise and bid for procurement opportunities.                                                                                                                                                                                                                       |
| <b>Consortium</b>                             | An association of several business organisations who are legally bound together to work towards a commonly held aim. Or, it can mean two or more economic operators.                                                                                                                                                                                                                                                                                                                 |
| <b>Contract</b>                               | Any agreement where we agree to carry out or to buy or sell any goods, work, services, or utilities for payment or otherwise.                                                                                                                                                                                                                                                                                                                                                        |
| <b>Contract Lots</b>                          | A contract may be split into discrete aspects (lots) which tenderers may bid for separately or combined, as specified in the tender.                                                                                                                                                                                                                                                                                                                                                 |
| <b>Crown Commercial Services</b>              | This is the central procurement service run by HM Government for the public sector. The website address is <a href="https://ccs.cabinetoffice.gov.uk">ccs.cabinetoffice.gov.uk</a> . This will allow you access to Framework Agreements, Catalogues, etc                                                                                                                                                                                                                             |
| <b>Electronic procurement and e-tendering</b> | The use of bespoke procurement software products. E-tendering systems allow all aspects of the tendering process to be carried out electronically including the despatch of tender documents, receipt of and responding to clarification questions and return of completed tenders. You can take advantage of reduced minimum time periods for above-threshold procurements when you use electronic procurement. You can get advice and guidance on this from a procurement advisor. |
| <b>Procurement Act</b>                        | The Public Procurement Act 2023, and any regulations made thereunder, together with relevant EU directives, case law and guidance issued.                                                                                                                                                                                                                                                                                                                                            |
| <b>Framework agreement</b>                    | An agreement or other arrangement which sets the terms (in particular the price and, where appropriate, quality) under which the provider will enter into one or more contracts or a series of contracts with us. This may also be referred to as a call-off contract, a continuous contract, or a standing offer.                                                                                                                                                                   |
| <b>National Procurement Policy Statement</b>  | The statement published by the government in accordance with section 13 of the Procurement Act:<br><a href="https://assets.publishing.service.gov.uk/media/663c9bbd1834d96a0aa6d314/E03126162_-_Un_Act_-_National_Procurement_Policy_Statement_V2_Elay.pdf">assets.publishing.service.gov.uk/media/663c9bbd1834d96a0aa6d314/E03126162 - Un Act - National Procurement Policy Statement V2 Elay.pdf</a> .                                                                             |
| <b>Open procedure</b>                         | This means an advert will be placed and the tender will be open to anyone who shows an interest. An open procedure is always a single stage procurement exercise.                                                                                                                                                                                                                                                                                                                    |
| <b>Procurement Advisor</b>                    | This will be the Head of Transformation and Assurance or staff from Staffordshire County Council or any other organisation providing professional support to the delivery of procurement exercises                                                                                                                                                                                                                                                                                   |

| <b>Term</b>                     | <b>Definition / Explanation</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Public organisation</b>      | Any organisation which may award a public contract under the Procurement Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Public services contract</b> | One under which we employ a person or other legal entity to provide services.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Public Supply contract</b>   | A contract to buy goods (not land or the product of an activity); or hire goods, whether or not we install them.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Public Works Contract</b>    | <p>A contract for carrying out work under which we employ a person or other legal entity to do the work. Works are defined as including:</p> <ul style="list-style-type: none"> <li>• building and civil engineering work;</li> <li>• installing, for example, heating and electrical equipment or ICT equipment;</li> <li>• carrying out work such as tiling and papering; and</li> <li>• maintaining buildings.</li> </ul> <p>We may also treat the following activities as a contract for <b>work</b>:</p> <ul style="list-style-type: none"> <li>• A contract where we employ a provider to act as our agent when letting works contracts.</li> <li>• An agreement where a developer constructs a building on their own land (according to our needs) and then transfers the land and structure to us at a later date.</li> </ul> |
| <b>Signing a contract</b>       | A contract includes arrangements for formally accepting a tender. Contracts can only be awarded and signed/sealed by Authorised Officers. A purchase order will in effect be the contract for lower value purchases and so the rules for signing a contract will apply. See 10.5 for more details.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Standstill period</b>        | The period of time between giving notice of our plan to award the contract and the confirmation of the award of the contract which is needed under the Procurement Act. This gives unsuccessful companies the chance to ask for a debriefing and to challenge an award of a contract.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Tendering</b>                | A formal procedure for getting written offers (tenders) for supply.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Third sector</b>             | Non-governmental organisations that are driven by value and which mainly reinvest any profit to further social, environmental, or cultural aims. The sector includes voluntary and community organisations, charities, social enterprises, faith groups, housing associations and co-operatives and mutuals.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Value for money</b>          | This is not the lowest price but the best combination of whole-life costs and quality to meet users' needs. You should always assess value for money over the whole life of the contract and you should take into account all costs and benefits to society as a whole including the environmental and social benefits and costs, not just those directly relevant to us. (OGC 2008).                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

## Summary of Options Available for the Procurement Process

| Category                           | Value                                                                                                                                                                                                                             | Process                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Minimal value transactions         | Up to £1,000                                                                                                                                                                                                                      | No requirement to obtain written quotations but still have a duty to obtain value for money                                                                                                                                                                                                                                                                                                                           |
| Low Value transactions             | From £1,000 up to £10,000                                                                                                                                                                                                         | Two written / evidenced quotations must be obtained. This can be done by undertaking price comparisons on websites e.g. for goods.                                                                                                                                                                                                                                                                                    |
| Intermediate Value Transactions    | From £10,000 up to £30,000                                                                                                                                                                                                        | Three written quotations must be obtained. Alternatively, an existing framework agreement can be used.                                                                                                                                                                                                                                                                                                                |
| Medium Value Transactions          | Over £30,000 and up to £60,000                                                                                                                                                                                                    | <p>Quotes obtained through formal process, where providers must comply with a specification. Alternatively, an existing framework agreement can be used.</p> <p>The opportunity must be advertised on the Central Digital Platform by publishing a below-threshold tender notice. For services, a contract should be issued, rather than relying on the general terms and conditions included in a purchase order</p> |
| High Value transactions            | Over £60,000 and up to the Procurement Thresholds                                                                                                                                                                                 | <p>A tendering process should be followed, with support from a Procurement Advisor. Alternatively, it may be agreed that a framework agreement can be used.</p> <p>The opportunity must be advertised on the Central Digital Platform by publishing a below-threshold tender notice. Consideration should also be given to advertising in an appropriate trade/professional journal</p>                               |
| Procurement Threshold transactions | <p>Goods, Services and Works over the threshold amounts set out in the Procurement Act 2023, and/or regulations made thereunder:</p> <p>Goods and Services - £213,477</p> <p>Works - £5,336,937</p> <p>Light Touch - £663,540</p> | Special rules apply – speak to a Procurement Advisor                                                                                                                                                                                                                                                                                                                                                                  |

## **1 Introduction**

- 1.1 These regulations are part of our constitution and are our procedural regulations for buying items for the Council (the Regulations). They do not apply to buying items or services from within the Council. Where services such as printing and graphic design are provided internally, these services should be used unless agreement is reached with the internal service that a particular piece of work needs to be sourced externally.
- 1.2 These regulations apply to all contracts for goods, services or works for us, or which we provide, and the award of any Concession, unless paragraphs 1.5 and 1.6 apply or you have a valid waiver under regulation 12 (section headed 'Exceptions from the regulations').
- 1.3 The regulations apply to any contract that result in us making a payment and some types of contract where a service is being provided for us which results in some income being generated for us.
- 1.4 The regulations also apply if we are acting as the lead organisation in partnership or other joint arrangement or if we appoint a subcontractor in connection with any contract.
- 1.5 The regulations do not cover grants which we may receive or make.
- 1.6 The regulations do not apply to:
  - contracts of employment;
  - Investment transactions placed by the Section 151 Officer for treasury management;
  - contracts placed by the Council Solicitor for external legal services; and
  - contracts relating to interest in land (also known as property) - this primarily relates to the purchase and disposal of land;
  - contracts relating to selling or otherwise disposing of our assets.
  - Sharing services with another contracting authority in the public interest.
- 1.7 If you are in any doubt about whether the regulations apply, you must always check with the Head of Transformation and Assurance or the Head of Law and Governance.
- 1.8 Our 'best value duty' is very important. It means that we must always consider how each procurement meets our duty to secure continuous improvement in what we do after taking account of economy, efficiency, effectiveness, and outcomes. As a result, we need to question whether we should be buying anything at all and, if we do, whether we can buy it best ourselves or jointly, or if we should rely on someone else to get better value.
- 1.9 The regulations have three main aims. These are to:
  - keep to the obligations that govern spending public money, such as the Procurement Act;

- get best value in the way we spend money, so that we may in turn offer better and more cost-effective services to the public; and
  - protect people who follow the regulations.
- 1.10 These regulations may be waived if the Monitoring Officer, the s151 Officer or the Head of Transformation and Assurance decides:
- you are buying something jointly with one or more public organisations and you are following their procurement processes;
  - a contract or subcontract which is governed by nationally negotiated conditions of contract from one or more professional institutions, for example Institute of Civil Engineers (ICE) building contracts and any condition of these regulations, does not match a condition in those conditions of contract; and
  - we are working in line with procurement regulations entering into a framework agreement negotiated by another public organisation.
- 1.11 **These regulations must be complied with by all employees involved in the procurement of goods, services, or works. Failure to comply may result in Disciplinary action.**
- 1.12 Any interim contractor or consultant who is responsible to us for preparing or supervising a contract on our behalf must do the following. They must:
- keep to these regulations as though they were an employee, though the procedure for inviting, opening, and accepting tenders will need to be agreed with the Head of Law and Governance or the Head of Transformation and Assurance.
  - produce all the records they keep in relation to the contract, if requested by the Council; and
  - at the end of a contract, send all records, documents and so on relating to the contract to the Chief Officer concerned and
  - always deal with the ownership of intellectual property rights, generally these should belong to the Council.
- 1.13 An employee will not, without approval from the Section 151 Officer, enter into a contract for supplying goods or services under any operating or finance lease, rental, or any other credit arrangements.

## 2 Context

- 2.1 The UK has signed up to the World Trade Organisations Agreement on Government Procurement and is committed to compliance with its principles of fairness, impartiality, transparency, and non-discrimination. The Procurement Act sets down what obligations are placed on us when we are buying.
- 2.2 The Procurement Act sets out a number of key principles that we must have regard to in carrying out procurement:
- Deliver value for money,
  - Maximise public benefit,

- Be transparent in our procurement activities,
  - Act with integrity,
  - Equal treatment and non-discrimination of suppliers,
  - Have regard to the fact that small and medium-sized enterprises may face particular barriers to participation and consider whether such barriers can be removed or reduced.
- 2.3 In addition, the government publishes a National Procurement Policy Statement setting out the strategic priorities that all contracting authorities must have regard to when exercising any procurement activities.
- 2.4 We all now need to think about the way we arrange this, for example, e-auctions, e-tendering, or setting up a framework or placing a supply contract. More and more, councils are working collaboratively through joint procurements (in other words, buying the goods and services you need with another department or another council or councils and sometimes other public organisations).
- 2.5 If you are buying larger or expensive goods, work, or services, remember that the regulations for higher value orders and contracts are stricter than for those of lower value. This is so that the benefits of a more thorough, complicated process are not outweighed by the price compared to the value of the goods, work, or services in question.
- 2.6 At the highest end of the value scale, we **must** follow full procedures set out in the Procurement Act. In these cases, you **must** consult a Procurement Advisor before you start buying what you need.

### **3 Before we start**

#### **Before you buy goods and services**

- 3.1 You must ensure that you have:
- (i) the appropriate authority to procure goods and services, especially for those over £60,000. Authority may come from the Council's Scheme of Delegations or a specific Cabinet or Council decision; and
  - (ii) Sufficient revenue and/or capital budget to fund the purchase (please refer to the Council's Financial Regulations).
- 3.2 You will need to determine the value of the contract early in the process as this will affect the procurement route that you will need to follow. The value of a contract means the estimated total value over the length of time it will apply, including any extension options (**not the yearly value**). The contract values referred to within these regulations are inclusive of any VAT payable unless stated otherwise.
- If the contract is for buying a single item, which is not related to buying other items, the contract is worth the price, or estimated price, referred to in that contract.
  - If the contract is for buying a related group of items, the contract is worth the total price, or estimated total price, of the group.

- If there is no set length of time for the contract, this is the estimated value of the contract over a period of four years.
- You should not split contracts to avoid the values, either by item or length. This is particularly relevant for invoice/purchase led expenditure which over time becomes a Contract, i.e., regular purchases of similar items over a period of time. There are however circumstances where it is appropriate to split a contract into “lots”.

3.3 Before starting a procurement process, you need to make sure that you have carefully identified the need and fully assessed the options for meeting it, i.e., think carefully about what you are commissioning and how best to do this. Before you start, you **must** consider the following:

- Is there a clear business need, supported by appropriate evidence and a budget in place?
- Can you buy what you need with another service or another council? If you think you could save us money or achieve other advantages if you bought what you need with someone else, consider whether there is an existing framework arrangement, in-house provider or contract you can use. This framework or contract could be one we have already set up or one set up by another council or joint-purchasing organisation or run centrally by the Government (such as Crown Commercial Services).
- Is there some kind of recognised purchasing group in place (often referred to as a buying consortium) where members can use the purchasing arrangements to buy goods or services? If there is a group in place, you do not have to keep to these regulations. However, you can only buy the goods or services that are covered by the group arrangements. If the goods or services are outside the scope of the group arrangements, you must use some other method of procurement in line with these regulations. A Procurement Advisor can give you more advice on this.

You need to be able to evidence that you have fully considered what you need to buy, why and how this is to be done. It is essential that you produce and maintain comprehensive records of all decision-making throughout the procurement of the contract and retain such records for at least 3 years from the date the contract is entered into.

3.4 If after considering other buying solutions you are going to use a joint procurement with another council, the relevant Chief Officer in consultation with the Head of Law and Governance or the Head of Transformation and Assurance may determine that the procurement regulations for another public authority should be followed rather than these regulations.

3.5 If you decide that you or your partners are likely to need to buy the goods or services again in the future, it may be that the best way to buy them is by setting up a framework agreement. A framework agreement allows a number of providers to sell you the goods, work, or services you need when you need them. There are many types of contracts which will be suited to a framework agreement, and it is important that you agree this with a Procurement Advisor before you start to make sure that the type of contract being used is most suitable.

### **Purchase of ICT hardware, software, and services**

- 3.6 If you are planning to buy any ICT hardware, software, or services, you must consult the Technology Services Manager to make sure that the procurement is compliant with the Council's ICT policy/strategy and existing software or equipment where relevant.

### **Employment issues and TUPE (Transfer of Undertaking Protection of Employment Regulations)**

- 3.7 Entering into new contractual arrangements or changing existing contractual arrangements can give rise to TUPE implications. It is not always obvious that there are TUPE implications (for example, when a contract with another supplier comes to an end and is to be put out to tender again). So, **if in any doubt**, you **must get the** advice of an HR or Legal specialist to make sure that any relevant TUPE arrangements are in place.
- 3.8 Where it has been decided that goods, work, or services should be bought from an external source, you **must** consider the effects this may have on the existing in-house team and the possibility of staff transferring to the new provider under TUPE.
- 3.9 These contracts **must** contain conditions to make sure appropriate workforce (and other) information will be made available in enough time when that contract is due to end to make sure that we can fulfil TUPE obligations.
- 3.10 TUPE situations will almost always give rise to pensions issues. HR will support you in getting the advice you need on this from the Pensions Section. You will need an actuarial statement on pension information for any proposed TUPE transfers. HR will arrange to get this from the Pensions Section. It is the responsibility of the person managing the tender process to liaise with HR on TUPE matters.

### **Making sure we keep to law and policies**

- 3.11 When making or proposing a contract on our behalf, the procuring officer will:
- keep to all relevant legal requirements including Procurement Act, relevant health and safety, environmental and equalities, diversity, and discrimination law;
  - keep to these regulations; and
  - keep to our financial regulations.

### **Honesty and conflicts of interest**

- 3.12 Every officer who takes any decision or has any influence about a contract must keep to our code of conduct for employees and must comply with the Bribery Act 2010. They must also complete and sign the Declaration of Interest and Confidentiality document.
- 3.13 Every officer who has a financial interest in a contract must advise their Head of Service and contact the Monitoring Officer who will make a record in a book we will keep for the purpose, under Section 117 of the Local Government Act 1972.

- 3.14 You should not accept any gifts or hospitality from anyone tendering for a contract we are leading on or from any current supplier. If you do, this may be a disciplinary offence. You **must** tell the Monitoring Officer if you are dealing with a contract for the Council and have been offered such a gift or hospitality and advise your Head of Service. Further details on Gifts and Hospitality can be found in the Employee's Code of Conduct.

## **4 Commissioning the Procurement**

### **Defining the Need**

- 4.1 At the least, you **must** clearly and carefully:
- (i) specify the goods, work, or services to be supplied;
  - (ii) the agreed programme for delivery;
  - (iii) the terms for payment together with all other terms and conditions; and
  - (iv) ensure that you will have the funds in the budget to pay for them.
- 4.2 This means you **must** decide before beginning the procurement process the size, scope, and specification of the goods, work or services needed. If you are buying with someone else, you **must** decide this scope with your partners first.
- 4.3 When identifying and defining the need, you should make sure you have involved an appropriate wider range of organisations relevant to the goods, work, or services to be supplied. By knowing the market and encouraging a wider supply base, you have more chance to find the right providers and achieve the right services at the right price.

### **Procurement strategy**

- 4.4 Once you have decided on the need, you **must** decide on a strategy for buying the goods, work, or services.
- 4.5 This means taking a step back from the traditional procurement process and assessing the purchasing options particularly when purchasing services. For example, using a grant may be appropriate for a highly specialised service, if you know there is only one provider, or a very few suspected providers, or the project is of a low financial value. This is because it would not make financial sense for one specialist provider to go through a full tendering process.
- 4.6 You **must** consider options for delivering goods, work, or services. The options for goods, works or services are:
- not buying the goods, having the work done or providing the services at all;
  - providing the goods, work, or services ourselves (i.e., appropriate use of in-house support services e.g., printing and design work);
  - getting someone else to provide the ongoing goods, work, or service (using the 'third sector' or another local authority or public organisation); or
  - providing the goods, work, or services with someone else (the private or 'third' sector or another local authority or public organisation).

- 4.7 Once you have established this, you will then need to consider the most appropriate procurement route; this will largely be determined by the value of the procurement and the options for this are set out in section 5.
- 4.8 If you are in any doubt about the above, you should get advice from a Procurement Advisor.
- 4.9 As part of the commissioning of the procurement, you will also need to consider what else is important to the Council in this procurement. The two key issues are:

**Social Value** - do you just need the goods, work, or services? Or are there other things you want to bring about (for example, improved environmental performance, new jobs) or added social value. In certain cases, the procurement process can help achieve this wider social value by meeting a particular social, environmental, or economic aim. In respect of public service contracts, the Public Services (Social Value) Act 2012 requires you to consider how your proposal might improve the economic, social, and environmental well-being of the Council's area, and how the contract might secure that improvement.

**Climate Change** - consider the impact of what you are purchasing has on the environment and whether anything can be done to contribute towards the Council's ambition to reduce our impact on climate change. This could include:

- (a) identifying opportunities for reducing emissions that contribute to climate change and poor air quality. This includes sourcing of low or zero carbon energy wherever possible and phasing out the use of fossil fuels from our fleets and transitioning to zero or low emission vehicles.
  - (b) the application of relevant environmental and sustainability standards to support minimising the ecological harm caused by chemicals such as herbicides.
  - (c) encouraging suppliers to adopt processes and procedures to reduce their environmental impact including the volume and type of packaging used for the delivery of goods.
- 4.10 You should include references to these issues in your specification and evaluation model as appropriate.

## 5 How we buy the goods and services we need

- 5.1 Choosing the procurement route to be followed is largely dependent on the value of the contract. The options are outlined in the table at the beginning of these Regulations and are summarised below:

| Category                                 | Value                                        | Process                                                                                              |
|------------------------------------------|----------------------------------------------|------------------------------------------------------------------------------------------------------|
| Minimal value transactions               | Below £1,000                                 | No quotations required                                                                               |
| Low value transactions                   | £1,000 up to £10,000                         | 2 written quotations required                                                                        |
| Intermediate value transactions          | £10,000 up to £30,000                        | 3 written quotations required                                                                        |
| Medium value transactions                | £30,000 up to £60,000                        | quotations to be obtained via a formal process. Sections 84 to 88 of the Procurement Act apply.      |
| High value transactions                  | £60,000 and up to the Procurement Thresholds | Tendering process in accordance with these Regulations and sections 84 to 88 of the Procurement Act. |
| Above Procurement Threshold transactions | Check current Procurement Thresholds         | Tendering process required in accordance with the Procurement Act                                    |

- 5.2 Framework agreements may be used instead of obtaining quotations or tendering for goods, works and services.
- 5.3 Details on each of these processes is explained in more detail in the sections on Quotations (section 6) and Tenders (section 7).
- 5.4 If you need to purchase goods or services urgently and do not have sufficient time to follow the relevant process, please refer to the Section on Exceptions (section 12).

## 6 Quotations Process

### Minimal Value Transactions (below £1,000)

- 6.1 For transactions valued below £1,000 (not including VAT), you still have a duty to ensure best value in terms of economy, efficiency and effectiveness is obtained. There is no specific requirement to obtain alternative quotations but if you think that the first quotation you obtain is expensive then you should consider obtaining at least one further quotation.

### **Low-value transactions**

- 6.2 For transactions valued at or over £1,000 but below £10,000 (not including VAT) you **must** get two written/evidenced quotations before you issue a purchase order specifying the goods, work, or services. Price comparisons undertaken via the Internet will be acceptable providing evidence is retained (e.g., screen prints) – this will generally apply to the purchase of goods.

### **Intermediate-value transactions (i.e., £10k to £30K)**

- 6.3 For transactions valued at or over £10,000 but below £30,000, you **must** get three written quotations before you issue a purchase order or contract (for services and works), specifying the goods, work, or services.

### **Medium Value Transactions / Formal Quotes Process (i.e., £30k to £60k)**

- 6.4 For all transactions valued at or over £30,000 but below £60,000, you will need to follow a Formal Quotes Process.
- 6.5 You must:
- Publish a below-threshold tender notice on the Central Digital Platform;
  - Seek to obtain a minimum of three written quotations;
  - Maintain a record of the quotations received;
  - Maintain comprehensive records of all decision-making. Issue a purchase order to the provider of the successful quotation.
  - For services or works you should obtain legal advice as to whether it is necessary to issue a contract – advice should be sought at the outset of the procurement process so that contract details can be issued to interested parties as part of the quotations process.
  - Publish a contracts details notice on the Central Digital Platform as soon as reasonably practicable, after entering into the contract.

### **Receiving Quotations**

- 6.6 For quotations below £30,000 the only requirement is that they must be evidenced in writing, and you should retain this evidence for a minimum of 24 months.
- 6.7 For quotations of £30,000 up to £60,000 you need to have a formal process for accepting quotations. The quotations must be:
- opened at a set time;
  - opened by an officer nominated by the Head of Service or Service Manager as appropriate;
  - logged under the price given; and
  - kept on the relevant file.
- 6.8 Electronic quotations can be accepted. They should be sent to a specific email address, preferably a generic service email address for the service.

## **Evaluation of Quotations and the Decision to Award**

- 6.9 All written quotations for contracts valued below £60,000, **must** be evaluated on the basis of the lowest price, unless other conditions are shown in the document used to invite quotes. If this is the case, the contract should be awarded on that basis. For guidance on the use of quality evaluation criteria, please see 7.32 to 7.38.
- 6.10 The decision to award will be taken as follows:
- Quotations from £1,000 up to £10,000 – Service Manager or officer authorised by them;
  - Quotations of £10,000 up to £60,000 – Service Manager or above.
- 6.11 For quotations of £30,000 and above, the award decision should be publicised on the Central Digital Platform by publishing a Contract Details Notice as soon as practicable after entering into the contract and recorded in the Contracts Register.

## **Exceptions to the Quotations Process**

- 6.12 If you receive less than the specified number of quotations, you must try and get other quotations or an exemption from the regulations in line with Section 12 (section headed Exceptions from the Regulations).

## **7 Tender Process**

- 7.1 You **must never** deliberately split down the value of contracts to avoid tendering. Wherever possible, we should make our purchases in the form of a single large contract rather than a series of smaller contracts.
- 7.2 However, there will be circumstances where splitting contracts into “lots” is appropriate. A Procurement Advisor will guide you on whether this is appropriate.

## **Full tender procedures below Procurement Thresholds**

- 7.3 For transactions valued at over £60,000 (including VAT) but below the Procurement Thresholds, you must carry out a formal tender process in line with the following principles:
- Openness
  - Transparency
  - Visibility
  - Value for money
  - In the best interests of the Council
  - Competition
- 7.4 You should follow the Open procedure for tenders over £50,000 but below the Procurement Threshold. You should seek advice from a Procurement Advisor on all tenders.

Ensure that comprehensive records are maintained of all decision-making during the procurement procedure and are maintained for a minimum of 3 years from the date the contract is entered into.

### Full tender procedures (over the Procurement Thresholds)

- 7.5 If your contract has a value over the relevant Procurement Thresholds shown in the table below, you **must** follow the Procurement Act 2023.

|                                                                      | Thresholds from<br>January 2024 |
|----------------------------------------------------------------------|---------------------------------|
| For goods and services<br>(including goods and consultancy services) | £213,477                        |
| For works                                                            | £5,336,937                      |
| For Light Touch Contracts                                            | £663,540                        |

These limits are changed in January every two years. You **must** check the latest limits before you go ahead.

- 7.6 If you are inviting tenders for contracts over Procurement Thresholds, you **must** decide on the procedure to follow before you advertise, and it **must** be one of the following.
- Open procedure (all interested providers send us a tender in response to a tender notice).
  - Competitive flexible procedure (a process that sets conditions which a supplier must satisfy in order to participate as long as those conditions are a proportionate means of ensuring that suppliers have the legal and financial capacity, or the technical ability, to perform the contract).

You must discuss and agree the appropriate route to use for your tender with a Procurement Advisor as part of the sourcing strategy.

- 7.7 The Procurement Act, and associated guidance, gives further detail on how competitive tendering can be lawfully achieved. If in doubt, you should get the advice from a Procurement Advisor.
- 7.8 The Procurement Act contains conditions relating to providing notices and other documents electronically.
- 7.9 For each contract, unless we say differently below, you must publish a tender notice on the Central Digital Platform. Any advertisements you publish as well as this (e.g. in a specialist publication) **must not**:
- appear in any form before you have published a tender notice on the Central Digital Platform; and
  - contain any information in excess of that contained within the tender notice on the Central Digital Platform.

See also 7.15 and 7.16 regarding advertising tenders

- 7.10 You **must** always follow the minimum timescales relating to tender procedures governed by the Procurement Act. The timescales given for completing and returning tenders are only the minimum, so there is flexibility to extend timescales to encourage bids from smaller providers or consortiums. If procurement falls under the Procurement Threshold, there is no formal time limit. Similarly, when faced with short timescales within which to use the funds, you should still make sure the process used is fair, clear, proportionate, and accessible to all, including SMEs.

### **Using the Competitive Flexible Procedure**

- 7.11 You **must** get advice from a Procurement Advisor as soon as possible before starting a tender process, particularly when using a competitive procedure other than the open procedure.

### **Tender documents**

- 7.12 Every invitation to tender should include:
- the nature, purpose, start date and period of the contract;
  - the detailed specification and quantities of goods, work, or services to be supplied or carried out;
  - the times at, or within which, and the places at which the goods, work or services are to be supplied or performed;
  - a copy of the conditions of contract which the successful contractors will have to keep to (see section 10 for details);
  - a requirement for the tenderer to provide information about their technical, commercial, and financial standing if we do not already have the information;
  - information on TUPE, where applicable;
  - the evaluation criteria (with weightings) for awarding the contract;
  - a statement that we do not have to accept the lowest or any tender;
  - the closing time and date, and address for receiving tenders; and
  - a named procurement advisor.

### **Insurance Requirements**

- 7.13 Insurance conditions must be contained in the tender specification and the conditions of contract. The type and level of insurance cover must be discussed and agreed with the Chief Internal Auditor & Risk Manager.
- 7.14 The insurance limits advised will relate to each claim. For public liability and employers' liability, the cover must be in place throughout the period covered by the contract. For professional indemnity, the conditions are more complicated. Not only must the cover be in place throughout the period covered by the contract but also for another six years after the end of the contract (or 12 years if the contract is under seal). For certain types of services, for example, financial advice, the amount of professional indemnity insurance cover will need to be higher to protect us in case anyone gives inappropriate advice.

## **Advertising**

- 7.15 As a minimum you must advertise the goods, services, or works required on the Central Digital Platform by publishing the relevant notice. This must be done before advertising the opportunity elsewhere. You should consider whether it is appropriate to advertise the tender in an appropriate trade/professional journal or a local newspaper.
- 7.16 For all tenders over the Procurement Threshold you are required to place a tender notice on the Central Digital Platform. Other notices may also need to be published - seek guidance from your Procurement Advisor on what is required for your tender.

## **Issuing and return of tenders**

- 7.17 You should always use electronic procurement (or e-procurement) systems rather than paper systems where practicable. All tenders should be sent out and returned electronically via an approved e-tendering system, where possible.
- 7.18 All tenderers should be informed that the Council will not accept or consider tenders sent in by fax or email.
- 7.19 The procuring officer must send to every person who wants to give us a tender any documents which meet the requirements of regulation 7.12. This includes a returnable tender form or other document which tells each company wanting to tender to:
- include their offer price (or prices) for the goods, work, services or utilities;
  - include their signature or seal;
  - return the filled-in tender form by a certain date and time by the method stated in the tender documents.
- 7.20 Where conditions of participation are issued as part of the tender process then the rules for the issue, return and opening of tenders should be followed.

## **Receiving and opening tenders**

- 7.21 Every response to an invitation to tender should be delivered no later than the date and time stated for the return of tenders in the invitation to tender. Generally, we will not open a tender if it is received late. In exceptional circumstances where a tender is received late but before the tenders are opened, this may be accepted subject to the relevant Chief Officer and either the Monitoring Officer, the s151 Officer or the Head of Transformation and Assurance being satisfied that there is a valid reason for the tender arriving late and that this was beyond the control of the tenderer.
- 7.22 If the circumstances mean it is appropriate, e.g., there has been a delay by the Council in providing a clarification response, the Service Manager or Chief Officer may extend, for a reasonable period, the closing time and date for receiving tenders. This applies as long as all participants have been notified (i.e. every organisation that was invited to tender), in the same way, and this must be before the closing date and time for the return of the tenders.

## Electronic Procurement

- 7.23 All tenders returned via the e-tendering system will be opened on or shortly after the specified date and time, via officers authorised to use the e-tendering system.
- 7.24 The e-tendering system will maintain a record of the tenders received, opened and the officer(s) undertaking the opening of the tenders.
- 7.25 Once opened, the tender documents will be sent electronically to the lead officer for the procurement. The lead officer will arrange for the tender documents to be stored securely on the network and arrange for those officers involved in the evaluation process to have access to them.

## Paper/Hard copy

- 7.26 If there is authorisation to use a non-e-procurement procedure, all tenderers should:
- be asked to provide both a paper copy of their tender and a copy on a read-only CD-ROM, securely packaged and clearly labelled with the tenderer's name and contract reference, and
  - be provided with a tender envelope, which bears the word 'TENDER' followed by the subject the tender relates to and the closing date and time for receiving tenders;
  - advised that the tender envelope should not be labelled or marked in any way that identifies who is providing the tender.
- 7.27 The Head of Law and Governance will ensure that there is an appropriate system in place for the secure storage of tenders until the time we have given for their opening. We will not open tenders before the closing date and time.
- 7.28 Two officers authorised by the Head of Law and Governance **must** open all tenders at the same time. They **must** not be involved in the tender evaluation and award.
- 7.29 Any tender envelope which is labelled or marked in such a way that identifies who is providing the tender will be rejected.
- 7.30 The authorised officers will list the opened tenders in the tenders record book. Tenders must be signed and dated by the people opening them. Pages with prices in them do not need to be signed, only the total price page.
- 7.31 Once opened, arrangements will be made for the lead officer for the procurement to collect the tenders. The lead officer will arrange for the tender documents to be stored securely and arrange for those officers involved in the evaluation process to have access to them.

## Evaluating tenders

- 7.32 For contracts valued over £60,000 and for all contracts governed by the Procurement Act, we **must** use the 'best value' tender evaluation procedure based on identifying the most advantageous tender (MAT). On occasions where the only obvious difference between products and solutions will be that

of price (for example if you are buying stationary or other standard items), tenders will normally be evaluated based upon lowest price.

It is unlikely that you could choose providers for services or work on price alone as these will often need wider evaluation techniques. When deciding on how we evaluate tenders, we need to be careful that using a lowest-price method of evaluation rather than wider considerations to identify the MAT is appropriate for the procurement.

- 7.33 The evaluation process involves scoring tenders fairly by a panel of officers or independent experts using criteria which **must**:
- be already set out in the invitation to tender documents in order of importance;
  - be strictly kept to at all times throughout the tender process;
  - reflect the principles of best value;
  - include price;
  - consider whole-life costing, particularly in the case of capital equipment where the full cost of maintenance and so on should be taken into account;
  - be able to be assessed independently;
  - be weighted according to importance;
  - show wider social value if this has been included in the specification; and
  - avoid any discrimination, or other cause which goes against any of our policies or that would be a breach of any of the principles set out under 2.2.
- 7.34 The panel of evaluators should review and score the submissions independently. A moderation process should then take place to consider the scores and comments of each officer and to reach a consensus on each tenderers score.
- 7.35 A record should be maintained by each officer involved in the evaluation process of their scores and notes to support their scores. Notes can be of positive attributes of the tender, any omissions, or concerns. This information will be used to feedback to unsuccessful tenderers. A comprehensive record should be maintained for at least 3 years from the date the contract is entered into, as this may be needed as evidence if the contract award is challenged.
- 7.36 If you use this evaluation method, a decision to award the contract must be in favour of the company which sends us the most advantageous tender (In other words, the tender that achieves the highest score in the independent assessment).
- 7.37 At the end of the evaluation process, prior to making the final award decision a financial appraisal will need to be conducted on the preferred bidder. This will generally be in the form of a company credit check and will be arranged by the Procurement Advisor.

- 7.38 In certain circumstances you may decide not to award the contract to any of the tenderers. You will need to advise all tenderers of the decision and the reasons for this and, where the value of the contract is above the Procurement Threshold, a procurement termination notice will need to be published on the Central Digital Platform. If you intended to revise the specification and re-start the procurement process, then it may be appropriate to advise the unsuccessful tenderers of this.

### **Awarding Contracts**

- 7.39 The decision to award a tender of over £60,000 will be taken by the relevant Chief Officer. Please refer to Section 10 for details on who can sign contracts.
- 7.40 You **must** make sure that the appropriate budget holder has the funds in place before you make the award.
- 7.41 You **must** record in writing the results of the tender-evaluation process and the decision to award a contract.
- 7.42 We cannot accept any tender which breaches the Procurement Act.

### **Award of Contracts below the Procurement Threshold**

- 7.43 All contracts awarded that are below the Procurement Threshold must be publicised on the Central Digital Platform by publishing a Contract Details Notice. The contract award should also be publicised on the Council's website and the Contracts Register updated accordingly.
- 7.44 While a standstill period is not compulsory for a contract below the Procurement Threshold, depending on your procurement, it may be prudent to consider adopting a voluntary standstill period (a minimum of 8 working days) in order to mitigate against the likelihood of a challenge.

### **Award of Contracts Above the Procurement Threshold**

- 7.45 Prior to publicising the outcome of the procurement and awarding the contract, information must be issued to all bidders who submitted an assessed tender (an "Assessment Summary"). This is to provide all bidders with feedback and reasons for their tender scores. The Assessment Summary **must** include:
- details of the award criteria (including the weightings) and assessment methodology used for assessing the tender;
  - the score or ranking the company achieved against each criterion and reasons for those scores;
  - explanation(s) as to where the tender was unsuccessful and why it was unsuccessful - this should include reference to the assessment methodology;
  - the scores and reasons why the winning tender was successful; and
  - any other **relevant** information.

### **Standstill period (for Contracts Above the Procurement Threshold only)**

- 7.46 Once the Assessment Summaries have been issued, the outcome of the procurement must be publicised by publishing a Contract Award Notice on the Central Digital Platform. For all contracts tendered under the Procurement Act, we **must** have **at least** an 8 (eight) working day 'standstill period' between publication of the decision to award and the start of the contract. The date that the Contract Award Notice is published, marks the start of the 8 working day standstill period. Special rules apply if a company asks us for a debrief on the tender process. Even if a company asks for a debrief outside of the standstill period, we **must** still provide this. In this instance, you must get advice from a Procurement Advisor as soon as possible.
- 7.47 Once the standstill period has ended, and there have been no formal challenges submitted, you are free to enter into the contract. A Contract Details Notice must be published on the Central Digital Platform **within 30 days** of the contract being entered into.

### **Tender Records and Audit Trail**

- 7.48 The Lead Officer for the tender **must** keep adequate records of the procurement process for a minimum of 3 years following contract award. Such records should include:
- invitations to quote/tender
  - quotations/tenders
  - details of any exceptions and reasons for them
  - award criteria used
  - tender documents
  - reasons for selecting the successful contractor and for not selecting unsuccessful contractors
  - details of all communications with tenderers
  - any decisions to suspend these regulations and use of any delegated powers, and
  - details of all other decision-making in relation to the procurement and reasons why those decisions were made.
- 7.49. Records relating to the successful tenderer should be kept for a minimum of six years after the end of the contract to which they relate. However, documents relating to unsuccessful tenderers may be destroyed after 3 years from the award of the contract provided there is no dispute about the award.

## **8 Framework agreements (including Crown Commercial Services, ESPO, WMS)**

- 8.1 You **must** always consider use of framework agreements for goods, work, and services, **if they exist**, for all procurements over £30,000.
- 8.2 Framework agreements are arrangements that are already in place with providers for providing goods, work, or services on agreed terms for a set period

for estimated quantities against which orders may be placed, (known as call off contracts), if and when needed during the contract period. They offer benefits of bulk-buying, improved services and reduced administration costs over the period of the arrangement.

- 8.3 A framework agreement may have the option for you to hold a mini-competition with all the capable providers on the framework when you come to buy for us. You **must** get advice from a Procurement Advisor on carrying out a mini-competition.
- 8.4 You should seek advice from a procurement advisor on whether a call-off contract from an existing framework may be relevant in your own case. You will also need to check if legally you can use a particular existing framework agreement.
- 8.5 If there isn't a framework already in place (or if one does not exist with partners which you can use), you **must** consider if it would be better value to set up a new framework. This is likely if you are going to need to buy the same or similar goods and services again in the future. You can get guidance on how to set up a framework from a procurement advisor.

## **9 Concession contracts**

- 9.1 You must use a concession contract if we want to hire someone to provide a service within the council area if they will be charging the public for the services being provided.
- 9.2 There are a number of exemptions if a public works concession contract is proposed.
- 9.3 If the company which plans to provide the services is going to subcontract the services, this may fall within the Procurement Act rules. In all cases, if the company is buying goods or services as part of the concession contract, any procurement should be carried out in line with these regulations.
- 9.4 You **must** get advice from a procurement advisor before carrying out any procurement relating to a concession contract.

## **10 Conditions of contract**

- 10.1 There must be written evidence of every contract, and all contracts must be in a form agreed with the Head of Law and Governance.
- 10.2 All transactions **must** use an appropriate model form of contract approved by the Head of Law and Governance (or a form decided by the Chief Officer after consulting the Head of Law and Governance).
- 10.3 For all contracts for services if the model conditions of contract are not suitable, you **must** consult Legal Services to produce a suitable set of conditions of contract (with other advisors if necessary) before inviting tenders.

- 10.4 The following officers are authorised to sign Contracts (or Purchase Orders where applicable):
- Quotations of £1,000 up to £10,000 – Service Managers or an officer nominated by them;
  - Quotations of £10,000 up to £60,000 – Service Managers;
  - Contracts of £60,000 up to £100,000 – Chief Officers;
  - Contracts of £100,000 or above will be done under seal.
- 10.5 If a contract is strategically important or politically sensitive, or if the extended limits would be valuable, for example, contracts for land or property, the contract **must** be in writing and an official seal must be placed on it. **Note** that contracts that require execution under the Council's seal can only be signed by a limited number of authorised signatories. This should be arranged with Legal Services.

## **11 Changes to Contracts**

### **Transferring contracts**

- 11.1 In appropriate circumstances we may agree to transfer a contract to another contractor. You must ask for advice on how to transfer a contract from Legal Services before any contract is transferred.

### **Changing and extending contracts**

- 11.2 Depending on any legal restrictions and the need to keep to these regulations, a Chief Officer may authorise the following extensions to an existing contract, if the budget has been confirmed:
- An extension for a particular period under the terms and conditions of the contract (but depending on the satisfactory performance when monitoring the contract).
  - A single extension of the contract by up to 12 months as long as this would not place the contract over the relevant Procurement Threshold or break any law.

Details of any extensions to contracts should be kept with the original contract.

- 11.3 Any changes (including variation orders), and if relevant a resulting change in price, decided in line with the contract terms may be authorised by the officer who signed the contract or a person nominated by them providing those changes are lawful, comply with these regulations and are within the approved budget for the contract.
- 11.4 Any extension to the contract period cannot be longer than the original length of the original contract.
- 11.5 You **cannot** extend or change contracts arranged under the Procurement Act without consulting a Procurement Advisor and/or seeking Legal advice.

## **12 Exceptions from the Regulations**

12.1 An exception to these regulations means we give permission to agree a contract without keeping to one or more of these regulations. We may grant an exception under conditions set out below. We cannot grant an exception if to do so would mean breaking any laws on public procurement or other relevant legislation.

12.2 The relevant Chief Officer in consultation with two of the following officers may grant an exception to these regulations for contracts under £100,000 (including VAT):

- Monitoring Officer (Head of Law and Governance);
- Section 151 Officer & Deputy Chief Executive (Resources);
- Head of Transformation and Assurance.

For contracts over £100,000 approval will also be needed from the relevant Cabinet Member.

12.3 If you want an exception, you must apply in writing using the request for waiver form and send it to your Chief Officer in the first instance. Please include the exception you want and your reasons for it.

12.4 The Head of Law and Governance will keep a register of all exceptions to these regulations.

12.5 We will not agree an application for an exception unless you have a good reason. We do not consider a lack of time caused by poor forward planning as a good reason and so will not allow it.

### **Exceptions which involve the request for waiver form**

12.6 We may grant an exception in the following circumstances:

- If there is an unexpected emergency involving danger to life or health or serious damage to property, or if the goods, work, or services are needed more urgently than would be possible if we followed the tender or quotation procedure.
- If, for technical reasons, the goods, work, or services can be bought from only one provider, and this can be justified.
- If the proposed contract is an extension or change to the scope of an existing contract with a value (including the change or extension) that is below the Procurement Threshold. However, this does not apply if the existing contract provides for an extension.
- If you are buying works of art, museum artefacts, manuscripts, or archive collection items.
- To develop our aims to develop the economy, without breaking public procurement rules.
- In line with Section 41 or Section 74 of the Procurement Act regarding Direct Award in Special Cases and Modification of Public Contracts.

### **Exceptions which do not need you to fill in the request for waiver form**

12.7 We will grant an exception to these regulations, and you will not need separate authorisation in the following circumstances:

- If you place an order with a single provider under an existing corporate contract or framework agreement.
- If you place an order through a buying consortium of which we are a member.
- As part of a partnering contract that involves a series of contracts with one provider.
- If you have attempted but have been unsuccessful in obtaining the required number of quotations or more than one tender.
- If any law says we must contract differently from these Procurement Regulations.
- If you place an order under an arrangement, of which we are a member that has gone through a competitive process which meets conditions in the Procurement Act, for example, Crown Commercial Services.
- For goods, work or services which must be provided by a public utility or a local authority other than us under their legal powers.

# Section 34

## Code of Conduct for Members

### Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

### Definitions

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

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

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

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

### Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to

protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General Principles of Councillor Conduct**

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

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

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

## **Application of the Code of Conduct**

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

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

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

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

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

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

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

## **Standards of Councillor Conduct**

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

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

## **General Conduct**

### **1. Respect**

#### **As a councillor:**

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

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

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

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

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory, or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

## **2. Bullying, Harassment and Discrimination**

**As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

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

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

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

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

## **3. Impartiality of Officers of the Council**

**As a councillor:**

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

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand,

for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **4. Confidentiality and Access to Information**

**As a councillor:**

##### **4.1 I do not disclose information:**

- a. Given to me in confidence by anyone**
- b. Acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it**
  - ii. I am required by law to do so**
  - iii. The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. The disclosure is:**
    - 1. Reasonable and in the public interest; and**
    - 2. Made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

##### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

##### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute**

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

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

## **6. Use of Position**

**As a councillor:**

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

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

## **7. Use of Local Authority Resources and Facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. Act in accordance with the local authority's requirements; and**
- b. Ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- Office support

- Stationery
- Equipment such as phones, and computers
- Transport
- Access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

**As a councillor:**

- 8.1 I undertake Code of Conduct training provided by my local authority**
- 8.2 I co-operate with any Code of Conduct Investigation and / or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine the public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protection your Reputation and the Reputation of the Local Authority**

### **9. Interests**

**As a councillor:**

- 9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by

you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and Hospitality**

**As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts or hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

#### The Seven Principles of Public Life

The principles are:

##### **Selflessness**

Holders of public office should act solely in terms of the public interest.

##### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

##### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

##### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

##### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

##### **Honesty**

Holders of public office should be truthful.

##### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Registering Interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**“Disclosable Pecuniary Interest”** means an interest of yourself, or of your partner if you are aware of your partner’s interest, within the descriptions set out in Table 1 below.

**“Partner”** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non-participation in case of Disclosable Pecuniary Interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.]

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless

you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. Your own financial interest or well-being;
  - b. A financial interest or well-being of a relative or close associate; or
  - c. A financial interest or well-being of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing the interest the following test should also be applied.

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

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive' interest, you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.]

**Table 1****Disclosable Pecuniary Interests**

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

| <b>Subject</b>                                           | <b>Description</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Employment, office, trade, profession or vocation</b> | Any employment, office, trade, profession or vocation carried on for profit or gain.                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Sponsorship</b>                                       | <p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>                                                                                    |
| <b>Contracts</b>                                         | <p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council –</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p> |
| <b>Land and Property</b>                                 | <p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>                                                                                                                         |
| <b>Licences</b>                                          | Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.                                                                                                                                                                                                                                                                                                                                                                                                                     |

| Subject                    | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Corporate tenancies</b> | Any tenancy where (to the councillor's knowledge) –<br>(a) the landlord is the council; and<br>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.                                                                                                                                                                                                                                                                                                                                                   |
| <b>Securities</b>          | Any beneficial interest in securities* of a body where—<br>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and<br>(b) either—<br>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or<br>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class. |

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

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

**Other Registerable Interests**

You must register as an Other Registerable Interest:

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

of which you are a member or in a position of general control or management.

# Section 35

## Code of Conduct for Employees

### Terms Used in this Code

Where these terms are used in the Code they will have the meanings set out below:

| Term                         | Explanation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Director</b>              | Member of Directors' Management Team ie Chief Executive, Deputy Chief Executive, Director                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Manager</b>               | Director, Head of Service or Service Manager                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Relative</b>              | Spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Partner</b>               | Member of a couple who live together                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Close Personal Friend</b> | <p>A person with whom you spend recreational time outside of work. In deciding whether a close personal relationship exists it may be helpful to ask yourself the following questions:</p> <ul style="list-style-type: none"><li>• how often do you meet?</li><li>• where do you meet?</li></ul> <p>do you regularly attend the same social events?</p> <ul style="list-style-type: none"><li>• do you know each other's families?</li><li>• are you close or connected in other ways?</li></ul> <p>For example, if your families meet regularly and do things together, this would suggest that there was a close personal relationship.</p> |

## Part 1 - General Background

### Background

The Government has issued a national mandatory Code of Conduct for members of local authorities and intends to issue a similar Code of Conduct for employees. In due course, this code will be reviewed when that mandatory code for employees is issued. Until then, this Code forms part of the Council's Constitution.

The Code of Conduct for Cannock Chase Employees aims to bring together rules and standards from different sources. It is meant to reinforce, not replace, all the other policies and procedures that deal with conduct, some of which are referred to in this code. Most importantly, it does not take the place of the Council's disciplinary process, Contract Procedure Rules, and Financial Regulations.

### Who the Code is Aimed At

The Code applies to **all** Council employees. Any actions taken by employees where they represent the Council on any other organisation or body should in addition to following any Code of Conduct applicable to that organisation or body also meet the standards laid down in this Code. Where there are differences in specific provisions of the two codes you should follow the requirements of the 'strictest' code.

## Part 2 - Code of Conduct for Employees

### 1. Introduction

- 1.1 The Council exists to serve and represent the people of Cannock Chase who have a right to expect the highest standards of service from everyone who works for the Council.
- 1.2 This Code has been drawn up to help you in your day-to-day work. It outlines existing laws, regulations and local conditions of service, along with guidance, which will help maintain and improve standards and protect you from misunderstandings or criticism.
- 1.3 This Code sets out the minimum standards that are expected of you. However, you should also understand that if you fail to comply with the Code, you might be subject to disciplinary action.
- 1.4 If you are uncertain about anything stated in this Code, you should discuss the issue with your Manager or Head of Service.

### 2. Duties Under Your Contract of Employment

- 2.1 As an employee your duties under your contract of employment with the Council include:
  - (a) **a duty of service** – to work in accordance with the contract e.g. not to be late or absent without permission.
  - (b) **a duty to be obedient** – to obey reasonable instructions, procedures and regulations.

- (c) **a duty of care** – to be competent and capable and not to be negligent in the way you carry out your work.
- (d) **a duty of good faith** – to be honest and not accept a fee<sup>1</sup> or commission<sup>1</sup>; or free gifts<sup>2</sup> except as may be allowed by this Council, or to divulge confidential information about the Council.

### 3. Standards

- 3.1 As a Council employee, you must conduct yourself to the highest standards. You must at all times act in accordance with the trust that the public is entitled to place in you. This will ensure that public confidence in your integrity cannot be shaken by the least suspicion, however ill-founded, or that you could in any way be influenced by improper motives.
- 3.2 You must give the highest standards of service to the public. If you are aware of any deficiency in the provision of service, you must bring this to the attention of your supervisor or manager. You are accountable to the Council for your actions.
- 3.3 You must perform your duties with honesty, integrity and objectivity. Where you provide advice to Members and fellow employees as part of your job, you must do so with impartiality.
- 3.4 If you are aware of any impropriety or breach of procedure, you must report this in accordance with the Council's Confidential Reporting Policy when you may do so without any fear of recrimination.

### 4. Disclosure of Information

- 4.1 The Council practices open government. Under the Local Government Acts 1972 and 2000 and the Freedom of Information Act 2000, the public has the right to access certain information. The law requires that certain types of information must be available to Members, service users and government bodies. You must not prevent another person from gaining access to information to which that person is entitled by law.
- 4.2 However, some information is safeguarded from disclosure by the current data protection legislation and if you disclose such information, you could be liable to criminal prosecution and/or dismissal for gross misconduct. Also, some information is necessarily confidential, and you must only make it available on a 'need to know' basis. You must ensure that you are aware of what information can and cannot be released. If in doubt, ask your Manager or Head of Service.
- 4.3 Unless expressly authorised to do so by a Director or Head of Service, you must not hold yourself out to be the Council's spokesperson or, in your capacity as a Council employee, make any representations, whether orally or in writing, to the public concerning the Council's activities or business.

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<sup>1</sup> See section 8 – Outside Commitments - for further details

<sup>2</sup> See section 15 – Gifts & Hospitality – for further details

- 4.4 You must not use any business sensitive information that you obtain during your employment for personal gain or benefit; nor should you pass it on to others who might use it in such a way. Furthermore, you should not use/disclose such information when you leave the Council's employment.
- 4.5 Any information you obtain during your employment about individuals (e.g. Members, other employees, users of Council services) or organisations (e.g. contractors, other public authorities, voluntary organisations) must not be divulged without the consent of that individual or organisation. The only exception is where disclosure is required or sanctioned by law.
- 4.6 Unless permitted to do so by a Director or Head of Service and having first consulted with the Public Relations and Marketing Unit, you must not hold yourself out to be the Council's spokesperson or, in your capacity as a Council employee, make any representations, whether orally or in writing, to the press and/or the media.

## **5. Political Neutrality**

- 5.1 You must serve the Council as a whole (the Council itself, Cabinet, Overview and Scrutiny Committees, and any other Committees, Sub-Committees, or Panels) and not just the controlling political group.
- 5.2 If you are required to advise political groups, you must do so in ways which do not compromise your political neutrality.
- 5.3 There are regulations that restrict the political activity of certain employees by making their posts politically restricted. If you hold a politically restricted post (your contract will indicate this) you are disqualified from assisting in a political campaign or becoming a councillor of a local authority (other than a parish or community council), from being an MP or MEP. Under certain circumstances there is a right of appeal against political restriction.
- 5.4 You must follow every lawfully expressed policy of the Council and must not allow your own personal or political opinions to interfere with your work or the Council's work generally. This applies whether or not your post is politically restricted.
- 5.5 Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set out in paragraphs 5.1 to 5.4.
- 5.6 For further guidance on this please refer to the Member/Officer Relations protocol.

## **6. Relationships**

### **Councillors**

- 6.1 Mutual respect between employees and Members is essential to good local government. You must therefore comply with the Council's expectations as set out in the Member Officer Relations Protocol.

## **The local community and service users**

- 6.2 You must always remember your responsibilities to the community we serve and make sure that you treat all groups and individuals within that community courteously, efficiently and impartially. Further details on this can be found in the Customer Care Charter and other Council policies, in particular the Equality & Diversity Policy

## **Contractors**

- 6.3 If you have any relationship of a business or private nature with an external contractor or potential contractor, you must tell your manager in writing. It is only necessary to disclose an interest where you can exert influence on any decision regarding a contract. It is essential that all orders and contracts are awarded on merit, by fair competition against other tenders or quotations, and you must show no special favours in this process to business run by, for example, partners, relatives, or friends.
- 6.4 If your job involves engaging, supervising or any other official relationship with contractors, you must tell your manager in writing if you have had any current or previous relationship in a private, employment or domestic capacity with contractors. Failure to do so may lead to disciplinary action.
- 6.5 It is a statutory requirement as set out in Section 117 of the Local Government Act 1972 (see Appendix 1) to declare an interest in contracts.
- 6.6 If you do have an interest in a contract your manager will decide what involvement, if any, you should have in any purchasing, contracting or related decisions.
- 6.7 Your manager will forward details of any relationships with contractors to the Head of Organisational Development, and these will be held in the Declaration of Interests Register.

## **7. Appointment and Other Employment Matters**

- 7.1 If you are involved in making appointments, you must make sure that these are made on merit with your decision being based on the ability of the candidate to undertake the duties of the post. Anything else would be unlawful. To avoid any possible accusation of bias, you must not be involved in an appointment where you are related to, or have a close personal friendship, with an applicant.
- 7.2 You should not be involved in making decisions relating to discipline, promotion or pay adjustments for any employee who is a relative, partner or a close personal friend.

## **8. Outside Commitments**

- 8.1 You must be clear about your contractual obligations to the Council and must not involve yourself in outside employment or other outside commitments that might conflict with the Council's interests.

- 8.2 You have a right to time off work<sup>3</sup> to undertake public duties such as being a magistrate, governor but you must ensure that in performing these duties your actions do not conflict with the interests of the Council e.g., if you are a magistrate, you should not hear a case brought by the Council's environmental health service.
- 8.3 You must have the written consent of your Head of Service<sup>4</sup> before you may take up additional employment or outside commitments.
- 8.4 Your Head of Service will be authorised to give consent provided that:
- the activity or work will not interfere with your official duties.
  - there is no possibility of a conflict of interest arising between the activity or work and Council business.
  - in particular, the activity or work does not relate in any way, to the granting of planning permission, any other consent under relevant planning legislation, or building regulation approval within the District, or to other decisions made by the Council or its Officers (e.g., purchasing, improvement grants).
  - the activity or work does not in any way relate to contracts entered into by the Council.
- 8.5 Your Head of Service will confirm any consent in writing and a copy of this will be passed to the Head of Organisational Development for recording on a central register.
- 8.6 Where the consent of a Head of Service is withheld, you will have the right to appeal through the normal grievance procedures.
- 8.7 Where a business activity or form of private work is of a continuous nature, you only need to obtain consent once, but you must notify your Head of Services at the earliest opportunity of any changes to your situation.
- 8.8 Where you undertake work on a "private" basis in your own time and fees are charged, this work must not be provided as or construed to be as "an Officer of the Council".
- 8.9 Where you carry out work for another organisation but in your capacity as an employee of the Council any fee that is paid for this work should be made payable to the Council and not to you eg provision of a training course for another organisation. Under Section 117 of the Local Government Act 1972 (see Appendix 1), you are forbidden under the cover of your office and employment to accept any fee or reward other than your proper remuneration and if you contravene this provision you would be liable to summary conviction.
- 8.10 You must follow the Council's rules on the ownership of intellectual property or copyright created during your employment.

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<sup>3</sup> For further details please see the Council's policy on time for public duties.

<sup>4</sup> For Heads of Service, permission will be needed from your Director and for Directors, Council's consent will be needed)

## **9. Personal Interests**

- 9.1 You must not in your official or personal capacity allow your personal interests or those of your partner, relative or close personal friend to conflict with the Council's requirements. If you have any financial and/or non-financial interests that could conflict with the Council's interests, you must declare these to your manager in writing.
- 9.2 Your manager will forward details of any personal interests to the Head of Organisational Development, and these will be held in the Declaration of Interests Register.
- 9.3 You must not in your official or personal capacity use your position improperly to confer an advantage or disadvantage on any person.
- 9.4 If you are a member of any organisation that is not open to the public without both formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct, you must declare this to your manager in writing.
- 9.5 If you are nominated or appointed to represent the Council on an outside organisation you must not serve as chair of that body in order to avoid any difficulties which could arise if there was a dispute between the Council and that organisation.
- 9.6 You must not allow your membership of any organisation to influence you in the conduct of your duties and responsibilities.
- 9.7 You may also be required by your manager to declare any personal interests which may conflict with your particular area of work e.g., if you work in the Housing Benefits section you will be asked to declare whether you have a relative who is in receipt of housing benefits.

## **10. Respect for Others (Equality and Diversity Issues)**

- 10.1 You must comply with both the law and the Council's policies on all issues relating to questions of equality and diversity.
- 10.2 You must treat others with respect. You must treat all members of the local community and the Council's customers with fairness and equity.
- 10.3 You must ensure that you do not treat anyone less or more favourably because of their age, sex, marital status, ethnic origin, religious convictions, sexual orientation or disability.
- 10.4 You have a personal responsibility both to the Council and to your colleagues to protect and respect the dignity of those with whom you work. You should be aware that it is a criminal offence to harass intentionally any other person.

## **11. Separation of Roles During Procurement**

- 11.1 Employees involved in the procurement process and dealing with contractors and suppliers must act at all times in accordance with the Council's Financial Regulations and Contract Procedure Rules.

- 11.2 You must be clear about the separation of 'client' and 'contractor' roles within the Council. If you are a senior employee with both a 'client' and 'contractor' responsibility, you must be aware of the need for both accountability and openness.
- 11.3 You must be fair and impartial in your dealings with all customers, suppliers, other contractors, and sub-contractors, particularly if you are employed in a 'contractor' or 'client' unit.
- 11.4 You must show no special favour towards current or former employees or their partners, close relatives or associates when awarding work or contracts to businesses run by them or employing them in a senior or relevant capacity.
- 11.5 If you have access to confidential information on quotations or tenders or costs for contractors/suppliers, you must not disclose this information to any unauthorized person or organisation.
- 11.6 If you are contemplating involvement in a management buy-out, you must tell your Head of Service immediately you decide to proceed and take no part in the process of awarding a contract.

## **12. Corruption**

- 12.1 You must not corruptly receive or give any gift, loan, fee, reward or advantage for either doing or not doing anything or for showing favour or disfavour to any person or organisation in your official capacity. To do so is a serious criminal offence.
- 12.2 The Council's disciplinary code cites corrupt practices as an example of gross misconduct. An employee may be dismissed for even a single act of gross misconduct.
- 12.3 The Council has an Anti-Fraud and Corruption Strategy, and you must comply with this.

## **13. Computers**

- 13.1 If your job involves the use of computers, you must comply with the Council's Information Technology Security Policy.

## **14. Use of Public Money**

- 14.1 You must ensure that you use any public funds entrusted to you in a responsible and lawful manner and, in particular, in accordance with the Council's Financial Regulations. You must always strive to ensure value for money to the local community and to avoid any legal challenge to the Council.
- 14.2 An employee must not make personal use of property or facilities of the authority unless properly authorised to do so in accordance with Financial Regulations.

## **15. Gifts and Hospitality**

- 15.1 Your conduct should be such that you remain immune from any criticism or suspicion that your actions or decisions have been unduly influenced. Obviously, the

acceptance of gifts or hospitality by you could be viewed with suspicion by the public and make you and the Council vulnerable to criticism.

15.2 Common sense should be applied when deciding whether to accept gifts or hospitality. In all instances you should consider the nature and the scale of the gift/hospitality, the circumstances in which it is offered and the relationship between the donor and the Council. You should also consider whether you could justify the giving or acceptance of gifts/hospitality to the Council, the media, and the public. You should ensure that acceptance of gifts/hospitality does not put your integrity, or that of the Council, into question.

15.3 If you are found to have allowed your decision or actions to have been influenced by the acceptance of gifts or hospitality, you could find yourself liable for disciplinary action which may include dismissal.

15.4 It is impossible to cover every eventuality, but these guidelines should assist you in making a decision. If you are in any doubt as to whether to accept or refuse an offer of a gift or hospitality, you should seek advice from your Head of Service or Director.

15.5 Particular care should be taken where gifts or hospitality are offered by someone who:

- (i) Provides, might provide or has recently provided goods or services to the Council eg a potential contractor in the period leading up to, during and immediately after a tendering exercise, or
- (ii) Needs or has recently received a decision from the Council e.g., on a planning application, or
- (iii) Is in dispute with the Council.

### **Gifts**

15.6 It can be a serious criminal offence for Local Government employees to accept any fee, reward, or gift, other than their proper remuneration for doing their job (Local Government Act 1972).

15.7 Cash and monetary gifts must always, without exception, be refused.

15.8 You may accept a gift that is below £25 in value, but you are asked to think about whether it would be more appropriate to donate the gift to the Chair's Charity.

15.9 If you are offered any other gifts that have a greater value, vouchers, special discounts, rewards, or preferential treatment, you should refuse to accept them.

15.10 You should not accept any gifts, other than promotional gifts (e.g., diaries, calendars, pens etc), which are offered to you on a regular basis by the same person/organisation.

15.11 Free gifts received as part of the procurement process may be accepted only where they can be used for Council activities.

15.12 When declining a gift, you should do so politely, explain why it cannot be accepted and where practical return the gift to the donor. Where returning the gift is likely to

be expensive or inconvenient, it should be donated to a suitable charity e.g., the Chair's Charity, and the donor advised of this, together with a polite request not to make similar gifts in the future.

- 15.13 All gifts accepted or refused (other than promotional gifts) should be recorded in the Council's Gifts and Hospitality Register, which is maintained by the Executive Assistance to the Chief Executive.

## **Hospitality**

### ***Receiving Hospitality***

- 15.14 The Council needs to maintain effective relationships with a wide range of partners, agents and community groups and the giving and receiving of hospitality may form part of this activity. However, it is vital to dispel the impression of improper influence being exerted on the Council.

- 15.15 It is permissible to accept:

- (i) modest refreshments offered in the normal course of business e.g., coffee, sandwiches over a lunchtime meeting.
- (ii) hospitality offered by other non-commercial bodies, provided that there is a general understanding that no indebtedness will result from the acceptance.
- (iii) invitations to functions where you represent the Council in an official capacity or by virtue of professional position, for example, when invited to/attending opening ceremonies, conferences.

- 15.16 Invitations to represent the Council at purely social or sporting functions should only be accepted where:

- (i) these are part of the life of the community, or
- (ii) where the Council should be seen to be represented and it is consistent with your role in the Council.

and it is seen as a benefit to the Council as a whole and not you as an individual. Taking annual leave in order to attend an event that does not meet the criteria above is not acceptable. In deciding whether to accept a social or sporting invitation it is vital that you consider how the public could view your acceptance.

- 15.17 Hospitality, other than modest refreshments should not be accepted for visits made to inspect equipment, systems, etc. The Council should meet the costs of such visits to avoid jeopardising the integrity of subsequent purchasing decisions etc.

- 15.18 Offers of hospitality that appear immodest or lavish should be refused.

- 15.19 When refusing hospitality this should be done politely and an explanation given.

- 15.20 All hospitality refused or accepted (other than modest refreshments) should be recorded in the Council's Gifts and Hospitality Register, which is maintained by the Executive Assistant to the Chief Executive.

### ***Giving Hospitality***

- 15.21 Hospitality given by employees of the Council should be justified as being in the public interest. It should be on a scale appropriate to the occasion and should not be lavish or extravagant.
- 15.22 You should not offer hospitality unless authorised to do so by your Head of Service or Director and should not exceed budget provisions. An exception being the offer of modest hospitality, such as the provision of refreshments, for example, tea/coffee, made to official visitors to Council premises.

## **16. Sponsorship - Giving and Receiving**

- 16.1 You must apply the basic conventions relating to gifts and hospitality as set out in this Code to any involvement you may have with an outside organisation which wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily.
- 16.2 You must take particular care when dealing with contractors or potential contractors so as not to leave the Council or yourself open to allegations of impropriety.
- 16.3 You must not accept sponsorship from an individual or organisation that is in a legal dispute with the Council.
- 16.4 Where the Council itself wishes to sponsor an event or service, you must make full disclosure in writing to your manager if either yourself, partner, spouse or close relative stands to benefit from such sponsorship.
- 16.5 In the same way, you must make sure that you give impartial advice and that you have no conflict of interest where the Council gives support to community groups through sponsorship, grant aid whether financial or otherwise.
- 16.6 You should not use your position with the Council to seek sponsorship from contractors for personal activities.

**Always err on the side of caution.  
If it feels wrong, it probably is.  
If in doubt, ask your manager for advice.**

**Local Government Act, 1972 – Extract  
Section 117**

- (1) If it comes to the knowledge of an Officer employed, whether under this Act or any other enactment, by a local authority that a contract in which they have any pecuniary interest, whether direct or indirect (not being a contract to which they are themselves a party), has been, or is proposed to be, entered into by the authority or any committee thereof, they shall as soon as practicable give notice in writing to the authority of the fact that they are interested therein.

For the purposes of this section an Officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if they would have been so treated by virtue of section 95 above had they been a member of the authority.

- (2) An Officer of a local authority shall not, under colour of their office or employment, accept any fee or reward whatsoever other than their proper remuneration.
- (3) Any person who contravenes the provisions of subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding £200.

## **Acknowledgement of Receipt of Code of Conduct for Employees**

I hereby acknowledge that I have received the Code of Conduct.

I can confirm that I have read and understood the Code and will follow them in carrying out my duties.

|                             |  |
|-----------------------------|--|
| <b>Employee's Name</b>      |  |
| <b>Employee's Signature</b> |  |
| <b>Post Title</b>           |  |
| <b>Service</b>              |  |
| <b>Section</b>              |  |
| <b>Date</b>                 |  |

# Section 36

## Gifts and Hospitality

### Protocol for Members

#### 1. Introduction

- 1.1 The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the Authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.
- 1.2 The law on the acceptance of gifts and hospitality is set out in the Authority's Code of Conduct for Members and in the Bribery Act 2010. These requirements are then supplemented by the procedures which have been adopted by this Authority, to provide a clear set of rules for the protection of both Councillors and the Authority. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for up to a period of five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to seven years' imprisonment.
- 1.3 This Protocol of Conduct sets out:
- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality.
  - (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it.
  - (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the Authority.
- 1.4 This Protocol does not apply to the acceptance of any facilities or hospitality which may be provided to you by this Authority.
- 1.5 It is impossible to cover every eventuality, but these guidelines should assist you in making a decision. If you are in any doubt as to whether to accept or refuse an offer of a gift or hospitality, you should seek advice from the Monitoring Officer.

#### 2. General Principles

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles:

**(a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor**

As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer or the non-offer of any inducement or reward for discharging those duties in a particular manner.

The Bribery Act 2010 provides that if you accept any financial or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of the improper performance of any activity in which the Authority is concerned, you commit a criminal offence carrying a maximum term of imprisonment of ten years.

Further, the Authority's Code of Conduct for Members provides that you must act in the public interest, serving the Authority and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself. As a general rule of thumb small tokens of gratitude, e.g. chocolates and flowers are acceptable.

**(b) You should only accept a gift or hospitality if there is commensurate benefit to the Authority**

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Authority which would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the Authority, such as an opportunity to progress the business of the Authority expeditiously through a working lunch, or to canvass the interest of the Authority and its area at a meeting. Acceptance of gifts is much less likely to confer such an advantage.

But unless the benefit to the Authority is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

As set out above, the Authority's Code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the Authority, would be a breach of the Code.

**(c) Never accept a gift or hospitality if acceptance might be open to misinterpretation**

The appearance of impropriety can be just as damaging to the Authority and to you as a Councillor as actual impropriety. The Authority's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Authority favours any particular person, company or section of the community or as placing you under any

improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive and require the avoidance of any opportunity for such misunderstanding. These include:

- (i) occasions where the Authority is going through a competitive procurement process, in respect of any indication of a favour for a particular tenderer you as a Councillor are involved in the process.
- (ii) determinations of planning applications or planning policy, in respect of any person or organisations which stands to gain or lose from the determination.
- (iii) funding decisions when the Authority is determining a grant application by any person or organisation.
- (iv) where the Authority is in dispute with the person or organisation.

**(d) Never accept a gift or hospitality which puts you under an improper obligation**

Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that that will no longer be able to secure impartial consideration from the Authority. Hospitality given by employees of the Council should be justified as being in the public interest. It should be a scale appropriate to the occasion and should not be lavish or extravagant.

**(e) Never solicit a gift or hospitality**

You must never solicit or invite an offer of a gift or hospitality or sponsorship in connection with your position as a Councillor unless the acceptance of that gift or hospitality would be permitted under this Protocol. You should also take care to avoid giving any indication that you might be open to such any improper offer.

**(f) Cash**

Cash and monetary gifts must always, without exception, be refused, as should those which appear immodest or lavish.

### 3. Consent Regimes

#### (a) General consent provisions

For clarity, the Authority has agreed that you may accept gifts and hospitality in the following circumstances:

- (i) civic hospitality provided by another public authority.
- (ii) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits.
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the Authority and those events provided by others provided that attendance is beneficial for the reputation of the Authority and is not purely for personal pleasure.
- (iv) small gifts of low intrinsic value below £25, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise.
- (v) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the Authority if you meet accidentally in a public house, café or bar. In such cases, you should make reasonable efforts to reciprocate where this is practicable.
- (vi) a modest working lunch in the course of a meeting in the offices of a party with whom the Authority has an existing business connection where this is required in order to facilitate the conduct of that business.
- (vii) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the Authority.
- (viii) hospitality received in the course of an external visit or meeting which has been duly authorised by the Authority.
- (ix) other unsolicited gifts, where it is impractical to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure:

The Councillor must, as soon as practicable after the receipt of the gift, pass it to the Monitoring Officer together with a written statement identifying the information set out in paragraph 3.(b) below. The Monitoring Officer will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Chair's Charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Chair.

(x) It is permissible to accept:

- modest refreshments offered in the normal course of business, e.g., coffee, sandwiches over a lunchtime meeting.
- hospitality offered by other non-commercial bodies provided that there is a general understanding that no indebtedness will result the acceptance.
- invitations to functions where you represent the Authority in an official capacity or by virtue of professional position, for example, when invited to/attending opening ceremonies, conferences etc.

(xi) gifts offered, which would for cultural reasons, be considered offensive or an insult to refuse. Such gifts must be donated to the Chair's Charity.

#### **(b) Special consent provisions**

If you wish to accept any gift or hospitality which is in accordance with the general principles set out in paragraph 2, but is not within any of the general consents set out in paragraph 3.(a), you may also do so if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out

- (i) the nature and estimate of the market value of the gift or hospitality
- (ii) who the invitation or offer has been made by or on behalf of.
- (iii) the connect which you have with the person or organisation making the offer or invitation, such as work which you have undertaken for the Authority in which they have been involved.
- (iv) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the Authority.
- (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper.

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection.

## **4. Reporting**

4.1 You must comply with the Code of Conduct for the reporting of gifts. Where you accept any gift or hospitality which you estimate to have a market value or cost or provision of £50 or greater, you must make a declaration in writing to the Monitoring Officer, setting out the information set out in paragraph 3.(b) above,

within 28 days of receipt. A form for this purpose is attached to this Protocol, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the Authority's accounts for the year in question.

- 4.2 Even if the value of the gift or hospitality is less than £50, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

## **5. Gifts to the Authority**

Gifts to the Authority may take the form of provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the Authority.

You should not solicit any such gift on behalf of the Authority except where the Authority has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example, in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements.

If you receive such an offer on behalf of the Authority, you must first consider whether it is appropriate for the Authority to accept the offer (in terms of whether acceptance of the gift might be seen as putting the Authority under any improper obligation, whether there is a real benefit to the Authority which would outweigh any dis-benefits).

If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the Authority.

If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Authority to accept the gift, you should consult the Monitoring Officer directly.

## **6. Civic Gifts and Hospitality**

The Chair and Vice-Chair of the Council may accept gifts or hospitality received by them by virtue of their office, in accordance with the principles of this protocol. They shall determine whether such gifts are personal or to be donated to their Charity Fund or to the Council. The Chief Executive's office shall record all gifts over £50 in writing on the forms enclosed with Protocol whether personal or otherwise on a register which shall be kept by the Monitoring Officer. Such declarations are to be with the Monitoring Officer 28 after receipt of the gift/hospitality.

## **7. Definitions**

- (a) "Gift or hospitality" includes any:
  - (i) the free gift of any goods or services.
  - (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public.
  - (iii) the opportunity to obtain any goods or services which are not available to the general public.
  - (iv) the offer of goods, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment events.
- (b) References to the "value" or "cost" of any gift or hospitality are references to the higher of:
  - (i) your estimate of the cost to the person or organisation providing the gift or consideration.
  - (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisations providing or offering the gift or hospitality.

To: The Monitoring Officer

### Declaration of Receipt of Gift or Hospitality

|                                                                                                                               |  |
|-------------------------------------------------------------------------------------------------------------------------------|--|
| <b>Name:</b>                                                                                                                  |  |
| <b>Address:</b>                                                                                                               |  |
| <b>What was the gift or hospitality?</b>                                                                                      |  |
| <b>What is your best estimate of its market value or cost?</b>                                                                |  |
| <b>Who provided it?</b>                                                                                                       |  |
| <b>When and where did you receive it?</b>                                                                                     |  |
| <b>Does it come within one of the general consents set out in the Protocol of Conduct? If so, which? Gift or Hospitality?</b> |  |
| <b>Did you get the consent of the Monitoring Officer before accepting it?<br/>If so, who?</b>                                 |  |
| <b>Were there any special circumstances justifying acceptance of this gift or hospitality?</b>                                |  |
| <b>Do you have any contact in your job with the person or organisation providing the gift or hospitality?</b>                 |  |

|                |              |
|----------------|--------------|
| <b>Signed:</b> | <b>Date:</b> |
|----------------|--------------|

# Section 37

## Protocol for Member-Officer Relations

### 1. Introduction

- 1.1 The Council is determined to provide excellent local government for the people of Cannock Chase. It has produced this Protocol for Member/Officer relations in order to promote the highest standards in public life and encourage harmonious working relationships.
- 1.2 Partnership, based on mutual trust and respect between politicians and paid officers, is essential in achieving good local government. However, this partnership will not be effective unless there is a clear understanding by all of the roles and obligations of Members and the separate roles and duties of Officers. This Protocol sets out these roles, obligations, and duties and also the ground rules for all to observe. The standards in the Protocol apply equally to elected Members, voting and non-voting co-opted Members and to Officers where there is a joint responsibility.
- 1.3 This Protocol is based upon legislation, Council policies and documents deriving from legislation as well as guidance from a variety of sources, primarily:
  - The Local Government Act 2000.
  - The Council's Constitution.
  - The Members' Code of Conduct.
  - Guidance from the Office of the Deputy Prime Minister.
  - Guidance from the Standards Board for England.
- 1.4 The Protocol is designed to supplement and offer local interpretation of these documents. The Protocol does not form part of the Statutory Code of Conduct for Members (Members' Code of Conduct). Breaches of this Protocol may not always be a breach of the Members' Code of Conduct although, depending on the circumstances, it may be.
- 1.5 The Protocol refers extensively to relationships between Members and Officers and other employees directly in the service of the Council. The principles of the Protocol also apply to Members' dealings with other people not directly employed by the Council but who are in an employment-based relationship with the Authority (such as consultants or agency staff employed on a longer-term basis by the Council).

- 1.6 The principles underlying this Protocol are as follows:
- 1.6.1 there shall be mutual courtesy and respect between Members and Officers with regard to their respective roles.
  - 1.6.2 Members and Officers shall each carry out their respective duties in the best interests of the Council.
  - 1.6.3 this Protocol applies to all dealings between Members and Officers and not only during formal meetings.

## **2. General Obligations of Members**

- 2.1 Members must observe the Members' Code of Conduct whenever they are conducting the business of the Council, conducting the business of their office or representing the Council. Members and voting co-opted Members are bound in law by the Members' Code of Conduct, but non-voting co-opted Members are also expected to comply with the provisions of the Members' Code of Conduct.
- 2.2 The Members' Code of Conduct creates certain general obligations that Members must observe, and which have a bearing upon Member/Officer relations. The Code of Conduct is set out in Part 5, Section 34 of the Constitution.
- 2.3 Officers provide support for Members only in their role as Council Members. Members should not ask them to assist with personal, business or party political matters and Officers should refer inappropriate requests for assistance to their Head of Service.
- 2.4 Members have a duty to act reasonably and when taking part in the Council's decision-making processes, must:
- 2.4.1 take into consideration everything they regard as relevant, or which they are advised is relevant.
  - 2.4.2 disregard anything which they consider is not relevant, or which they are advised is not relevant.
  - 2.4.3 follow the correct procedures, and
  - 2.4.4 comply with the principles for decision-making set out in Section 10 of this Constitution.
- 2.5 Members, who control the Council's assets and finances, are in a position of trust and therefore have a fiduciary duty to act in the interests of all the people of Cannock Chase, not only those in the Wards they represent.
- 2.6 In law, someone with a fiduciary duty is someone who occupies a position of such power and confidence over the property of another that the law requires them to act solely in the interest of the person they represent. This is in contrast to an ordinary business relationship, in which each party is free to seek purely personal benefits from their transactions with the other. So, for example, a guardian, a trustee, or an executor are all people with fiduciary duties.

### **3. Relationship Between Members and Officers**

- 3.1 The relationship between Members and Officers should be characterised by mutual respect which is essential to good local government.
- 3.2 Any close personal or family relationships (e.g., parent/child; spouse/partner) between Officers and Members should be disclosed to the Chief Executive who will then decide how far this needs to be disclosed to others. Members must also declare to their Group Leader any such relationship with an Officer that might be seen as influencing their work as a Member.
- 3.3 Members should avoid sitting on a Council body (other than full Council) or assuming a Cabinet Portfolio which has responsibility for any employee to whom they are married, a partner or otherwise closely related, where this could be construed as exercising improper influence over the working of the Council. All such relationships should be declared in a register for this purpose maintained by the Chief Executive.
- 3.4 Generally, guidance states that a close relationship between a Member and a Senior Officer of second tier (Head of Service) and above (and in some cases, other senior staff) is incompatible with the high standards of public life and should be avoided or discouraged. The Council supports and seeks to promote this stance. The relationship may put the Member, or the Officer, in a position to exercise improper influence over the workings of the Council. Even if there is no actual impropriety, the situation may give rise to suspicion and the public may perceive that the opportunity for improper influence exists. In these situations, a Member would need to consider whether it was appropriate to remain in office whilst the Officer remained employed by the Council, and vice-versa. Should such a situation arise, the circumstances of each case will be considered individually by the Chief Executive and the appropriate Group Leader.
- 3.5 Close personal familiarity between individual Members and Officers can damage professional relationships and prove embarrassing to other Members and Officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct.
- 3.6 Officers and Members should address each other formally at meetings of full Council, Cabinet, Committees, Sub-Committees, Panels and other formal meetings that Officers attend that are open to the public. Officers should refer to Members by the office they hold: Leader, Chair, Vice-Chair or Councillor. Members should avoid excessive informality and should refer to Officers either by their title or by their full name.
- 3.7 Officers should dress formally when attending official Council meetings.
- 3.8 The same degree of formality is not necessary at private meetings of the Council or any social events that Members attend with Officers. Nevertheless, Members and Officers attending an event by virtue of their role with the Council should avoid close personal familiarity or any action which would embarrass others or damage their relationship with employees or Members.

## **4. The Role of Members**

### **4.1 Members:**

- 4.1.1 develop and set policies that will then be implemented by Officers.
- 4.1.2 monitor how those policies are being implemented.
- 4.1.3 represent the views of their communities and ward constituents and deal with individual casework.
- 4.1.4 represent the interests and views of the wider community within the District.
- 4.1.5 recognise the statutory roles of the Chief Executive as Head of Paid Service, the 'Section 151' Officer and the Monitoring Officer and the significance attached to their advice.
- 4.1.6 consult with the communities they represent on the development of policy, particularly the Local Strategic Partnership Plan, the Corporate Performance Plan, Community Safety Plan, Best Value Reviews and other local initiatives.
- 4.1.7 consult with the Monitoring Officer and the 'Section 151' Officer about the lawfulness of any decision, maladministration, financial impropriety and probity or, where they have any doubt, about whether a particular decision is, or is likely to be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget.
- 4.1.8 respect Officers' political impartiality.
- 4.1.9 promote the highest standards of conduct and ethics.

### **4.2 Members must not insist that any Officer takes any action or not take any action:**

- 4.2.1 that the Officer considers unlawful or illegal.
- 4.2.2 is in direct contradiction of any code or guidance.
- 4.2.3 is outside the delegated powers available to that Officer.
- 4.2.4 is contrary to the Council's budget or policy framework, or
- 4.2.5 would be likely to amount to maladministration.

## **5. The Role of Officers**

### **5.1 Officers:**

- 5.1.1 implement the policies set by the Council
- 5.1.2 will ask for guidance, where appropriate, on the implementation of the policies set by the Council if they are unclear about any aspect of those policies.
- 5.1.3 give such professional advice to Members as may be required, recognising that legal access to information may vary depending on the role of the Member, e.g., a Ward Member, Cabinet Member, Scrutiny Member or Member of a regulatory committee or sub-committee.

- 5.1.4 carry out their delegated functions to the best of their ability and in the interests of the Council.
- 5.1.5 must remember that they are employed by Cannock Chase Council as a whole and not by any particular part of the Council.
- 5.1.6 are under a duty to help all Councillors/Co-opted Members and all parts of the Council equally.
- 5.1.7 must take all relevant matters into account when formulating advice to Members.
- 5.1.8 must report to the Chief Executive or the Monitoring Officer or the 'Section 151' Officer any doubt or information they may have that a course of action or proposed course of action may be unlawful, illegal or otherwise in breach of the provisions of paragraph 5.3.2 below.
- 5.2 The Chief Executive has a specific responsibility for briefing Members of Cabinet on all matters to ensure the effective functioning of the Council's Executive.
- 5.3 Officers must not:
  - 5.3.1 set policy other than for the smooth running of office procedures and processes and as may have been delegated under the Council's Constitution and Scheme of Delegations.
  - 5.3.2 take any action, or not take any action, which would be unlawful or illegal, is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

## **6. Relationship Between the Chair of the Council / Cabinet Members and Officers**

The Chair and Cabinet Members shall be bound by the same provisions set out in paragraph 4 regardless of the capacity in which they are acting.

## **7. Relationship Between the Chair and Members of Scrutiny Committees and Officers**

- 7.1 The Chair and Members of the Council's Scrutiny Committees and related bodies:
  - 7.1.1 shall seek the advice of the Monitoring Officer where they consider there is doubt about the vires for a decision or, where they consider a decision of the Cabinet might be contrary to the budget and policy framework, the Monitoring Officer or Section 151 Officer as appropriate.
  - 7.1.2 when considering calling Officers to provide information to the Committee, shall not, without the consent of the relevant Chief Officer, request the attendance of a junior Officer. This is to ensure that junior Officers are not put under undue pressure.
  - 7.1.3 when asking Officers to provide information to the Committee, shall confine questions, so far as possible, to questions of fact and explanation relating

to policies and decisions. Officers may be asked to give a professional opinion but must not be requested to give a political view.

- 7.1.4 where they consider it appropriate, may ask Officers to explain and justify advice given to the Cabinet prior to decisions being taken and justify decisions they themselves have taken under the Council's Scheme of Delegations.
- 7.1.5 shall not question Officers in such a way as to be in breach of the Council's policy on harassment nor deal with matters which are of a disciplinary nature.
- 7.1.6 shall at all times respect the political impartiality of Officers.
- 7.2 Officers shall:
  - 7.2.1 maintain political impartiality at all times when commenting on the Cabinet's/Council's policies and procedures.
  - 7.2.2 be prepared to explain and justify advice given to Members of the Cabinet and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and Scheme of Delegations.
- 7.3 Chief Officers will ensure that an Officer of sufficient seniority appears before the relevant Committee.

## **8. Relationship Between the Chair of Other Committees and Officers**

- 8.1 This shall apply to all the Council's Committees, including Planning Control Committee, Licensing and Public Protection Committee, Standards Committee and other Panels and Bodies.
- 8.2 The Chair and Members of those Committees and bodies shall:
  - 8.1.1 be bound by the same provisions as set out in paragraph 4.2 when sitting as a Committee/Council body, and
  - 8.1.2 give Officers the opportunity to present any report and give any advice they wish to present or give.

## **9. Officer Relationships With Party Groups**

- 9.1 When dealing with the various party groups:
  - 9.1.1 factual information will, if requested, be available to all political groups.
  - 9.1.2 confidential requests for information to be provided to a political group or Member will be treated with the strictest 'confidence' by the Officers concerned and will not be accessible to any other political group.
  - 9.1.3 Officers shall exercise care when giving briefings or commenting on the policies and actions of the Cabinet or any of the Council's Committees and shall maintain political impartiality at all times.

**9.2 When acting in party groups and dealing with Officers, Members shall:**

- 9.2.1 recognise that attendance at Party Group meetings by Officers is not compulsory, but Chief Officers may properly be called upon to provide technical and/or professional impartial advice in support of deliberations by Party Groups either by attendance or by preparing documentation for discussion by the Group, subject to the availability of resources. All such requests for attendance should be made to the Chief Executive.
  - 9.2.2 recognise that Party Groups are not empowered to make decisions on behalf of the Council and that any conclusions reached by such groups will to be actioned by Officers.
  - 9.2.3 ensure they do not do anything that may compromise Officer impartiality.
  - 9.2.4 ensure that confidential matters are not divulged to anyone who is not entitled to receive such information.
- 9.3 All Groups are entitled to develop policies and plans and can expect Officers to provide information on a confidential basis to their Group, provided this is readily accessible, does not entail significant additional work and does not entail the release of information which is confidential or exempt or where to provide that information would be in breach of the law.

**10. Members in Their Ward Role**

**10.1 When acting in their Ward role, Members:**

- 10.1.1 need to be mindful of their competing roles, i.e., acting for the Council in the wider community and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on Officer time.
- 10.1.2 recognise an Officer's right to suggest that senior Officers, the Cabinet, Council, or a Committee need to authorise additional work requested by the individual Members.

**11. Complaints About Officers**

**11.1 Members have the right to criticise reports, or the actions taken by Officers, but they should always:**

- 11.1.1 avoid personal attacks on individual Officers.
- 11.1.2 ensure that criticism is constructive and well founded.

**11.2 Members should avoid undermining respect for Officers at meetings, or in any public forum. This would be damaging, both to effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a well-run authority.**

**11.3 Complaints about Officers should be made to the relevant Head of Service where Members feel the fault with the service lies. Within three days, the Head of Service will:**

- 11.3.1 acknowledge the complaint, and

- 11.3.2 say if they intend to take action, or
- 11.3.3 say how long they need to investigate.
- 11.4 A complaint relating to a Head of Service should be made to their line manager who will deal with it in accordance with the provisions set out in paragraph 11.3.
- 11.5 Members have a right to know if action has been taken to correct the matter, but they must neither:
  - 11.5.1 influence the consideration of whether any level of disciplinary action should be taken against an Officer, nor
  - 11.5.2 insist (nor be seen to insist) that any such action be taken.
- 11.6 Specific statutory provisions exist in respect of any disciplinary action which may be contemplated against the Head of Paid Service, Chief Finance Officer, or the Monitoring Officer.
- 11.7 Members have a right to be told the outcome of any disciplinary case but have no entitlement to detailed information about the hearing or its conduct.
- 11.8 If a Member is not satisfied that action has been taken to deal with the complaint it may be referred to the Chief Executive by the Member concerned.

## **12. Member Access to Documents and Information**

- 12.1 The Council will at all times comply with the provisions of current data protection legislation and the Freedom of Information Act. Members should seek the advice of the Data Protection Officer in relation to matters concerning these Acts.
- 12.2 Save as provided below, every member of the Cabinet, Scrutiny Committees or such other Committee or Sub-Committee of the Council has a right to inspect documents about the business of that Committee, Sub-Committee or the Cabinet, as set out in the Access to Information Procedure Rules included within the Council's Constitution.
- 12.3 All Members can expect to have answers to the queries they raise on behalf of their constituents where the relevant authority exists or about the policies and practices of the Council within the corporate time standards.
- 12.4 A Member who is not a member of a specific Committee, Sub-Committee or the Cabinet may have access to any documents of that part of the Council if:
  - 12.4.1 They reasonably need to see the documents to perform their duties; in some circumstances they will need to satisfy the Council's Monitoring Officer of that need, and
  - 12.4.2 the documents or papers do not contain 'confidential' or 'exempt' information.
- 12.5 All requests for advice and information that cross directorate boundaries or involve multi-directorate activities should be directed through the Chief Executive.

- 12.6 Heads of Service must decide how to meet requests and must be able to determine what resources, including which employees, are to be made available. This extends to deciding which Officers should answer questions, particularly in open meetings.
- 12.7 However, when a Member asks for information or advice the reply must not be copied to, or subsequently made available to, other Members without the permission of the requesting Member. Where information or advice is given in writing to a number of Members the document should make clear who has received it. In other words, a system of 'silent copies' should not be used.
- 12.8 Members are expected to give reasonable notice of requests for information and to have regard to the cost of producing any new detailed information.
- 12.9 A Member who may have a personal or prejudicial interest in a matter should seek advice from the Monitoring Officer in circumstances where they wish to inspect any document or have access to any information about a matter.

### **13. Press Releases and Conferences**

#### **13.1 All Council press releases:**

13.1.1 shall be issued through the Council's Communications Team unless an alternative process has been approved by Council or a Committee with the relevant delegated powers.

13.1.2 shall be concerned with policy and service delivery.

13.1.3 shall not contain anything of a party-political nature. In this respect, regard must be given to the relevant legislation governing publicity issued by local authorities, especially around election time.

13.1.4 shall, where they include a quote from a Member of the Council, be submitted to that Member for clearance before being issues, and

13.1.5 shall be circulated to all Members for information.

#### **13.2 Press conferences at which the Cabinet will brief press representatives on current issues and/or the Forward Plan (as published) will be arranged as Cabinet deems appropriate, by the Council's Communications Team. Senior Officers may attend press conferences to provide such technical and/or professional information as is appropriate.**

#### **13.3 Cabinet press conferences attended by Officers may also be attended by any Member of the Council but only as an observer, i.e., they may not take an active part. Cabinet press briefings where no Officer is in attendance are not open to other Members of the Council unless they are specifically invited to attend.**

### **14. Correspondence**

#### **14.1 All correspondence written on behalf of the Council must be written on the relevant headed paper or if electronic, should be clearly identifiable as a communication from the Council. When Members are writing in their capacity as a Member, they must make it clear whether they are writing on behalf of the Council or as the Ward Member.**

14.2 Unless provided by law, correspondence between individual Members and Officers should be treated as confidential unless the Member and Officer indicates otherwise.

14.3 All correspondence should normally be open to the inspection of the public in accordance with the Council's adopted policies. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain 'exempt' within the meaning of Schedule 12A to the Local Government Act 1972, as amended, or if this would be in conflict with current data protection legislation.

## **15. Breach of the Protocol By A Member**

15.1 Members are required to report any matter that they believe may be a breach of this Protocol to the Chief Executive or Monitoring Officer.

15.2 The Chief Executive or Monitoring Officer may advise that the matter should be referred to the Standards Board for England if there is evidence that the breach also amounts to a breach of the Members' Code of Conduct.

15.3 Where there has been an alleged breach of this Protocol which does not amount to a breach of the Members' Code of Conduct and is therefore not a matter for the Standards Board including an alleged breach by a non-voting co-opted Member:

15.3.1 The Chief Executive or the Monitoring Officer may refer the complaint to the Standards Committee to be considered further, or

15.3.2 The Chief Executive, in conjunction with the Monitoring Officer, may refer the complaint to the relevant Group Leader where appropriate.

## **16. Breach of the Protocol By An Officer**

16.1 Complaints of an alleged breach should be raised with the Chief Executive. The provisions of paragraph 11 of this Protocol will apply.

## **17. Further Advice**

17.1 Advice on the application of this Protocol should be sought from either the Chief Executive or the Monitoring Officer.

# Section 38

## Monitoring Officer Protocol

### **A. General Introduction to Statutory Responsibilities**

1. The Monitoring Officer is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged in Cannock Chase District Council.
2. The current responsibilities of the Monitoring Officer role rest with the Director of Governance, who undertakes to discharge their statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. In doing so, they will also safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
3. A summary list of the statutory responsibilities appears in the table annexed to this Protocol. In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:
  - (a) complying with the law of the land (including any relevant Codes of Conduct).
  - (b) complying with any General Guidance issued, from time to time, by the Standards Committee and Monitoring Officer.
  - (c) making lawful and proportionate decisions.
  - (d) generally, not taking action that would bring the Council, their offices or professions into disrepute.

4. In the absence of the Monitoring Officer this Protocol shall apply to the Deputy Monitoring Officer.

### **B. Working Arrangements**

5. Having good working relations with Members and Officers will assist in the discharge of the statutory responsibilities of the Monitoring Officer and keep the Council out of trouble. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and Officers must, therefore, work with the Monitoring Officer (and their staff) to discharge the Council's statutory and discretionary responsibilities.

6. The following arrangements and understanding between the Monitoring Officer, Members and Chief Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:
- (a) be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise.
  - (b) have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings and/or Directors' Management Team (or equivalent arrangements).
  - (c) have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings and/or Directors' Management Team (or equivalent arrangements).
  - (d) in carrying out any investigation(s) have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of their functions.
  - (e) ensure that other statutory Officers (Head of Paid Service and the Chief Financial Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise.
  - (f) meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise.
  - (g) report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service, Chief Financial Officer and the Standards Committee.
  - (h) as per the statutory requirements, make a report to Council as necessary on the staff, accommodation and resources required to discharge their statutory functions.
  - (i) have a special relationship or respect and trust with the Leader, Deputy Leader and the Chairs of the Cabinet, Standards, Overview and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business.
  - (j) develop effective working liaison and relationship with the Standards Board for England, the Council's external Auditors and the Local Government

Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary) and settle compensation payments for alleged or actual maladministration found against the Council.

- (k) maintain and keep up-to-date relevant statutory registers for the declaration of Members' interests, gifts and hospitality.
  - (l) give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint being received by the Standards Board for England) and, if appropriate, make a written report to the Standards Committee (unless the Chair of the Standards Committee agrees a report is not necessary) or to the Standards Board for England if, in the opinion of the Monitoring Officer, there is a serious breach of the Code of Conduct for Members.
  - (m) in consultation, as necessary, with the Chairs of the Council, Cabinet, Standards Committee, and the Standards Board for England, defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved.
  - (n) have sufficient resources to enable them to address any matters concerning their Monitoring Officer functions.
  - (o) subject to the approval of the Standards Committee, be responsible for preparing any training programme for Members on ethical standards and Code of Conduct issues, and
  - (p) appoint a deputy and keep them briefed on any relevant issues that they may be required to deal with in the absence of the Monitoring Officer.
7. To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.
8. The Monitoring Officer is also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g., Standing Orders, policy framework, terms of reference, Scheme of Delegations etc.).
9. To ensure the effective and efficient discharge of this Protocol, the Director of Governance will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

**C. Sanctions for Breach of Cannock Chase Council's Code of Conduct for Members and This Protocol**

10. Complaints against any breach of Cannock Chase District Council's Code of Conduct for Members must be referred to the Standards Board for England, which could lead, ultimately, to the disqualification of a Member. Complaints against any breach of this Protocol by a Member will be referred to the Standards Committee and to the relevant Leader and/or Chief Whip of the Political Party Group. Complaints against any breach of this Protocol by an Officer may be referred to the Managing Director.

## Summary of Monitoring Officer Functions

|     | DESCRIPTION                                                                                                                       | SOURCE                                                                                                          |
|-----|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| 1.  | Report on contravention or likely contraventions of any enactment or rule of law.                                                 | Section 5, Local Government and Housing Act 1989                                                                |
| 2.  | Report on any maladministration or injustice where Ombudsman has carried out an investigation.                                    | Section 5, Local Government and Housing Act 1989                                                                |
| 3.  | Appointment of Duty.                                                                                                              | Section 5, Local Government and Housing Act 1989                                                                |
| 4.  | Report on resources.                                                                                                              | Section 5, Local Government and Housing Act 1989                                                                |
| 5.  | Receive copies of whistleblowing allegations of misconduct.                                                                       | Local Policy                                                                                                    |
| 6.  | Investigate misconduct in compliance with Regulations (when made) and directions of Ethical Standards Officers.                   | Regulations when made. Directions when made in individual cases. Local Government Act 2000 Sections 66(1)+66(6) |
| 7.  | Establish and maintain registers of Members interests and gifts and hospitality.                                                  | Section 81 Local Government Act 2000 and draft Model Code                                                       |
| 8.  | Advice to Members on interpretation of the Code.                                                                                  | Adopted Code                                                                                                    |
| 9.  | Key role in promoting and maintaining high standards of conduct through support to the Standards Committee                        | Statutory Guidance paragraph 8.20 (as amended)                                                                  |
| 10. | Liaison with Standards Board and Ethical Standards Officers                                                                       | Standards Board for England Guidance                                                                            |
| 11. | Ethical framework functions in relation to Parish Councils                                                                        | Section 83(12) Local Government Act 2000                                                                        |
| 12. | Compensation for maladministration                                                                                                | Section 92 Local Government Act 2000                                                                            |
| 13. | Advice on vires, issues, maladministration, financial impropriety, probity, and policy framework and budget issues to all Members | Department for Communities and Local Government guidance and associated legislation.                            |

# Section 39

## Local Protocol for Planning Decision Making

### Introduction

- **The aim of this local protocol** is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- **The key purpose of planning is** to control development in the public interest.
- **Your role as a member of the Planning Authority** is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- **When the local protocol applies** – it applies to Councillors at all times when involving themselves in the planning process. (This includes when taking part in the decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings).
- **Development Proposals and Interests under the Members' Code** – make sure that you disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Councillors.
- **Lobbying Councillors** – make sure that you explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Planning Control Committee's decision making to express an intention to vote one way or another or take such a firm point of view that it amounts to the same thing. Remember that your overriding duty is to the whole community.
- **Lobbying by Councillors** – do not become a member of, lead or represent an organisation whose primary purpose is to lobby or promote or oppose planning proposals. If you do, you have fettered your discretion and are likely to have a personal and prejudicial interest. Do join general interest groups which reflect your areas of interest, and which concentrate on issues beyond particular planning proposals, e.g., Victorian Society, a local Civic Society, but disclose a personal interest, where that organisation has made representations on a particular proposal.
- **Site Visits** – do try to attend site visits organised by the Council where possible. Do not request a site visit unless you feel that it is strictly necessary.

- **Decision-making** – come to a meeting of the Planning Control Committee with an open mind and demonstrate that you are open-minded. Make sure you come to a decision only after due consideration of all the information reasonably required upon which to base a decision. Do not take part in the meeting's discussion or vote on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter. If you come to the meeting with a fixed view on a proposal or have made a clear statement in advance of the meeting for a particular outcome, you must declare that you have pre-determined the matter and take no part in the decision making other than addressing the Committee as a local Councillor.

**If you have any doubts about the application of this protocol to your own circumstances, you should seek advice early from the Monitoring Officer or Deputy Monitoring Officer.**

## **Contents**

1. Purpose of the Protocol
2. The Role and Conduct of Councillors and Officers
3. Declaration and Registration of Interests
4. Development Proposals Submitted by Councillors and Officers and Development Proposals by the Council
5. Lobbying of and by Councillors
6. Pre-application Discussions and Negotiations during the Processing of Applications
7. Decision Making Procedures
8. Planning Obligations
9. Decisions Contrary to Officer Recommendation and/or the Development Plan
10. Access to Information
11. Comments, Compliments and Complaints

Annex A: Protocols for Public Speaking at the Planning Control Committee

Contacts

## **1. Purpose of Protocol**

- 1.1 Cannock Chase Council is a local planning authority and two of the most important responsibilities it has are to make decisions on planning and other applications made under the Town & Country Planning Acts and to prepare, adopt and review a Local Development Framework, which comprises a number of Development Plan Documents and Supplementary Planning Documents providing the policy context for decision making on applications.
- 1.2 The purpose of this Protocol is to explain how the Council carries out its planning duties and in particular how the decision-making processes work. It will be of particular interest to applicants for planning permission, people who may be affected by other people's planning proposals or those interested in the preparation of the Development Plan Documents and Supplementary Planning Documents.
- 1.3 The Council has adopted and published in leaflet form local charters for applicants, for publicity and information about planning applications and for those involved with a planning enforcement problem. These leaflets give more detail about the services the Council provides when it is dealing with these matters. The Council has also adopted a Statement of Community Involvement December 2018 setting out how it will inform, consult, and involve the community in the preparation of planning policy documents and the determination of planning applications.

## **2. The Role and Conduct of Councillors and Officers**

- 2.1 Councillors and Officers have different, but complementary, roles. Both serve the public, but Councillors are responsible to the electorate, while Officers are responsible to the Council as a whole. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors, and instructions may only be given to Officers through a Council, Cabinet or Committee decision.
- 2.2 Both Councillors and Officers are guided by codes of conduct. The Council's Code of Conduct based on the statutory Model Code provides guidance and standards for Councillors. Breaches of the Code may be reported to the Standards Board for England for investigations and may be regarded as maladministration by the Local Ombudsman.
- 2.3 Whilst Councillors have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. The General Principles of Conduct issued by the Government state that Councillors should not favour any individuals or groups and, although they may take into account the views of others, they should reach their own conclusions on the issues before them and act in accordance with those conclusions. Councillors must, therefore, represent their constituents as a body and vote in the interests of the whole district especially when discharging their planning responsibilities.

- 2.4 Planning Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of the Code may be subject to disciplinary action by the Institute. The Code requires members not to make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions and to take all reasonable steps to ensure that all town planning matters in the organisations for which they have responsibility are conducted in accordance with the Code whoever undertakes such work. The Council is committed to upholding this principle in its role as local planning authority.

### 3. Declaration and Registration of Interests

- 3.1 The law and the Council's Code of Conduct set out requirements and guidance for Councillors, respectively, on declaring personal and prejudicial interests and the consequences of having such interests.
- 3.2 **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Councillors. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.

**Do** then act accordingly. **Where your interest is personal and prejudicial** (i.e., where you have a personal interest, and that interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest):

- **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
- **Don't** try to represent ward views, get another Ward Member to do so instead.
- **Don't** get involved in the processing of the application.
- **Don't** seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate office, in person or in writing, the Code places limitations on you in representing that proposal. You may address the Committee but only to make a presentation in the same manner that would apply to a normal member of the public, after which you must leave the room whilst the meeting considers it (you may not remain to observe the meeting's considerations on it from the public gallery).

3.3 **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the Parish Council, for example, or both a District and County Councillor), provided:

- (i) The proposal does not substantially affect the well-being or financial standing of the consultee body.
- (ii) You make it clear to the consultee body that:
  - Your views are expressed on the limited information before you only.
  - You must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just the people in that area, Ward or Parish, as and when it comes before the Committee, and you hear all of the relevant information, and
  - You will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.
- (iii) You disclose the personal interest regarding your membership or role when the Committee comes to consider the proposal.

3.4 Officers are required to follow the Council's Code of Conduct for Employees.

#### **4. Development Proposals Submitted by Councillors and Officers and Development Proposals by the Council**

4.1 Serving Councillors who act as agents for people pursuing a planning matter within their authority will play no part in the decision-making process for that proposal. Similarly, should they submit their own proposal to the authority, they will take no part in its processing.

4.2 Proposals of this nature will be identified and reported to the Planning Control Committee for decision and not dealt with by officers under delegated powers. The same approach will be applied to applications submitted by planning officers employed by the Council.

4.3 Proposals for the Council's own development will be treated in exactly the same way as those by private developers.

#### **5. Lobbying of and by Councillors**

5.1 Lobbying is a normal and perfectly proper part of the political process and applicants or third parties who may be affected by a planning decision may choose to approach their elected Ward Councillors or members of the Planning Control Committee to put their point of view in addition to discussing matters with planning officers. Members of the Planning Control Committee must take care about expressing an opinion that may be taken to indicate that they have already made their mind up on a planning proposal before they have had an opportunity to consider all the evidence and arguments.

- 5.2 A Ward Councillor who is not a member of the Planning Control Committee may respond to lobbying by declaring their support for a particular outcome and may address the meeting of the Planning Control Committee which is to determine the application. The Councillor will be given the same amount of time to speak as a member of the public i.e., 10 minutes (see Annex A).
- 5.3 A Ward Councillor who is also a member of the Planning Control Committee must make a clear choice in response to lobbying either to:
- (i) inform the lobbyist that they must maintain a neutral position on the proposal until the meeting, which is due to determine it, when they will have read the report and listened to any discussion there may be about the proposal, in order to carry out their job as decision maker in an even handed way (a standard written response could be used for the purpose), or
  - (ii) decide to declare support for a particular outcome but then declare at the Committee meeting that they have pre-determined the decision and take no part in the decision making other than addressing the Committee as a Ward Councillor.

This does not apply if the Ward Councillor has a prejudicial interest which arises from their own personal circumstances. In that case, the Councillor may make representations to the Planning Control Committee and answer questions as a member of public would be able to but must then leave the room and take no part in the decision making.

## **6. Pre-application Discussions and Negotiations During the Processing of Applications**

- 6.1 An important part of the planning service provided by the Council is the advice given by Officers to both applicants and people affected by planning proposals both before the submission of applications and during the processing of applications. It is considered to be a more effective use of resources to give advice to applicants to enable them to present their applications in a manner which meets the appropriate planning policy requirements first time rather than not to do so which could result in more applications being refused and having to be resubmitted or determined at appeal.
- 6.2 The following principles will apply to the giving of advice:
- (i) It will always be made clear that any advice cannot bind the Council to making a particular decision.
  - (ii) Advice will be based solely upon approved policy considerations contained in the development plan, approved supplementary planning guidance and in appropriate cases government planning guidance.
  - (iii) When Councillors are requested to advise, the meeting will take place in the presence of an appropriate Officer.
  - (iv) A written record of the meeting including any agreed outcome will be made and placed on the case file.
- 6.3 These protocols relate to the giving advice on planning policy. Advice on procedure can be given by individual Officers or Councillors at any time.

## 7. Decision Making Procedures

- 7.1 The Council is required to prepare Development Plan Documents (DPD's) and (if appropriate) Supplementary Planning Documents (SPD's) to provide a robust local planning policy context for decision making on planning applications. Public consultation in accordance with the principles set out in the Council's adopted Statement of Community Involvement December 2018 is carried out at specific stages in the preparation of DPD's which are adopted following an independent examination by an Inspector acting on behalf of the Secretary of State for Communities and Local Government.
- 7.2 Decisions to take formal DPD's through their stages as far as preferred options are taken by the Cabinet and decisions to submit documents for examination and formally adopt them are taken by the Council. Decisions to adopt SPD's are taken by Cabinet.
- 7.3 The policies and proposals in the District's DPD's when adopted and the adopted Regional Spatial Strategy (RSS) are the most important matters to inform decision making on planning applications together with the policies contained in SPD's which give more detailed guidance on specific planning subjects, e.g., affordable housing, open space, sport, and recreation. There is a presumption that decisions should be made in accordance with policies in these documents with most weight to be given to policies in the Development Plan (DPD's and RSS).
- 7.4 **Decisions on planning and other applications** submitted under the Town & Country Planning Acts including applications for listed building consent, conservation area consent, consent to display an advertisement (referred to and defined as Planning Applications under paragraph 7.4(A)(1) below) are made by one of the following two methods:
- (A) By the Head of Service or a manager in the Planning Division in the following circumstances:
- (1) All applications seeking planning consent that have been duly accepted for determination by the Council ("Planning Applications") that are not referred to the Planning Control Committee under the Scheme of Delegation.
- (B) Council's Planning Control Committee:
- (2) All planning applications that are referred to the Planning Control Committee under the Council's Scheme of Delegations.
  - (3) Where a Member of the Council seeks to refer an application to the Planning Control Committee, the Member shall proceed to making a written request (using the necessary referral form available from the Council's Planning Section), which must
    - (i) set out clear and relevant material planning reasons for why the request is being made for the Planning Application to be referred to the Planning Control Committee for determination, and
    - (ii) be received by the Council's Planning Section within the initial 21-day consultation period.

- 7.5 Decisions to make **Tree Preservation Orders** (TPO) and to determine applications to carry out works to TPO trees are made by senior officers. Where there is an unresolved objection to a proposed TPO the final decision on these matters is also made by the Planning Control Committee.
- 7.6 The Planning Control Committee normally meets once every 4 weeks. It considers reports prepared by planning officers which make an assessment of all the relevant planning issues, summarise all comments received and make a recommendation to approve or refuse the application with appropriate reasons based on national and local planning policies.

A recommendation of approval may include conditions to ensure that the proposed development meets with the appropriate planning requirements. It may also require the applicant to complete a planning obligation (S106 of the Town & Country Planning Act 1990) to deal with the effects of the development on the local area in a way which cannot be controlled by a planning condition (see Section 8 below). The Committee decides whether or not to accept the recommendation. It may defer consideration of the application to seek further information or to enable a site inspection to take place (see 7.8 below).

The procedures at Planning Control Committee provide for the applicant, a maximum of two objectors, Ward Councillors, and a representative of a Parish Council to address the Committee before it makes a decision on a planning application, TPO. Full details of the operating rules for people to address the Committee are set out in Annex 'A.'

#### **7.7 Site Inspections by members of the Planning Control Committee.**

- 7.8 Inspections can be made to sites which are the subject of planning applications or TPOs in the following circumstances:

- (i) When officers recommend an inspection in advance of producing a report so that if the Chair, or in their absence, the Vice-Chair, of the Committee agrees, the inspection can take place on the day the Committee meets to consider the report on the application.
- (ii) When the Committee decides it needs to defer a decision on an application in order for a site inspection to take place.

- 7.9 In all cases clear and relevant planning reasons must be given as to why an inspection is considered necessary and what it would be likely to achieve. As a general principle an inspection is only likely to be appropriate when it will clarify, or supplement information contained in the officer's written report and that information cannot be obtained in another way. It will not be appropriate for an inspection to take place merely because a consultee or neighbour has requested it unless Councillors can identify clear and relevant planning reasons.

- 7.10 The purpose of the inspection is to obtain additional information about a proposal by looking at the site and the surroundings. It is not an opportunity to discuss the merits of the proposal with the applicant or objectors. Representations from applicants and third parties will therefore not be permitted. The following procedure will apply:

- (i) The inspection will be managed by the Chair of the Committee or in their absence the Vice Chair.
- (ii) Applicants will be informed of the time of the inspection but not invited to participate other than to allow access to land or property if appropriate.
- (iii) Officers will attend to give a brief explanation of the proposal and answer any questions from Councillors
- (iv) Officers will make a brief note of the inspection including a record of which members attended and any new factual information which may have been brought out. This will be placed on the case file.
- (v) Third parties (objectors) are not invited to inspections and would not be entitled to enter the site unless invited to do so by the applicant. If objectors are present with the consent of the applicant, they may listen to the officers' explanation and Councillors' discussion but not participate.

## **8. Planning Obligations (S106 Agreements)**

8.1 In order to mitigate the impact of development on the environment, deal effectively with transport, other infrastructure and community facility requirements generated by new development, agreements under S106 of the Town & Country Planning Act 1990 are negotiated with developers prior to the grant of planning permission. In some cases, developers may offer unilaterally to make such provision.

8.2 These planning obligations whether made by agreement or unilaterally are required to ensure that development complies with the appropriate policies in the Development Plan and may include making payments to the District Council or County Council to enable facilities such as open space and school buildings to be provided.

The fact that payments need to be made in order to secure the grant of a planning permission can give rise to a misunderstanding that somehow developers are 'buying' a planning permission. This is not the case but is a legitimate means of ensuring that the appropriate planning requirements are met. In order to ensure a consistent approach to negotiating obligations the Council has adopted a Supplementary Planning Document entitled 'Developer Contributions.'

8.3 For the purpose of this Protocol two key elements of the Supplementary Planning Document are important:

- (i) The issues to be dealt with by an obligation will be described in sufficient detail in the report on the planning application to be considered by the Planning Control Committee. This will include financial information if it is available at this stage.
- (ii) The completed obligation will be placed on deposit in the planning register at the same time as a copy of the related planning permission.

## **9. Decisions Contrary to Officer Recommendation and/or the Development Plan**

- 9.1 Planning is not an exact science. It relies on making informed judgements within a firm policy context. The weight given to particular planning considerations in a specific case can make a difference to the final outcome and it is perfectly justifiable for the Committee to give different weights to issues than those given by Officers and thereby reach a different overall conclusion to that recommended by officers.
- 9.2 It may be clear from the original Officers' report when a conclusion to recommend approval is reached 'on balance' that there are sustainable reasons which can be adduced to support a decision to refuse planning permission, and these may be brought out at the Committee meeting. In other cases, the reasons may need further consideration in which case it may be appropriate for the matter to be deferred to determine at the next meeting. When the Committee wish to approve an application contrary to the officer recommendation of refusal, deferral may also be necessary to enable appropriate conditions to attach to the approval to be drafted.
- 9.3 **Do** make sure that if you are proposing, seconding, or supporting a decision contrary to officer recommendations or the Development Plan that you clearly identify and understand the **planning reasons** leading to this conclusion / decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.
- 9.4 When it is intended to approve an application, which is contrary to the Development Plan, the material planning considerations which are judged to be more significant than the policies in the plan will be clearly identified in the report. In some cases, the Secretary of State for Communities and Local Government must be informed and may decide not to permit the Council to approve the application but instead make the decision himself after holding a Local Public Inquiry.

## **10. Access to Information**

- 10.1 The whole of the process of determining planning applications takes place in an open and accessible manner. Applications are deposited on a public register and all background information including any letters of objection or support for an application are available for inspection by law 5 clear working days before the application is due to be determined by the Committee. If an application is subject to an appeal the Council's and the appellant's evidence are made available for inspection and if people wish to express an opinion in writing or at a local inquiry or hearing they may do so.
- 10.2 The Council is committed to making the process as open and accessible to people as possible within the financial constraints it has to operate. It therefore provides the following services in addition to the minimum statutory requirements:

- (i) Copies of planning applications are deposited at Rugeley area office and Hednesford Library in addition to the Civic Centre. Parish Councils are provided with copies of planning applications and the decisions made on them.
- (ii) A copy of any agreement or obligation made under the Town & Country Planning Act to provide for measures, financial or otherwise, to enable a proposed development to comply with the planning requirements is included in the planning register.
- (iii) All planning application case files are available for inspection **by appointment** at any time prior to the 5 clear working days before the meeting of the Committee which is due to determine the application. No appointment is needed during the 5 working days before the meeting.

## **11. Comments, Compliments and Complaints**

11.1 Cannock Chase Council is committed to serving the community in the most efficient and courteous way possible. We welcome your comments, compliments, and complaints as this helps us to know what are the good things about our services and what things we need to improve. If you wish to make a comment, compliment, or complaint a 'How To' form is available at the Council Offices in Cannock:

Cannock Chase Council, Civic Centre, Beecroft Road, Cannock, WS11 1BG

Telephone: (01543) 462 621

11.2 A complaint can only be investigated if it relates to the way a matter was dealt with rather than the actual outcome i.e., the fact that this Council made a planning decision which people disagree with is not a basis for lodging a complaint.

## **Protocols for Public Speaking at Planning Control Committee**

### **1. Protocols**

#### **1.1 Who is Entitled to Speak**

- (i) In relation to a planning application:
  - (a) The applicant or a person representing the applicant.
  - (b) A supporter of the application.
  - (c) An objector who is acting on their behalf or on behalf of a group of objectors or a person representing objectors. Normally, only one person will be permitted to speak on behalf of all objectors unless it can be demonstrated that there are significantly differing points of view that are wished to be expressed when a maximum of two people will be permitted to speak.
  - (d) A Ward Councillor(s).
  - (e) A representative of the Parish Council.
- (ii) In relation to Tree Preservation Orders:
  - (a) A person or representative of a person supporting the making of an order.
  - (b) A person or representative of a person objecting to the making of an order.
  - (c) A Ward Councillor(s)
  - (d) A representative of the Parish Council.

#### **1.2 Making an Application to Speak**

Requests to speak must be made by completing an application form obtainable from the Planning Control Unit at the Civic Centre. The completed form must be delivered to the Civic Centre by, at the latest, 3:00pm on the Monday before the meeting of the Planning Control Committee due to take place on the Wednesday. Receipt of the completed form will be acknowledged in writing. Ward Councillors need not complete an application form but should inform the Chair of the Planning Control Committee that they wish to speak on a particular application.

#### **1.3 Procedure following Receipt of Application to Speak**

If an application to speak has been received from one of the parties, other than a Ward Councillor, officers will use their best endeavours to contact the other parties to give them an opportunity of speaking if they so wish. In cases where there are a large number of objectors, it may not be possible to contact everyone.

As information about speaking rights will already have been sent to applicants, people notified of applications and Parish Councils at an early stage in the processing of an application, failure to contact other parties following receipt of an application to speak from one of them will not invalidate the procedure. No contact will be made in writing at this stage.

#### **1.4 Procedure at the Meeting**

Applications and other matters on which there are speakers will be dealt with at the start of the meeting. The procedure for dealing with these matters will be as follows:

- (i) An officer will give a verbal report updating the written report with any information received after its completion.
- (ii) Speakers will be called to speak in the following order:
  - objector(s);
  - Parish;
  - Ward Councillor(s)
  - A supporter of the application
  - Applicant or supporter or alleged contravener (where applicable)
- (iii) Speeches must last no longer than TEN MINUTES. Speakers may not circulate or present any new or additional written documents, drawings, or photographs. The Chair will invite the speaker to sum up before the ten-minute time limit is reached.
- (iv) Members of the Planning Control Committee may then ask questions of any of the speakers.
- (v) The Planning Officer may then answer any points arising from the speeches.
- (vi) The speakers will then withdraw to the public gallery and a decision will be made following whatever further discussions members of the Planning Control Committee wish to have.
- (vii) In the event that Committee decide to defer a decision before any speakers have been called to speak on the matter speakers will be invited to decide whether they wish to defer their speeches until the deferred date. Only one opportunity to speak will be allowed.
- (viii) In the event that the Committee decide to defer consideration of a matter after any speaker has addressed the Committee on that matter all the speakers on that matter will be allowed to speak again on the deferred date. If a speaker is unavailable on that date, they may nominate a substitute to speak on their behalf.

## **1.5 Procedure after the Meeting**

Speakers will be sent written notification of the Planning Control Committee's decision.

## **1.6 Chair**

The ruling of the Chair of the meeting as to the construction or application of any of the above shall not be challenged.

## **Application to Speak at a Meeting of the Planning Control Committee**

1.1 Please read the notes before you complete your application (please complete in block capitals)

1.2 Name: \_\_\_\_\_

1.3 Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1.4 Daytime Tel. No. \_\_\_\_\_

1.5 Fax No. \_\_\_\_\_

1.6 Purpose of wishing to speak (tick appropriate box):-

As applicant or on behalf of applicant ☐

A supporter of the application ☐

As objector to a planning application or on behalf of objector ☐

As supporter of a Tree Preservation Order ☐

As objector to a Tree Preservation Order ☐

As complainant concerning a planning enforcement issue ☐

As person alleged to be in contravention of planning regulations ☐

As representative of a Parish Council ☐

1.7 Details of Planning Application, Tree Preservation Order or Enforcement Case which you wish to speak on:-

(i) Description: \_\_\_\_\_

(ii) Reference No. \_\_\_\_\_

1.8 You are reminded that when addressing the Committee, you must not make a defamatory statement. If you do make a defamatory statement, action may be taken against you.

1.9 **The length of the speech must not exceed 10 minutes.**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Request for Application to be Determined by the Planning Control Committee

If a Member wishes an application to be decided by the Planning Control Committee rather than by officers under the adopted scheme of delegated decision-making, this form must be completed and sent to the Planning Services Manager within 21 days of an application appearing on the weekly list of applications received.

|                 |     |
|-----------------|-----|
| Application No. | CH/ |
| Location:       |     |

|              |  |
|--------------|--|
| Description: |  |
|              |  |
|              |  |
|              |  |

Do you wish to discuss the application with the case officer or manager before confirming your request?

|     |    |                        |
|-----|----|------------------------|
| Yes | No | (Delete as applicable) |
|-----|----|------------------------|

Reason for requesting consideration by the Planning Control Committee:

|  |
|--|
|  |
|  |
|  |
|  |

Do you wish the Committee to make a site visit?

|     |    |                        |
|-----|----|------------------------|
| Yes | No | (Delete as applicable) |
|-----|----|------------------------|

Reason for site visit:

|  |
|--|
|  |
|  |
|  |

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Contacts

### Development and Policy Manager

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e-mail: [sushilbirdi@cannockchasedc.gov.uk](mailto:sushilbirdi@cannockchasedc.gov.uk)

### Development Management Team Leader

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Cannock Chase District Council  
Civic Centre  
PO Box 28  
Beecroft Road  
Cannock  
WS11 1BG

Telephone: (01543) 462 621

[www.cannockchasedc.gov.uk/planning](http://www.cannockchasedc.gov.uk/planning)

[developmentcontrol@cannockchasedc.gov.uk](mailto:developmentcontrol@cannockchasedc.gov.uk)

# **Section 40**

## **Protocol for Recording, Filming and Social Media at Meetings**

### **1.1 Protocol**

The Council welcomes engagement by the public and through the media with the decision-making processes that determine the policies and strategies that shape provision of services in Cannock Chase. Audio and video/visual recording, photography, blogging, tweeting or use of other social media at meetings open to the public (hereafter referred to as 'broadcasting activities') are allowed subject to the following restrictions:

- (i) Anyone wanting to undertake broadcasting activities at a meeting shall give written notice to the Chief Executive at least 24 hours before the scheduled start of the meeting.
- (ii) All broadcasting activities should take place from the public gallery or the designated press seating in the meeting room.
- (iii) All broadcasting activities shall be carried out in such a way that no disruption is caused to the meeting and that no obstruction or inconvenience is caused to others wishing to observe the meeting or undertake their own broadcasting activities.
- (iv) Anyone undertaking broadcasting activities must comply with any instructions given by the Chair of the meeting.
- (v) The use of flash photography, additional lighting or microphones placed outside the public gallery/press seating area in connection with audio/visual recordings at meetings, will not be permitted without prior permission.
- (vi) Democratic Services will ensure signs are displayed at meetings to remind attendees that broadcasting activities may be undertaken and that the Council has no control over where material may appear (for example posted on the internet). Meeting agendas will also carry this message.
- (vii) Where the Chair of a meeting reasonably considers the broadcasting activity is disrupting the meeting, the operator of the equipment will be required to stop.

- (viii) Anyone refusing to stop when requested to do so may be requested by the Chair to leave the meeting. If the person refuses to leave the meeting then the Chair may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption. These will be in line with the disorderly conduct procedures set out in the Constitution.
- (ix) Where members of the public are involved in the meeting (e.g., when making representations to the Planning Control Committee), any member of the public may request that they are not filmed/recorded and the person carrying out the filming/recording must comply with the request and cease broadcasting activities until that person has finished their contribution to the meeting.
- (x) Where a recording is made that features a minor (under the age of 18), it is the recorder's responsibility to gain the permission of the appropriate parent/guardian, both for the initial recording and for any subsequent dissemination of it (e.g. on social media), and to ensure compliance with any prevailing legislation in relation to such activity.
- (xi) Any decision taken by the Chair on the interpretation of this Protocol is final.
- (xii) The media and public may only be excluded from a meeting in respect of business relating to confidential or exempt information if a resolution is passed under Section 100A of the Local Government Act 1972. The media and public will be told about the nature of the exclusion relating to the business to be discussed. No broadcasting activities will be permitted during this exclusion. All cameras, recording and sound equipment must then be removed from the meeting room for the duration of the confidential or exempt business.
- (xiii) Any audio or visual recording made which is broadcast or distributed in any way shall not be edited or otherwise manipulated so as to give a distorted or unrepresentative representation of the meeting or of any part of the meeting.
- (xiv) Anyone breaching this Protocol or refusing to comply with the Chair's requests may be refused permission to engage in broadcasting activities at future meetings.

# **Section 41**

## **Protocol for Conferring Honorary Titles**

### **1. Honorary Aldermen / Alderwomen**

#### **Criteria for Conferment**

- 1.1 The title of Honorary Alderman / Alderwoman is to only be awarded following retirement of a Councillor, either by choice or at the will of the electorate.
- 1.2 To be considered for the title of Honorary Alderman / Alderwoman, a retired Councillor must have served at least twelve years (three terms in office) on Cannock Chase District Council (though the terms do not need to be consecutive) and be considered to have rendered eminent services to the District.

#### **Process for Conferment**

- 1.3 Nominations for this award must be made in writing to the Chief Executive and should be received no later than two weeks prior to the Council's Annual General Meeting (AGM) in May.
- 1.4 Consideration to confer the title of Honorary Alderman / Alderwoman on retired Councillors will only be determined once per year, at a special meeting of the Council to be convened on the day of the Council's AGM in May (where necessary).
- 1.5 Nominations must be made by a serving Councillor on Cannock Chase District Council.
- 1.6 Following approval to confer the title, an address confirming the title of Honorary Alderman / Alderwoman will be presented by the Chair of the Council at a subsequent meeting of the Council.
- 1.7 Names of Honorary Aldermen / Alderwomen will be inscribed on an Honours Board located in the Civic Suite.

### **2. Freedom of the District / Freedom of Entry**

#### **Criteria for Conferment**

- 2.1 The person nominated to receive Freedom of the District would normally be resident in the District and should not be an existing Member of the Council.

- 2.2 Service to the community should be evidenced, and not merely, for example, just service to the Council.
- 2.3 There should be some personal sacrifice of time and energy generally involved beyond mere association with a particular service or employment.
- 2.4 There should be some personal or official connection with the District, or they should have rendered eminent services in connection with the District or from which the District has benefited to a greater extent than other boroughs or districts.
- 2.5 The uniformed organisation nominated to receive the Freedom of Entry should be connected with the District either through being based in the District or having a large number of recruits from the District.

### **Process for Conferment**

- 2.6 Nominations to award the titles of Freedom of the District / Freedom on Entry must be made in writing to the Chief Executive. Nominations can be submitted at any time during the year, provided that the Member making the nomination is confident that the relevant criteria have been met. It is however expected that no more than one such award would be granted in any one municipal year.
- 2.7 The nominee shall need to be approached prior to the consideration of a nomination by Council, in order to confirm their acceptance.
- 2.8 It is usual practice that the report recommending that Freedom of the District / Freedom of Entry be awarded is inclusive of a citation, together with a proposed resolution, should Council determine that the award be bestowed.
- 2.9 A velum scroll which is hand decorated, inscribed with the transcription and then sealed with the Council's Seal and freedom casket is commissioned for presentation to the individual or uniformed organisation by the Chair on behalf of the Council.
- 2.10 Names of those persons / uniformed organisations awarded the title of Freedom of the District / Freedom of Entry will be inscribed on an Honours Board located in the Civic Suite.

# Section 42

## Members' Allowance Scheme 2025-29

This document contains the scheme for Councillors' Allowances as approved by the Council for the period 1 April 2025 to 31 March 2029. Any amendment to the scheme requires the approval of the Council.

### Contents

|              |                                                              |
|--------------|--------------------------------------------------------------|
| Paragraph 1  | Introduction                                                 |
| Paragraph 2  | Explanation of Terms                                         |
| Paragraph 3  | Basic Allowance                                              |
| Paragraph 4  | Special Responsibility Allowances                            |
| Paragraph 5  | Renunciation                                                 |
| Paragraph 6  | Part-year Entitlements                                       |
| Paragraph 7  | Suspension or Partial Suspension of Councillors              |
| Paragraph 8  | Travel and Subsistence                                       |
| Paragraph 9  | Travel and Subsistence outside the U.K.                      |
| Paragraph 10 | Claims and Payments                                          |
| Paragraph 11 | Publicity                                                    |
| Schedule 1   | Basic, Special Responsibility and Other Allowances           |
| Schedule 2   | Approved Duties                                              |
| Annex 1      | Travel and Subsistence Allowance                             |
| Annex 2      | Travel and Subsistence Allowances                            |
| Annex 3      | Travel and Subsistence Allowances Outside the United Kingdom |
| Annex 4      | National Insurance Contributions                             |
| Annex 5      | Social Security Payments and Benefits                        |
| Annex 6      | Statutory Sick Pay                                           |

## **1. Introduction**

- 1.1 This Scheme, which may be cited as the Cannock Chase Council Members' Allowances Scheme, was approved by Cannock Chase Council at its meeting on 22 January 2025 in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003.
- 1.2 This Scheme replaces all previous Members' Allowances Schemes.
- 1.3 The Allowances mentioned in this scheme shall be implemented with effect from 1 April 2025 and shall run until 31 March 2029.
- 1.4 Any other amendments to the Scheme will be solely determined by the Council, following receipt of recommendations from the Independent Remuneration Panel.

## **2. Explanation of Terms**

- 2.1 In this scheme,

“Councillor” means a Councillor of Cannock Chase Council.

“Year” means the 12 months commencing from the Council's Annual General Meeting

## **3. Basic Allowance**

- 3.1 Subject to paragraph 6, for each year a basic allowance shall be paid to each Councillor, in accordance with the table at Schedule 1 to include a notional allowance for the provision of stationery, postage and indemnity insurance.

## **4. Special Responsibility Allowances**

- 4.1 For each year a special responsibility allowance, comprising component elements to be agreed by the Council, may be paid to those Councillors who hold the special responsibilities in relation to the authority that are specified in Schedule 1 to this scheme provided that a signed request form has been received by the Chief Executive from the Councillor confirming their wish to receive a special responsibility allowance.
- 4.2 Subject to paragraph 6, the amount of each such element shall be the amount specified against that special responsibility in that schedule.
- 4.3 With the exception of those Councillors in receipt of a Civic Allowance, Councillors shall be entitled to only one special responsibility allowance, with the single highest allowance being paid. Those Councillors in receipt of a Civic Allowance shall also be entitled to a special responsibility allowance, where appropriate.

## **5. Renunciation**

- 5.1 A Councillor may give notice in writing to the Chief Executive to elect to forego any part of their entitlement to an allowance under this scheme. For clarification, this may include entitlement to an annual increase.

- 5.2 A Councillor must give notice in writing to the Chief Executive to elect to forego any part of their entitlement, including any increases in Basic, Special Responsibility or Civic allowances payable under this Scheme. Any such requests must also specify the rate of Basic, Special Responsibility or Civic allowance the Councillor concerned wishes to continue receiving (where applicable).

## **6. Part-Year Entitlements**

- 6.1 The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility allowances where in the course of a year, this scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility is payable.

- 6.2 If an amendment to this scheme changes the amount to which a Councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:

- (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
- (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of days in the period bears to the number of days in the year.

- 6.3 If an amendment to this scheme changes the duties specified in schedule 2 to this scheme, the entitlement to an allowance shall be to the payment of the amount of the allowance under the scheme as it has effect when the duty is carried out.
- 6.4 Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which their term of office subsists bears to the number of days in that year.
- 6.5 Where this scheme is amended as mentioned in sub-paragraph 6.2, and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph 6.2(a), the entitlement of any such Councillor to a basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which their term of office as a Councillor subsists bears to the number of days in that period.

- 6.6 Where a Councillor has during part of, but not throughout, a year such special responsibilities as entitle them to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which they have such special responsibilities bears to the number of days in that year.
- 6.7 Where this scheme is amended as mentioned in sub-paragraph 6.2, and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph 6.2(a) of that paragraph any such special responsibilities as entitles them to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole same proportion as the number of days in that period during which they have such special responsibilities bears to the number of days in that period.

## **7. Suspension or Partial-Suspension of Councillors**

- 7.1 Where a Councillor or Independent Member is suspended or partially suspended from responsibilities or duties as a member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of the allowance payable (including travel and subsistence allowances) in respect of the period of suspension or partial suspension may be withheld by the Council.
- 7.2 Where payment of any allowance has already been made in respect of any period during which the member is concerned is:
- (i) suspended or partially suspended from responsibilities or duties as described above.
  - (ii) ceases to be a Member of the Council, or
  - (iii) is in any other way not entitled to receive the allowances in respect of that period.

the Council may require that such part of the allowance as they relate to any such period be repaid to the Council.

## **8. Travel and Subsistence**

- 8.1 Payment of allowances for travel and subsistence are not payable under this Scheme, but Councillors shall be entitled to receive payments by way of travelling allowance or subsistence allowance under the provisions of Section 174 of the Local Government Act, 1972, in connection with performing any of the approved duties set out in Annex 1 to this Scheme. The amounts of such payments and limits and conditions relating to them are set out in Annex 2 to this Scheme.
- 8.2 Such allowances will be payable at the same rates as those which can be claimed by Officers.

## **9. Travel and Subsistence Outside the UK**

- 9.1 Payment of travel and subsistence allowances for official duties outside the United Kingdom are not payable under the Scheme but travelling and subsistence allowances are payable under Section 174 of the Local Government Act, 1972 and are detailed in Annex 3.

## **10. Claims and Payments**

### **10.1 Payments shall be made:**

- (a) in respect of basic and special responsibility allowances, in instalments of one-twelfth of the amount specified in this scheme on the 25th of each month (20th December) by bank credit transfer (BACS).
- (b) in respect of travel and subsistence expenses, on the 25th of the month (20th December) following submission by a Councillor provided that submission is made to the Chief Executive by the 7th day of that month.

Where the 25th/20th falls on a non-banking day, payment will be made on the last banking day before.

- 10.2 Where a payment of one-twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the Councillor receiving more than the amount to which, by virtue of paragraph 6, they are entitled, the payment shall be restricted to such an amount as will ensure that no more is paid than the amount to which they are entitled.

## **11. Publicity**

- 11.1 Details of this scheme will be publicised within the Authority's area as soon as possible after the Council has agreed or amended the scheme.

- 11.2 As soon as practicable after the end of the year the Authority shall make arrangements for the publication, within the Authority's area, of the total payments of each allowance made to Councillors in accordance with Regulation 15 of the Local Authorities (Councillors Allowances) (England) Regulations 2003.

# Schedule 1

## Basic, Special Responsibility and Other Allowances

### Basic Allowance

The Basic Allowance for the years 2025-26, 2026-27, 2027-28, and 2028-29 is £5,706 of which £1,224 is included in this sum for the purchase of consumables by Councillors, such as stationery, postage, and the provision of indemnity insurance for work on outside bodies, which shall be arranged by each individual Councillor as they see fit.

### Special Responsibility Allowances and Civic Allowances

Special Responsibility Allowances and Civic Allowances for the years 2025-26, 2026-27, 2027-28, and 2028-29 shall be paid as follows:

#### Special Responsibility Allowances:

|                                                  |         |
|--------------------------------------------------|---------|
| Leader of the Council                            | £19,403 |
| Deputy Leader of the Council                     | £9,903  |
| Councillors of Cabinet                           | £8,578  |
| Leader of the Opposition                         | £7,260  |
| Chair of Planning Control Committee              | £4,619  |
| Chair of Scrutiny Committees                     | £2,138  |
| Chair of Licensing & Public Protection Committee | £1,982  |
| Chair of Audit & Governance Committee            | £1,982  |
| Councillors of Shadow Cabinet                    | £1,282  |

#### Civic Allowances:

|                           |        |
|---------------------------|--------|
| Chair of the Council      | £9,559 |
| Vice-Chair of the Council | £3,767 |

The nature of the allowances payable to the Council Chair and Vice-Chair are different in nature from the other allowances payable, due to the very much different role played by these Councillors as civic leaders. These are thus payable as “cash” sums, rather than the more salary-like basis of most other allowances.

### Independent Members

The payment to Independent Members with decision-making powers, such as those on the Standards Committee and the Independent Remuneration Panel, is £220 per annum.

### Carers Allowances

Councillors shall be reimbursed for the actual costs incurred as a result of providing care for children under the age of 14, persons over the age of 60 and people with disabilities or learning difficulties. Reimbursement will be at the National Living Wage rate in force at the time any such claim is made.

The person to be cared for should be someone who normally lives in the claimant's household who cannot be left unsupervised. In addition, the carer employed should not be someone who normally lives with the claimant. The allowance is payable for approved duties only as defined in the Members Allowances Regulations 2003.

## Schedule 2

### Approved Duties

Approved duties are prescribed as:-

- (a) Attendance of **appointed** Councillors at meetings of the Council, Cabinet, Committees, and other Council meetings.
- (b) Attendance of **appointed** Councillors at Special Meetings.
- (c) Attendance of **invited** Councillors at meetings.

Note: A payment shall be made only to Councillors **invited** to attend to participate by the Chair of the Committee etc., **prior** to the meeting and whose names are recorded in the Minutes as being present with an indication of the Chair's reasons for permitting participation.

- (d) Attendance at meetings that relate to the business of the Council i.e., presentations and events whereby all Councillors of the Council are invited to attend.
- (e) Attendance of at least two Group Leaders (or, where only one Group Leader exists, two Councillors) at meetings called by the Chief Executive. (Refer to Schedule 2(b)).
- (f) Attendance of Councillors appointed to deputations, site visits or like business, where prior approval by the Council/Committee has been granted.

Note: Eligible provided that the duty for which the attendance is paid shall have had prior approval by the Committee requiring the duty to be undertaken or, in exceptional circumstances, by the Chief Executive after consultation with the Chair of the Council.

- (g) Attendance at meetings by Councillors of the Cabinet in their capacity as Portfolio Leader.
- (h) Attendance at:
  - (i) Bodies of national, regional, or county standing which carry out directly related Council functions. The Councillor appointed to these bodies must be appointed to 'act' on behalf of the Council, which must form part of the list of bodies approved by Council and Cabinet.

**Note:** Although not part of this Scheme, attendance at approved Conferences will also qualify for payment of travelling expenses and subsistence under Section 175 of the Local Government Act, 1972. The approved Conferences are:

- (A) Local Government Association Annual Conference:  
Leader of the Council and the Chief Executive.

- (B) Chartered Institute of Public Finance and Accountancy:  
Leader of the Council and the S151 Officer.
- (C) Chartered Institute of Housing:  
Portfolio Leader with Housing matters in their portfolio responsibilities and the Head of Housing and Corporate Assets.
- (D) LGA Economic Regeneration Conference:  
Portfolio Leader with Economic Development & Planning matters in their portfolio responsibilities and the Head of Economic Development and Planning.
- (E) Chartered Institute for the Management of Sport & Physical Activity:  
Portfolio Leader with Sport matters in their portfolio responsibilities and the Head of Wellbeing.

## **Annex 1**

### **Travel and Subsistence Allowance**

Approved duties for the purposes of payment of travelling and subsistence allowances under Section 174 of the Local Government Act, 1972 shall be payable in respect of the following:-

- (a) All Approved Duties for the purposes of the Members' Allowances Scheme referred to in the Second Schedule to the scheme.
- (b) Attendance of Chair/Vice-Chair of the Council, Cabinet or Committees for Agenda discussion or on business of the Council, Committee or Sub-Committee.
- (c) Attendance of Councillors at Council offices on the business of the Council.
- (d) Attendance of Councillors on courses or seminars approved by the Council, Committee or Sub-Committee.
- (e) Bodies of local standing generally having statutory backing carrying out functions of a consultative nature but not necessarily being directly or indirectly related to local authority work.
- (f) The Executive Committee of the Staffordshire Parish Councils' Association.

## Annex 2

# Travel and Subsistence Allowances

### Travel

Councillors shall be paid car mileage rates in accordance with rates paid to Officers, including any local amendments to national rates. Current rates payable are:

| Engine Capacity                    | 451-999cc | Over 1000cc |
|------------------------------------|-----------|-------------|
| Claimable rate<br>(pence per mile) | 46.9p     | 52.2p       |

- (a) If Councillors use a taxi regularly to attend meetings and they live within easy access to a convenient bus route then reimbursement will only be made at the appropriate bus fare rate.
- (b) Journeys from the place of Council meetings to the place of work are considered to be for the purpose of attending work and reimbursement of travelling allowance will not be paid.

### Subsistence

Councillors shall be paid subsistence rates in accordance with rates paid to Officers, including any local amendments to national rates. Current rates payable are:

| Allowance Type                           | Maximum Claim Amount |
|------------------------------------------|----------------------|
| Breakfast                                | £5.89                |
| Lunch                                    | £8.11                |
| Tea                                      | £3.20                |
| Dinner                                   | £10.04               |
| Overnight Accommodation (Outside London) | £95.60               |
| Overnight Accommodation (London)         | £109.03              |

When refreshments/meals are provided at meetings subsistence should not be claimed.

### Other Travel and Subsistence

Councillors shall be paid in accordance with rates paid to Officers, including any local amendments to national rates.

The travel and subsistence allowances should be adjusted annually in line with those paid to Officers.

Note: Claims for travel and subsistence will not be approved unless accompanied with appropriate VAT receipts as proof of the expense being incurred.

## **Annex 3**

# **Travel and Subsistence Allowances Outside The U.K.**

1. For approved duties within the U.K. there are a series of subsistence allowances approved by the Secretary of State, dependent on the location, duration, and purpose of the duty.
2. However, the Secretary of State has no jurisdiction to determine subsistence rates abroad and each Local Authority must pay whatever it considers appropriate.
3. Accordingly, the Council has adopted the following scheme for the payment of subsistence on official duty outside the U.K.
4. Councillors of the Council and Officers who are required to undertake official duties outside the U.K. shall be entitled to the following travel and subsistence allowances:
  - (i) Full cost of all travel (to the extent that it is not met directly by the Council) from the Councillor's/Officer's home or office as appropriate to the place of duty, all necessary travel whilst engaged on the duty and return, such costs to be supported by appropriate receipts.
  - (ii) Full cost of accommodation for the duration of the duty (to the extent that it is not met directly by the Council), such costs to be supported by appropriate receipts.
  - (iii) The reasonable cost of all meals purchased (not including alcoholic beverages) such costs to be supported by appropriate receipts.
  - (iv) The commission charged on the necessary exchange of sterling into the appropriate foreign currency and the commission charged on the necessary exchange of the appropriate foreign currency back into sterling, such costs to be supported by appropriate receipts.
  - (v) The monetary loss as a consequence of differing exchange rates as a consequence of the exchange of the appropriate foreign currency into sterling, as identified on the exchange receipt and calculated by the Director of Resources.
  - (vi) The sum of £10 per day or part thereof to meet incidental, unidentified expenses.

The sterling equivalent of costs arising under (i), (ii) and (iii) above, when not in sterling, will be calculated using the exchange rate identified on the "out of sterling" currency exchange document

## **Annex 4**

### **National Insurance Contributions**

1. If a Councillor is paid Councillors' Allowance equalling or exceeding the lower earnings limit of £542 per month (2025/26 rate), as from 6th April 1997, there is a liability for Class 1 (earnings related) contributions.
2. The contributions are payable whether or not the Councillor has other employment or self-employment. There is an annual maximum for contribution liability for people with more than one job and in some instances a Councillor in this position may be entitled to a refund of contributions; alternatively, a Councillor may be able to apply to defer payment of contributions in their capacity as a Councillor.
3. Certain Councillors may be exempt from National Insurance either by virtue of age or already on the maximum rate elsewhere. If this is the case, the Councillor will need to provide the S151 Officer with an exemption certificate. Further, advice can be sought from the S151 Officer.

## **Annex 5**

### **Social Security Contributions and Benefits**

1. Payment of allowances will count as earnings for social security purposes. Councillors can be affected, therefore, both as contributors to the social security scheme and as beneficiaries. The above allowances will be chargeable to Schedule E for income tax and accordingly will give rise to liability for national insurance contributions unless the payments fall below the lower earnings limit.
2. These contributions can, of course, give rise to pension entitlement. As regards social security benefits, a number are subject to earnings rules, and can therefore be affected by the receipt of allowances. A Councillor who is receiving a particular benefit and is in doubt about how it may be affected is recommended to make enquiries at the local offices of the Department for Work and Pensions.

## **Annex 6**

### **Statutory Sick Pay**

1. Councillors who are in receipt of Councillors' Allowances are considered to be 'employed' by their authority and as such, may in certain circumstances be eligible to receive Statutory Sick Pay (SSP).
2. Where a Councillor wishes to make a claim for payment of SSP it is essential that there is a notification on the first day of absence due to sickness to the Human Resources Department. Further advice and documentation will then be issued.