



**Mansfield**  
District Council

# CONSTITUTION

This Constitution was last approved by Council in  
January 2018

Updated November 2024

## **HOW THE COUNCIL OPERATES**

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

The Constitution must comply with the law and much of its content is prescribed.

**Part 1** provides a summary of how the Council works:

- How the Council is governed.
- Its values.
- Residents' rights to find out about and take part in the Council's activities and decision-making.

**Part 2** sets out how the Council operates:

- The composition of the Council.
- The election of the Mayor, the appointment of the Deputy Mayor and their terms of office and roles.
- The election of Councillors and their terms of office and roles.
- The appointment of Members of the Executive and their roles.
- The rights and duties of the Mayor and the Councillors.
- Meetings of the full Council, the decisions that may or can only be taken by full Council, and the role of the Chair of the Council and the Deputy Chair.
- The non-executive Committees, the appointment and role of Committee Chairs, and the membership and terms of reference of the Committees.
- The arrangements under which some functions are discharged jointly with other authorities.
- The Overview and Scrutiny Committees, their role and terms of reference and the roles of their Chairs.
- Who takes executive and non-executive decisions, including "local choice" decisions (the Council can decide if these are executive or non-executive) and the principles by which the ability to take decisions is delegated.
- The principles that guide decision-making and the processes that must be followed.
- The role and responsibilities of Council officers, and the management structure.
- The roles and responsibilities of the Chief Executive and the statutory Head of Paid Service, Monitoring Officer and Chief Finance Officer.
- Financial rules, contracts and procurement and the sealing and signing of documents and notices.
- The maintenance, review and interpretation of the Constitution.

**Part 3** contains the detailed rules that govern the way the Council operates:

- The Scheme of Delegation to Officers
- Proper Officer functions
- Functions and Responsibilities of Portfolio Holders.
- Rules of Procedure for Council and Committee Meetings.
- Protocol on Filming Meetings.
- Access to Information Rules.
- Budget and Policy Framework Rules.
- Executive Procedure Rules.
- Overview and Scrutiny Procedure Rules.
- Councillor Call for Action.
- Financial Regulations.
- Contract and Procurement Regulations.
- Employment Procedure Rules.

**Part 4** contains the codes of conduct and protocols that govern the behaviour of its members and officers:

- Members' Code of Conduct.
- Local Code of Conduct for Councillors and Officers dealing with Planning Matters.
- Employees' Code of Conduct.
- Protocol for Member/Employee/Partner Relations.
- Whistleblowing Code.
- Anti-fraud and Corruption Strategy.
- Scheme of Members' Allowances.
- Management Structure Chart
- Community Engagement Policy.
- Names and addresses of Executive members
- Glossary

## **Part 1**

### **Summary and Explanation**

## **1. GENERAL PRINCIPLES**

### **1.01 WHAT IS THE CONSTITUTION?**

The Council's constitution sets out how the Council works, the roles of elected members and officers, and how decisions are taken and by whom. It contains the rules, codes of conduct and protocols that apply to ensure that these are efficient, transparent and accountable to local people.

### **1.02 THE SYSTEM OF GOVERNANCE**

The Council operates an "executive" system of governance under the Local Government Act 2000. The main features of the system are:

- The Mayor is elected by the people of Mansfield and Councillors are elected by the people in their wards.
- The Mayor chooses up to nine Councillors to form an Executive with the Mayor.
- The things that the Council does are called its "functions".
- The Executive is responsible for most of the Council's functions, called "executive functions".
- Some decisions must be taken at a meeting of the full Council.
- Some decisions are taken by committees of Councillors appointed by the full Council.
- Decisions taken by full Council or committees are called "non-executive functions".
- The Mayor decides who will take decisions on executive functions.
- Full Council or a committee decides who will take decisions on non-executive functions.
- Some decisions are taken by the people who work for the Council, who are called "officers".
- Officers may take decisions on executive or non-executive functions if they have been delegated.

Councillors who are not members of the Executive sit on Overview and Scrutiny Committees, which have an overview of the way executive functions are handled and can scrutinise executive decisions and may ask for them to be reviewed.

### 1.03

### **THE COUNCIL'S VALUES**

#### Excellence:

- Deliver high quality, efficient, customer focused services that meet the needs of our communities and are accessible to all.
- Be innovative and strive for continuous improvement.
- Challenge ourselves to transform and improve the services we provide.
- Evaluate performance and learn from experience.

#### Integrity:

- Be honest, open and transparent.
- Respect others and treat them fairly.
- Be professional and accountable for the decisions we make.
- Be visible, accessible and lead by example.
- Meet the needs of our communities, partners and employees through consideration and empathy for their emotional and physical well-being.
- Encourage good employment practice, effective employee development and a positive and enthusiastic workforce.

#### Teamwork:

- Develop working relationships based on trust.
- Collaborate and cooperate as one team to achieve shared goals.
- Create an inclusive environment and welcome challenge.
- Seek out new opportunities to work in partnership.
- Share skills, knowledge and experience.
- Provide leadership and be a positive influence.

#### Empower & Involve:

- Engage and consult our communities, partners and employees.
- Listen to and understand the views of others – encourage feedback.
- Empower others to make decisions, contribute ideas and get involved.

- Promote a culture of effective and consistent communication.
- Passion & Pride:
- Believe in yourself and the organisation.
- Demonstrate commitment and desire.
- Find joy and satisfaction in what you do – be happy.
- Be energised, positive and enthusiastic – be your best self.
- Champion the difference that we make to people's lives.
- Recognise achievement and celebrate it.

Underpinning our values and everything that we do is our commitment to equality. As an employer, service provider, corporate body and community leader we aim to treat everyone fairly and to strive to achieve equality for our diverse mix of communities.

#### **1.04        RESIDENTS AND THE COUNCIL**

- Residents have a number of rights when dealing with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights. Their general rights are as follows:

Residents on the Electoral Register for the area have the right to vote in elections and referendums and the right to sign a petition to request a referendum for a change in the Council's governance system (to a leader and cabinet system or a committee system).

- Residents have the right to attend meetings of the Council, its Committees, Sub-Committees and the Executive except where information which is confidential or exempt from public access is likely to be disclosed and the meeting is therefore held in private, under the Access to Information Rules in part 3 of this Constitution.
- Where a meeting is held in public, residents have the right to film or record the meeting. This should be done in accordance with the protocol on filming meetings in part 3 of this Constitution.
- Residents have the right to see reports and background papers, unless they are exempt or confidential, and any records of decisions made by the Council or the Executive, under the Access to Information Rules.

- Residents can make representations if it is proposed to hold a meeting in private to take a decision where confidential or exempt information is likely to be disclosed, under the Access to Information Rules.
- Residents can inspect the Council's accounts and make their views known to the external auditor, and they have the right to obtain information held by the Council under the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and, in relation to their own personal data, the Data Protection Act 1998.
- Residents can participate in Community Engagement arrangements established by the Council and its partners.
- Residents can submit a petition in line with the Council's approved petition scheme.
- Residents have the right to participate in question time at Council meetings and contribute to investigations by Overview and Scrutiny Committees, by invitation.
- Residents have the right to contact their local Councillor and the elected Mayor about any matters of concern to them.
- Residents have the right to complain to:
  - (i) the Council itself under its complaints procedure;
  - (ii) the Ombudsman;
  - (iii) the Monitoring Officer about a breach of the Member's Code of Conduct.

Where members of the public use specific Council services, for example as a Council tenant, they have additional rights, these are not covered in this Constitution.

All residents attending any meeting arranged by the Council, or at which Council representatives are present, are required to behave in a responsible manner.



## **Part 2**

### **How the Council operates**

## **2. THE MAYOR, COUNCILLORS AND THE EXECUTIVE**

### **2.01 COMPOSITION OF THE COUNCIL**

The Council is made up of 36 elected Councillors and the elected Mayor. Only voters or people living or working in the District can become a Councillor or the Mayor.

### **2.02 THE MAYOR**

The Mayor is elected by voters in the District. An election took place in 2019 and normally takes place every four years.

The Mayor's term of office is normally four years. The Mayor takes office four days after the election and stays in office until four days after the next Mayor is elected, unless he or she ceases to be Mayor.

The Mayor is responsible for all executive functions.

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| <b>Executive functions</b>  |
| All the Council's functions are executive functions <u>apart from</u> the non-executive functions described in the Tables in paragraph 2.06.1 |

The role of the Mayor includes the following:

- The Mayor is the first citizen of the District and takes precedence on formal occasions.
- The Mayor promotes the Council and public involvement in its activities. The Mayor acts as a focal point for the community.
- The Mayor carries out civic and ceremonial duties, or nominates a Councillor to attend on his or her behalf.

The functions of the Mayor include:

- Acting as the Council's principal public spokesperson.
- Giving overall strategic direction to the Council.
- Providing leadership within the Council and externally.
- Appointing the Executive and Deputy Mayor.
- Deciding on the scheme of delegation for executive functions.
- Chairing meetings of the Executive.

The Mayor is not a Councillor but, by law, is treated as a Councillor for some purposes.

In particular:

- The Mayor is subject to the same rules about qualification and disqualification as a Councillor, and similar rules about filling a vacancy in the office of Mayor by holding an election.

- The Mayor must follow the rules about the registration and disclosure of interests and comply with the Members' Code of Conduct and the Protocol for Member/Employee/Partner Relations.
- The Mayor may attend and speak at any meeting of the Council, its Committees and Sub-Committees, except that the Mayor may only speak at a meeting of an Overview and Scrutiny Committee or the Governance and Standards Committee when invited to do so. The Mayor may not vote at any meeting of Overview and Scrutiny Committee or the Governance and Standards Committee.
- The Mayor may be appointed as a voting member of any Committee or Sub-Committee, apart from an Overview and Scrutiny Committee or the Governance and Standards Committee.
- If the Mayor is a member of a political group, he or she is not taken into account when calculating seat allocations on Committees and Sub-Committees, if they have to reflect the political composition of the Council as a whole, with one exception. The exception is that, if the Mayor is a member of a Committee or Sub-Committee then, his or her membership is taken into account to calculate the total membership of the Committee or Sub-Committee under the rule which requires a group with a majority on the Council to have a majority on the Committee or Sub-Committee.
- The Mayor receives allowances in accordance the Members' Allowances Scheme set out in this Constitution.
- The Mayor may be indemnified or insured against personal liability if the law permits.

The title of Mayor may only be used by the elected Mayor. All references to "the Mayor" in this Constitution are to the elected Mayor.

### **2.02.1      THE DEPUTY MAYOR**

The Mayor appoints one of the Members of the Executive to act as Deputy Mayor at the first annual meeting of the Council after his or her election.

The Deputy Mayor holds office until the end of the Mayor's term of office unless he or she is no longer a Member of the Council or the Executive, resigns as Deputy Mayor, or is removed by the Mayor from the office of Deputy Mayor.

If for any reason the Mayor is unable to act, or the office of Mayor is vacant, the Deputy Mayor acts in his or her place until a new Mayor is elected or the Mayor is again able to act. If this is not possible, then the Executive must act in the Mayor's place, or arrange for a member of the Executive to do so.

## **2.03            COUNCILLORS**

The regular election of Councillors is held on the first Thursday in May every four years. The last elections were in 2019. One Councillor is elected by the voters of each ward.

The terms of office of Councillors start four days after their election and end four days after the date of the next regular election.

If a Councillor fails for six months to attend any meeting of the Council (or any Committee, Sub-Committee, or joint board) which he or she should have attended, under Section 85 of the Local Government Act 1972, that Councillor will cease to be a Member of the Council. Full Council can decide, before the end of the six month period that the Councillor may continue to be a Member of the Council despite the six months' absence.

All Councillors have the following roles:

- Participating in the decision-making processes of the Council.
- Representing the Council on outside bodies to which they have been appointed.
- Participating in training and development opportunities provided by the Council.
- Contributing to the good governance of the Council.
- Holding decision-makers to account.
- Representing their ward and the people in it and dealing with casework.

## **2.04            THE EXECUTIVE**

The Executive comprises the Mayor and at least two, but not more than nine, Councillors appointed by the Mayor.

Only Councillors may be appointed to the Executive. The following cannot be members of the Executive:

- co-opted, deputy or substitute Executive Members;
- the Chair of the Council; and
- the Vice-Chair of the Council.

Members of the Executive may not be members of an Overview and Scrutiny Committee.

The Mayor may choose to appoint Councillors from any political group on the Council or those not in a political group. The Executive need not reflect the political balance of the Council as a whole.

Members of the Executive will hold that office until their appointment is ended by the Mayor, they resign from the Executive or they are no longer a Councillor. The Mayor can appoint and dismiss Members of the Executive as he or she wishes.

If an Executive Member fails for six months to attend any meeting of the Executive (or an Executive Committee) which he or she should have attended, or to take Executive decisions which he or she should have taken personally, then under Section 85 of the Local Government Act 1972, that Member will cease to be a Member of the Council. Full Council can decide, before the end of the six month period that the Member may continue to be a Member of the Council despite the six months' absence.

The Mayor will report changes to the Executive to the Chief Executive immediately and to the next full Council meeting.

If all the Members of the Executive are unable to act for any reason, then the Council will appoint an interim Executive to discharge executive functions. "Unable to act" means either suspended from office or unfit to act on health grounds.

Proceedings of the Executive will take place in accordance with the Rules of Procedure for Executive Meetings and Decisions set out in part 3 this Constitution.

The role and functions of all Executive members include:

- Participating in the work of the Executive.
- Acting as lead member and spokesperson for the portfolio areas allocated to them.
- Taking and recording decisions under powers delegated by the Mayor.

## **2.05            RIGHTS AND DUTIES OF THE MAYOR AND COUNCILLORS**

The Mayor and Councillors:

- Have rights of access to documents, information, land and buildings of the Council where necessary for the proper discharge of their functions and in accordance with the law.
- Will not make public information which is confidential or exempt (as defined in the Access to Information Rules in Part 3 of this Constitution) without the consent of the Council, or divulge information given in confidence to anyone other than a Councillor, the Mayor or an Officer entitled to know it.
- Will observe the Members' Code of Conduct and the Protocol for Member/Employee/Partner Relations set out in this Constitution.
- Are entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 4 of this Constitution.
- Will uphold the Council's values and promote and maintain high standards of conduct.
- Will uphold the agreed Corporate Values of the Council.

- Represent the interests of the District as a whole, and as ward councillors represent the ward as a whole, including those who did not vote for them.
- Will actively encourage community participation and citizen involvement in decision-making.
- Should prepare for meetings by reading the agenda and reports and seeking clarification from officers if necessary.

The Mayor, Councillors and any Independent Members or Persons or co-opted Members discharging Council functions:

- May be the subject of police checks with the Disclosure and Barring Service.

## **2.06            FULL COUNCIL**

### **2.06.1        The Full Council**

The full Council is a meeting of all Councillors. The Mayor may attend, speak and vote at all Council meetings.

There are three types of full Council meeting: the annual meeting, ordinary meetings and extraordinary meetings arranged at short notice. There will be five ordinary meetings of Council per year.

Full Council provides a forum to debate important issues affecting the District

Full Council can discharge all the Council's non-executive functions, but it cannot discharge executive functions or take executive decisions. The list of "Non-executive functions" is fixed by law, principally the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. In outline, they are as follows.

Table 1

Non-executive functions

Functions relating to the following are non-executive. This list is purely descriptive and full details can be found in the legislation.

- (a) Town and country planning and development control, including enforcement and setting fees and charges.
- (b) Licensing and registration, including enforcement and setting fees and charges.
- (c) Health and Safety at work enforcement.
- (d) Elections.
- (e) Functions relating to the name and status of the area, and to community governance (parish and town councils).
- (f) Making standing orders.
- (g) Overview and scrutiny.
- (h) Making arrangements for the proper administration of the Council's financial affairs
- (i) Approving the statement of accounts, income and expenditure and balance sheet.
- (j) Appointing staff and determining their terms and conditions, including procedures for dismissal.
- (k) Smoke-free premises.
- (l) Pensions.
- (m) Footpaths, bridleways, rights-of-way and the like.
- (n) Sea fisheries, limestone pavement orders, closing orders for take-away food shops, the protection of hedgerows, the preservation of trees, high hedges, common land and village greens.

The following non-executive functions may only be discharged by full Council. Other non-executive functions can be delegated to Committees, Sub-Committees and Officers.

Table 2

Decisions reserved to Full Council

**The Constitution**

- a) Adopting and changing the Constitution, but:
  - (i) The Monitoring Officer may correct minor typographic errors, make minor changes (such as changes to the post titles of Officers, the Council's Management Structure and Financial Regulations) and update the Constitution to include changes approved by the appropriate body and any changes required by legislation.

- (ii) The written consent of the Mayor is required to changes in the Executive Arrangements other than a change which relates only to the operation of Overview and Scrutiny Committees.
- b) Approving the Scheme of Delegation to Officers, the Members' Code of Conduct and the Statement of Community Involvement.
- c) Adopting the Scheme of Members' Allowances.
- d) Appointing the Chair and Vice Chair of the Council.
- e) Approving the schedule of dates of meetings of Council.
- f) Agreeing or amending the terms of reference of Overview and Scrutiny Committees or Committees, including the terms of reference of any Area Committees relating to the discharge of non-executive functions.
- g) Appointing Committees including and appointing Independent Persons, Independent Members or co-opted members to them.

### **The Policy Framework and Budget**

- h) Approving or adopting the Policy Framework. That means the following plans and strategies:
  - (i) Corporate Plan and Annual Performance Report.
  - (ii) Long Term Financial Strategy
  - (iii) Medium Term Financial Strategy.
  - (iv) Development Plan documents including the Local Plan.
  - (v) Crime and Disorder Strategy.
  - (vi) Cultural Strategy.
  - (vii) Licensing Authority Statement of Principles (Gambling Act 2005).
- i) Approving the Budget. That means the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and setting virement limits.
- j) Making executive decisions which are contrary to the Policy Framework or contrary to, or not wholly in accordance with, the Budget, subject to an urgency procedure.

The procedure for preparing and agreeing the Policy Framework and the Budget, and the urgency procedure, are set out in Section 5 of Part 3 of this Constitution. The Executive prepares the documents and submits them to full Council for approval and there are arrangements for resolving disputes between them.

### **Planning and Licensing**



- k) Approving Interim Planning Guidance and Supplementary Planning Documents (if not Development Plan Documents).
- l) Adoption of Conservation Areas, Conservation Area Character Appraisals and Management Plans.
- m) Approving the Statement of Licensing Policy (Licensing Act 2003)

### **Outside Bodies**

- n) Appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Full Council.

### **Appointment and Dismissal of Statutory Officers**

- o) Confirming the appointment of the Chief Executive.
- p) Designating the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.
- q) Approving the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer, following a recommendation from the Personnel Committee. Before deciding whether or not to approve dismissal, account must be taken of:
  - (i) any advice, views or recommendations of the Independent Panel;
  - (ii) the conclusions of any investigation; and,
  - (iii) any representation from the Officer in question.

### **Other Functions**

- r) Approving a Housing Land Transfer. This means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.
- s) Agreeing joint arrangements for non-executive functions where the Council is to discharge the functions of another authority.
- t) Changing the name of the area.
- u) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.
- v) Determining the location of polling places and polling districts within the Council's electoral wards.
- w) Making a request for single member electoral areas.
- x) Changing governance arrangements.
- y) Making a reorganisation order implementing recommendations of a community governance review.
- z) Conferring the Freedom of the District.

- aa) Conferring the title of Honorary Alderman of the District.
- bb) All other matters which, by law, must be reserved to Full Council.

Full Council meetings will be conducted in accordance with the Rules of Procedure for Council and Committee Meetings set out in Part 3 of this Constitution.

## **2.06.2      The Chair of the Council**

The Chair and Vice-Chair of the Council will be elected by the Council annually.

The Chair of the Council has an important role to uphold the principles of the Constitution and to drive good governance amongst members of the Council.

The roles and functions of the Chair of the Council and, in his or her absence, the Vice-Chair are:

- To preside over meetings of the Council.
- To uphold and promote the purposes of the Constitution.
- To ensure the Council is a forum for debate of matters of interest to the local community and a place at which Councillors who are not on the Executive are able to hold the Executive members to account.

## **2.07      COMMITTEES**

The Council will appoint the following Committees with the responsibility for and to discharge the functions falling within their terms of reference.

- Planning Applications Committee
- Licensing Committee
- Governance and Standards Committee
- Personnel Committee
- Health and Safety Committee
- Appeals Committee

The Council may appoint other Committees, including Area Committees and Sub-Committees, to discharge non-executive functions. It shall specify the membership of the Committee and its terms of reference.

Committees may appoint sub-committees to discharge any functions within the terms of reference of the committee.

Committees may appoint a Vice-Chair to act as Chair of the committee in the absence of the Chair.

When the Council is divided into political groups, appointments to committees must reflect the political balance on the Council and give effect to the wishes expressed by the political groups.

Committee meetings will be conducted in accordance with the Rules of Procedure for Council and Committee Meetings set out in Part 3 of this Constitution.

Training: all members of the Planning Applications Committee, the Governance and Standards Committee, the Licensing Committee and the Personnel Committee will be required to undertake training in order to fulfil their role effectively.

The use of substitutes is permitted on all committees, however the use of substitutes is not permitted on the Licensing Committee. The Council will appoint the Members of all committees in accordance with the rules on political balance.

The Council will operate a system of “open” substitution, subject to the substitute being entitled to sit on the committee. Any Member who acts as a substitute for the Planning Applications Committee, the Governance and Standards Committee, or the Personnel Committee may only sit on the committee when they have received the compulsory training for members of those committees. Working groups: all committees (including overview and scrutiny committees) may set up informal working groups.

Such groups will be set up for specific items of work for a limited duration; they will not have decision making powers but will make recommendations to the relevant committee. The committee setting up such groups will set out terms of reference for their operation. These groups will not be subject to the access to information rules but the terms of reference will identify whether and to what extent their meetings will be held in public and papers will be published.

The membership of working groups will be determined by the committee but members of the working group need not be drawn solely from the membership of the committee and should be selected based on the individual’s knowledge of and/or interest in the issue which the working group is set up to consider.

#### **2.07.1      Committee Chairs**

The Chairs of Committees are appointed by full Council.

The role of a Chair is to chair meetings of the Committee and lead the work of the Committee.

#### **2.07.2      Appeals Panel**

An Appeals Panel of three Members for dealing with Appeals against dismissal and final warnings will be established from a pool of 12 Members appointed by Full Council

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#### **2.07.3      Governance and Standards Committee**

The Governance and Standards Committee is made up of 9 Elected Members. It may not include members of the Executive. It will also include two people (non-elected Independent Members) who are not Councillors or employees of the Council.

Non-elected Independent Members are appointed by full Council on the recommendation of the Governance and Standards Committee. The Committee must consider a report from a panel of Governance and Standards Committee members, appointed by the Committee, together with the Council's Chief Finance Officer or Monitoring Officer and Corporate Assurance Manager. Non-elected Independent Members are not entitled to vote at meetings of the Committee.

The Chair of the Governance and Standards Committee will be an Elected Member of the Council appointed by full Council.

| <b>Governance and Standards Committee Terms of Reference</b> |   |
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| (a)  | To consider the Corporate Assurance Manager's annual report and opinion.  |
| (b)  | To review the Internal Audit Plan, Internal Audit resources and progress with its achievement.  |
| (c)  | To consider the reports of the external auditor and relevant external inspectorates.  |
| (d)  | To monitor the implementation of agreed recommendations made by Internal and External Audit and relevant external inspectorates.  |
| (e)  | To commission work from Internal Audit, with the Chief Finance Officer and Corporate Assurance Manager.   |
| (f)  | To maintain an overview of the Council's Financial Rules, Contract and Procurement Rules and Employees' Code of Conduct.  |
| (g)  | To review any issue relevant to its purpose referred to it by the Head of Paid Service, the Monitoring Officer or Chief Finance Officer, Corporate Assurance Manager or appropriate Council body. |
| (h)  | To monitor the effective development and operation of internal control, risk management and corporate governance within the Council and within joint working and partnership arrangements.        |
| (i)  | To approve and monitor the Council's Whistleblowing Code and its Anti-fraud and Corruption Strategy.  |
| (j)  | To approve the Council's Statement of Accounts and the Annual Governance letter.  |
| (k)  | To approve the contents of the Council's Letter of Representation in respect of the Statement of Accounts.  |
| (l)  | To receive the external auditor's report on issues arising from the audit of accounts, approve the actions to be taken and ensure that these are addressed.                                       |
| (m)  | To review the contents and operation of the Council's: <ul style="list-style-type: none"> <li>•Annual Treasury Management Strategy</li> <li>•Minimum Revenue Provision Strategy</li> </ul>        |

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|      | <ul style="list-style-type: none"> <li>•Capital Strategy</li> <li>•Commerical Property Investment Strategy</li> <li>•Service Investment Strategy</li> </ul>   |
| (n)  | To review any issue relevant to its purpose in relation to the Nottinghamshire Pension Fund that affects the Council.   |
| (o)  | To monitor compliance with the Council's Contract Procedure Rules.  |
| (p)  | To promote and maintain high standards of conduct by the Mayor, Councillors and co-opted members.   |
| (q)  | To assist the Mayor and Councillors to observe the Members' Code of Conduct.  |
| (r)  | To advise the Council on the adoption or revision of the Members' Code of Conduct.  |
| (s)  | To monitor the operation of the Members' Code of Conduct and members' registration and declaration of interests.  |
| (t)  | To advise and arrange training for the Mayor, Councillors and co-opted members on matters relating to the Members' Code of Conduct.   |
| (u)  | To consider reports from the Monitoring Officer.  |
| (v)  | To assess and review complaints about members.  |
| (w)  | To review the arrangements for dealing with complaints about members and recommend any changes to Council.  |
| (x)  | To conduct hearings into complaints about members and determine or recommend appropriate sanctions.   |
| (y)  | To monitor compliance with the Council's Constitution and propose amendments to the Council.  |
| (z)  | To keep under review members' functions and responsibilities.   |
| (aa) | To promote awareness of the Members' Code of Conduct (including ensuring that the public are aware of its contents).  |
| (bb) | To promote similar standards in relationships with outside bodies.  |
| (cc) | To oversee the arrangements for ethical standards for any local councils in the area and to review the arrangements for dealing with complaints about members of local councils and recommend any changes to Council  |
| (dd) | To receive and review the annual report from the Local Government Ombudsman.  |
| (ee) | <p>The Committee will have the following roles and functions in respect of Trusts:</p> <ul style="list-style-type: none"> <li>(a) To ensure compliance with relevant Charity Law;</li> <li>(b) To make recommendations on, monitor and review the management, administration and associated arrangements for the day to day running of all the Charities of which the Council is the Sole Trustee;</li> </ul> |

- (c) To promote the purposes of the various Charities of which the Council is the Sole Trustee and ensure that the Charities are run in accordance with the relevant Trust purposes;
- (d) To oversee and manage programmes of Trust development;
- (e) To receive reports, accounts and requests from the relevant Advisory Groups;
- (f) To manage the financial affairs of the Trusts, including approving grant applications and fundraising opportunities: and
- (g) To report to Council annually on the management of the Trusts and seek approval of the Accounts.

#### **2.07.4      Health and Safety Committee**

The Health and Safety Committee shall comprise 7 elected Members of the Council advised by officers and 8 Trade Union Representatives.

| <b>Health and Safety Committee Terms of Reference</b> |
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- |  |
|--|
| <ul style="list-style-type: none"> <li>(a) To consider the circumstances of individual accidents and cases of notifiable diseases and the study of trends so that risks to Health and Safety can be identified and recommendations to control or eliminate such risks made to consider reports and factual information provided by Inspectors of the Health and Safety Executive.</li> <li>(b) To monitor the effectiveness of the safety content of employee training.</li> <li>(c) To monitor the adequacy of Safety and Health communications and publicity in the workplace.</li> <li>(d) To consider/appoint a Working Party to correlate information and report on specific items as and when required.</li> </ul> |
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#### **2.07.5      Independent Person Panel**

The Independent Person Panel is an advisory committee comprised of at least 2 of the Independent Persons appointed under section 28(7) of the Localism Act 2011 (to advise on member conduct allegations) by the Council or, where there are fewer than two such persons, such Independent Persons as have been appointed by another authority or authorities as the Council considers appropriate.

The Panel will be appointed from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order:

- (a) an Independent Person who has been appointed by the authority and who is a local government elector in the Council's area;

- (b) any other Independent Person who has been appointed by the authority;
- (c) a Independent Person who has been appointed by another authority or authorities.

One or more reserve members will be appointed to the Panel from Independent Persons who have been appointed under section 28(7) of the Localism Act 2011 by another authority or authorities. A reserve member will take the place of any member of the Panel who is unable to act for the duration of the Panel meeting in question, or any adjournment of it. If more than one reserve member is available for the meeting then selection will be by the alphabetical order of their surnames.

Council will appoint the Chair of the Panel provided that if the Chair is not present at a meeting then the appointment of a person to preside at the meeting will be the first item of business. Where there are equal votes cast at a meeting on any matter the Chair may exercise a second or casting vote.

The quorum for a meeting shall be 2 members of the Panel.

The terms of reference of the Independent Persons Panel shall be:

- (a) To advise the Council on matters relating to the dismissal of the officers designated as the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.
- (b) In respect of any disciplinary process involving the Head of Paid Service to appoint an Independent Investigator as stipulated in the Joint Negotiating Committee for Local Authority Chief Executives Conditions of Service Handbook.

## **2.07.6      Licensing Committee**

The Licensing Committee is made up of 11 Elected Members. It is appointed by full Council. The use of substitutes is not permitted on the Licensing Committee.

| <b>Licensing Committee Terms of Reference</b>  |
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| <p>To discharge the following licensing functions:</p> <ul style="list-style-type: none"> <li>(a) The registration of persons carrying on the business or practices of acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis and of premises used in connection with them under Part VIII of the Local Government (Miscellaneous Provisions) Act 1982.</li> <li>(b) The licensing of dog breeding establishments under the Animal Welfare (Licensing of Activities Involving Animals (England) Regulations 2018.</li> <li>(c) The licensing of riding establishments under the Animal Welfare (Licensing of Activities Involving Animals (England) Regulations 2018.</li> <li>(d) The licensing of pet shops under the Animal Welfare (Licensing of Activities Involving Animals (England) Regulations 2018</li> </ul> |

- (e) The licensing of animal boarding establishments under the Animal Welfare (Licensing of Activities Involving Animals (England) Regulations 2018.
- (f) The granting of a licence to keep a prescribed dangerous wild animal under the Dangerous Wild Animals Act 1976.
- (g) Licensing establishments for massage and/or special treatment under the Nottinghamshire County Council Act 1985.
- (h) To grant, renew and transfer licences and registrations or give consents or approvals for:
  - (i) Permits for House to House Collection under the House to House Collections Act 1939.
  - (ii) Permits for street collections under Police, factories etc. (Miscellaneous Provisions) Act 1916.
  - (iii) Private Hire Vehicles and Hackney Carriages under the Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Acts 1847 and 1889 and Public Health Act 1987.
  - (iv) Drivers of Hackney Carriages and Private Hire Vehicles under the Local Government (Miscellaneous Provisions) Act 1976, Public Health Act 1985 and Town Police Clauses Act 1847.
  - (v) Private Hire Operators under the Local Government (Miscellaneous Provisions) Act 1976.
  - (vi) New licences for Hackney Carriage Vehicles meeting the prescribed specification.
- (i) Licensing for Sex Establishments and regulation of Sexual Entertainment Venue Licences under the Local Government (Miscellaneous Provisions) Act 1982.
- (j) Licensing of Motor Salvage Operators under the Vehicle (Crimes) Act 2001 and the Motor Salvage Operators Regulations, 2002.
- (k) Licensing of Street Trading under Part III of the Local Government (Miscellaneous Provisions) Act 1982.
- (l) To discharge the following functions under the Licensing Act 2003:
  - (i) The licensing of applicants for Personal Licences.
  - (ii) The grant of premises licences/club premises certificates.
  - (iii) The grant of a provisional statement.



- (iv) The grant of an application to vary a premises licence/club premises certificate.
  - (v) The grant of an application to vary a designated premises supervisor.
  - (vi) The grant of a request to be removed as a designated premises supervisor.
  - (vii) The grant of an application for the transfer of a premises licence.
  - (viii) The determination of an application for a review of a premises licence/club premises certificate.
  - (ix) The grant of an interim authority.
  - (x) The acknowledgement of a temporary event notice.
  - (xi) Decisions to give a counter notice following police objections to a temporary event notice.
  - (xii) Decisions on whether a complaint or representation is irrelevant, frivolous, vexatious etc.
  - (xiii) Appointing authorised persons for inspection and enforcement roles.
  - (xiv) Determining applications for the mandatory alcohol condition requiring a Designated Premises Supervisor in respect of a Premises Licence to be disapplied.
- (m) To discharge the following functions under the Gambling Act 2005:
- (i) The grant of a premises licence, including applications for reinstatement.
  - (ii) The grant of an application to vary a Premises Licence.
  - (iii) The grant of an application to transfer a Premises Licence.
  - (iv) The grant of a provisional statement.
  - (v) The determination of an application for a review of a premises licence.
  - (vi) The rejection of all or part of an application for a review of a Premises Licence
  - (vii) Decisions on whether a complaint or representation is irrelevant, frivolous, vexatious etc.
  - (viii) The revocation of a Premises Licence for non-payment of the annual fee.
  - (ix) The determination of application for club gaming/club machine permits, renewals and variations.

### **2.07.7      Personnel Committee**

The Personnel Committee is comprised of 11 Elected Members. It is appointed by full Council.

| <b>Personnel Committee Terms of Reference</b>  |
|--|
| <ul style="list-style-type: none"><li>(a) In accordance with the Joint Negotiating Committee for Local Authority Chief Executives Conditions of Service Handbook in the event of a disciplinary process involving the Head of Paid Service to: (i) form an Investigating and Disciplinary Panel and to (ii) form an Appeals Panel provided that the same members shall not sit on both Panels in respect of each process and that one member of the executive shall sit on each Panel.</li><li>(b) To develop and approve the Council's human resources strategies, policies and officer terms and conditions of employment subject to the approval of any budget implications by the Executive and/or Council as appropriate.</li><li>(c) To approve and review the Council's Early Retirement and Redundancy Policy.</li><li>(d) To approve terms and conditions in respect of compensatory payments recommended under the policy for officers at the level of Head of Service and above.</li><li>(e) To consider requests from staff on grade 5 and above to undertake outside commitments (business or employment) in addition to their responsibilities contained within their contract of employment.</li><li>(f) To appoint the Chief Executive and make a recommendation to Council to approve the appointment before an offer of appointment is made to that person.</li><li>(g) To recommend to Council the designation of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.</li><li>(h) To appoint Strategic Directors and Assistant Directors</li><li>(i) To dismiss those Strategic Directors and Assistant Directors who are not Statutory Officers.</li><li>(j) To dismiss any of the Statutory Officers (the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer), subject to:<ul style="list-style-type: none"><li>i. compliance with the Local Authorities (Standing Orders) (England) Regulations 2001 as amended, and</li><li>ii. consideration by the Panel of Independent Persons, including in respect of the Head of Paid Service the appointment of an Independent Investigator, and</li><li>iii. approval by full Council before notice is given.</li></ul></li></ul> |

- (k) Following discussion with the HR Manager and with the agreement of the Monitoring Officer the Chair of the Committee may suspend the Head of Paid Service immediate in an emergency if an exceptional situation arises whereby allegations of misconduct by the Head of Paid Service are such that his/her remaining presence at work poses a serious risk to the health and safety of others or the resources, information or reputation of the council

Two members of the executive must be members of the Committee when it appoints or dismisses the Head of Paid Service, a statutory or non-statutory chief officer or a deputy chief officer as defined in the Local Authorities (Standing Orders) (England) Regulations 2001/3384. The Mayor shall be the Chair of the Committee.

## **2.07.8            Planning Applications Committee**

The Planning Applications Committee is made up of 11 Elected Members. It is appointed by full Council.

### **Planning Applications Committee Terms of Reference**

- (a) To determine applications for any approval, consent, licence, permission or registration under legislation relating to town and country planning, development control, listed buildings, conservation areas, trees, hedges or hedgerows where:
- (i) A member of the Council has requested that the application be reported to Committee.
  - (ii) The applicant is known to be a Member (or a relative of a Member) of the Council.
  - (iii) The applicant is known to be employed by the Council.
  - (iv) The Assistant Director - Planning and Regeneration considers that the application should be reported to Committee.
  - (v) A development proposal is a departure from specific planning policies of the Council.
  - (vi) The proposal is a major development scheme of the Council.
  - (vii) The application requires a major Section 106 Agreement or includes a condition that a Section 106 Agreement be entered into.
  - (viii) Where more than three objections in writing have been received by the Council which contain comments which are material planning considerations.
- (b) To confirm the making of a Tree Preservation Order.
- (c) To confirm the making of a Hedgerow Retention Order

- (d) To determine those applications where a request is made for a street to be named after a person or commercial organisation.

All other applications are delegated to the Assistant Director - Planning and Regeneration or his or her nominee.

## **2.08 JOINT ARRANGEMENTS**

### **2.08.1 Joint Arrangements Generally**

The Council may establish joint arrangements with other local authorities and/or their executives to exercise functions (which are not executive functions in any of the participating authorities) or advise the Council. The Mayor may establish joint arrangements for executive functions. Joint arrangements may include appointing joint committees.

Appointment of Members: Joint arrangements will normally take one of two forms: the appointment of a joint committee of two or more authorities, or the delegation of functions by one authority to another.

If the joint committee is to discharge non-executive functions, it must be appointed by full Council and appointments must reflect the political balance on the Council as a whole. If it is to discharge executive functions, it must be appointed by the Mayor. He or she can only appoint Executive Members to the joint committee (except where the joint committee involves five or more authorities or has to be set up under specific legislation). If it is to discharge a mix of non-executive and executive functions, it must be appointed by full Council with the agreement of the Mayor. In that case, if only one Member is appointed, he or she can be, but need not be, an Executive Member, but if more than one member is appointed then those appointed must include at least one Executive Member, and the political balance rules do not apply. There are special rules for joint area committees, where the membership may be determined by the location of wards instead of political balance.

The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority. The Mayor may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

The decision whether or not to accept the delegation of non-executive functions from another local authority shall be reserved to a full Council meeting.

The decision whether or not to accept the delegation of executive functions shall be taken by the Mayor.

The Mayor may contract-out executive functions to another body or organisation if this is allowed by an order under Section 70 of the Deregulation and Contracting Out Act

1994. Alternatively, the Mayor or the Executive may enter into arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's decision-making.

## **2.08.2 The Mansfield and District Joint Crematorium Committee**

The Mansfield and District Joint Crematorium Committee is responsible for providing, running, maintaining and managing the Crematorium at Derby Road, Mansfield, Nottinghamshire, jointly with Ashfield District Council and Newark and Sherwood District Council. This includes approving the annual capital and revenue budgets, setting fees and charges, and approving the Annual Statement of Accounts and the Statement on Internal Control. Matters relating to staff are, however, delegated to the Council's Head of Paid Service.

The Crematorium includes buildings, grounds, equipment and all other property connected to the Crematorium.

## **2.09 OVERVIEW AND SCRUTINY COMMITTEES**

### **2.09.1 Overview and Scrutiny Committees Generally**

**2.09.1.1** The Council will appoint three overview and scrutiny committees to discharge the functions conferred by Sections 9F to 9FI of the Local Government Act 2000 or regulations under the Act, described below.

**2.09.1.2** Overview and Scrutiny Committee – (Services and Communities) covers environmental health, housing, community safety, leisure, culture and licensing.

**2.09.1.3** Overview and Scrutiny Committee – (Place) covers regeneration, town centre, parks, street cleansing and waste and recycling.

**2.09.1.4** Overview and Scrutiny Committee – (Corporate Resources) covers the Council's finance, performance, improvement, corporate plan, people strategy, customer services functions and the Transformation Plan.

### **2.09.2 Role of Overview and Scrutiny Committees**

Within their terms of reference, Overview and Scrutiny Committees will:

- Review and scrutinise decisions made or actions taken in connection with the discharge of any executive or non-executive functions.
- Make reports and recommendations to the full Council or the Executive in connection with the discharge of any functions.
- Consider any matter affecting the area or its inhabitants.
- Appoint Sub-Committees to undertake overview and scrutiny functions.
- Approve an annual work programme for the Committee and for any Sub-Committees it appoints.

- Exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive.

Policy and Development: Overview and Scrutiny Committees may:

- Assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues.
- Conduct research and consultation to analyse policy issues and options.
- Encourage community participation in developing policy options.
- Question the Executive, Committees and Officers about their views and proposals.
- Liaise with external organisations.

Scrutiny: Overview and Scrutiny Committees may:

- Review and scrutinise the decisions and performance of the Executive, Committees and Officers both in relation to individual decisions and over a period of time.
- Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and service areas.
- Question members of the Executive, Committees and Officers about their decisions and performance both generally and in relation to particular decisions, initiatives or projects.
- Make recommendations to the Executive, Committees and full Council arising from scrutiny.
- Review and scrutinise the performance of other public bodies in the area and invite reports from them or request them to address the Overview and Scrutiny Committee about their activities and performance.
- Question and gather evidence from any person (with their consent).
- Consider a valid request for a matter to be considered by a Councillor pursuant to a call for action (further details can be found in the Overview and Scrutiny Procedure Rules in Part 3 of this Constitution).

Overview and Scrutiny Committees must report annually to full Council on their workings.

Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Committee Rules set out in Part 3 of this Constitution.

### **2.09.3 Joint Overview and Scrutiny**

The Council may enter into joint overview and scrutiny arrangements with other local authorities.

### **2.09.4 Chairs of Overview and Scrutiny Committees**

The Chairs of Overview and Scrutiny Committees are appointed by full Council.

The role of an Overview and Scrutiny Committee Chair is:

- To lead effective scrutiny and the work of the Overview and Scrutiny Committee.
- To be the link between the Overview and Scrutiny Committee and Executive members.
- To chair the Overview and Scrutiny Committee.
- To take a lead role in scrutinising decisions taken by the Executive within the Overview and Scrutiny decisions terms of reference
- To invite Executive Members and Officers to attend meetings of the Overview and Scrutiny Committees, co-ordinate the questions to be asked, submit a list of questions or issues in advance, and ensure that a summary of the discussion is circulated.

## **2.10            TAKING DECISIONS**

### **2.10.1        Who takes decisions?**

Decisions may be taken by the Executive or Officers in the exercise of executive functions, or by full Council, Committees, Sub-Committees or Officers in the exercise of non-executive functions.

Non-executive functions are those functions so described in legislation and outlined in Tables 1 and 2 in paragraph 2.06.1 of this Constitution. All other functions are executive functions.

The Council may decide whether certain “local choice” functions so described in the Regulations or other legislation are executive or non-executive. The list is set in the Constitution together with the allocation as an executive or non-executive function.

Decisions may only be taken by a body or Officer to whom the power to take that decision has been delegated.

### **2.10.2        Who can take Executive Decisions?**

The Mayor can take any executive decision.

The Mayor has delegated to Executive Members the powers to take decisions within the portfolios allocated to them. The Mayor must advise full Council of the delegations at the Annual Meeting of the full Council. If the Mayor changes these arrangements, he or she must advise the Chief Executive immediately and the Council at the next Council Meeting.

Each Portfolio Holder is fully responsible for and authorised to take any decisions in respect of the functions and services set out in the Table set out in Part 3 of this constitution.

However, without limiting the scope of that delegation:

- Decisions should not conflict with the Budget or the Policy Framework.

- There should be available budgetary provision.
- The Portfolio Holder is responsible for taking into account the implications of their decisions on the Council's policies and its legal obligations in relation to climate change and environmental sustainability, equality and diversity, human rights, freedom of information, risk and opportunity management and crime and disorder.

The Mayor has delegated to Officers full responsibility for and authority to take any executive decisions in respect of the functions and services set out in the Scheme of Delegation to Officers in Part 3 of the Constitution.

### **2.10.3      Which Decisions are Reserved to full Council?**

Only the full Council can exercise the functions set out in Table 2 in Paragraph 2.06.1 in this Constitution.

### **2.10.4      Who can take Non-Executive Decisions?**

Full Council can normally take any non-executive decision. There are some exceptions where legislation (for example the Licensing Act 2003) requires a committee to take certain types of decision. Committees discharging non-executive functions may take decisions and discharge functions on all matters within their terms of reference.

The Council has delegated to Officers full responsibility for and authority to take any non-executive decisions in respect of the functions and services set out in the Scheme of Delegation to Officers in Part 3 of this Constitution.

## **2.11      HOW ARE DECISIONS TAKEN?**

Principles: all decisions of the Council and the Executive will be made in accordance with the following principles:

- proportionality (the action must be proportionate to the desired outcome);
- due consultation;
- taking professional advice from Officers;
- respect for human rights;
- having due regard to their likely effect on, and the need to do all that it reasonably can to prevent, crime and disorder (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances and re-offending in its area;
- impact upon climate change;
- having regard to conserving biodiversity;
- having due regard to the impact upon equalities and meeting the general duties under the Equality Act 2010;
- a presumption in favour of openness; and
- clarity of aims and desired outcomes.



Options and reasons: the record of all executive decisions should include the options considered and the reasons for the decision.

Tribunals etc: the Council, the Mayor, a Councillor, a Committee, a Sub-Committee or an Officer acting as a tribunal, or determining the rights and obligations or the criminal responsibility of any person will follow a procedure which is fair, and meets the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

In taking and recording decisions:

- Full Council, Committees and Sub-Committees will comply with the Rules of Procedure for Council and Committee Meetings set out in Part 3 of this Constitution.
- The Executive and Officers taking executive decisions will comply with the Rules of Procedure for Executive Meetings and Decisions and the Rules for Budget and Policy Making set out in Part 3 of this Constitution.
- The Mayor, Executive Members, full Council, Committees, Sub-Committees and Officers will comply with the Access to Information Rules set out in Part 3 of this Constitution.

## **2.12 COUNCIL OFFICERS**

### **2.12.1 Council Officers**

The Council may appoint such Officers as it considers necessary to carry out its functions. Officers are usually Council employees, but this is not essential.

The Chief Officers of the Council are:

| <b>Post</b>                                    |
|--|
| Chief Executive Officer                        |
| Strategic Directors (2)                        |
| Assistant Director - Finance                   |
| Assistant Director - Health and Communities    |
| Assistant Director - Housing                   |
| Assistant Director - Law and Governance        |
| Assistant Director - People and Transformation |

|   |
|---|
| Assistant Director - Planning and<br>Regeneration |
| Assistant Director - Neighbourhood<br>Services    |

A structure chart is to be found in paragraph 4.08 of this Constitution.

Officers will comply with the Employees' Code of Conduct and the Protocol on Member/ Employee/Partner Relations set out in Part 3 of this Constitution.

The recruitment, selection and dismissal of employees will comply with the Employment Procedure Rules Part 3 of set out in this Constitution.

## **2.12.2      The Statutory Officers**

In compliance with its statutory duties, the Council will arrange for the appointment of officers designated as the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (sometimes referred to as the "Section 151 Officer").

Each has a personal statutory duty to make a report to full Council or the Executive in the circumstances described below. The duties of the Monitoring Officer and the Chief Finance Officer may be discharged by deputies appointed by them to act in their absence or illness.

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

The Chief Executive has been designated Head of Paid Service.

The Head of Paid Service may not be the Monitoring Officer but may be appointed Chief Finance Officer if the relevant criteria are met.

The Chief Executive as Head of Paid Service may report to Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of employees required for the discharge of functions and the organisation of employees.

### **The Monitoring Officer**

The Assistant Director - Law and Governance has been designated Monitoring Officer.

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

The Monitoring Officer:

- Must, after consulting the Head of Paid Service and Chief Finance Officer, report to the Full Council, or to the Executive in relation to an executive function, if he or she considers that any proposal, decision or omission has given or would give rise to unlawfulness or if (following an investigation by the Local Government Ombudsman) any decision or omission has given rise to maladministration. The Monitoring Officer may stop the proposal or decision being implemented until the report has been considered.
- Will contribute to the promotion and maintenance of high standards of conduct through the provision of support to the Governance and Standards Committee.
- Will deal with allegations that a Member or co-opted Member has failed to comply with the Members' Code of Conduct in accordance with the arrangements approved by the Council, including conducting or arranging investigations.
- Will ensure, as the "proper officer" for this purpose that executive decisions are made publicly available as soon as possible in accordance with the Access to Information Rules in the Constitution.
- Will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, employees and the public.

### **The Chief Finance Officer**

The Assistant Director - Finance has been designated as the Chief Finance Officer.

The Chief Finance Officer

- Must, after consulting the Head of Paid Service and the Monitoring Officer, report to the Full Council, or to the Executive in relation to an executive function, and to the Council's external auditor, if he or she considers 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.
- Has responsibility for the administration of the financial affairs of the Council.

- |   |
|---|
| <ul style="list-style-type: none"><li>▪ Will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.</li></ul> |
|---|

The Statutory Officers, in consultation with each other where appropriate, will advise Councillors and Officers on whether Executive decisions are within the budget and policy framework and on the scope of the Council's powers, whether an individual or a body has authority to take decisions, maladministration, financial impropriety, and probity.

The Council will provide each of the Statutory Officers with such employees, accommodation and other resources as are in the officer's opinion sufficient to allow their duties to be performed.

## **2.13            SCHEME OF DELEGATION TO OFFICERS AND PROPER OFFICER FUNCTIONS**

The scheme of delegation to Officers and the list of proper officer functions and designations is set out in Part 3 of this Constitution.

## **2.14            FINANCE, CONTRACTS AND LEGAL MATTERS**

**2.14.1**            The management of the Council's financial affairs must be conducted in accordance with the Financial Rules set out in Part 3 of this Constitution.

**2.14.2**            Every contract made by the Council will comply with the Contract and Procurement Rules set out in Part 3 of this Constitution.

### **2.14.3            Legal Proceedings**

Authority to institute, defend or participate in legal proceedings has been conferred on the Assistant Director - Law and Governance or his or her nominee, under the Scheme of Delegation to Officers set out in Part 3 of the Constitution. He or she may do so where it is necessary to give effect to decisions of the Council or in any case where he or she considers that it is necessary to protect the Council's interests.

### **2.14.4            Documents**

Any document which gives effect to a Council decision, and any statutory document, notice or order, may be signed by the officer to whom the relevant function has been delegated under the Scheme of Delegation to Officers set out in Part 3 of the Constitution or by the Assistant Director responsible for the relevant work area. He or she is hereby appointed "proper officer" for that purpose.

**2.14.5            The Common Seal of the Council** will be kept in a safe place in the custody of the Assistant Director - Law and Governance. A decision of the Council, or

any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Assistant Director - Law and Governance should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer or the Assistant Director - Law and Governance or some other person authorised by him or her and by one of the Chief Executive, a Strategic Director or the Assistant Director - Finance

## **2.15            MAINTENANCE, INTERPRETATION AND SUSPENSION OF THE CONSTITUTION**

### **2.15.1            Definitions**

In this Constitution “The Policy Framework” and “The Budget” have the meanings given in the Table 2 in Paragraph 3.1 of Part 2 of this Constitution.

The Local Government Act 2000 refers to the “executive arrangements” operated by the Council. This means the following parts of this Constitution:

- In Part 2: Sections 2.5, the Tables in 3.1, 4, 5, 6.1, 6.2, 6.3, 6.4 and (in so far as it relates to executive functions) 8.
- In Part 3: the Rules of Procedure for Executive Meetings and Decisions, Access to Information Rules, Rules for Budget and Policy Making and Overview and Scrutiny Procedure Rules.

### **2.15.2            Interpretation**

The Chair of the Council will rule on the interpretation of the Constitution at any meeting of full Council, and his or her ruling will not be challenged.

The Monitoring Officer will rule on the interpretation of the Constitution in any other circumstances

### **2.15.3            Maintaining, Reviewing and Changing the Constitution**

The Monitoring Officer will monitor and review the operation and contents of the Constitution and may recommend changes. He or she may attend and observe meetings, undertake an audit trail of a sample of decisions, record and analyse issues raised with him or her and compare the Council’s practice with that of authorities or best practice.

The Monitoring Officer may correct minor typographic errors, make minor changes (such as changes to the post titles of Officers, the Council’s Management Structure and Financial Regulations) and update the Constitution to include changes approved by the appropriate body and any changes required by legislation.

Other changes to the constitution must be approved by the full Council. Unless the change relates only to the operation of Overview and Scrutiny Committees, any

resolution of the full Council to approve a change will have no effect without the written consent of the elected Mayor.

Change from an elected Mayoral form of executive to another form of executive or to a committee system must be in accordance with Chapter 4 of Part 1A of the Local Government Act 2000.

Any proposed changes to the Constitution must be the subject of an impact assessment in line with the Council's Equalities Scheme to ensure equality of access to the information and that no discriminatory practices result for such changes.

#### **2.15.4        Suspension**

Part 2 of this Constitution may not be suspended. However, the Rules in Part 3 may be suspended by the full Council to the extent permitted within those Rules and the law.

A motion to suspend any Rules must not be moved without notice unless at least two thirds of the whole number of Councillors present. The extent and duration of suspension will be proportionate to the result to be achieved.

## **Part 3**

### **Rules, Procedures and Protocols to Support the Operation of the Council**

### 3.01 **SCHEME OF DELEGATION TO OFFICERS**

#### 3.01.1 The Chief Officers of the Council are:

| <b>Post</b>                                    | <b>Areas of responsibility</b>   |
|--|--|
| Chief Executive                                | Overall responsibility for the delivery of all Council services<br>Head of Paid Service<br>All staffing issues   |
| Strategic Director                             | To deputise for the Chief Executive whenever he/she is unable to act.<br><br>To assist the Chief Executive in the delivery of all Council services.    |
| Assistant Director - Finance                   | Section 151 Officer<br><br>Finance<br><br>Revenues and Benefits<br><br>Property Services   |
| Assistant Director - Planning and Regeneration | Design Services and Facilities Management<br><br>Development Management<br><br>Land Charges<br><br>Planning<br><br>Planning Policy<br><br>Regeneration |
| Assistant Director - Law and Governance        | Monitoring Officer<br><br>Audit<br><br>Democratic Services<br><br>Elections<br><br>Governance<br><br>Information Governance<br><br>Legal               |



|  |   |
|--|---|
|  | Health and Safety Shared Service<br>Procurement – Shared Service  |
| Assistant Director - Health and Communities    | Community Safety<br>Cultural Services<br>Environmental Health<br>Leisure<br>Licensing<br>Emergency Planning<br>Health and Wellbeing   |
| Assistant Director - Neighbourhood Services    | Cemeteries and Crematorium<br>Parks and Open Spaces<br>Street Cleansing<br>Transfer Station and Hermitage Lane Depot<br>Town Centre Services<br>Waste, Trade Waste and Recycling<br>Fleet |
| Assistant Director - People and Transformation | Business Transformation<br>Customer Services<br>Human Resources<br>Learning and Skills<br>IT<br>Marketing and Communications<br>Facilities Management                                     |
| Assistant Director - Housing                   | Housing<br>Housing Repairs<br>Homelessness  |

|  |   |
|--|---|
|  | Private Sector Housing<br>Strategic Housing |
|--|---|

**3.01.2 The Council and the Mayor have delegated authority** to the Chief Officers to act and take decisions in the discharge of non-executive and executive functions in accordance with this Scheme of Delegation.

**3.01.3 The Chief Officers have authority** within their areas of responsibility set out in Paragraph 3.01.1:

- To discharge the functions allocated to them or dealt with by them or their staff, except for matters specifically reserved to the Mayor, Executive Members, Committees or full Council. The allocation of responsibility for functions to any of these decision-making bodies does not limit a Chief Officer's authority unless this is stated to be the case or required by law.
- To implement decisions of the Council, the Executive, and the Council's committees and sub-committees in the discharge of the Council's functions.
- To take operational, managerial or professional decisions.
- To take all lawful action to deliver agreed strategies, plans and policies.
- To take decisions the effect of which is to grant or withdraw a permission or licence, affect the rights of an individual, award a contract or incur expenditure.
- Without exception, take decisions in emergencies, provided that it is lawful for them to do so.

**3.01.4 Chief Officers may use whatever means** they consider appropriate to discharge those functions allocated to them, including:

- incurring expenditure and collecting income
- engaging and deploying staff
- deploying other resources within their control;
- procuring other resources within or outside the Council.

**3.01.5 Chief Officers may authorise in writing** other Council officers within their directorates to act in their name in operational, managerial or professional matters.

**3.01.6 Chief Officers may nominate other Council officers** reporting to them and the nominated officers may then take decisions in the discharge of functions allocated to the Chief Officer in accordance with the nomination. The Chief Officer must keep a record of the nomination setting out the job title of the officer and the functions which the officer may discharge and provide a copy to the Democratic Services Manager for publication and inclusion within this Constitution. Failure to do so does not invalidate the nomination or the authority given. The nomination of an officer to discharge a function does not prevent the Chief Officer discharging the

function unless the nomination states that this is to be the case.

**3.01.7 Chief Officers and nominees must keep and publish** a record of decisions taken to comply with the Access to Information Rules in Part 3 of this Constitution and any statutory requirements.

**3.01.8 Without limiting the scope of the authority** given under this Scheme of Delegation.

- Decisions should not conflict with the Budget or the Policy Framework
- There should be available budgetary provision
- The Officer is responsible for taking into account the implications of their decisions on the Council's policies and its legal obligations in relation to climate change and environmental sustainability, equality and diversity, human rights, freedom of information, risk and opportunity management and crime and disorder.

**3.01.9 The functions allocated to Chief Officers** under this Scheme of Delegation are those functions which fall within their areas of responsibility. All Chief Officers can exercise the powers of other Chief Officers if the Chief Officer with responsibility for that function is unavailable for any reason.

**3.01.10 Some legislation requires or enables the Council** to appoint a "proper officer" for particular purposes. A list of the proper officer functions and who is responsible for carrying them out is set out at the end of this scheme of delegation.

**3.01.11 All Chief Officers are authorised to:**

**3.01.11.1 Put in place arrangements** and to make all necessary decisions for the management of the Directorate/Service to ensure the efficient delivering of services. All such decision must be made in accordance with the Financial Regulations, Procurement Rules and agreed policies and procedures.

**3.01.11.2 In consultation with the Head of Law and Governance** and Monitoring Officer or his or her representative, authorise the commencement of all legal proceedings on behalf of the Council.

**3.01.11.3 Seek planning permission** and all other permissions or consents for development to be undertaken by the Council.

**3.01.11.4 Enforce and investigate contraventions** of all legislation relating to the functions within their areas of responsibility.

**3.01.11.5 Grant authorisation** under Part II of the Regulation of Investigatory Powers Act 2000 for Directed Surveillance and the use and conduct of Covert Human Intelligence Sources.

**3.01.11.6 Deal with all matters relating to the recruitment,** appointment, remuneration, qualification, training, promotion, appraisal, and health and safety of, and the provision of welfare facilities to, all employees of the Council.

**3.01.11.7 Appoint, suspend, discipline and dismiss employees** and to deal with grievances raised by employees within their areas of responsibility having had regard for the advice of the Human Resources Manager.

**3.01.11.8 Have responsibility** for the management of the departmental budget/trading account.

**3.01.11.9 Dispose of surplus or obsolete equipment,** vehicles and write off stock up to a value of £10,000 in line with the Council's Financial Regulations. Any write off of stock in excess of this value is to be agreed between the Chief Officer and the Section 151 Officer.

**3.01.11.10 Award contracts** in line with the Council's Procurement Rules.

**3.01.11.11 Negotiate and approve,** in consultation with the Assistant Director - Law and Governance or his or her representative, any contract for the provision of services to an external agency in line with the Council's Procurement Rules.

**3.01.11.12 Set fees and charges** and reduce or waive them in particular cases.

**3.01.11.13 Accept or refuse any offer of grant,** donation or gift within the agreed Council Employee Code of Conduct for the acceptance of hospitality and gifts.

**3.01.11.14 Respond to consultations** and other issues raised by Central Government or other Local Authority Associations and other public or statutory bodies.

**3.01.11.15 Determine what action is to be taken** in respect of the occupation of land within the District of Mansfield by travellers and gypsies and to authorise the Assistant Director – Law and Governance to take such action as is necessary to secure the removal of the gypsies and travellers from that land where appropriate.

**3.01.11.16 Make minor amendments to policies** approved by members which do not have a significant impact on the operation of the current policy.

**3.01.11.17 Declare surplus any operational assets** used for the delivery of the functions for which they are responsible.

### **3.01.12 Chief Executive Officer**

**3.01.12.1 Designated Head of Paid Service** under Section 4 of the Local Government and Housing Act 1989.

**3.01.12.2 Authorised to discharge all the functions** and exercise all the powers delegated to Officers under this Scheme of Delegation.

**3.01.12.3 Responsible for the overall corporate** and operational management of the Council, including any service re-organisation, and authorised to approve re-structuring of the establishment below Assistant Director level.

**3.01.12.4 Authorises attendance** at conferences by members.

**3.01.12.5 Authorised to take all decisions** in relation to Council employees on behalf of the Council as an employer (save for any decisions reserved to elected members by law or by the Council's constitution).

**3.01.12.6 To approve all policies,** practices and procedures in relation to employees.

**3.01.12.7 To authorise** the recognition of trade unions.

### **Chief Executive Officer - Delegations**

#### **Strategic Directors**

Where the Chief Executive Officer is unable to act, the Strategic Directors are authorised to undertake all of the Chief Executive's duties and to act as Deputy Head of Paid Service.

#### **3.01.13 Strategic Directors**

**3.01.13.1** Appointed as Deputy Head of Paid Service for the Chief Executive when he/she is unable to act.

**3.01.13.2** Authorised to discharge all the functions and exercise all the powers delegated to Heads of Service under this Scheme of Delegation.

#### **3.01.14 Assistant Director - Finance**

**3.01.14.1 As Chief Finance Officer,** responsible for the administration of the Council's financial affairs for the purposes of section 151 of the Local Government Act 1972 and obliged to report under section 114 of the Local Government Finance Act 1988 on unlawful expenditure, unlawful action likely to cause loss or deficiency or an unlawful entry in the Council's accounts.

**3.01.14.2 Power to write off debts below £50,000** where all steps have been taken to recover the amount concerned. The total written off in any year to be reported to the Executive.

**3.01.14.3 Power to make, suspend, amend or cancel** Financial Regulations after consultation with the Chief Executive Officer and the relevant Portfolio Holder and reported to the Governance and Standards Committee.

**3.01.14.4 To make financial decisions** on behalf of the Council in accordance with the budget, the Financial Regulations and Contract Procedure Rules and relevant policies.

**3.01.14.5 To take all operational decisions** in respect of the Council's finance, revenues and benefits and procurement functions.

**3.01.14.6 To authorise the payment** of community grants on behalf of the Council in consultation with the Chief Executive Officer and the relevant Portfolio Holder.

**3.01.14.7 To authorise the sale of any property** owned by the Council which has been declared surplus up to a value of £150,000, provided that the sale is at best consideration reasonably obtainable.

**3.01.14.8 To agree terms of sale** authorised under articles 3.01.14.7 above or by Members and instruct the Assistant Director - Law and Governance to complete such sales.

**3.01.14.9 To authorise the acquisition of non-investment properties** by the Council, so long as budget provision is available.

**3.01.14.10 To authorise the appropriation of properties** owned by the Council to be held for different purposes.

**3.01.14.11 To take operational decisions** in respect of the Council's assets.

**3.01.14.12 To determine applications for hardship relief** under Section 49 of the Local Government Finance Act 1988.

#### **Assistant Director - Finance - Delegations**

In accordance with the Scheme of Delegation approved by Council on 24<sup>th</sup> January 2018 I delegate, in so far as such functions are permitted by the Council's policies and procedures to be exercised below the level of Chief Officer, the powers described under the heading "All Chief Officers are authorised to" in the Scheme of Delegation and listed below:-

#### **All Chief Officers are authorised to:-**

1. Put in place arrangements and to make all necessary decisions for the management of the Directorate/Service to ensure the efficient delivering of services. All such decision must be made in accordance with the Financial Regulations, Contract Procedure Rules and agreed policies and procedures.

2. In consultation with the Assistant Director - Law and Governance or his or her representative, authorise the commencement of all legal proceedings on behalf of the Council.
3. Seek planning permission and all other permissions or consents for development to be undertaken by the Council.
4. Enforce and investigate contraventions of all legislation relating to the functions within their areas of responsibility, including the serving of notices or other documentation where appropriate.
5. Grant authorisation under Part II of the Regulation of Investigatory Powers Act 2000 for Directed Surveillance and the use and conduct of Covert Human Intelligence Sources.
6. Deal with all matters relating to the recruitment, appointment, remuneration, qualification, training, promotion, appraisal, and health and safety of, and the provision of welfare facilities to, all employees of the Council.
7. Appoint, suspend, discipline and dismiss employees and to deal with grievances raised by employees within their areas of responsibility having had regard for the advice of the Human Resources Manager.
8. Have responsibility for the management of the departmental budget/trading account.
9. Dispose of surplus or obsolete equipment, vehicles and write off stock up to a value of £10,000 in line with the Council's Financial Regulations.. Any write off of stock in excess of this value is to be agreed between the Chief Officer and the Section 151 Officer.
10. Award contracts in line with the Council's Contract Procedure Rules.
11. Negotiate and approve, in consultation with the Assistant Director - Law and Governance or his or her representative, any contract for the provision of services to an external agency in line with the Council's Contract Procedure Rules.
12. Set fees and charges and reduce or waive them in particular cases.
13. Accept or refuse any offer of grant, donation or gift within the agreed Council Employee Code of Conduct for the acceptance of hospitality and gifts.
14. Respond to consultations and other issues raised by central government or other local authority associations and other public or statutory bodies.

15. Determine what action is to be taken in respect of the occupation of land within the District of Mansfield by travellers and gypsies and to authorise the Assistant Director - Law and Governance to take such action as is necessary to secure the removal of the gypsies and travellers from that land where appropriate.
16. Make minor amendments to policies approved by Members which do not have a significant impact on the operation of the current policy.
17. Declare surplus any operational assets used for the delivery of the functions for which they are responsible.

To the following officers:-

Benefits Manager  
Financial Services Manager  
Income and Collection Manager  
Corporate Asset Manager

I also delegate the specific powers described under my title of Assistant Director - Finance and listed below to:-

1. As Chief Finance Officer, responsible for the administration of the Council's financial affairs for the purposes of section 151 of the Local Government Act 1972 and obliged to report under section 114 of the Local Government Finance Act 1988 on unlawful expenditure, unlawful action likely to cause loss or deficiency of an unlawful entry in the Council's accounts.

To the Financial Services Manager or, if unavailable, to the Corporate Accountancy Manager.

2. Power to write off debts below £50,000 where all steps have been taken to recover the amount concerned. The total written off in any year to be reported to the Executive.

To the Financial Services Manager or, if unavailable, to the Corporate Accountancy Manager.

3. Power to make, suspend, amend or cancel Financial Regulations after consultation with the Chief Executive officer and the relevant Portfolio Holder and reported to the Governance and Standards Committee.

To the Financial Services Manager or, if unavailable, to the Corporate Accountancy Manager.



4. Power to make, suspend, amend or cancel the Procurement Rules after consultation with the Chief Executive Officer and the relevant Portfolio Holder and reported to Governance and Standards Committee.

To the Financial Services Manager

5. To make financial decisions on behalf of the Council in accordance with the budget, the Financial Regulations and Contract Procedure Rules and relevant policies.

To the Financial Services Manager or, if unavailable, to the Corporate Accountancy Manager.

6. To take all operational decisions in respect of the Council's procurement function.

To the Financial Services Manager

All of the above delegations are made upon the basis that any decisions of strategic significance or that are potentially contentious, will be discussed by the officer to whom the delegation is made, with one or more members of the Corporate Leadership Team.

In addition, I delegate the specific powers described in Paragraphs 1 – 7 below to the Corporate Asset Manager:

1. To authorise the issue of and serve any notices which the Council has power to serve in connection with all functions for which he or she is responsible
2. To authorise such Officers as he or she feels appropriate to exercise the relevant rights of entry, powers of inspection and/or powers of seizure or removal exercisable by the Council in connection with any functions for which he or she is responsible.
3. To take any enforcement action which the Council has power to take in connection with all functions for which he or she is responsible
4. To authorise the sale of any property owned by the Council which has been declared surplus up to a value of £150,000 provided that the sale is at best consideration reasonably obtainable.
5. To agree terms of sale authorised under point 4 above or by Members and instruct the Assistant Director - Law and Governance to complete such sales.
6. To authorise the acquisition of properties by the Council, so long as budget provision is available.

7. To authorise the appropriation of properties owned by the Council to be held for different purposes.

### **3.01.15 Assistant Director - Planning and Regeneration**

**3.01.15.1 To take all operational decisions** in respect of the Council's functions relating to development management, design services, land charges, planning, planning policy and regeneration.

**3.01.15.2 To authorise the issue of** and serve any notices which the Council has power to serve in connection with all functions for which he or she is responsible.

**3.01.15.3 To authorise such Officers** as he or she feels appropriate to exercise the relevant rights of entry, powers of inspection and/or powers of seizure or removal exercisable by the Council in connection with any functions for which he or she is responsible.

**3.01.15.4 To take any enforcement action** which the Council has power to take in connection with all functions for which he or she is responsible.

**3.01.15.5 To determine all applications** submitted pursuant to the Town and Country Planning Acts and related legislation except:

- a. Where a Member of the Council has requested within 21 days of receipt of the planning application that the application be reported to Committee
- b. Where the applicant is known to be a Member (or relative of a Member) of the District Council.
- c. Where the applicant is known to be an employee of the Council.
- d. Where the Assistant Director - Planning and Regeneration considers that the application should be reported to the Planning Applications Committee taking into account the public interest and any material considerations
- e. Where a development proposal is a significant departure from specific planning policies of the Council.
- f. Where the proposal is a "major" development scheme of the Council or a "major" development that does not have the benefit of an extant planning permission.
- g. Any major application requiring a Section 106 Agreement or that includes a condition that requires that a Section 106 Agreement be entered into.
- h. Where any objections in writing have been received by the Council which contain comments which are material planning considerations.
- i. Those applications which should be determined by the Assistant Director - Planning and Regeneration following consultation with the Chair of the Planning Applications Committee and a nominated member of that Committee.
- j. Those applications which should be determined by the Planning Applications Committee.

**3.01.15.6 Determination of the following applications** following consultation with the Chair of the Planning Applications Committee and one other Member of that Committee

- a. Non-major applications containing 3 objections or less (i.e. from different objectors with more than one letter received from the same objector being classified as one objection) which are material planning considerations and the proposals are considered to be acceptable.
- b. Major applications where an extant permission and/or Section 106 Agreement exists which covers the site and no more than three letters of objection (as defined previously) have been received.
- c. Refusal of any application where insufficient and/or inaccurate information has been received to enable a full and proper assessment of the proposal to be made.
- d. Refusal of prior approval/notification applications and applications for a certificate of lawfulness.
- e. Refusal of advertisements.
- f. Refusal of an application to remove or top/lop a tree (or trees) protected by a tree preservation order Refusal of planning permission where a proposed (non-major scheme) is considered contrary to development plan policy and/or development control guidelines and proposed major scheme where there has been a previous refusal for similar development,
- g. Approval of applications requiring that a Section 106 Agreement be entered into and the details of Section 106 Agreements required in connection with applications which do not have to be determined by the Planning Applications Committee. Where this involves a sum of money the sum should not exceed a maximum of £50,000.
- h. Approval of minor amendments to planning applications and Section 106 Agreements which have previously been referred to and accepted by the Planning Applications Committee.
- i. To grant any permissions (subject to paragraphs a-jh above) which fall within the functions for which he or she is responsible.

**Assistant Director - Planning and Regeneration - Delegations**

In accordance with the Scheme of Delegation approved by Council on 24 January 2018 I delegate, in so far as such functions are permitted by the Council's policies and procedures to be exercised below the level of Chief Officer, the powers described under the heading "All Chief Officers are authorised to" in the Scheme of Delegation and listed below:-

All Chief Officers are authorised to:-

1. Put in place arrangements and to make all necessary decisions for the management of the Directorate/Service to ensure the efficient delivering of services. All such decision must be made in accordance with the Financial Regulations, Procurement Rules and agreed policies and procedures.
2. In consultation with the Assistant Director - Law and Governance or his or her representative, authorise the commencement of all legal proceedings on behalf of the Council.
3. Seek planning permission and all other permissions or consents for development to be undertaken by the Council.
4. Enforce and investigate contraventions of all legislation relating to the functions within their areas of responsibility, including the serving of notices or other documentation where appropriate.
5. Grant authorisation under Part II of the Regulation of Investigatory Powers Act 2000 for Directed Surveillance and the use and conduct of Covert Human Intelligence Sources.
6. Deal with all matters relating to the recruitment, appointment, remuneration, qualification, training, promotion, appraisal, health and safety of and the provision of welfare facilities to, all employees of the Council.
7. Appoint, suspend, discipline and dismiss employees and to deal with grievances raised by employees within their areas of responsibility having had regard for the advice of the Human Resources Manager.
8. Have responsibility for the management of the departmental budget/trading account.
9. Dispose of surplus or obsolete equipment, vehicles and write off stock up to a value of £10,000 in line with the Council's Financial Regulations. Any write off of stock in excess of this value is to be agreed between the Chief Officer and the Section 151 Officer.
10. Award contracts in line with the Council's Contract Procedure Rules.
11. Negotiate and approve, in consultation with the Assistant Director - Law and Governance or his or her representative, any contract for the provision of services to an external agency in line with the Council's Contract Procedure Rules.

12. Set fees and charges and reduce or waive them in particular cases.
13. Accept or refuse any offer of grant, donation or gift within the agreed Council Employee Code of Conduct for the acceptance of hospitality and gifts.
14. Respond to consultations and other issues raised by central government or other local authority associations and other public or statutory bodies.
15. Determine what action is to be taken in respect of the occupation of land within the District of Mansfield by travellers and gypsies and to authorise the Assistant Director - Law and Governance to take such action as is necessary to secure the removal of the gypsies and travellers from that land where appropriate.
16. Make minor amendments to policies approved by Members which do not have a significant impact on the operation of the current policy.
17. Declare surplus any operational assets used for the delivery of the functions for which they are responsible.

To the following officers:-

Development Manager

I also delegate the specific powers described under my title of Assistant Director - Planning and Regeneration, again in so far as such functions are permitted by the Council's policies and procedures to be exercised below the level of Chief Officer, and listed below :-

1. To take all operational decisions in respect of the Council's functions relating to design services, regeneration, planning, planning policy, development management and land charges:

Paragraph 1 to:-

Design Services - Development Manager

9. To determine all applications and approve all minor amendments submitted pursuant to the Town and Country Planning Acts and related legislation except:
  - a) Where a member of the Council has requested that the application be reported to Committee.
  - b) Where the applicant is known to be a Member (or relative of a Member) of the Council.

- c) Where the applicant is an employee of the Council.
  - d) Where the Assistant Director - Planning and Regeneration considers that the application should be reported to Committee.
  - e) Where a development proposal is a significant departure from specific planning policies of the Council.
  - f) Where the proposal is a “major” development.
  - g) Where any objections in writing have been received by the Council which contain comments which are material planning considerations.
  - h) Those applications which should be determined by the Assistant Director - Planning and Regeneration following consultation with the Chair of the Planning Applications Committee and a member of that Committee.
  - i) Those applications which should be determined by the Planning Applications Committee.
10. Determination of the following applications below following consultation with the Chair of the Planning Applications Committee and a member of that Committee.
- a. Non-major applications containing 3 objections or less (i.e. from different objectors with more than one letter received from the same objector being classified as one objection) which are material planning considerations and the proposals are considered to be acceptable.
  - b. Major applications where an extant permission and/or Section 106 Agreement exists which covers the site and no more than three letters of objection (as defined previously) have been received
  - c. Refusal of any application where insufficient and/or inaccurate information has been received to enable a full and proper assessment of the proposal to be made.
  - d. Refusal of any prior approval/notification application and applications for a certificate of lawfulness..
  - e. Refusal of advertisements.
  - f. Refusal of an application for works to trees protected by a tree preservation order.
  - g. Refusal of planning permission where a proposed (non-major scheme) is considered contrary to development plan policy and/or development management guidance.

- h. Approval of non-major applications requiring a s106 Agreement be entered into and the details of s 106 Agreements required in connection with applications which do not have to be determined by the Planning Applications Committee. The value of any such agreement should not exceed £50,000.

Paragraphs 9 and 10 to:-

Team Leaders, Development Management

11. To take all respective operational decisions in respect of the functions for which he or she is responsible
12. To grant any permissions which fall within the functions for which he or she is responsible
13. To authorise the issue of and serve any notices which the Council has power to serve in connection with all functions for which he or she is responsible
14. To authorise such Officers as he or she feels appropriate to exercise the relevant rights of entry, powers of inspection and/or powers of seizure or removal exercisable by the Council in connection with any functions for which he or she is responsible.
15. To take any enforcement action which the Council has power to take in connection with all functions for which he or she is responsible.

Paragraphs 11 -15 to:-

Design Services - Development Manager

Property Services - Principal Surveyor & Asset Manager

All of the above delegations are made upon the basis that any decisions of strategic significance or that are potentially contentious, will be discussed by the officer to whom the delegation is made, with one or more members of the Corporate Leadership Team.

**3.01.16 Assistant Director - Law and Governance**

**3.01.16.1 Designated Monitoring Officer** under Section 5 of the Local Government and Housing Act 1989.

**3.01.16.2 Authorised to bring, defend or participate in all legal proceedings** and appeals in all courts or tribunals or the like, and to represent the Council, settle or enforce or take steps to comply with a judgement in all such proceedings. This includes determining whether or not to exercise the Council's powers under Section 222 of the Local Government Act 1972 (general power of local authorities to prosecute or defend legal proceedings) and participating in all kinds of alternative dispute resolution.

**3.01.16.3 To instruct Counsel** and external solicitors as appropriate

**3.01.16.4 Authorised to prepare, sign and seal all documents**, notices, consents, refusals, applications certificates, determinations and decisions required to give effect to decisions of or on behalf of the Council or the Executive.

**3.01.16.5 Authorised to administer** the Members' Allowances Scheme.

**3.01.16.6 Authorised to permit** the use of the shield and full coat of arms by any other body or person.

**3.01.16.7 Authorised to take all operational decisions** relating to Audit and Assurance, Democratic Services, the running of the Electoral Service, Governance, Information Governance, the Health and Safety Shared Service and Legal Services.

**3.01.16.8** Authorised to determine and grant individual dispensations under Section 33 of the Localism Act 2011.

**3.01.16.9 To authorise such Officers as he or she feels appropriate** to exercise the relevant rights of entry, powers of inspection, powers of investigation (including power to interview) and powers of seizure or removal exercisable by the Council in connection with any functions for which he or she is responsible.

**3.01.16.10 Power to make, suspend, amend or cancel** the Contract Procedure Rules after consultation with the Chief Executive Officer and the relevant Portfolio Holder and reported to the Governance and Standards Committee.

#### **Assistant Director - Law and Governance - Delegations**

In accordance with the Scheme of Delegation approved by Council on 24<sup>th</sup> January 2018 I delegate, in so far as such functions are permitted by the Council's policies and procedures to be exercised below the level of Chief Officer, the powers described under the heading "All Chief Officers are authorised to" in the Scheme of Delegation and listed below:-

All Chief Officers are authorised to:-

1. Put in place arrangements and to make all necessary decisions for the management of the Directorate/Service to ensure the efficient delivering of services. All such decision must be made in accordance with the Financial Regulations, Procurement Rules and agreed policies and procedures.
2. To authorise the commencement of all legal proceedings on behalf of the Council.



3. Seek planning permission and all other permissions or consents for development to be undertaken by the Council.
4. Enforce and investigate contraventions of all legislation relating to the functions within their areas of responsibility, including the serving of notices where appropriate.
5. Grant authorisation under Part II of the Regulation of Investigatory Powers Act 2000 for Directed Surveillance and the use and conduct of Covert Human Intelligence Sources.
6. Deal with all matters relating to the recruitment, appointment, remuneration, qualification, training, promotion, appraisal, health and safety of and the provision of welfare facilities to, all employees of the Council.
7. Appoint, suspend, discipline and dismiss employees and to deal with grievances raised by employees within their areas of responsibility having had regard for the advice of the Human Resources Manager.
8. Have responsibility for the management of the departmental budget/trading account.
9. Dispose of surplus or obsolete equipment, vehicles and write off stock up to a value of £10,000 in line with the Council's Financial Regulations. Any write off of stock in excess of this value is to be agreed between the Chief Officer and the Section 151 Officer.
10. Award contracts in line with the Council's Contract Procedure Rules.
11. Negotiate and approve any contract for the provision of services to an external agency in line with the Council's Contract Procedure Rules.
12. Set fees and charges and reduce or waive them in particular cases.
13. Accept or refuse any offer of grant, donation or gift within the agreed Council Employee Code of Conduct for the acceptance of hospitality and gifts.
14. Respond to consultations and other issues raised by central government or other local authority associations and other public or statutory bodies.
15. Determine what action is to be taken in respect of the occupation of land within the District of Mansfield by travellers and gypsies and to authorise the Assistant Director - Law and Governance to take such action as is necessary to secure the removal of the gypsies and travellers from that land where appropriate.

16. Make minor amendments to policies approved by Members which do not have a significant impact on the operation of the current policy.
17. Declare surplus any operational assets used for the delivery of the functions for which they are responsible.

To the following officers:-

Legal Services Manager  
Corporate Assurance Manager  
Democratic Services Manager  
Electoral Services Manager

I also delegate the specific powers described under my title of Assistant Director - Law and Governance and listed below to:-

1. Designated Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.

Not delegated under this Scheme but subject to separate, personal delegations.

2. Authorised to bring, defend or participate in all legal proceedings and appeals in all courts or tribunals or the like, and to represent the Council, settle or enforce or take steps to comply with a judgement in all such proceedings. This includes determining whether or not to exercise the Council's powers under Section 222 of the Local Government Act 1972 (general power of local authorities to prosecute or defend legal proceedings) and participating in all kinds of alternative dispute resolution.

Delegated to Legal Services Manager.

3. To instruct Counsel and external solicitors as appropriate.

As for point 2.

4. Authorised to prepare, sign and seal all documents, notices, consents, refusals, applications certificates, determinations and decisions required to give effect to decisions of or on behalf of the Council or the Executive.

As for point 2.

5. Authorised to administer the Members' Allowances Scheme.

Democratic Services Manager

6. Authorised to permit the use of the shield and full coat of arms by any other body or person.

## Democratic Services Manager

7. To take all operational decisions in respect of the Council's information governance function.

## Information Governance Manager

All of the above delegations are made upon the basis that any decisions of strategic significance or that are potentially contentious, will be discussed by the officer to whom the delegation is made, with one or more members of the Corporate Leadership Team.

### **3.01.17 Assistant Director - Health and Communities**

**3.01.17.1** To take all operational decisions in respect of the Council's community safety, cultural services, environmental health, leisure, licensing and health and wellbeing functions.

**3.01.17.2** To grant any permissions which fall within the functions for which he or she is responsible.

**3.01.17.3** To authorise the issue of and serve any notices which the Council has power to serve in connection with all functions for which he or she is responsible.

**3.01.17.4** To authorise such officers as he or she feels appropriate to exercise the relevant rights of entry, powers of inspection, powers of investigation (including power to interview) and powers of seizure or removal exercisable by the Council in connection with any functions for which he or she is responsible.

**3.01.17.5** To take any enforcement action which the Council has power to take in connection with all functions for which he or she is responsible.

**3.01.17.6** To make decisions on the granting, issuing, suspension and revocation of licences save where such decisions are reserved to Licensing Committee in the Licensing Policy.

### **Assistant Director - Health and Communities - Delegations**

In accordance with the Scheme of Delegation approved by Council on 24<sup>th</sup> January 2018 I delegate, in so far as such functions are permitted by the Council's policies and procedures to be exercised below the level of Chief Officer, the powers described under the heading "All Chief Officers are authorised to" in the Scheme of Delegation and listed below:-

**All Chief Officers are authorised to:-**

1. Put in place arrangements and to make all necessary decisions for the management of the Directorate/Service to ensure the efficient delivering of services. All such decision must be made in accordance with the Financial Regulations, Procurement Rules and agreed policies and procedures.
2. In consultation with the Assistant Director - Law and Governance and Monitoring Officer or his or her representative, authorise the commencement of all legal proceedings on behalf of the Council.
3. Seek planning permission and all other permissions or consents for development to be undertaken by the Council.
4. Enforce and investigate contraventions of all legislation relating to the functions within their areas of responsibility, including the serving of notices or other documentation where appropriate.
5. Grant authorisation under Part II of the Regulation of Investigatory Powers Act 2000 for Directed Surveillance and the use and conduct of Covert Human Intelligence Sources.
6. Deal with all matters relating to the recruitment, appointment, remuneration, qualification, training, promotion, appraisal, and health and safety of, and the provision of welfare facilities to, all employees of the Council.
7. Appoint, suspend, discipline and dismiss employees and to deal with grievances raised by employees within their areas of responsibility having had regard for the advice of the Human Resources Manager.
8. Have responsibility for the management of the departmental budget/trading account.
9. Dispose of surplus or obsolete equipment, vehicles and write off stock up to a value of £10,000 in line with the Council's Financial Regulations. Any write off of stock in excess of this value is to be agreed between the Chief Officer and the Section 151 Officer.
10. Award contracts in line with the Council's Procurement Rules.
11. Negotiate and approve, in consultation with the Assistant Director - Law and Governance or his or her representative, any contract for the provision of services to an external agency in line with the Council's Procurement Rules.
12. Set fees and charges and reduce or waive them in particular cases.

13. Accept or refuse any offer of grant, donation or gift within the agreed Council Employee Code of Conduct for the acceptance of hospitality and gifts.
14. Respond to consultations and other issues raised by Central Government or other Local Authority Associations and other public or statutory bodies.
15. Determine what action is to be taken in respect of the occupation of land within the District of Mansfield by travellers and gypsies and to authorise the Assistant Director - Law and Governance to take such action as is necessary to secure the removal of the gypsies and travellers from that land where appropriate.
16. Make minor amendments to policies approved by members which do not have a significant impact on the operation of the current policy.
17. Declare surplus any operational assets used for the delivery of the functions for which they are responsible.

I delegate the specific powers described under my title of Assistant Director - Health and Communities and listed below to:-

1. To grant any permissions which fall within the functions for which he or she is responsible.

Community Safety Manager  
Food, Health and Safety Manager  
Environment and Public Protection Manager

2. To authorise the issue of and serve any notices which the Council has power to serve in connection with all functions for which he or she is responsible.

Community Safety Manager  
Food, Health and Safety Manager  
Environment and Public Protection Manager

3. To authorise such officers as he or she feels appropriate to exercise the relevant rights of entry, powers of inspection, powers of investigation (including power to interview) and powers of seizure or removal exercisable by the Council in connection with any functions for which he or she is responsible.

Community Safety Manager  
Food, Health and Safety Manager  
Environment and Public Protection Manager

4. To take any enforcement action which the Council has power to take in connection with all functions for which he or she is responsible.

Community Safety Manager  
Food, Health and Safety Manager  
Environment and Public Protection Manager

5. To make decisions on the granting, issuing, suspension and revocation of licences save where such decisions are reserved to Licensing Committee in the Licensing Policy.

Licensing Manager

All of the above delegations are made upon the basis that any decisions of strategic significance or that are potentially contentious, will be discussed by the officer to whom the delegation is made, with one or more members of the Corporate Leadership Team.

### **3.01.18      Assistant Director - Neighbourhood Services**

**3.01.18.1      To take all operational decisions** in respect of the Council's functions in respect of car parks, cemeteries and crematorium, fleet, trade waste, waste, transfer station, Hermitage Lane depot, parks and open spaces, street cleansing, town centre management and waste and recycling.

**3.01.18.2      To authorise the issue of** and serve any notices which the Council has power to serve in connection with all functions for which he or she is responsible.

**3.01.18.3      To authorise such Officers** as he or she feels appropriate to exercise the relevant rights of entry, powers of inspection and/or powers of seizure or removal exercisable by the Council in connection with any functions for which he or she is responsible.

**3.01.18.4      To take any enforcement action** which the Council has power to take in connection with all functions for which he or she is responsible.

### **Assistant Director - Neighbourhood Services - Delegations**

In accordance with the Scheme of Delegation approved by Council on 24 January 2018 I delegate, in so far as such functions are permitted by the Council's policies and procedures to be exercised below the level of Chief Officer, the powers described under the heading "All Chief Officers are authorised to" in the Scheme of Delegation and listed below:-

All Chief Officers are authorised to:-

1. Put in place arrangements and to make all necessary decisions for the management of the Directorate/Service to ensure the efficient delivering of services. All such decision must be made in accordance with the Financial Regulations, Contract Procedure Rules and agreed policies and procedures.

2. In consultation with the Assistant Director - Law and Governance and Monitoring Officer or his or her representative, authorise the commencement of all legal proceedings on behalf of the Council.
3. Seek planning permission and all other permissions or consents for development to be undertaken by the Council.
4. Enforce and investigate contraventions of all legislation relating to the functions within their areas of responsibility, including the serving of notices or other documentation where appropriate.
5. Grant authorisation under Part II of the Regulation of Investigatory Powers Act 2000 for Directed Surveillance and the use and conduct of Covert Human Intelligence Sources.
6. Deal with all matters relating to the recruitment, appointment, remuneration, qualification, training, promotion, appraisal, and health and safety of, and the provision of welfare facilities to, all employees of the Council.
7. Appoint, suspend, discipline and dismiss employees and to deal with grievances raised by employees within their areas of responsibility having had regard for the advice of the Human Resources Manager.
8. Have responsibility for the management of the departmental budget/trading account.
9. Dispose of surplus or obsolete equipment, vehicles and write off stock up to a value of £10,000 in line with the Council's Financial Regulations. Any write off of stock in excess of this value is to be agreed between the Chief Officer and the Section 151 Officer.
10. Award contracts in line with the Council's Procurement Rules.
11. Negotiate and approve, in consultation with the Assistant Director - Law and Governance or his or her representative, any contract for the provision of services to an external agency in line with the Council's Procurement Rules.
12. Set fees and charges and reduce or waive them in particular cases.
13. Accept or refuse any offer of grant, donation or gift within the agreed Council Employee Code of Conduct for the acceptance of hospitality and gifts.
14. Respond to consultations and other issues raised by central government or other local authority associations and other public or statutory bodies.

15. Determine what action is to be taken in respect of the occupation of land within the District of Mansfield by travellers and gypsies and to authorise the Assistant Director - Law and Governance to take such action as is necessary to secure the removal of the gypsies and travellers from that land where appropriate.
16. Make minor amendments to policies approved by members which do not have a significant impact on the operation of the current policy.
17. Declare surplus any operational assets used for the delivery of the functions for which they are responsible.

Paragraphs 1-17 to the following Officers:-

Waste and Recycling Manager  
 Crematorium and Cemeteries Manager and Registrar  
 Fleet and Depot Manager  
 Public Spaces Manager

I also delegate the specific powers described under my title of Assistant Director - Neighbourhood Services, again in so far as such functions are permitted by the Council's policies and procedures to be exercised below the level of Chief Officer, and listed below to:-

1. To take all operational decisions in respect of the Council's functions in respect of car parks, cemeteries and crematorium, fleet, trade waste, waste, transfer station, Hermitage Lane depot, parks and open spaces, street cleansing, town centre management and waste and recycling.

Waste and Recycling Manager  
 Crematorium and Cemeteries Manager and Registrar  
 Fleet and Depot Manager  
 Public Spaces Manager

All of the above delegations are made upon the basis that any decisions of strategic significance or that are potentially contentious, will be discussed by the officer to whom the delegation is made, with one or more members of the Corporate Leadership Team.

### **3.01.19 Assistant Director - People and Transformation**

**3.01.19.1** To take all operational decisions in respect of the Council's business transformation, customer services, HR, IT, facilities management, marketing & communications and transformation functions.

**3.01.19.2** To grant any permissions which fall within the functions for which he or she is responsible.



**3.01.19.3** To authorise the issue of and serve any notices which the Council has power to serve in connection with all functions for which he or she is responsible.

**3.01.19.4** To authorise such officers as he or she feels appropriate to exercise the relevant rights of entry, powers of inspection, powers of investigation (including power to interview) and powers of seizure or removal exercisable by the Council in connection with any functions for which he or she is responsible.

**3.01.19.5** To take any enforcement action which the Council has power to take in connection with all functions for which he or she is responsible.

### **Assistant Director - People and Transformation - Delegations**

In accordance with the Scheme of Delegation approved by Council on 24 January 2018 I delegate, in so far as such functions are permitted by the Council's policies and procedures to be exercised below the level of Chief Officer, the powers described under the heading "All Chief Officers are authorised to" in the Scheme of Delegation and listed below:-

All Chief Officers are authorised to:-

1. Put in place arrangements and to make all necessary decisions for the management of the Directorate/Service to ensure the efficient delivering of services. All such decision must be made in accordance with the Financial Regulations, Contract Procedure Rules and agreed policies and procedures.
2. In consultation with the Assistant Director - Law and Governance and Monitoring Officer or his or her representative, authorise the commencement of all legal proceedings on behalf of the Council.
3. Seek planning permission and all other permissions or consents for development to be undertaken by the Council.
4. Enforce and investigate contraventions of all legislation relating to the functions within their areas of responsibility, including the serving of notices or other documentation where appropriate.
5. Grant authorisation under Part II of the Regulation of Investigatory Powers Act 2000 for Directed Surveillance and the use and conduct of Covert Human Intelligence Sources.
6. Deal with all matters relating to the recruitment, appointment, remuneration, qualification, training, promotion, appraisal, health and safety of and the provision of welfare facilities to, all employees of the Council.

7. Appoint, suspend, discipline and dismiss employees and to deal with grievances raised by employees within their areas of responsibility having had regard for the advice of the Human Resources Manager.
8. Have responsibility for the management of the departmental budget/trading account.
9. Dispose of surplus or obsolete equipment, vehicles and write off stock up to a value of £10,000 in line with the Council's Financial Regulations. Any write off of stock in excess of this value is to be agreed between the Chief Officer and the Section 151 Officer.
10. Award contracts in line with the Council's Contract Procedure Rules.
11. Negotiate and approve, in consultation with the Assistant Director - Law and Governance or his or her representative, any contract for the provision of services to an external agency in line with the Council's Contract Procedure Rules.
12. Set fees and charges and reduce or waive them in particular cases.
13. Accept or refuse any offer of grant, donation or gift within the agreed Council Employee Code of Conduct for the acceptance of hospitality and gifts.
14. Respond to consultations and other issues raised by central government or other local authority associations and other public or statutory bodies.
15. Determine what action is to be taken in respect of the occupation of land within the District of Mansfield by travellers and gypsies and to authorise the Assistant Director - Law and Governance to take such action as is necessary to secure the removal of the gypsies and travellers from that land where appropriate.
16. Make minor amendments to policies approved by members which do not have a significant impact on the operation of the current policy.
17. Declare surplus any operational assets used for the delivery of the functions for which they are responsible.

To the following officers:-

Business Transformation Manager

Customer Services Operations Manager

HR Manager

Marketing and Communications Manager

ICT and Infrastructure Manager

Corporate Asset Manager

I also delegate the specific powers described under my title of Assistant Director - People and Transformation, again in so far as such functions are permitted by the Council's policies and procedures to be exercised below the level of Chief Officer, and listed below to:-

1. To take all operational decisions in respect of the Council's functions relating to business transformation, customer services, HR and learning & skills, IT, Marketing & Communications and transformation.

To the following officers in respect to their operational areas:-

Business Transformation Manager  
Customer Services Operations Manager  
HR Manager  
Marketing and Communications Manager  
ICT and Infrastructure Manager  
Corporate Asset Manager

All of the above delegations are made upon the basis that any decisions of strategic significance or that are potentially contentious, will be discussed by the officer to whom the delegation is made, with one or more members of the Corporate Leadership Team.

### **3.01.20      Assistant Director - Housing**

**3.01.20.1      To take all operational decisions** in respect of the Council's homelessness, housing, housing repairs, private sector housing, strategic housing and housing property management functions.

**3.01.20.2      To grant any permissions** which fall within the functions for which he or she is responsible.

**3.01.20.3      To authorise the issue of and serve any notices** which the Council has power to serve in connection with all functions for which he or she is responsible.

**3.01.20.4      To authorise such Officers** as he or she feels appropriate to exercise the relevant rights of entry, powers of inspection, powers of investigation (including power to interview) and powers of seizure or removal exercisable by the Council in connection with any functions for which he or she is responsible.

**3.01.20.5 To take any enforcement action** which the Council has power to take in connection with all functions for which he or she is responsible.

**Assistant Director - Housing - Delegations**

In accordance with the Scheme of Delegation approved by Council on 24<sup>th</sup> January 2018 I delegate, in so far as such functions are permitted by the Council's policies and procedures to be exercised below the level of Chief Officer, the powers described under the heading "All Chief Officers are authorised to" in the Scheme of Delegation and listed below:-

**All Chief Officers are authorised to:-**

1. Put in place arrangements and to make all necessary decisions for the management of the Directorate/Service to ensure the efficient delivering of services. All such decision must be made in accordance with the Financial Regulations, Procurement Rules and agreed policies and procedures.
2. In consultation with the Assistant Director - Law and Governance and Monitoring Officer or his or her representative, authorise the commencement of all legal proceedings on behalf of the Council.
3. Seek planning permission and all other permissions or consents for development to be undertaken by the Council.
4. Enforce and investigate contraventions of all legislation relating to the functions within their areas of responsibility, including the serving of notices or other documentation where appropriate.
5. Grant authorisation under Part II of the Regulation of Investigatory Powers Act 2000 for Directed Surveillance and the use and conduct of Covert Human Intelligence Sources.
6. Deal with all matters relating to the recruitment, appointment, remuneration, qualification, training, promotion, appraisal, health and safety of and the provision of welfare facilities to, all employees of the Council.
7. Appoint, suspend, discipline and dismiss employees and to deal with grievances raised by employees within their areas of responsibility having had regard for the advice of the Human Resources Manager.
8. Have responsibility for the management of the departmental budget/trading account.
9. **Dispose of surplus or obsolete equipment**, vehicles and write off stock up to a value of £10,000 in line with the Council's Financial Regulations.. Any write

off of stock in excess of this value is to be agreed between the Chief Officer and the Section 151 Officer.

10. Award contracts in line with the Council's Contract Procedure Rules.
11. Negotiate and approve, in consultation with the Assistant Director - Law and Governance or his or her representative, any contract for the provision of services to an external agency in line with the Council's Contract Procedure Rules.
12. Set fees and charges and reduce or waive them in particular cases.
13. Accept or refuse any offer of grant, donation or gift within the agreed Council Employee Code of Conduct for the acceptance of hospitality and gifts.
14. Respond to consultations and other issues raised by central government or other local authority associations and other public or statutory bodies.
15. Determine what action is to be taken in respect of the occupation of land within the District of Mansfield by travellers and gypsies and to authorise the Assistant Director - Law and Governance to take such action as is necessary to secure the removal of the gypsies and travellers from that land where appropriate.
16. Make minor amendments to policies approved by Members which do not have a significant impact on the operation of the current policy.
17. Declare surplus any operational assets used for the delivery of the functions for which they are responsible.

To the following officers:-

Tenancy Services Manager  
Repairs and Asset Manager  
Private Sector Housing Manager  
Housing Needs Manager

I also delegate the specific powers described under my title of Assistant Director - Housing and listed below to:-

1. To take all operational decisions in respect of the Council's homelessness, housing, housing repairs, private sector housing, strategic housing and housing property management functions.

Tenancy Services Manager  
Repairs and Asset Manager

Private Sector Housing Manager  
Housing Needs Manager

2. To grant any permissions which fall within the functions for which he or she is responsible.

Tenancy Services Manager  
Repairs and Asset Manager  
Private Sector Housing Manager  
Housing Needs Manager

3. To authorise the issue of and serve any notices which the Council has power to serve in connection with all functions for which he or she is responsible.

Tenancy Services Manager  
Repairs and Asset Manager  
Private Sector Housing Manager  
Housing Needs Manager

4. To authorise such officers as he or she feels appropriate to exercise the relevant rights of entry, powers of inspection, powers of investigation (including power to interview) and powers of seizure or removal exercisable by the Council in connection with any functions for which he or she is responsible.

Tenancy Services Manager  
Repairs and Asset Manager  
Private Sector Housing Manager  
Housing Needs Manager

5. To take any enforcement action which the Council has power to take in connection with all functions for which he or she is responsible.

Tenancy Services Manager  
Repairs and Asset Manager  
Private Sector Housing Manager  
Housing Needs Manager

All of the above delegations are made upon the basis that any decisions of strategic significance or that are potentially contentious, will be discussed by the officer to whom the delegation is made, with one or more members of the Corporate Leadership Team.

### **3.02            PROPER OFFICER FUNCTIONS**

**3.02.1            The Council has appointed** the following Proper Officers for the purposes of the statutory provisions set out below.

**3.02.2 Subject to the Proper Officer appointments** set out below, the Chief Executive Officer, Strategic Directors, Monitoring Officer and Chief Finance Officer shall be authorised to act as the Proper Officer for the statutory responsibilities which fall within their area of responsibility.

**3.02.3 Substitutes are identified** to act where the Proper Officer is absent or otherwise unable to act.

**3.02.4 The Chief Executive Officer shall act as Proper Officer** in the place of the Town Clerk or Clerk to the Council where such references occur in any enactment passed during the 1971/72 session of parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972.

**3.02.5 The Public Health Act 1936**

| Section | Purpose of Appointment  | Proper Officer                    | Substitute   |
|---------|---|-----------------------------------|--|
| 84 & 85 | Cleansing of filthy or verminous articles, persons or clothing. To act as Proper Officer or to appoint alternate Proper Officers as may be required from time to time to discharge the Council's functions in relation to this act and all regulations made under this act. | Team Leader, Environmental Health | Medical Officer – Consultant in Communicable Disease Control (CCDC). |

**3.02.6 The National Assistance Acts 1948 and 1951**

| Section | Purpose of Appointment   | Proper Officer                    | Substitute   |
|---------|--|-----------------------------------|--|
| 47      | To act as Proper Officer or to appoint alternate Proper Officers as may be required from time to time to discharge the Council's functions with regard to certifying the necessity to remove persons to suitable accommodation | Team Leader, Environmental Health | Medical Officer – Consultant in Communicable Disease Control (CCDC). |

**3.02.7 The Public Health Act 1961**

| <b>Section</b> | <b>Purpose of Appointment</b>   | <b>Proper Officer</b>             | <b>Substitute</b>  |
|----------------|---|-----------------------------------|--|
| 37             | <p>Disinfestations of verminous articles offered for sale.</p> <p>To act as Proper Officer or to appoint alternate Proper Officers as may be required from time to time to discharge the Council's functions in relation to this act and all regulations made under this act.</p> | Team Leader, Environmental Health | <p>Medical Officer – Consultant in Communicable</p> <p>Disease Control (CCDC).</p> |

### **3.02.8      Local Government Act 1972**

| <b>Section</b> | <b>Purpose of Appointment</b>   | <b>Proper Officer</b>  | <b>Substitute</b>  |
|----------------|---|--|--|
| 83             | To witness and receive declarations of acceptance of the office of Elected Mayor, Chair and Vice Chair of the District Council and of District Councillors. | Chief Executive Officer  | Assistant Director - Law and Governance and Monitoring Officer |
| 84             | To receive written notice of the resignation from the office of Elected Mayor, Chair and Vice Chair of the District Council and of District Councillors.    | Chief Executive Officer  | Assistant Director - Law and Governance and Monitoring Officer |
| 88(2)          | To convene, if necessary, a meeting of the Council when the office of Chair of the Council is vacant.   | Assistant Director - Law and Governance and Monitoring Officer | Chief Executive Officer  |



|   |  |  |                             |
|---|--|--|-----------------------------|
| 89(1)(b)  | To receive written notice from two local government electors of a casual vacancy in the office of Councillor.  | Chief Executive Officer  | Electoral Services Manager  |
| 100B(2)<br>Inserted by Local Government (Access to Information Act 1985)    | To decide whether part or the whole of reports should be excluded from public inspection before a meeting if the meeting is likely not to be open to the public. | Assistant Director - Law and Governance and Monitoring Officer | Chief Executive Officer     |
| 100B(7)(c)<br>Inserted by Local Government (Access to Information) Act 1985 | To supply to the press additional material supplied to members of the Council in connection with the item to be discussed.                                       | Assistant Director - Law and Governance and Monitoring Officer | Chief Executive Officer     |
| 100C(2)<br>Inserted by Local Government (Access to Information) Act 1985    | To prepare a written summary of proceedings taken by Council or a Committee in private.  | Assistant Director - Law and Governance and Monitoring Officer | Democratic Services Manager |
| 100D(1)<br>Inserted by Local Government (Access to Information) Act 1985    | To compile a list of background papers to a report to a Committee.   | Report Author  |                             |
| 100D(5)(a)<br>Inserted by Local Government (Access to                       | Identifying background papers of reports.  | Report Author  |                             |

|                          |  |  |  |
|--------------------------|--|--|--|
| Information)<br>Act 1985 |  |  |  |
| 100F(2)                  | Identifying which documents contain exempt information not open to inspection by members of the Council.   | Assistant Director - Law and Governance and Monitoring Officer | Deputy Monitoring Officer                                      |
| 115(2)                   | To receive from every officer of the Council all money committed to his/her charge in connection with his/her office in accordance with the Council's Financial Regulations. | Assistant Director - Finance                                   | Financial Services Manager                                     |
| 146                      | To sign the statutory declaration to enable the transfer of securities in the event of a change in the name or status of the Local Authority.                                | Assistant Director - Finance                                   | Financial Services Manager                                     |
| 151                      | Responsibility for the administration of the Council's financial affairs.  | Assistant Director - Finance                                   | Financial Services Manager                                     |
| 191                      | To receive applications made under Section 1 of the Ordnance Survey Act 1841 for assistance in surveying disputed boundaries.  | Assistant Director - Planning and Regeneration                 | Head of Law and Governance and Monitoring Officer              |
| 210                      | To exercise certain residual functions relating to charities.  | Chief Executive Officer  | Democratic Services Manager                                    |
| 225                      | To receive and retain documents deposited with the Local Authority.  | Chief Executive Officer  | Assistant Director - Law and Governance and Monitoring Officer |

|                                   |   |  |  |
|-----------------------------------|---|--|--|
| 229                               | To certify, for the purpose of any legal proceedings, that a document is a photographic copy of the original document.                                      | Assistant Director - Law and Governance and Monitoring officer | Chief Executive Officer  |
| 234                               | To sign any notice, order or other document on behalf of the Authority, any document purporting to be so signed being deemed to be issued by the Authority. | Assistant Director - Law and Governance and Monitoring Officer | Chief Executive Officer  |
| 236                               | To send to the Parish Council, where they apply, a copy of every byelaw made by the Council and confirmed by the Secretary of State.                        | Assistant Director - Law and Governance and Monitoring Officer | Democratic Services Manager                                    |
| 238                               | Certification of copy of byelaws.   | Chief Executive Officer  | Assistant Director - Law and Governance and Monitoring Officer |
| Schedule 12<br>Paragraph 4 (2)(b) | To sign and send to all members of the Council the summons to attend meetings of the Council, specifying the business to be transacted.                     | Assistant Director - Law and Governance and Monitoring Officer | Democratic Services Manager                                    |
| 4(3)                              | Receiving notice from a member of the address to which a summons to the meeting is to be sent.  | Assistant Director - Law and Governance and Monitoring Officer | Democratic Services Manager                                    |

|             |  |                         |                            |
|-------------|--|-------------------------|----------------------------|
| Schedule 29 | To undertake those duties which arise at District and Parish Council elections which, under the Representation of the People Acts, are required to be undertaken not by the Returning Officer but by the "Proper Officer". | Chief Executive Officer | Electoral Services Manager |
|-------------|--|-------------------------|----------------------------|

### **3.02.9      Local Government Act 1974**

| <b>Section</b> | <b>Purpose of Appointment</b>  | <b>Proper Officer</b>   | <b>Substitute</b>  |
|----------------|--|-------------------------|--|
| 30(5)          | Giving public notice of receipt of report by a Local Commissioner (Ombudsman). | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |

### **3.02.10      Local Government (Miscellaneous Provisions) Act 1976**

| <b>Section</b> | <b>Purpose of Appointment</b>   | <b>Proper Officer</b>  | <b>Substitute</b>       |
|----------------|---|--|-------------------------|
| 41             | To certify copy resolutions, orders, reports and minutes and copy instruments appointing officers to perform certain functions. | Assistant Director - Law and Governance and Monitoring Officer | Chief Executive Officer |

### **3.02.11      Highways Act 1980**

| <b>Section</b> | <b>Purpose of Appointment</b>   | <b>Proper Officer</b>                          | <b>Substitute</b>       |
|----------------|---|--|-------------------------|
| 205(3) & (5)   | To undertake duties in relation to private street works.                      | Assistant Director - Planning and Regeneration | Chief Executive Officer |
| 210(2)         | To certify any amendments to estimated costs and provisional apportionment of | Assistant Director - Planning and Regeneration | Chief Executive Officer |

|  |  |  |                         |
|--|--|--|-------------------------|
|  | costs of street works under the private street works code.   |  |                         |
| 211(1),<br>212(4),<br>216(2), &<br>(3) | To make a final apportionment of expenses of street works executed under the private street works code as detailed in the Schedules. | Assistant Director - Planning and Regeneration | Chief Executive Officer |
| Section 295                            | Issuing a notice requiring owners to remove materials from non-maintainable streets in which works are due to take place.            | Assistant Director - Planning and Regeneration | Chief Executive Officer |
| Section 321                            | Authentication of notices, consents, approvals, orders, demands, licences, certificates or other documents.                          | Assistant Director - Planning and Regeneration | Chief Executive Officer |

### **3.02.12      Representation of the People Act 1983**

| <b>Section</b> | <b>Purpose of Appointment</b>                                 | <b>Proper Officer</b>   | <b>Substitute</b>  |
|----------------|---|-------------------------|--|
| 8(2)           | Registration Officer.   | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |
| 35             | Returning Officer.  | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |
| 67             | Giving public notice of the appointment of an Election Agent. | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |

|     |   |                         |  |
|-----|---|-------------------------|--|
| 131 | Providing accommodation for holding election court. | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |
|-----|---|-------------------------|--|

### 3.02.13 Public Health Control of Disease Act 1984

| Section      | Purpose of Appointment   | Proper Officer   | Substitute   |
|--------------|--|--|--|
| 37           | Removal to hospital.   | Team Leader, Environmental Health to act as Proper Officer or appoint alternate Proper Officers as may be required from time to time to discharge the Council's functions. | Medical Officer – Consultant in Communicable Disease Control (CCDC). |
| 38           | Detention in hospital.   |  |  |
| 40           | Medical examination of inmates.  |  |  |
| 41           | Removal to hospital from lodging house.  |  |  |
| 42           | Closure of common lodging house.   |  |  |
| 43           | Person dying in hospital with notifiable disease.                                    |  |  |
| 61           | Powers to enter premises   |  |  |
| 62           | Supplementary Provisions for Entry   |  |  |
| Regulation 2 | Duty to notify suspected disease, infection or contamination in dead person patients | Team Leader, Environmental Health  | Appropriate Medical Officers/Consultant in Communicable Disease      |
| Regulation 3 | Duty to notify suspected disease, infection or Contamination in dead person.         | Team Leader, Environmental Health  | Appropriate Medical Officers/Consultant in Communicable Disease      |

|              |   |                                   |   |
|--------------|---|-----------------------------------|---|
| Regulation 4 | Duty on local authority to disclose information to others | Team Leader, Environmental Health | Appropriate Medical Officers/Consultant in Communicable Disease |
|--------------|---|-----------------------------------|---|

### 3.02.14 **The Parish and Community Meetings (Polls) Rules 1987**

(si 1987/1)

| Regulation | Purpose of Appointment            | Proper Officer          | Substitutes                |
|------------|-----------------------------------|-------------------------|----------------------------|
| 6(b)       | Any references to Proper Officer. | Chief Executive Officer | Electoral Services Manager |

### 3.02.15 **The Public Health (Infectious Diseases) Regulations 1988**

(si 1988/1546)

| Regulation | Purpose of Appointment                  | Proper Officer                    | Substitutes   |
|------------|---|-----------------------------------|---|
| 6          | Special reporting of infectious disease | Team Leader, Environmental Health | Medical Officer – Consultant in Communicable Disease Control (CCDC) |
| 8          | Statistical returns                     | Team Leader, Environmental Health | Medical Officer – Consultant in Communicable Disease Control (CCDC) |
| 9          | Prevention of spread of disease         | Team Leader, Environmental Health | Medical Officer – Consultant in Communicable Disease Control (CCDC) |

|            |  |                                   |   |
|------------|--|-----------------------------------|---|
| 10         | Immunisation and vaccination             | Team Leader, Environmental Health | Medical Officer – Consultant in Communicable Disease Control (CCDC) |
| Schedule 3 | Typhus and Relapsing Fever               | Team Leader, Environmental Health | Medical Officer – Consultant in Communicable Disease Control (CCDC) |
| Schedule 4 | Food poisoning and food borne infections | Team Leader, Environmental Health | Medical Officer – Consultant in Communicable Disease Control (CCDC) |

### **3.02.16      Local Government Finance Act 1988**

| <b>Section</b> | <b>Purpose of Appointment</b>   | <b>Proper Officer</b>        | <b>Substitutes</b>   |
|----------------|---|------------------------------|--|
| 114A, 115      | Responsibility for Chief Financial Officer reports.   | Assistant Director - Finance | Financial Services Manager                                     |
| 116(1)         | Responsibility for notifying the external auditor of arrangements for a meeting to consider a report from the Chief Financial Officer under this Act. | Chief Executive Officer      | Assistant Director - Law and Governance and Monitoring Officer |

### **3.02.17      Local Government and Housing Act 1989**

| <b>Section</b> | <b>Purpose of Appointment</b>                                 | <b>Proper Officer</b>   | <b>Substitutes</b>           |
|----------------|---|-------------------------|------------------------------|
| 2              | To receive on deposit a list of politically restricted posts. | Chief Executive Officer | Assistant Director - Law and |



|         |   |  |   |
|---------|---|--|---|
|         |   |  | Governance and Monitoring Officer   |
| 4       | Designation as Head of Paid Service.  | Chief Executive Officer  | Strategic Directors   |
| 5       | Designation as Monitoring Officer.  | Assistant Director - Law and Governance and Monitoring Officer | Deputy Monitoring Officer as appointed by Assistant Director - Law and Governance |
| 15 & 16 | To undertake all matters relating to the formal establishment of political groups within the membership of the Council. | Assistant Director - Law and Governance and Monitoring Officer | Chief Executive Officer   |
| 19      | Maintain the compulsory register of members' interests.   | Assistant Director - Law and Governance and Monitoring Officer | Chief Executive Officer   |

### **3.02.18      Food Safety Act 1990**

| <b>Section</b> | <b>Purpose of Appointment</b>  | <b>Proper Officer</b>             | <b>Substitutes</b>                          |
|----------------|--|-----------------------------------|---|
| 5              | All functions.   | Team Leader, Environmental Health | Assistant Director - Health and Communities |
| 49(3)          | Signing any document authorised or required to be given, made or issued by the Food Authority. | Team Leader, Environmental Health | Assistant Director - Health and Communities |

### **3.02.19      Environmental Protection Act 1990**

| <b>Section</b> | <b>Purpose of Appointment</b> | <b>Proper Officer</b> | <b>Substitutes</b> |
|----------------|-------------------------------|-----------------------|--------------------|
|----------------|-------------------------------|-----------------------|--------------------|

|     |                        |   |  |
|-----|------------------------|---|--|
| 149 | Relating to stray dogs | Team Leader,<br>Environmental<br>Health | Assistant<br>Director -<br>Health and<br>Communities |
|-----|------------------------|---|--|

### **3.02.20      Local Government Act 2000**

Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2011 (si 2011/2914)

| <b>Regulation</b>                      | <b>Purpose of Appointment</b>                   | <b>Proper Officer</b>   | <b>Substitutes</b>   |
|--|---|-------------------------|--|
| Regulation 4(1),(2), (3),(4), (5)      | Verification number.                            | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |
| Regulation 5                           | Publicity for verification number.              | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |
| Regulation 7 (2)(a), (b) and (c)       | Post Announcement and post direction petitions. | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |
| Regulation 8(2), 8(3) & 8(4)           | Amalgamation of petitions.                      | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |
| Regulation 11(1), 11(2), 11(3) & 11(4) | Procedure on receipt of a petition.             | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |
| Regulation 13 (1)                      | Publicity for valid petitions.                  | Chief Executive Officer | Assistant Director - Law and                                   |

|                  |                                  |                         |  |
|------------------|----------------------------------|-------------------------|--|
|                  |                                  |                         | Governance and Monitoring Officer                              |
| Regulation 14(1) | Publicity for invalid petitions. | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |

**3.02.21 Local Authorities (Executive Arrangements) (Meetings and Access to Information (England) Regulations 2012**

| <b>Regulation</b> | <b>Purpose of Appointment</b>                          | <b>Proper Officer</b>  | <b>Substitutes</b>          |
|-------------------|--|--|-----------------------------|
| Regulation 3 (1)  | Recording of executive decisions made at meetings.     | Assistant Director - Law and Governance and Monitoring Officer | Democratic Services Manager |
| Regulation 4 (1)  | Recording of executive decisions made by individuals.  | Assistant Director - Law and Governance and Monitoring Officer | Democratic Services Manager |
| Regulation 5(1)   | Inspection of documents following executive decisions. | Assistant Director - Law and Governance and Monitoring Officer | Democratic Services Manager |
| Regulation 6      | Inspection of background papers.                       | Assistant Director - Law and Governance and Monitoring Officer | Democratic Services Manager |

|                             |  |  |  |
|-----------------------------|--|--|--|
| Regulation 9(2) & 9(4)      | Individual executive decisions.  | Assistant Director - Law and Governance and Monitoring Officer | Democratic Services Manager                                    |
| Regulation 11(2) & 11(7)(c) | Access to agenda and connected reports.  | Assistant Director - Law and Governance and Monitoring Officer | Democratic Services Manager                                    |
| Regulation 12(1)            | Publicity in connection with key decisions.  | Assistant Director - Law and Governance and Monitoring Officer | Democratic Services Manager                                    |
| Regulation 15(1)(a) & (b)   | General exception.   | Chief Executive Officer  | Assistant Director - Law and Governance and Monitoring Officer |
| Regulation 17(3) & 17(4)    | Additional rights of access to documents for members of Local Authorities.                   | Assistant Director - Law and Governance and Monitoring Officer | Chief Executive Officer  |
| Regulation 21(4)            | Confidential information, exempt information and advice of a political adviser or assistant. | Assistant Director - Law and Governance and Monitoring Officer | Chief Executive Officer  |

**3.02.22      Local Authorities (Conduct of Referendums) (England) Regulations 2007(si 2007/1298)**

| <b>Regulation</b> | <b>Purpose of Appointment</b> | <b>Proper Officer</b> | <b>Substitute</b> |
|-------------------|-------------------------------|-----------------------|-------------------|
|-------------------|-------------------------------|-----------------------|-------------------|

|                                     |  |                         |  |
|-------------------------------------|--|-------------------------|--|
| Regulation 4 (1), 4(2), 4(3) & 4(4) | For all purposes in these Regulations. | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |
|-------------------------------------|--|-------------------------|--|

**3.02.23 Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001 (si 2001/2237)**

| Regulation             | Purpose of Appointment   | Proper Officer   | Substitute              |
|------------------------|--|--|-------------------------|
| Regulation 21 (11) (2) | Duties of executives as regards reports, amendment to Section 116 of 1988 Finance Act. | Assistant Director - Law and Governance and Monitoring Officer | Chief Executive Officer |
| Regulation 45 (4)      | Disability of members of authorities for voting on account of prejudicial interests.   | Assistant Director - Law and Governance and Monitoring Officer | Chief Executive Officer |

**3.02.24 Local Authorities (Standing Orders) (England) Regulations 2001 (si 2001/3384), Part 2**

| Regulation                | Purpose of Appointment     | Proper Officer          | Substitute   |
|---------------------------|----------------------------|-------------------------|--|
| Regulation 1, 5(2) & 6(2) | Appointment.<br>Dismissal. | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |

**3.02.25 Local Authorities (Mayoral Elections) (England & Wales) Regulations 2002 (si 2002/185)**

| Regulation | Purpose of Appointment | Proper Officer | Substitute |
|------------|------------------------|----------------|------------|
|------------|------------------------|----------------|------------|

|                          |   |                         |  |
|--------------------------|---|-------------------------|--|
| Regulation 51            | Delivery and retention of documents.            | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |
| Regulation 52(1) & 52(2) | Order for production of documents.              | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |
| Regulation 53(1) & 53(3) | Public inspection and destruction of documents. | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |

### **3.02.26      Regulation of Investigatory Powers Act 2000 (RIPA)**

| <b>Section</b> | <b>Purpose of Appointment</b>  | <b>Proper Officer</b>   | <b>Substitute</b>   |
|----------------|--|-------------------------|---------------------|
| 27,28 and 29   | Designation of officers empowered to grant authorisation for the carrying out of directed surveillance and authorise the use of covert human intelligence sources under Sections 27, 28 and 29 of the Act. | Chief Executive Officer | Strategic Directors |

### **3.02.27      Freedom of Information Act 2000**

| <b>Section</b> | <b>Purpose of Appointment</b>   | <b>Proper Officer</b>   | <b>Substitute</b>  |
|----------------|---|-------------------------|--------------------|
| 36             | Acting as a “qualified person” in respect of information held by the Council. | Chief Executive Officer | Monitoring Officer |

**3.02.28      Housing Act 2004**

| <b>Section</b> | <b>Purpose of Appointment</b>   | <b>Proper Officer</b>          | <b>Substitute</b>            |
|----------------|---|--------------------------------|------------------------------|
| 4 – Part 1     | <p>Where an official complaint about the condition of any residential premises in the</p> <p>district of a local housing authority is made to the proper officer of the</p> <p>authority, and the circumstances complained of indicate—</p> <p>(a) that any category 1 or category 2 hazard may exist on those premises, or</p> <p>(b) that an area in the district should be dealt with as a clearance area, the proper officer must inspect the premises or area.</p> | Private Sector Housing Manager | Assistant Director - Housing |

**3.02.29      The General Data Protection Regulation (EU) 2016/679**

| <b>Section</b>         | <b>Purpose of Appointment</b> | <b>Proper Officer</b>          | <b>Substitute</b>           |
|------------------------|-------------------------------|--------------------------------|-----------------------------|
| Articles 37, 38 and 39 | Data Protection Officer       | Information Governance Manager | Corporate Assurance Manager |

**The Localism Act 2011**

| <b>Section</b> | <b>Purpose of Appointment</b>                     | <b>Proper Officer</b>  | <b>Substitute</b>            |
|----------------|---|--|------------------------------|
| 33             | Determination of applications for Dispensations   | Assistant Director - Law and Governance and Monitoring Officer | Chief Executive Officer      |
| 81             | Administration of Community Right to Challenge    | Corporate Asset Manager  | Assistant Director - Finance |
| 87             | Maintenance of Lists of Assets of Community Value | Corporate Asset Manager  | Assistant Director - Finance |

**The Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007**

| <b>Section</b> | <b>Purpose of Appointment</b> | <b>Proper Officer</b>   | <b>Substitute</b>  |
|----------------|-------------------------------|-------------------------|--|
| 54             | Receive declaration of result | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |

**The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000**

| <b>Regulation</b>      | <b>Purpose of Appointment</b>         | <b>Proper Officer</b>   | <b>Substitute</b>  |
|------------------------|---------------------------------------|-------------------------|--|
| 4, 7,8, 11, 13, 14, 19 | For all purposes in these Regulations | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |



**The Local Elections (Parishes and Communities) (England and Wales) Rules 2006**

| <b>Rule</b>                | <b>Purpose of Appointment</b>   | <b>Proper Officer</b>   | <b>Substitute</b>  |
|----------------------------|---|-------------------------|--|
| 5                          | Receipt of request to fill a casual vacancy in the office of a parish or community councillor | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |
| Paragraph 50 of Schedule 2 | Receipt of declaration of result in parish or community election                              | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |

**The Local Government Act 2000**

| <b>Section</b> | <b>Purpose of Appointment</b>  | <b>Proper Officer</b>   | <b>Substitute</b>  |
|----------------|--|-------------------------|--|
| All            | All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation. | Chief Executive Officer | Assistant Director - Law and Governance and Monitoring Officer |

**3.03 FUNCTIONS AND RESPONSIBILITIES OF PORTFOLIO HOLDERS**

The following are the Executive Portfolios and Executive and Officer Delegations (as set out in Part 3 paragraphs 13.02 to 13.19 of the Council's Constitution) which have been established by the Elected Mayor.

The responsibilities given to Portfolio Holders are a matter for the Elected Mayor. The Elected Mayor will advise the Council of the Executive delegation to his/her Executive Members (Portfolio Holders) at the Annual Meeting of the Full Council in each municipal year. If the Elected Mayor amends these arrangements, he/she will advise the Council at the next available Council Meeting.

Any Executive function as defined by the Local Government (Functions and Responsibilities) (England) Regulations, as amended, not delegated to either a Portfolio Holder or an officer is reserved to the Elected Mayor.

### **3.03.1 Functions and Responsibilities of the Portfolio Holder for Corporate and Finance**

The Portfolio Holder will be fully responsible for and authorised to take any decisions in respect of the functions and services set out below subject to available budgetary provision and the Policy Framework and which support the delivery of the Council's Corporate Plan.

- Equality and Diversity
- Risk Management
- Freedom of Information
- Internal Audit
- Marketing and Communications
- Information Technology
- Counter Fraud
- Long Term Financial Strategy
- Capital and Revenue Budgets
- Council Tax, NNDR, Housing Benefit and Council Tax Support Scheme
- Asset Management
- Insurance
- Health and Safety

### **3.03.2 Functions and Responsibilities of the Portfolio Holder for the Environment and Leisure**

The Portfolio Holder will be fully responsible for and authorised to take any decisions in respect of the functions and services set out below subject to available budgetary provision and the Policy Framework and which support the delivery of the Council's Corporate Plan.

- Parks, Recreation and Play
- Trees, Woodland Management, Nature Reserves, Lakes and Waterways
- Allotments
- Cemeteries and Crematorium
- Street Cleansing
- Refuse Collection Services
- Vehicle Fleet Management
- Town Centre
- Leisure Contract
- Health and Sports Development

### **3.03.3 Functions and Responsibilities of the Portfolio Holder for Regeneration and Growth**

The Portfolio Holder will be fully responsible for and authorised to take any decisions in respect of the functions and services set out below subject to available budgetary provision and the Policy Framework and which support the delivery of the Council's Corporate Plan.

- Planning Policy
- Local Plan
- Growth – Housing and Business
- Housing Company - Shareholder
- Employment and Skills
- Business Support
- Promotion and Development of the Place including Culture and Heritage
- Regeneration (including Town Centre Regeneration)

### **3.03.4      Functions and Responsibilities of the Portfolio Holder for Housing**

The Portfolio Holder will be fully responsible for and authorised to take any decisions in respect of the functions and services set out below subject to available budgetary provision and the Policy Framework and which support the delivery of the Council's Corporate Plan

- Private Sector Housing
- Housing Revenue Account Business Plan
- Tenant Participation
- Special Needs Housing
- Homelessness
- Housing Allocations
- Council Housing Stock including Capital Programme and Investment
- Council Housing Portfolio and Asset Management
- Disabled Facilities Grants

### **3.03.5      Functions and Responsibilities of the Portfolio Holder for Wellbeing, Health and Safer Communities**

The Portfolio Holder will be fully responsible for and authorised to take any decisions in respect of the functions and services set out below subject to available budgetary provision and the Policy Framework and which support the delivery of the Council's Corporate Plan.

- Environmental Health
- Public Health
- Health and Wellbeing
- Community Safety

### **3.03.6      General Responsibilities of all Members of the Executive**

When making a decision within the remit of a Portfolio Holder's delegated responsibilities each Portfolio Holder will be responsible for ensuring that he or she takes into account the implications of their decisions on the Council's policy and legal obligation in the following areas: - Climate Change and environmental sustainability, equality and diversity, Human Rights, Freedom of Information, risk and opportunity management and crime and disorder.

### **3.04      RULES OF PROCEDURE FOR COUNCIL AND COMMITTEE MEETINGS**

#### **3.04.1      Annual Meeting of the Council**

##### **3.04.1.1      Timing and Business**

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 May.

The annual meeting will:

- (i) elect a person to preside if the Chair of the Council is not present;
- (ii) elect the Chair of the Council;
- (iii) elect the Vice-Chair of the Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the elected Mayor and/or Head of the Paid Service;
- (vi) be told by the elected Mayor about the composition and constitution of the Executive for the coming year, and the names of Councillors he/she has chosen to be members of the Executive;
- (vii) be told by the elected Mayor about the scheme of delegation (as set out in Part 3, of this Constitution);
- (viii) receive the statement of the elected Mayor
- (ix) appoint Chairs of the Overview and Scrutiny Committees, Standards, Planning, Licensing, Governance and Standards and Personnel Committees;
- (x) consider any business set out in the notice convening the meeting;
- (xi) appoint to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.

### **3.04.2      Ordinary Meetings**

Ordinary meetings of the Council will take place in accordance with the programme decided by the Council. Ordinary meetings will:

- (i) elect a person to preside if the Chair and Vice Chair are not present.
- (ii) approve the minutes of the last meeting.
- (iii) receive any declarations of interest from members.
- (iv) receive any announcements from the Chair, the elected Mayor, members of the Executive or the Head of Paid Service.
- (v) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting.
- (vi) receive reports from the Executive and the Council's Committees and receive questions and answers on any of those reports.
- (vii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations.
- (viii) consider motions.
- (ix) receive recommendations from the Executive and Council's Committees and resolve, in accordance with the Council's rules of debate.
- (x) receive questions from Members in line with Section 9.4 of the Constitution.
- (xi) consider any other business specified in the summons to the meeting, including, reports from the Chief Executive Officer in relation to matters that need to be resolved by Full Council.
- (xii) any matter requiring a resolution by virtue of statute

### **3.04.3      Extraordinary Meetings**

#### **3.04.3.1      Calling Extraordinary Meetings**

Those listed below may request the Monitoring Officer to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Chair of the Council;
- (iii) the elected Mayor;
- (iv) the Chief Executive Officer;

- (v) any five members of the Council if they have signed a requisition presented to the Chair of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
- vi) as a result of a report made under Section 114 of the Local Government Finance Act 1988 (unlawful expenditure or accounts)

#### **3.04.3.2      Business**

Business will be restricted to the single issue referred to in the Notice or otherwise agreed by the Head of Paid Service.

#### **3.04.4          Time and Place of Meeting**

All meetings and committees shall start at 6.00pm with the exception of delegated decisions, the Joint Consultative Committee, Health and Safety Committee and Personnel Committee when appointing a senior manager and notified in the summons.

#### **3.04.5          Notice of and Summons to Meetings**

The Monitoring Officer will give notice to the public of the time and place of any meetings in accordance with the Access to Information Rules. At least five clear days before a meeting, the Monitoring Officer will send a summons signed by him or her by post or e-mail 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.

#### **3.04.6          Chair of Meeting**

The person presiding at the meeting may exercise any power or duty of the Chair. Where these rules apply to Committee and Sub-Committee meetings, references to the Chair also include the Chair of Committees and Sub-Committees.

#### **3.04.7          Quorum**

The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Chair counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

#### **3.04.8          Questions by the Public at Ordinary Meetings of Council**

#### **3.04.8.1      General**

Questions from members of the public to members of the Council should primarily be aimed to hold the Member to account for their actions rather than seeking an individual's personal opinion. Members of the public may ask questions of the elected Mayor, Executive, a Chair of a Committee of the Council or any member of the Council at ordinary meetings of the Council. A period of up to 30 minutes will be allocated to public questions at each ordinary Meeting of the Council. The Council will take reasonable steps to ensure that members of the public are offered an equal opportunity to ask questions and a supplementary question, where appropriate.

#### **3.04.8.2      Order of Questions**

Questions will be asked in the order in which notice of them was received and in accordance with paragraph 3.04.8.4 except that the Chair may group together similar questions.

#### **3.04.8.3      Notice of Questions**

A question may only be asked if notice has been given by delivering in writing or by electronic mail to the Monitoring Officer no later than midday seven clear working days before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.

#### **3.04.8.4      Number of Questions**

At any one meeting a person may submit one question. The question may be asked by an individual or on behalf of an organisation. A total of 5 minutes will be allocated for dealing with the question and the response.

If a person submits more than one question the second question may be dealt with, after dealing with first question from any other person, so long as there remains sufficient time in the 30 minutes period referred to in 3.04.8.1.

#### **3.04.8.5      Scope of Questions**

The Monitoring Officer may reject a question if it:

- (i) is not about a matter for which the local authority has a responsibility or which affects the District;
- (ii) is defamatory, frivolous or offensive;
- (iii) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or which has been put to another member of the Authority within the past six months
- (iv) requires the disclosure of confidential or exempt information.
- (v) does not comply with the general principle of holding a member of the Council to account for their actions.

#### **3.04.8.6      Record of Questions**

The Monitoring Officer will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

#### **3.04.8.7      Asking the Question at the Meeting**

The Chair will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

#### **3.04.8.8      Supplementary Questions**

Supplementary questions are not permitted.

#### **3.04.8.9      Written Answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer or may be held over to the next ordinary Meeting of the Council, at the request of the questioner. A question may only be held over once to the next ordinary meeting of the Council after which a written response will be provided.

#### **3.04.8.10     Reference of Question to the Executive or a Committee**

Unless the Chair decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the Executive or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

#### **3.04.9        Questions by Members**

##### **3.04.9.1      On reports of the Executive, Committees and Officers**

A member of the Council may ask the elected Mayor, the Chair of a Committee or an officer any question without notice upon an item of the report of the Executive or a Committee when that item is being received or under consideration by the Council.

##### **3.04.9.2      Questions on Notice at Full Council**

Subject to Rule 3.04.9.4, a Member of the Council may ask:

- (i) the Chair;



- (ii) a member of the Executive;
- (iii) the Chair of any Committee or Sub-Committee.

A question on any matter in relation to which the Council has powers or duties or which affects the Mansfield District.

#### **3.04.9.3      Questions on Notice at Committees and Sub-Committees**

Subject to Rule 3.04.9.4, a member of a Committee or Sub-Committee 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 Mansfield District and which falls within the terms of reference of that Committee or Sub-Committee.

#### **3.04.9.4      Notice of Questions**

A Member may only ask a question under Rule 3.04.9.2 or 3.04.9.3 if either:

- (a) they have given at least seven clear working days notice in writing, or by electronic mail, of the question to the Monitoring Officer; or
- (b) the question relates to urgent matters, they have the consent of the Chair and Monitoring Officer and the content of the question is given to the Monitoring Officer by 10.00 a.m. on the day of the meeting.

#### **3.04.9.5      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 to the questioner and all other members of the Council.
- (d) a member to whom a question is put may decline to answer the question.

#### **3.04.9.6      Supplementary Question**

A member asking a question under Rule 3.04.9.2 or 3.04.9.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on the grounds as set out in 3.04.9.7 below

#### **3.04.9.7      Scope of Questions**

The Monitoring Officer may reject a question if it:

- (i) is not about a matter for which the local authority has a responsibility or which affects the District;
- (ii) is defamatory, frivolous or offensive;
- (iii) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- (iv) requires the disclosure of confidential or exempt information.

### **3.04.10      Motions on Notice**

#### **3.04.10.1      Notice**

Except for motions which can be moved without notice under Rule 3.04.10.4 written notice of every motion, signed by at least three members, must be delivered to the Monitoring Officer not later than noon on the seventh working day prior to the date of the meeting. These will be entered in a register open to public inspection. The Monitoring Officer will determine whether a motion submitted is in accordance with the requirements of the Constitution.

#### **3.04.10.2      Motion set out in Agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

#### **3.04.10.3      Scope**

- (i) A motion must be about matters for which the Council has a responsibility or which affect the Mansfield District.
- (ii) A motion must not be defamatory, frivolous or offensive.
- (iii) A motion must not be substantially the same motion as one debated by Council in the past six months, unless Paragraph 3.04.12 (Previous Decisions and Motions) applies.
- (iv) If, in the opinion of the Chair, the debate on a motion is likely to lead to the disclosure of confidential or exempt information, then the Chair may move that the press and public be excluded from the meeting for the duration of the debate.

#### **3.04.10.4      Motions without Notice**

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;

- (e) to appoint a Committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or employees and any resolutions following from them;
- (g) to withdraw a motion (see 3.04.11.7);
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council Procedure Rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 3.04.17.3 or to exclude them from the meeting under Rule 3.04.17.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

### **3.04.11      Rules of Debate**

Relating to Recommendations from the Executive:

#### **3.04.11.1      No Speeches until Motion Seconded**

No speeches from members, other than the proposer of the motion or amendment to explain the purpose of the motion, will be allowed until the motion or amendment has been seconded.

#### **3.04.11.2      Right to Require Motion in writing**

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him/her before it is discussed.

#### **3.04.11.3      Secunder's Speech**

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

#### **3.04.11.4      Content and length of Speeches**

Speeches from members on a motion must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Chair with the exception of the proposer of a motion who may have up to 10 minutes to explain the purpose of that motion.

#### **3.04.11.5 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) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation as defined at paragraph 3.04.11.12

#### **3.04.11.6 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.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) 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.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### **3.04.11.7 Withdrawal of Motion**

A Member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without

discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

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

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his/her amendment.

#### **3.04.11.9 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 (see 3.04.11.7);
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules, and
- (h) not to hear further a member named under Rule 3.04.17.3 or to exclude them from the meeting under Rule 3.04.17.4

#### **3.04.11.10 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 moved by someone who has not at that stage spoken in the debate is seconded and the Chair thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

- (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her 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, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

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

A Member may raise a point of order at any time. The Chair will hear them 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 he/she considers it has been broken. The ruling of the Chair on the matter will be final.

#### **3.04.11.12 Personal Explanation**

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

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

##### **3.04.13.1 Motion to Rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of a motion is signed by at least one quarter of all Members of the Council.

##### **3.04.13.2 Motion Similar to one Previously Rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice or amendment is signed by at least one quarter of all members of the Council. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

**3.04.13.3** That 3.04.13.1 or 3.04.13.2 will not apply where the Council is requested to consider a report by a Statutory Officer.

#### **3.04.14 Voting**

##### **3.04.14.1 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.

#### **3.04.14.2     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.

#### **3.04.14.3     Voting Method**

Unless a recorded vote is demanded under Rules 3.04.13.4 and 3.04.13.5, the Chair will take the vote by show of hands, or electronic means, or if there is no dissent, by the affirmation of the meeting.

#### **3.04.14.4     Recorded Vote**

If ten Members present at a meeting of Full Council (or two members at a meeting of a Committee or Sub-Committee) demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. This may be achieved electronically.

#### **3.04.14.5     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.

#### **3.04.15        Minutes**

##### **3.04.15.1     Signing the Minutes**

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

##### **3.04.15.2     No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under Paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of Paragraph 41(1) and (2) of Schedule 12 for signing of minutes.

##### **3.04.15.3     Form of Minutes**

Minutes will contain all motions and amendments in the exact form and order the Chair put them.

### **3.04.16      Record of Attendance**

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance. With respect to quasi-judicial matters, members who leave the meeting or arrive during a debate may not vote on that item.

### **3.04.17      Exclusion of Public**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 3 of this Constitution or Rule 3.04.18 (Disturbance by Public).

### **3.04.18      Members' Conduct**

#### **3.04.18.1      Sitting to Speak**

When a member speaks at Full Council they can remain seated in order to effectively use the voice enhancement system and should address the meeting through the Chair.

#### **3.04.18.2      Chair Standing**

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

#### **3.04.18.3      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 or any other member may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

#### **3.04.18.4      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.

#### **3.04.18.5      General Disturbance**

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he/she thinks necessary.

### **3.04.19      Disturbance by Public**

#### **3.04.19.1      Removal of Member of the Public**



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

#### **3.04.19.2     Clearance of Part of Meeting Room**

If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

#### **3.04.20     Suspension and Amendment of Council Procedure Rules**

##### **3.04.20.1     Suspension**

All of these Council Rules of Procedure except Rules 3.04.13.4 (Recorded vote), 3.04.13.5 (Right to require individual vote to be recorded) and 3.04.14.2 (No requirement to sign minutes of previous meetings at extraordinary meeting) may be suspended by motion on notice or without notice if at least two-thirds of the Members present and voting, not being less than one-quarter of the whole, shall so decide. The length of suspension of these procedures will be determined by the wording of the motion, notwithstanding that the suspension cannot be extended beyond the duration of the meeting.

##### **3.04.20.2     Amendment**

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

#### **3.04.21     Application to Committees and Sub-Committees**

All of the Council Rules of Procedure apply to meetings of Full Council except Rule 3.04.8 which applies to Ordinary Meetings of the Council and Extraordinary meetings where the question relates to the business set out in the Summons. None of the rules apply to meetings of the Executive. Rules 3.04.4 – 3.04.20 apply to Committee meetings with the exception of Rules 3.04.8 – 3.04.8.5 in relation to questions which shall not apply.

#### **3.04.22     Substitutes to Committees**

The Council will operate a system of “open” substitution by any member who will be entitled to sit on a particular Committee on behalf of a colleague. However, no substitution will be permitted on the Licensing Committee. Substitute Members must be selected from among those Councillors who would be entitled to sit on the Committee

Executive Members may not sit on Overview and Scrutiny Committees. The Mayor may not sit on Overview and Scrutiny Committees, or the Governance and Standards Committee.

Substitute Councillors will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting. For those Committees where training is required and use of substitutes is permitted, only those members who are appropriately trained may act as substitutes.

Substitute Councillors may attend meetings in that capacity only:

- (i) to take the place of the Councillor for whom they are the designated substitute;
- (ii) where the Councillor will be absent for the whole of the meeting; and
- (iii) after notifying the Head of Paid Service before the meeting or the Chair at the commencement meeting of the intended substitution.

#### **3.04.23 Appointment of Sub Committees**

A committee may appoint a sub committee for purposes specified by the committee (these purposes must be within the committee's terms of reference).

The Chair of the sub committee shall be appointed by the committee.

The rules of procedure and access to information rules shall apply to sub committees in the same way that they do to committees.

#### **3.04.24 Working Groups**

Any committee may appoint an informal working group. Such groups will be set up for specific items of work for a limited duration; they will not have decision making powers but will make recommendations to the relevant committee. The committee setting up such groups will set out terms of reference for their operation. These groups will not be subject to the access to information rules but the terms of reference will identify whether and to what extent their meetings will be held in public and papers will be published.

The membership of working groups will be determined by the committee but members of the working group need not be drawn solely from the membership of the committee and should be selected based on the individuals knowledge of and/or interest in the issue which the working group is set up to consider.

#### **3.04.25 Conclusion of Proceedings**

Any meeting called under these Rules shall conclude no later than 8.30 p.m; save that the conclusion may be extended to 9.00 p.m., if approved by a majority of Members present and voting prior to 8.25 p.m. Any items of business not dealt with will stand adjourned to the next ordinary meeting unless the Chair agrees to convene an extraordinary meeting to deal with the outstanding business.

#### **3.05 Protocol on Filming**

Mansfield District Council is committed to being open and transparent in the way it conducts its business. The press and members of the public are therefore welcome to film, photograph or record decision making in action at any Council meeting that is open to the public.

This Protocol provides practical information to assist anyone considering filming, videoing, photographing or making audio recordings of any meeting.

### **3.05.1      Before the Meeting**

Anyone intending to film or record a meeting should contact the Marketing and Communications Team for advice and guidance. 48 hours advance notice will enable practical arrangements to be made and any special requirements to be discussed.

Flash photography, additional lighting or large equipment will not be permitted, unless agreed in advance and it can be accommodated without causing disruption to the proceedings. Requests to use equipment of this nature will be subject to consideration of the constraints of the meeting rooms.

### **3.05.2      General**

The Chair of the meeting or the relevant Executive Member will be informed of any intention to film and he or she will make an announcement to attendees before the start of the meeting informing attendees that the meeting may be filmed. Anyone who remains at the meeting after the Chair's announcement will be deemed to have consented to the broadcasting of their image.

A notice will also be posted on the door of the meeting room advising everyone who attends that the meeting may be filmed and that by attending the meeting they are consenting to the broadcast of their image.

Filming or recording must not be intrusive and the Council's Rules of Procedure provide for the removal of a member of the public from a meeting should that person, having been warned, continue to interrupt proceedings. The Chair of a meeting or an individual Executive Member may also call any part of the meeting room to be cleared in the event of a general disturbance.

Recording and reporting the Council's meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include complying with the Data Protection Act and the laws on defamation. If a person filming meetings fails to comply with such laws legal action may be brought against them by the Council and/or individuals affected.

This protocol will apply to the filming of a meeting on any device, including a mobile device or tablet.

### **3.05.3      During the Meeting**

Filming or recording of Meetings should:

- Not interfere with the effective conduct of the meeting, nor should it be disruptive or distracting. The Chair or the Executive Member has discretion to suspend or stop filming or recording at any time if and to take appropriate action if anyone is, in their opinion, doing so in a disruptive manner.
- Not seek to focus on sensitive information such as close ups of confidential papers or private notes
- Usually take place from a specified location(s) within the room.
- Not obstruct others from observing and participating in the proceedings.
- Cease immediately if and when the meeting agrees to formally exclude the Press and public due to business of an Exempt or Confidential nature (see 'Exempt or confidential business' below).
- Not be edited in a way that could lead to misinterpretation of the proceedings or the comments made, or that defames those being filmed.
- Be done openly (i.e. clearly visible to anyone at the meeting and not done secretly).
- Cease when the meeting is formally concluded unless continued filming has been explicitly agreed with the Chair of the meeting.

#### **3.05.4      Exempt or Confidential Business**

All meetings of the Executive, Individual Executive Member Decisions, Committee, Sub Committee and Panel meetings are open to the public except in limited circumstances where the Council is legally required, or allowed, to close the meeting to the public. The circumstances where business is 'exempt' or 'confidential' are set out in the Access to Information Rules in Part 3 of the Council's Constitution.

### **3.06            ACCESS TO INFORMATION PROCEDURE RULES**

#### **3.06.1        Scope**

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Area Committees, the Governance and Standards Committee, the Licensing Committee, the Planning Applications Committee, the Governance and Standards Committee, the Personnel Committee, the Joint Consultative Committee, the Health and Safety Committee, the Chief Executive Officer's Appraisal Panel, the Appeals Panel, public meetings of the Executive (together called meetings) and meetings convened to enable an executive member to make an executive decision under delegated powers.

#### **3.06.2        Additional Rights to Information**

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

### **3.06.3 Rights to Attend Meetings**

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

### **3.06.4 Notice of Meetings**

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Civic Centre, Chesterfield Road South, Mansfield.

### **3.06.5 Access to Agenda and Reports before the Meeting**

The Council will make copies of the agenda and reports open to the public available for inspection at the Civic Centre at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection for the time the item was added to the agenda.

### **3.06.6 Supply of Copies**

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; and
- (c) if the Monitoring Officer thinks fit, copies of any other documents supplied to Councillors and the elected Mayor in connection with an item to any other person on payment of a charge for postage and any other costs.

### **3.06.7 Access to Minutes etc. after the Meeting**

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings, 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 fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

### **3.06.8 Background Papers**

### **3.06.8.1      List of Background Papers**

The Chief Executive 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 his/her 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.

### **3.06.8.2      Public Inspection of Background Papers**

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.

### **3.06.8.3      Summary of Public's Rights**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Civic Centre, Chesterfield Road South, Mansfield.

### **3.06.9        Exclusion of Access by the Public to Meetings**

#### **3.06.9.1      Confidential information - requirement to Exclude Public**

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.

#### **3.06.9.2      Exempt information - Discretion to Exclude Public**

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.

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

#### **3.06.9.3      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 by Court Order.

#### **3.06.9.4      Meaning of Exempt Information**

Exempt information has the meaning ascribed to it under Schedule 12A of the Local Government Act 1972, as amended by Local Authorities (Executive Arrangements)

(Access to Information) (Amendment) (England) Regulations 2006, the Local Government (Access to Information) (Variation) Order 2006 and the relevant authorities (Governance and Standards Committee) (Amendment) Regulations 2006 which, for convenience, is set out in a table below:

| <b><u>Description of Exempt Information</u></b>   | <b><u>Notes</u></b>   | <b><u>Qualifications</u></b>  |
|---|---|---|
| 1. Information relating to any individual.  | Names, addresses or telephone numbers can identify individuals.<br><br>Also consider the Council's Data Protection Act responsibilities.  | Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.   |
| 2. Information which is likely to reveal the identity of an individual.   | Names, addresses or telephone numbers can identify individuals.<br><br>Also consider the Council's Data Protection Act responsibilities.  | Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.   |
| 3. Information relating to the financial or business affairs of any particular person (including the authority holding that information). | The authority is a reference to the principal Council or as the case may be the committee or sub-committee in relation to these proceedings or documents that question whether information is exempt or not falls to be determined.<br><br>Financial or business affairs includes contemplated as well as past or current activities. | 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.<br><br>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under- |

|  |  |  |
|--|--|--|
|  | Registered in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any building society (within the meaning of that Act).  | <p>a) the Companies Act 1985,</p> <p>b) the Friendly Societies Act 1974,</p> <p>c) the Friendly Societies Act 1992,</p> <p>d) the Industrial and Provident Societies Acts 1965 to 1978, e) the Building Societies Act 1986, and f) the Charities Act 1993.</p> |
| 4. Information relating to any consultations or negotiations or contemplated consultations or negotiations, in connection with any Labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office holders under the Authority. | <p>The Authority is a reference to the principal Council or as the case may be the Committee or Sub-Committee in relation to those proceedings or documents to question whether information is exempt or not falls to be determined. Employee means a person employed under a contract of service. Labour relations matter means:- a) any of the matters specified in paragraphs A – G of section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute within the meaning of that Act); or b) any dispute about a matter falling within paragraph (a) above (applies to trade disputes relating to office holders</p> | Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.  |



|  |   |   |
|--|---|---|
|  | as well as employees. Office holder in relation to the Authority means the holder of any paid office appointments which are or may be made or confirmed by the Authority or by any joint board on which the Authority is represented or by any person who holds any such office or is an employee of the Authority. |   |
| 5. Information in respect of which a claim for legal professional privilege can be maintained in legal proceedings.  | Privilege lies with the "client" which broadly is the Council. Seek the view of the Head of Paid Service, relevant Strategic Director and Assistant Director whether they wish to waive privilege.  | 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. |
| 6. Information which reveals that the Authority proposes<br><br>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or<br><br>b) to make an order or direction under any enactments. | The Authority as a reference to the principal Council or, as the case may be, the Committee or Sub-Committee in relation to whose proceedings or documents question whether information is exempt or not falls to be determined.  | 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. |
| 7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.   |   | 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. |

| <b><u>Description of exempt information relating to Governance and Standards Committees</u></b> | <b><u>Notes</u></b>  | <b><u>Qualifications</u></b>  |
|---|--|---|
| 8. Information which is subject to any obligation of confidentiality.                           | This will not apply to all the papers before a Governance and Standards Committee, but is likely to need careful consideration in the circumstances of a Local Investigation or Determination. | 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. Information which relates in any way to matters concerning national security.                |  | 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. |

Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

### **3.06.10 Exclusion of Access by the Public to Reports**

If the Head of Paid Service thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 3.06.9, 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.

### **3.06.11 Application of Rules to the Executive**

Access to Information Rules 3.06.9-3.06.22 apply to the Executive and its Committees and individual Executive members making decisions under delegated powers.

### **3.06.12 Procedure before taking Key Decisions and Exempt Decisions**

A Key Decision is:

- (i) Any decision in relation to an Executive function which results in the Local Authority incurring expenditure which is, or making savings which are, significant. For the purposes of this definition significant will be taken to mean any expenditure or saving in excess of £50,000 for revenue budgets and £250,000 for capital expenditure.
- (ii) Any decisions not likely to involve significant expenditure or savings, but which nevertheless are likely to be significant in terms of effects on communities in two or more wards.
- (iii) Any decision which is likely to have a significant impact in one ward.
- (iv) A decision taker may only make a Key Decision in accordance with the requirements of the Executive Procedure Rules as set out in Part 4 of this Constitution.

Subject to Rule 3.06.13.3 (General Exception) and Rule 3.06.14 (Special Urgency), a Key Decision may not be taken unless:

- (a) 28 days' notice has been given of the intention to take a key decision;
- (b) where the decision is to be taken at a meeting of the Executive or its Committees or an individual Executive Member under delegated powers, notice of the meeting has been given in accordance with Rule 3.06 (notice of meetings).

A private meeting of the Executive to consider an item of business containing either confidential or exempt information shall not be held unless:

- (c) 28 clear days notice has been given of the proposed business to be transacted to allow the public the opportunity to make representations about why the business should be transacted in public; and
- (d) A further notice has been given at least five clear days before the meeting re-stating the reasons for the meeting being held in private and outlining any representations made by the public as to why the business should be held in public and the Executive's response to those representations.

If the above timetable is impracticable, a meeting can still go ahead in private under the Special Urgency provision if the Executive has obtained the agreement of the relevant Overview and Scrutiny Committee Chair or if he/she is unable to act the Chair or Vice-Chair of the Council setting out why a meeting is urgent and cannot reasonably be deferred. A notice must be displayed at the Council offices and on the website.

### **3.06.13 List of Key Decisions**

A list of key decisions will be published by the authority and will be made available on the Council's website and at the Civic Centre.

### **3.06.13.1     Contents of the List of Key Decisions**

The List of Key Decisions will give notice of a Key Decision to be taken by the Executive, a Committee of the Executive, individual members of the Executive, employees, Area Committees under joint arrangements in the course of the discharge of an executive function. The list will detail:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any, and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the documents to be considered before the decision is made;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the address from which the documents are available

### **3.06.13.2     Publication of the List of Key Decisions**

The List of Key Decisions will be maintained by the Head of Paid Service.

### **3.06.13.3     General Exception**

If a matter which is likely to be a Key Decision has not been included in the List of Key Decisions, then subject to 3.06.14 (Special Urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to give the 28 days' notice;
- (b) the Chief Executive Officer has informed the relevant Overview and Scrutiny Committee Chair, in writing and by notice, of the matter in respect of which the decision is to be made;
- (c) the Chief Executive Officer has made copies of that notice available to the public at the Civic Centre, Chesterfield Road South, Mansfield; and published it on the Council's website and
- (d) at least five clear days have elapsed since the Chief Executive Officer complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public.

### **3.06.14       Special Urgency**

If by virtue of the date by which a decision must be taken Rule 3.06.13.3 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement

of the relevant Overview and Scrutiny Committee Chair. After obtaining the agreement, the decision maker must make available at the Civic Centre and on the Council's website a notice setting out the reason for the urgency.

### **3.06.15      Report to Council**

#### **3.06.15.1      When an Overview and Scrutiny Committee can require a report**

If an Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not:

- (a) included in the List of Key Decisions; or
- (b) the subject of the general exception procedure under Rule 3.06.13.3; or
- (c) the subject of an agreement under Rule 3.06.14;

any one of the Overview and Scrutiny Committees may require the Executive to submit a report to the Council within such reasonable time as the Overview and Scrutiny Committee specifies. The power to require a report rests with the Overview and Scrutiny Committee, but is also delegated to the Chief Executive Officer, who shall require such a report on behalf of the Overview and Scrutiny Committee when so requested by (the Chair or any 5 members). Alternatively, the requirement may be raised by resolution passed at a meeting of an Overview and Scrutiny Committee.

#### **3.06.15.2      Executive's report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Overview and Scrutiny Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision and if the elected Mayor is of the opinion that it was not a Key Decision the reasons for that opinion.

#### **3.06.15.3      Reports on special urgency decisions**

The extent of use of the urgency provisions will be monitored annually.

### **3.06.16      Record of Decisions**

After any meeting of the Executive or any of its Committees, the Head of Paid Service or his/her nominee, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, any conflicts of interest and any dispensations granted.

### **3.06.17      Executive Meetings relating to matters which are not Key Decisions**

The Executive will meet in public to the extent envisaged by Rule 3.06.3.

### **3.06.18      Notice of Private Meeting of the Executive**

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

### **3.06.19      Attendance at Private Meetings of the Executive**

#### **3.06.19.1      Executive Members**

- a) All Members of the Executive will be served notice of all private meetings of Committees of the Executive, whether or not they are members of that Committee.
- b) All Members of the Executive are entitled to attend a private meeting of any Committee of the Executive.

#### **3.06.19.2      Statutory Officers**

- a) The Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer and their nominees, are entitled to attend any meeting of the Executive and its Committees. The Executive may not meet unless the Head of Paid Service has been given reasonable notice that a meeting is to take place.
- b) An Executive meeting may only take place in the presence of the Head of Paid Service or his/her nominee with responsibility for recording and publicising the decisions.

### **3.06.20      Decisions by Individual Members of the Executive and Officers**

#### **3.06.20.1      Reports intended to be taken into account**

Where an individual member of the Executive or Officer receives a report which he/she intends to take into account in making any Key Decision, then he/she will not make the decision until at least five clear days after receipt of that report.

#### **3.06.20.2      Provision of copies of reports to Overview and Scrutiny Committees**

On giving of such a report to an individual decision-maker, the person who prepared the report will give a copy of it to the Chair of the relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

#### **3.06.20.3      Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual Member of the Executive or a Key Decision has been taken by an employee, he/she will prepare, or instruct the Democratic Services Manager to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 3.06.7 and 3.06.8.2 (inspection of Documents after Meetings) will also apply to the making of decisions by individual Members of the Executive.

This does not require the disclosure of exempt or confidential information.

#### **3.06.20.4     Non-Key Decisions of Officers**

Non key decisions delegated to Officers will not be made in public or require five days notice. However, appropriate records will be kept and published to ensure that decision making complies with the principles of decision making as set out in the Scheme of Delegation to Officers in Part 3 of this Constitution and the Council's Financial Regulations.

#### **3.06.20.5     Questions to individual members of the executive**

Subject to the executive procedure rules members of the public and non-executive members may ask questions of an individual Member of the executive at the time that the decision is made subject to the question being received by the Monitoring Officer by midday two clear working days prior to the decision being taken.

The Monitoring Officer may reject a question if it:

- (i) is not about the item to be considered by the Executive member:
- (ii) is defamatory, frivolous or offensive or
- (iii) requires the disclosure of confidential or exempt information.

A questioner who has put a question may at the discretion of the Executive Member also put one supplementary question without notice. A supplementary question must arise directly out of the original question or reply. The Executive Member may reject a supplementary question on the grounds set out above.

Questions should be brief and not take more than 2 minutes to read out, comments/questions relating to personal circumstances such as personal applications for grants/licences etc are not allowed.

#### **3.06.21     Overview and Scrutiny Committees Access to Documents**

##### **3.06.21.1     Rights to copies**

Subject to Rule 3.06.21.2 below, an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive (or its Committees) and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Executive (or its Committees); or
- (b) any decision taken by an individual member of the Executive.

### **3.06.21.2 Limit on rights**

An Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

### **3.06.22 Additional Rights of Access for Members**

#### **3.06.22.1 Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the Executive or its Committees and contains material relating to any business previously transacted at a private meeting unless it contains exempt information falling within Paragraphs 1 to 7 of the categories of exempt information.

#### **3.06.22.2 Material relating to Key Decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive (or its Committees) which relates to any Key Decision.

#### **3.06.22.3 Nature of rights**

These rights of a member are additional to any other right he/she may have.

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

#### **3.07.1 The Framework for Executive Decisions**

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

#### **3.07.2 Process for Developing the Policy Framework**

- (a) After consulting stakeholders in a manner appropriate to the matter under consideration, the Executive will draw up initial proposals in relation to any plan, strategy or budget which forms part of the Council's budget and policy framework. Once drawn up the Chief Executive Officer will serve copies of them on the Chair of the relevant Overview and Scrutiny Committee, together with



dates when the Executive will consider them further, which shall be at least 6 weeks after service of the notice on the Chair.

- (b) The relevant Overview and Scrutiny Committee shall then be convened within five working days to consider whether it wishes to respond to the Executive's initial proposals and whether any consultation by it is appropriate. If so, the Overview and Scrutiny Committee will conduct a consultation exercise and will reflect any representations made to it in its response to the Executive within the timescale set for decision by the Executive.
- (c) The Executive will finalise its proposals for the Council to consider having taken into account the comments from the Overview and Scrutiny Committee. The report to the Council will show the Executive's response to those comments.
- (d) The Council will consider the proposals of the Executive and may adopt them, amend them, refer them back to the Executive for further consideration, or substitute its own proposals in their place.
- (e) The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the elected Mayor. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Executive's proposal without amendment) or (if the Executive's proposal is not accepted without amendment), that the Council's decision will become effective on the expiry of at least 5 working days after the publication of the notice of decision, unless the elected Mayor formally objects in that period.
- (f) If the elected Mayor objects to the decision of the Council, then the elected Mayor shall give written notice to the Chief Executive Officer to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive Officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (g) The Council meeting must take place within five working days of the receipt of the elected Mayor's written objection. At that Council Meeting, the previous decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (h) The Council's decision, if not in accordance with the recommendation of the Executive, shall require a two-thirds majority of those voting at the meeting. Any motion debated at Council, that was not taken through the Policy Framework mechanisms, is only the expressed view of the Council, but the appropriate policy making body will be cognisant of this view.
- (i) The decision shall then be made public in accordance with Article 4 and shall be implemented immediately.

- (j) In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the Budget and degree of in-year changes to the Policy Framework which may be undertaken by the Executive in accordance with Paragraphs 3.05 and 3.06 of these Rules (Virement and In-year adjustments). Any other changes to the Budget and Policy Framework are reserved to the Council.

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

- (a) Subject to the provisions of Paragraph 3.07.5 (Virement) the Executive, Committees of the Executive, individual members of the Executive and any employees, Area Committees or joint arrangements 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.
- (b) If the Executive, Committees of the Executive, individual members of the Executive and any employees, Area Committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer, the Chief Financial Officer and the Head of Paid Service as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of any of those statutory officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Paragraph 3.07.4 (Urgent Decisions outside the Budget and Policy Framework) shall apply.

### **3.07.4      Urgent decisions outside the budget or policy framework**

- (a) The Executive, a Committee of the Executive, an individual member of the Executive or employees, Area Committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - (i) if it is not practical to convene a quorate meeting of the Full Council; and
  - (ii) if the Chair of the relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of Full Council and the Chair of the relevant Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the relevant Chair of the Overview and Scrutiny

Committee, the consent of the Vice-Chair of the relevant Overview and Scrutiny Committee, will be sufficient.

- (b) 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.

### **3.07.5        Virement**

**3.07.5.1** The scheme of virement is intended to enable the Executive, Service Directors and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Full Council, and therefore to optimise the use of resources.

#### **3.07.5.2        Key controls for the scheme of virement are:**

- (a) it is administered by the Head of Finance within guidelines set by the Full Council. Any variation from this scheme requires the approval of the Full Council.
- (b) the overall budget is agreed by the Executive and approved by the Full Council. Service Directors and those subsequently delegated are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure. For the purposes of this scheme, a budget head is considered to be a line in the approved estimates report.
- (c) virement does not create additional overall budget liability. Service Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Service Directors must plan to fund such commitments from within their own budgets.

**3.07.5.3        The Assistant Director - Finance** to agree jointly with the relevant Director virements subject to the following provisions.

- (a) that no significant change in policy is involved;
- (b) that no continuing future commitment is made, unless there is an ongoing future saving identified.
- c) that virements from all budgets (except for capital charges and internal support charges which are not allowed under any circumstances) have to be approved by the Assistant Director - Finance. Virements from staffing budgets to non staffing budgets need the approval of the Head of Paid Service.

Such virements shall be subject to the following financial limits:

- (a) Amounts up to £10,000 to be approved by the Assistant Director - Finance using the Virement Approval Form
- (b) Amounts of £10,001 - £49,999 to be approved by the Portfolio Holder – Corporate and Finance using the Virement Approval Form.

- (c) Amounts of £50,000 - £250,000 to be approved by the Executive
- (d) Amounts in excess of £250,000 will require a recommendation to Full Council for approval.

**3.07.5.4 The Chief Executive Officer, Strategic Directors and Assistant Directors are responsible** to ensure that no virement relating to a specific financial year should be made after 31 March in that year and any virement proposal to or from employee cost centres requires the approval of the Head of Paid Service

### **3.07.6 In-year changes to policy framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive, an individual member of the Executive or employees, Area Committees or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy, which make up the policy framework may be made by those bodies or individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.
- (d) In any event, the elected Mayor will consult with the Council in circumstances where he anticipates that clarification may be needed as to the policy framework.

### **3.07.7 Call-in of Decisions Outside the Budget or Policy Framework**

- (a) Where an Overview and Scrutiny Committee is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer, Section 151 Officer and/or Head of Paid Service.
- (b) In respect of functions which are the responsibility of the Executive, the Statutory Officers' report shall be to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Statutory Officers' report and to prepare a report to Council in the event that the Statutory Officers conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Statutory Officers conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Statutory Officers is that the decision is or would be

contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within five days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Statutory Officers. The Council may either:

- (i) endorse a decision or proposal of the executive decision-taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (ii) amend the Council's Budget Heads or Policy Framework document concerned to encompass the decision or proposals of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing Policy Framework or Budget Heads to accommodate it, require the decision-maker to reconsider the matter in accordance with the advice of the Statutory Officers.

### **3.07.8      Budget Approval**

Approval of the budget is the responsibility of the Council therefore the Elected Mayor and Executive will recommend for approval the budget and the level of Council Tax and Housing Rents to Council after taking into account the comments of the Overview and Scrutiny Committee and consultation conducted throughout the process.

When the finalised budget proposals are considered by Council, if the Council objects to the Executive's recommended budget for the following financial year, the elected Mayor must before 8 February, inform the Council of any reasons for disagreeing with the objections of the Council.

The Council must take into account the response from the elected Mayor when the budget proposals are reconsidered. At the meeting at which the budget is reconsidered two thirds of the Members of Council present and voting must vote to approve a budget which is not in accordance with the Executive's proposals.

The Assistant Director - Finance will receive details of the Council Tax levels required by the Precepting authorities and bring this information together for the Council to approve the resolution for the overall level of Council Tax to be levied for the District

for approval. This must be completed by 11 March of the year prior to the year for which the Council Tax is to be levied.

### **3.08            EXECUTIVE PROCEDURE RULES**

#### **3.08.1        How does the Executive Operate?**

The elected Mayor and Executive together comprise the Executive. Executive authority is vested in the elected Mayor. The elected Mayor determines who will make executive decisions and how they will be made through the scheme of delegation. These protocols apply to all those the elected Mayor appoints as Executive Members or his representatives on other bodies, except where the protocols state they apply only to the Executive.

The elected Mayor believes the best way to provide leadership is through encouraging innovation, through open discussion wherever possible and trying to achieve consensus. Arrangements are therefore built around allowing all elected members the opportunity to contribute to debate, whilst maintaining the clarity of strong personal leadership and personal responsibility for decisions.

#### **3.08.2        Who may make Executive Decisions?**

Functions which are the responsibility of the Executive may be exercised by the elected Mayor. The elected Mayor may also delegate authority to exercise those functions to the extent he/she wishes to:

- (i) the Executive as a whole
- (ii) a Committee of the Executive
- (iii) an individual member of the Executive
- (iv) an employee
- (v) joint arrangements
- (vi) another local authority
- (vii) an Area Committee as defined by Section 18, Local Government Act 2000

In this section –

“area committee”, in relation to a local authority, means a committee or sub-committee of the authority which satisfies the conditions in subsection (4),

“specified” means specified in regulations under this section.

A committee or sub-committee of a local authority satisfies the conditions in this subsection if –

- (a) the committee or sub-committee is established to discharge functions in respect of part of the area of the authority,

- (b) the members of the committee or sub-committee who are members of the authority are elected for electoral divisions or wards which fall wholly or partly within that part, and
- (c) either or both of the conditions in subsection (5) are satisfied in relation to that part.

Those conditions are –

- (a) that the area of that part does not exceed two-fifths of the total area of the authority,
- (b) that the population of that part, as estimated by the authority, does not exceed two-fifths of the total population of the area of the authority as so estimated.

### **3.08.2.1      Delegation by the Elected Mayor**

At the Annual Meeting of the Council, the elected Mayor will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the elected Mayor will contain the following information about executive functions in relation to the coming year:

- (i) the names, addresses and wards of the people appointed to the Executive by the elected Mayor.
- (ii) the extent of any authority delegated to those Executive members individually, including details of the limitation on their authority;
- (iii) the terms of reference and constitution of such Executive Committees as the elected Mayor appoints and the names of Executive members he/she appoints to them;
- (iv) the nature and extent of any delegation of executive functions to Area Committees, any other Authority or any joint arrangements and the names of those Executive members appointed to any Joint Committee for the coming year; and
- (v) the nature and extent of any delegation of Executive functions to employees with details of any limitation on that delegation, and the title of the employee to whom the delegation is made.

### **3.08.2.2      Sub-delegation of Executive Functions**

- (a) If the elected Mayor delegates functions to the Executive, and unless he/she directs otherwise, then the Executive may delegate further to a Committee of the Executive, to an employee, to any joint arrangements to another authority or to an Area Committee.

- (b) If the elected Mayor delegates functions to a Committee of the Executive, and unless he/she directs otherwise, the Committee may delegate further to an employee.
- (c) Even if executive functions have been delegated, this does not prevent the discharge of those delegated functions by the person or body who originally delegated those functions

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

The Council's scheme of delegation for non-executive functions will be adopted by the Council at its annual meeting. During the year amendments to the scheme of delegation in relation to Executive functions may be effected as follows:

- (a) The elected Mayor may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the elected Mayor must give written notice to the Chief Executive Officer and report these changes to the next ordinary meeting of the Council.

Where the elected Mayor wants to withdraw from or amend delegation to a Committee, notice will be served on that Committee when he/she has served it on its Chair.

- (b) The notice to the Chief Executive Officer must set out the amendment to the scheme of delegation, as contained in Part 3 of this Constitution, and whether it entails the withdrawal of delegation from any person, body, Committee or the Executive as a whole. The amendment will take effect on service of the notice by the elected Mayor on the Chief Executive Officer.

### **3.08.3      Conflicts of Interest**

- (a) Where the elected Mayor has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 4 of this Constitution.
- (b) If every member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 4 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a Committee of the Executive, an individual member or an employee, and should a conflict of interest arise, then the functions will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 4 of this Constitution.

### **3.08.4      Executive Meetings - When and Where?**

The Executive will be scheduled to meet at least once every cycle of the Council to be agreed by the elected Mayor and will go ahead subject to there being business to be



conducted. The Executive shall meet at the Council's Civic Centre or another location to be agreed by the elected Mayor.

A member of the Executive may make a decision delegated to them by the Executive elected Mayor at any time subject to statutory notice having been given in accordance with the Access to Information Rules in Part 3 of this Constitution.

#### **3.08.5      Public or Private Meetings of the Executive?**

The Executive or member of the Executive acting under delegated authority shall meet in public in accordance with the Access to Information Rules set out in Part 3 of this Constitution.

#### **3.08.6      Quorum**

The quorum for a meeting of the Executive, or a Committee of it, shall be one quarter of the total number of members of the Executive (including the elected Mayor) or 3, including the elected Mayor, whichever is the larger unless the executive has been convened for a single member to make a decision under delegated powers

#### **3.08.7      How are Decisions to be taken by the Executive?**

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 3 of this Constitution.
- (b) Where executive decisions are delegated to an individual member or a Committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

#### **3.08.8      How are Executive Meetings Conducted?**

##### **3.08.8.1      Who Presides?**

If the elected Mayor is present he/she will preside. In his/her absence, then, the Deputy Mayor shall preside. If neither are present then a person appointed to do so by those present shall preside.

##### **3.08.8.2      Who may Attend?**

Any member of the Council may attend. Any member of the public may attend subject only to the exceptions as set out in the Access to Information rules in Part 3 of this Constitution.

##### **3.08.8.3      What Business?**

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

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) a period of up to 15 minutes will be allowed for questions from members of the public on any matter relating to Executive functions, subject to the questions being received by the Monitoring Officer by midday seven clear working days prior to the meeting date.
- (iv) a period of up to 15 minutes will be allowed for questions from non-executive members on any matter relating to Executive functions, subject to questions being received by the monitoring Officer by midday seven clear working days prior to the meeting date.
- (v) A period of up to 15 minutes will be allowed for questions from members of the public and non-executive members on items to be considered on the agenda of the Executive subject to questions being received by the Monitoring Officer by midday two clear working days prior to the meeting date.

Questions received in respect of (iii), (iv) and (v) must be received in writing.

- (vi) matters referred to the Executive (whether by a Overview and Scrutiny Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Committee Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 3 of this Constitution;
- (vii) consideration of reports from Overview and Scrutiny Committees; and
- (viii) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 3 of this Constitution.

#### **3.08.8.4      How will Questions from Non-Executive and Public be dealt with?**

Questions received for consideration by the Executive in relation to (iii), (iv), (v) above must be in writing

The Monitoring Officer may reject a question if it:

- (i) is not about a matter for which the Executive is responsible;
- (ii) is defamatory, frivolous or offensive;
- (iii) is substantially the same as a question which has been put at a meeting of the Executive in the past six months; or
- (iv) requires the disclosure of confidential or exempt information.

A questioner who has put a question may at the discretion of the elected Mayor or the member presiding at the meeting also put one supplementary question without notice to the member of the executive who has replied to his/her original question. A supplementary question must arise directly out of the original question or reply. The elected Mayor or member presiding at the meeting may reject a supplementary question on the grounds set out above.

Questions should be brief and not take more than two minutes to read out, comments/questions relating to personal circumstances such as personal applications for grants/licences etc or not allowed.

### **3.08.9      Consultation**

All reports to the Executive from any member of the Executive or an employee on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and Overview and Scrutiny Committees, and 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.

### **3.08.10      Who can put Items on the Executive Agenda?**

The elected Mayor will decide the schedule for the meetings of the Executive, and will be able to put on the agenda of any Executive meeting any matters which he/she wishes. The Chief Executive Officer will comply with the elected Mayor's request in this respect.

- (i) Any member of the Executive may require the Chief Executive Officer to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration. If he/she receives such a request, the Head of Paid Service will comply.

The Chief Executive Officer will make sure that an item is placed on the agenda of the next available meeting of the Executive where a relevant Overview and Scrutiny Committee or the Full Council have resolved that an item be considered by the Executive.

- (ii) Any member of the Council may request the elected Mayor to put an item on the agenda of an Executive meeting for consideration, and if the elected Mayor agrees the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting, whether or not it is a public meeting. However, there may only be up to six such items per Executive meeting.
- (iii) The Statutory Officers may include an item for consideration on the agenda of an Executive meeting and may require the Chief Executive Officer to call such a

meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

### **3.09            OVERVIEW AND SCRUTINY – PROCEDURE RULES**

#### **3.09.1        What will be the number and arrangements for Overview and Scrutiny Committees?**

(a)     The Council will have three Overview and Scrutiny Committees to be known as Overview and Scrutiny Committees which together will perform all overview and scrutiny functions on behalf of the Council. Each will consist of 9 Members of the Council.

The Overview and Scrutiny Committees will be linked to the Council's priorities as follows:-

- (i)     Services and Communities
- (ii)    Place
- (iii)   Corporate Resources

(b)     The terms of reference of each of the three Overview and Scrutiny Committees will be:

- (i)     to approve an annual overview and scrutiny work programme, including the programme of any Sub-Committees it appoints so as to ensure that the Committee's and Sub-Committees' time is effectively and efficiently utilised.
- (ii)    The performance of such overview and scrutiny functions on behalf of the Council.
- (iii)   the appointment of such Sub-Committees as it considers appropriate, to fulfil those overview and scrutiny functions.

#### **3.09.2        Who may sit on Overview and Scrutiny Committees?**

All Councillors except the Mayor and other members of the Executive may be appointed by the Council to one of the Overview and Scrutiny Committees. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

#### **3.09.3        Meetings of the Overview and Scrutiny Committees**

There shall be at least five ordinary meetings of each Overview and Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chair of an Overview and Scrutiny Committee, by any five members of the Overview and Scrutiny Committee or by the Head of Paid Service if he/she considers it necessary or appropriate.

#### **3.09.4      Quorum**

The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chair counts the number of Members present and declares that there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

#### **3.09.5      Who Chairs Overview and Scrutiny Committee Meetings?**

Good scrutiny is achieved when transparent arrangements are in place to hold the executive to account. Chairs of Overview and Scrutiny Committees will be determined by Full Council. Nomination for Chairs will be drawn from the members on the Overview and Scrutiny Committees.

#### **3.09.6      Work Programme**

The Overview and Scrutiny Committees will be responsible for setting out their own work programme and in doing so they shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.

Each Overview and Scrutiny Committee will produce an annual work programme. In drawing up such a programme. In addition, the Overview and Scrutiny Committee will build into its annual programme, scrutiny arrangements to review progress of the Corporate Plan and overview of the budget process.

#### **3.09.7      Agenda items**

Agendas will reflect the work programme, approved by each Overview and Scrutiny Committee, including items that may be put forward from time to time, by individual Overview and Scrutiny Committee members. Such requests should be made in writing or electronically, and submitted to the Chief Executive Officer, to enable the prioritisation criteria to be implemented. The outcome of which must be considered at the next Overview and Scrutiny Committee meeting.

Each Overview and Scrutiny Committee shall respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Executive to review particular areas of Council activity. Where they do so, a Overview and Scrutiny Committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or Executive shall consider the report of the Overview and Scrutiny Committee within six weeks of receiving it.

### **3.09.8        Questions**

Members of the public may ask a question at Committee Meetings on any subject that relates to the agenda and within the Terms of Reference of the Committee.

Persons wishing to ask a question must submit their question to the Monitoring Officer by midday two clear working days prior to the meeting date.

This is to ensure that:-

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

The Monitoring Officer may reject a question if it :-

- (a) is about a matter that the Committee is not responsible for or does not affect the District,
- (b) if offensive, defamatory or frivolous; or
- (c) requires the disclosure of exempt information.

The Chair will retain sole discretion as to the management of questions, including accepting questions at the meeting, but in most cases a total of 15 minutes will be permitted with 5 minutes maximum for dealing with each question.

Questions will be asked and answered without debate.

A Questioner who has put a question in person may at the discretion of the Chair also put one supplementary question without notice to the Member who has replied to his/her original question. A supplementary question must arise directly out of the original question or reply. The Chair may also reject a supplementary question on any of the grounds a – c above

The Chair will have discretion to allow questions without notice having been given if appropriate.

### **3.09.9        Policy Review and Development**

- (a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its budget and policy framework, Overview and Scrutiny Committee or their Sub-Committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.

- (c) Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

#### **3.09.10      Reports from Overview and Scrutiny Committees**

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Chief Executive Officer for consideration by the Executive. The proposals may be submitted to Full Council where requested for consideration by the Council prior to being referred to the Executive.
- (b) If a Overview and Scrutiny Committee cannot agree on one single final report to the Council or Executive as appropriate, then one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report. When referred to Council, both the majority and minority reports will appear as the same agenda item.
- (c) It shall be the duty of the Council or Executive to consider and respond to the report of the Overview and Scrutiny Committee within six weeks of it being submitted to the Chief Executive Officer.
  - (i) The response to the Overview and Scrutiny Committee must indicate what (if any) action the Council propose or the Executive proposes, to take,
  - (ii) If the Overview and Scrutiny Committee has published the report or recommendations the Council or Executive's response must also be published.
  - (iii) If the Overview and Scrutiny Committee provided a copy of the report or recommendations to an elected member the Council or Executive must also provide the member with a response.

#### **3.09.11      Making sure that Overview and Scrutiny Committee Reports are considered by the Executive**

- (a) The agenda for Executive meetings shall include an item entitled 'Issues Arising from Overview and Scrutiny by Overview and Scrutiny Committees'. The reports of Overview and Scrutiny Committees referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda within two months of the Overview and Scrutiny Committee completing its report/recommendations).

- (b) Overview and Scrutiny Committees will in any event have access to the List of Key Decisions and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Overview and Scrutiny Committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

### **3.09.12      Rights of Overview and Scrutiny Committee Members to Documents**

- (a) In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 3 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

### **3.09.13      Councillor Call for Action**

Any member of the public can approach any member of the Council to ask that an issue is referred to a meeting of scrutiny. This is referred to as a Councillor Call for Action (CCfA). The procedure the dealing with this is as set out in the procedure as Appendix 1 to these rules.

### **3.09.14      Members and Employees Giving Account**

- (a) Subject to allocation by the Co-ordinating Sub-Committee any Overview and Scrutiny Committee or Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require the elected Mayor, any other member of the Executive the Chief Executive Officer and/or relevant accountable employee 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) their performance

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

- (b) Where any member or employee is required to attend any Overview and Scrutiny Committee under this provision, the Chair of that Overview and Scrutiny Committee will inform the Chief Executive Officer. The Chief Executive Officer shall inform the member or employee in writing, giving at least five working days' notice of the meeting at which he/she is required to attend. The notice will state



the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Overview and Scrutiny Committee. Where the account to be given to the Overview and Scrutiny Committee will require the production of a report, then the member or employee concerned will be given sufficient notice for preparation of that documentation.

- (c) Where, in exceptional circumstances, the member or employee is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or employee arrange an alternative date for attendance to take place within a maximum of fifteen days from the date of the original request.

### **3.09.15      Attendance by Others**

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 3.09.14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and employees in other parts of the public sector and shall invite such people to attend.

### **3.09.16      Call-in**

Call-in should only be used in exceptional circumstances.

- (a) When a decision is made by the Executive, an individual member of the Executive or a Committee of the Executive, or a Key Decision is made by an employee with delegated authority from the Executive or an Area Committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the Civic Centre, Chesterfield Road South, Mansfield normally within two working days of being made. Chairs of all Overview and Scrutiny Committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) 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 five working days after the publication of the decision, unless an Overview and Scrutiny Committee objects to it and calls it in.
- (c) During that period, the Chief Executive Officer shall call-in a decision for scrutiny by an Overview and Scrutiny Committee if so requested by any six Councillors and shall then notify the decision-taker of the call-in. He/she shall call a meeting of an Overview and Scrutiny Committee on such a date as he/she may determine. The purpose of call-in is to review whether a decision of the Executive is appropriate and if considered not to be, to request the Executive to consider the question again.

- (d) If, having considered the decision, the Overview and Scrutiny Committee is concerned about it, then no later than six weeks from the date of call-in it may refer it back to the decision-making person or body who may uphold, amend or reject their original decision within five working days of that referral. Or within the same period the Overview and Scrutiny Committee can refer the matter for Full Council. If referred to Full Council, arrangements must be made for the Full Council to discuss the matter within the six weeks.
- (e) If following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny Committee meeting.
- (f) If the matter was referred to Full Council, arrangements must be made for the Council to consider the matter within six weeks and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it does not have the power to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person may uphold, amend or reject the original decision within five working days of that referral.
- (g) If the Council does not meet, or if it does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

### **3.09.17      Call-in and Urgency**

- (h) The call-in procedure set out above shall not apply where the decision being taken by the decision taker is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interests of the Council or the public. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chief Executive Officer must agree that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chief Executive Officer, the consent of the Monitoring Officer shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (i) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

### **3.09.18      The Party Whip**

- (a) “The party whip” is defined as any instruction given by or on behalf of a political group to any elected Member who is a member of that group as to how that elected Member shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the group in respect of that elected member should he/she speak or vote in any particular manner.
- (b) When considering any matter in respect of which a member of a Overview and 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 Overview and Scrutiny Committee’s deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### **3.09.19      Procedure at Overview and Scrutiny Committee meetings**

- (a) Overview and Scrutiny Committees and their Sub-Committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) questions from the public
  - (iv) consideration of any matter referred to the Overview and Scrutiny Committee for a decision in relation to call-in of a decision;
  - (v) responses of the Executive to reports of the Overview and Scrutiny Committee; and
  - (vi) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Overview and Scrutiny Committee may also ask people to attend to give evidence at Overview and Scrutiny Committee meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all members of the Overview and Scrutiny Committee be given the opportunity to ask questions of attendees and to contribute and speak;
  - (ii) that those assisting the Overview and Scrutiny Committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Overview and Scrutiny Committee shall prepare a report for submission to the Executive and/or Council as

appropriate and shall make its report and findings public, except to the extent consistent with Rule 2.10 of the Access to Information Procedure Rules.

### **3.09.20      Matters within the allocated remit of more than one Overview and Scrutiny Committee**

Where a matter for consideration by an Overview and Scrutiny Committee also falls within the allocated remit of one or more Overview and Scrutiny Committees, the decision as to which Overview and Scrutiny Committee will consider it, will be resolved by the Assistant Director - Law and Governance in consultation with the Chairs of the Overview and Scrutiny Committees.

### **3.09.21      Working Groups**

Any Overview and Scrutiny Committee may appoint an informal Working Group. Such Groups will be set up for specific items of work for a limited duration; they will not have decision making powers but will make recommendations to the relevant Committee. The Committee setting up such groups will set out Terms of Reference for their operation. These groups will not be subject to the Access to Information Rules, but the Terms of Reference will identify whether and to what extent their meetings will be held in public and agendas will be published.

The membership of Working Groups will be determined by the Committee, but members of the Working Group need not be drawn solely from the membership of the Committee and should be selected based on the individuals knowledge of and/or interest in the issue which the Working Group is set up to consider.

## **3.10      APPENDIX 1 – COUNCILLOR CALL FOR ACTION PROCEDURE**

The following procedures will be followed:-

**3.10.1      A Councillor raises the item** with the Overview and Scrutiny Committee Chair. This should be done via the Head of Paid Service.

Any Councillor doing so must provide some basic information, including the following:

- a description of issue
- an explanation of what has prompted raising issue (e.g. concerns of local residents);
- details of who is affected (e.g. neighbourhood, local children etc)
- a summary of the action taken to date? (what has been done so far to solve problem);
- an explanation of what is needed to resolve the problem? (possible solutions, desired outcomes)
- any critical timescales or deadlines

**3.10.2 The Chair of the Overview and Scrutiny Committee** will decide if item is to go forward. In deciding if the matter should be placed on the Committee's agenda, the Chair will take account of the following:

- Do alternative avenues for resolution exist (complaints procedures, planning/licensing appeals etc)?
- Have efforts to deal with the issue/solve the problem been sufficiently exhausted to justify Committee consideration?
- Do any of the other statutory exclusions apply (vexatious, discriminatory, unreasonable etc.)?

**3.10.3 The Chair then decides** what steps should be taken to bring the issue before the Committee (e.g. officer report, attendance, including attendance by the Mayor or an Executive member or other councillor if appropriate, invitation to partner organisations, outside groups and individuals to attend).

**3.10.4 Consideration at a Committee meeting** should be based on achieving the outcomes to resolve the problems, this will include exploring the options and potential solutions. The committee may make recommendations for certain action to be taken.

**3.10.5 The Councillor who raised the Councillor Call for Action (CCfA)** will be kept advised of progress at all stages and will be invited to attend any meeting of the Overview and Scrutiny Committee which considers it and will also be invited to give evidence. The Councillor will also be consulted as to who else should be invited to give evidence or have an opportunity of speaking to the Committee.

**3.10.6 The Councillor raising CCfA** should keep the person (or the representative of a group) who either drew the matter to the Councillor's attention or asked for the Councillor to take action informed of progress.

**3.10.7 In the event that the Committee** choose not to make a report or recommendations on the matter, the Councillor raising the CCfA shall be informed of its decision and given reasons for it.

**3.10.8 If the CCfA relates to a crime and disorder matter**, the Councillor raising the CCfA shall be sent a copy of the report or recommendations which is submitted to a responsible authority or a co-operating person or body.

### **3.11 FINANCIAL REGULATIONS**

These Financial Regulations provide the framework for managing the Council's financial affairs. They apply to every employee, Executive Mayor and Elected Members of the Council and anyone acting on its behalf.

Any persons who have any involvement in the spending or collecting of money, or are responsible for the assets of the Council must comply with the contents of these Financial Regulations ("Regulations").

The Assistant Director - Finance is responsible for the financial administration and stewardship of the Council as set out in the Council's Constitution.

In these Regulations and related guidance:

Executive is defined as the directly Elected Mayor and Cabinet.

Budget Managers are officers whose job descriptions include responsibility for controlling and monitoring the Council's approved budgets.

The Council's accounting system and supporting accounting records shall be determined by the Assistant Director - Finance.

The Assistant Director - Finance in consultation with the Corporate Leadership Team (CLT), is responsible for the preparation and maintenance of financial procedures and shall also provide Assistant Directors with appropriate financial information to enable them to undertake their responsibilities effectively with regard to finance.

Assistant Directors are responsible for ensuring that all employees in their departments receive any required training and guidance and fully comply with these Regulations. In addition to their roles as managers, (CLT) are responsible for monitoring compliance.

Assistant Directors will be responsible for investigating breaches of these Regulations, in liaison with Internal Audit who will record them and report them to the Assistant Director - Finance, the Assistant Director - Law and Governance and the Governance and Standards Committee.

Action in respect of breaches may be taken in line with the Council's Disciplinary Rules.

Where responsibility has been assigned within these Regulations this does not replace line management responsibilities as determined in job descriptions and contracts of employment.

### **3.11.1 Principles of Financial Management and Administration**

#### **Why is this important?**

- The Council is responsible for the stewardship of public money.
- The Council has a statutory duty in respect of providing value for money.
- The Council must meet its statutory obligations and deadlines.
- There are limited resources to meet the Council's vision and priorities.
- Maintaining the Council's good financial reputation is important.
- There are statutory implications of poor financial management e.g. Government Intervention.
- There are legal and criminal implications.
- The Council's insurance costs and cover are affected by poor standards of financial management and control.

#### **3.11.1.1 What is expected?**

- Accurate and complete records.
- Provision of timely, accurate and relevant information.
- Compliance with financial procedures and controls.
- Consultation on budgetary and other financial issues.
- Awareness of budgetary and financial responsibilities.
- Awareness and understanding of Financial Regulations and related procedures.

#### **3.11.1.2 Who do these Principles apply to?**

- All employees, agency staff, Executive Mayor and Elected Members.
- Any person involved in receiving or expending money, managing stores, stocks, cash or other assets on behalf of the Council.

#### **3.11.1.3 Responsibilities of the Assistant Director - Finance**

- To provide timely, accurate and relevant budgetary and financial information to enable effective decisions to be made.
- To provide awareness, training, advice and support in relation to Financial Regulations and related procedures or specific guidance and timetables.
- To consult on any budgetary or financial issues or procedures with the appropriate stakeholders – internal and external.
- To ensure that the Annual Statement of Accounts is produced in line with statutory requirements and timescales and to produce appropriate guidance and timetable.
- To ensure that the Council produces a revenue and capital budget and sets the level of Council Tax within statutory requirements and timescales and produces appropriate guidance and timetable.
- To provide a robust budget monitoring and management system to enable service managers to monitor and control budgets for which they are responsible, in line with statutory requirements.

#### **3.11.1.4 Responsibilities of CLT**

- To maintain accurate and completed records.
- To provide accurate information as required.
- To personally comply with and ensure compliance by their employees with Financial Regulations and related procedures.
- To ensure awareness and understanding of Financial Regulations and related procedures within their service area.
- To consult with the Assistant Director - Finance on financial issues or proposed changes to financial systems or procedures in advance of decision making.
- To provide information to the Assistant Director - Finance as required for the production of the Annual Statement of Accounts.
- To provide to the Assistant Director - Finance information as required for the production of the Council's revenue and capital budget.
- To provide the Assistant Director - Finance with information as required to enable ongoing monitoring and control of the Council's budget.
- To achieve value for money by utilising resources allocated in the most efficient, effective and economic way.

### **3.11.2      Financial Planning**

#### **3.11.2.1      Why is this important?**

The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with the Council's designated priorities. The Long Term Financial Strategy (LTFS), capital programme and revenue budgets are the financial expression of the Council's plans and policies.

These must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Council and so that the Council can plan, authorise, monitor and control the way money is allocated and spent.

Each year a planning timetable is produced which identifies the key milestones and links to the production of other plans and strategies which are then taken account of in the LTFS and subsequent budgets.

#### **3.11.2.2      Key Controls**

The key controls for financial planning are:

- direct link to the Council's Corporate Plan and priorities
- the production of a rolling ten year LTFS and revenue and capital budget
- the production of a rolling HRA (Housing Revenue Account) Business Plan
- integration of service planning into forward planning
- effective performance management

#### **3.11.2.3      Responsibilities of Assistant Director - Finance**

**3.11.2.3.1**      To produce a rolling ten year LTFS linked to the Council's priorities.

**3.11.2.3.2**      To advise on the long-term implications of spending decisions through production of the LTFS.

**3.11.2.3.3**      To produce a rolling ten year revenue and capital budget for both the General Fund and Housing Revenue Account (HRA).

#### **3.11.2.4      Responsibilities of CLT**

**3.11.2.4.1**      To ensure that service plans are integrated into forward plans, so that they can be supported by financial and non-financial performance measures.

**3.11.2.4.2**      To maintain adequate information on financial and non-financial performance measures to support financial planning as agreed with the Assistant Director - Finance.



### **3.11.3      Maintenance of Reserves**

#### **3.11.3.1      Why is this important?**

The Council must decide the level of general reserves it wishes to maintain. Reserves are maintained as a matter of prudence to meet unexpected expenditure and the financial impact of risks. Reserves for specific purposes may also be maintained where appropriate.

#### **3.11.3.2      Key Controls**

**3.11.3.2.1**      To maintain reserves in accordance with the Code of Practice on Local Council Accounting in the United Kingdom and agreed accounting policies and based on an assessment of risk.

**3.11.3.2.2**      For each earmarked reserve established, the purpose, usage and basis of transactions should be clearly identified and approved by Council.

**3.11.3.2.3**      Authorisation of the use of general reserves to finance expenditure is required from the Council.

**3.11.3.2.4**      Having established an earmarked reserve any amendments to the Council's capital or revenue budgets, subsequent expenditure for the approved purpose, within the value of the amount reserved, requires the approval of the Council.

#### **3.11.3.3      Responsibilities of the Assistant Director - Finance**

**3.11.3.3.1**      To advise the Executive and/or Council on prudent levels of reserves for the Council and identify the level and basis of this advice within the LTFS.

**3.11.3.3.2**      To undertake a review of general and earmarked reserves held both during the year and as part of budget setting procedures.

**3.11.3.3.3**      To undertake a review of the Council's future reserves strategy as part of the LTFS and as part of the year end procedures.

**3.11.3.3.4**      To ensure that reserves are set up where necessary and only used for the purposes which they were authorised.

### **3.11.4      Allocation of Financial Resources**

#### **3.11.4.1      Why is this important?**

A disparity often exists between available resources and the resources required to meet needs. Therefore careful prioritisation is required to ensure that resources are fairly allocated and that the Council is able to fulfil its legal responsibilities.

#### **3.11.4.2      Key Controls**

The key controls for resource allocation are:

- resources are acquired in accordance with the Council's statutory powers
- competing claims for limited resource are considered against agreed prioritisation criteria, including the Corporate Plan.

#### **3.11.4.3 Responsibilities of the Assistant Director - Finance**

**3.11.4.3.1** To advise on methods available for the funding of revenue and capital expenditure.

**3.11.4.3.2** In consultation with CLT agree criteria for prioritisation of resources having regard for the Council's approved corporate priorities and targets.

#### **3.11.4.4 Responsibilities of CLT**

**3.11.4.4.1** To utilise resources allocated in the most efficient, effective and economic way.

**3.11.4.4.2** To identify opportunities to minimise or eliminate resource requirements.

**3.11.4.4.3** To assess all new demands for resources against the agreed criteria for prioritisation.

#### **3.11.5 Budget Production**

##### **3.11.5.1 Budget Definition**

The annual budget is the financial representation of the Council's priorities. Its preparation is one of the most extensive and visible products of the Council's financial management system. The annual budget process is one part of the medium or long term planning process

##### **3.11.5.2 Why is this important?**

The Council produces a budget because it is:

- a legal requirement
- used to set Council tax
- manages the money to provide services
- provides longer term stability
- allocates limited resources
- ensures accountability and stewardship of public funds.

The format of the budget will be determined by the Assistant Director - Finance in accordance with legal requirements, Chartered Institute of Public Finance and Accountancy (CIPFA) Service Reporting Code of Practice (SERCOP) and in such a way that the budget managers are able to manage their budgets effectively and that responsibility for budget management is clearly identified.

##### **3.11.5.3 Key Controls**

The key controls for the budget production are:

- link to the Council's priorities
- review of LTFS
- compliance with budget guidance
- compliance with all legal requirements and accounting standards
- compliance with CIPFA's Service Reporting Code of Practice (SERCOP)
- the format of budgets is in line with identifiable service areas to provide accountability for service delivery and budget management
- revenue developments are approved by Council the revenue budget is monitored by the Budget Monitoring Working Group, CLT and Cabinet.

#### **3.11.5.4 Responsibilities of the Assistant Director - Finance**

Part 2 of the Local Government Act 2003 requires the Assistant Director - Finance to produce a budget report to Council for approval based on a balanced budget. This also includes the setting of Council Tax through the Council Tax Resolution report.

**3.11.5.4.1** To produce a timetable and guidance for budget production in line with legal requirements and CIPFA Code of Practice.

**3.11.5.4.2** The revenue and capital outturn position is reported to Council after the end of the financial year.

#### **3.11.5.5 Responsibilities of CLT**

**3.11.5.5.1** To comply with the budget timetable and guidance provided by the Assistant Director - Finance.

### **3.11.6 Capital Programmes**

#### **3.11.6.1 Why is this important?**

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.

The Government has placed control on the financing capacity of the Council with the introduction of the prudential control regime. Capital expenditure should form part of the Council's Treasury Management, investment and borrowing strategy and should be carefully prioritised in order to maximise the benefit of the available resources.

#### **3.11.6.2 Key Controls**

The key controls for capital programmes are:

- specific approval required by Council for the programme of capital expenditure

- to prioritise the capital scheme based on the Council's agreed priorities and financial resources available
- a capital project mandate must be prepared for each capital project
- the capital programme is monitored in line with the Council's project management system by the Capital Programme Project Board
- the timetable for the delivery of individual schemes within the overall budget approved by Council
- responsibility for the delivery of named schemes lies with a named project manager
- scheme of delegation and virement limits are set out in Part 3 of the Council's Constitution
- the overall capital programme is fully funded

### **3.11.6.3 Responsibilities of the Assistant Director - Finance**

**3.11.6.3.1** To prepare proposals for the capital programme, including financing, jointly with the Corporate Leadership Team (CLT) for the Portfolio Holder for Corporate and Finance to report them to the Executive before approval by Council.

**3.11.6.3.2** To issue guidance concerning capital schemes financial controls and external funding.

**3.11.6.3.3** To ensure that authorisation is obtained from the Council for individual schemes where the estimated expenditure exceeds the approved capital programme provision or that the necessary resources have been identified in line with the virement procedures.

**3.11.6.3.4** To review the Minimum Revenue Provision Strategy annually in respect of potential new borrowing, and get the Strategy approved by Council prior to the start of the new financial year.

### **3.11.6.4 Responsibilities of CLT**

**3.11.6.4.1** To ensure that guidance concerning capital schemes and financial controls issued by the Assistant Director - Finance are complied with.

**3.11.6.4.2** To ensure that a quarterly return of estimated final costs of schemes and progress information on the approved capital programme is submitted to the Assistant Director - Finance.

**3.11.6.4.3** To ensure that adequate records are maintained for all capital contracts, including a record made in the Corporate Contracts Register.

**3.11.6.4.4** To ensure that projects are only progressed when there is adequate financial provision in the approved capital programme.

**3.11.6.4.5** To ensure that reports are submitted to the Executive on completion of all contracts where the final expenditure exceeds the approved capital budget.

**3.11.6.4.6** To ensure that applications for external funding for capital projects and subsequent administration are carried out in accordance with guidance issued by the Assistant Director - Finance.

**3.11.6.4.7** To ensure that the Assistant Director - Finance is consulted with prior to seeking Council approval for prudential borrowing to support expenditure that has not been included in the current year's capital programme.

**3.11.6.4.8** To ensure that information is provided in line with the Council's project management systems.

### **3.11.7 Corporate Risk and Opportunity Management**

#### **3.11.7.1 Why is this important?**

**3.11.7.1.1** Effective risk and opportunity management is essential for the Council to achieve its priorities, comply with the Accounts and Audit Regulations and improve outcomes for the community. It also contributes to both effective service delivery and governance arrangements of the Council

**3.11.7.1.2** Roles and responsibilities in respect of corporate risk and opportunity management are detailed in the Council's Corporate Risk and Opportunity Management Strategy

#### **3.11.7.2 Key Controls**

**3.11.7.2.1** The key controls for strategic risk and opportunity management are:

- the Council's Corporate Risk and Opportunity Management Strategy is fully implemented across the organisation
- a monitoring process is in place to review regularly the effectiveness of risk reduction and opportunity maximisation strategies and the operation of related controls and enablers
- managers know that they are responsible for identifying and managing relevant risks and opportunities and are provided with relevant information on risk and opportunity management
- the Council has up to date Business Continuity Plans in place
- an assessment of risks and opportunities associated with decisions made by the Council and its Executive is incorporated into the decision making process.

#### **3.11.7.3 Responsibilities of the Assistant Director - Law and Governance**

**3.11.7.3.1** To ensure that there is an up to date Corporate Risk and Opportunity Management Strategy in place, supported by adequate training.

**3.11.7.3.2** To ensure that there is an effective monitoring process in place in respect of implementation of the Corporate Risk and Opportunity Management Strategy.

#### **3.11.7.4 Responsibilities of CLT**

**3.11.7.4.1** To ensure that the Corporate Risk and Opportunity Management Strategy is fully implemented in their service areas.

**3.11.7.4.2** To ensure that up to date Business Continuity Plans are in place

**3.11.7.4.3** To ensure that the Council's decision making process is fully complied with in respect of the assessment of risks and opportunities

### **3.11.8 Internal Controls**

#### **3.11.8.1 Why is this important?**

The Council has internal controls to manage and monitor progress towards its strategic objectives, to ensure compliance with its statutory obligations and to address its financial, administrative and commercial risks.

#### **3.11.8.2 Key Controls**

The key controls include:

- managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
- financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems
- an effective internal audit function that is properly resourced and operates in accordance with the Public Sector Internal Audit Standards.

#### **3.11.8.3 Responsibilities of the Assistant Director - Finance**

**3.11.8.3.1** To ensure that key controls are reviewed on a regular basis and the Council makes a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively.

**3.11.8.3.2** To ensure that the Council has in place an adequate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

#### **3.11.8.4 Responsibilities of CLT**

**3.11.8.4.1** To manage and regularly review processes to ensure that adequate controls are in place, are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

**3.11.8.4.2** To review existing controls in the light of changes affecting the Council and to establish and implement new ones in agreement with the Corporate Assurance Manager.

**3.11.8.4.3** To ensure staff have a clear understanding of the controls in operation, the reason for the controls and the consequences of non-compliance.

### **3.11.9 Internal Audit**

#### **3.11.9.1 Why is this important?**

**3.11.9.1.1** The requirement for an Internal Audit function for local Councils is set out in section 151 of the Local Government Act 1972, which requires that Councils “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015 specifically require that a “relevant body must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector auditing standards or guidance”.

**3.11.9.1.2** The objectives and Terms of Reference for Internal Audit are detailed in its Internal Audit Charter which is approved by the Governance and Standards Committee.

#### **3.11.9.2 Key controls**

**3.11.9.2.1** The key controls for Internal Audit are:

- that it complies with its Internal Audit Charter
- that it complies with the Public Sector Internal Audit Standards.

**3.11.9.2.2** To ensure that Internal Auditors have the authority to:

- access Council premises or personnel at reasonable times
- access all assets, records, documents, correspondence and control systems
- receive any information and explanation considered necessary concerning any matter under consideration
- require any employee of the Council to account for cash, stocks, plant and equipment, vehicles or any other Council asset under his or her control
- access records belonging to third parties, such as contractors, when required.

#### **3.11.9.3 Responsibilities of the Assistant Director - Law and Governance**

**3.11.9.3.1** To discuss the Audit Plan prepared by the Corporate Assurance Manager prior to submission to the Governance and Standards Committee for approval.

**3.11.9.3.2** To ensure that effective procedures and resources are in place to investigate promptly any fraud or non-compliance with approved financial policies, procedures and controls.

**3.11.9.3.3** To monitor delivery of the approved audit plan and ensure any significant changes are approved by the Governance and Standards Committee.

**3.11.9.3.4** To ensure that Internal Audit has adequate resources to deliver the approved Audit Plan.

#### **3.11.9.4 Responsibilities of CLT**

**3.11.9.4.1** To ensure that Internal Auditors are given access at all reasonable times to premises, personnel, documents and assets that the Auditors consider necessary for the purposes of their work.

**3.11.9.4.2** To ensure that Internal Auditors are provided with any information and explanations that they seek in the course of their work promptly.

**3.11.9.4.3** To consider and respond promptly, within 10 working days, from the closure meeting, unless otherwise agreed, to Internal Audit findings.

**3.11.9.4.4** To ensure that any agreed actions arising from Internal Audit reviews or investigations are carried out within the agreed timescales unless an extension of time is agreed with the Corporate Assurance Manager.

**3.11.9.4.5** To notify the Corporate Assurance Manager immediately of any suspected fraud, theft or improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Assistant Director - Service should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

**3.11.9.4.6** To ensure that new systems for maintaining financial records, or records of assets, or significant changes to such systems, are agreed with the Corporate Assurance Manager prior to implementation.

#### **3.11.10 External Audit**

##### **3.11.10.1 Why is this important?**

**3.11.10.1.1** The Public Sector Audit Appointments Limited (PSAA) is responsible for overseeing contracts for External Auditors to each Council in England and Wales. The External Auditor has rights of access to all documents and information necessary for audit purposes.

**3.11.10.1.2** The National Audit Office (NAO) is now responsible for producing and maintaining the Code of Audit Practice (Code) and providing supporting guidance to auditors.

**3.11.10.1.3** The Council's Annual Statement of Accounts are scrutinised by External Auditors, who must be satisfied that the Statement of Accounts 'presents a true and fair view' the financial position of the Council and its income and expenditure for the year in question and complies with the legal requirements.



**3.11.10.1.4** The External Auditors provide the Council with a value for money opinion.

**3.11.10.1.5** The External Auditors certify the housing benefit subsidy claim for the Department of Work and Pensions and the pooling return for Government.

### **3.11.10.2 Key Controls**

**3.11.10.2.1** External Auditors are appointed to provide an independent opinion.

**3.11.10.2.2** External Auditors are required to comply with a Code of Audit Practice issued by the NAO which reflects the International Auditing Standards.

### **3.11.10.3 Responsibilities of the Chief Executive**

**3.11.10.3.1** To ensure that External Auditors have:

- access to Council premises or personnel at reasonable times
- access to all assets, records, documents, correspondence and control systems
- receive any information and explanation considered necessary concerning any matter under consideration
- require any employee of the Council to account for cash, stocks, plant and equipment, vehicles or any other Council asset under his or her control
- access records belonging to third parties, such as contractors, when required
- direct access to the Chief Executive, the Executive and Governance and Standards Committee.

### **3.11.10.4 Responsibilities of the Assistant Director - Finance**

**3.11.10.4.1** To ensure there is effective liaison between External and Internal Audit.

**3.11.10.4.2** To ensure that there is effective liaison between External Audit and the Financial Services Team in respect of the quality, timeliness and availability of working papers supporting the Annual Statement of Accounts.

**3.11.10.4.3** To work with the External Auditor and advise the Council, Executive and CLT on their responsibilities in relation to External Audit.

**3.11.10.4.4** To ensure that the work and timescales agreed with External Audit as set out in their Audit Strategy Memorandum are delivered in line with the agreed level of fees.

**3.11.10.4.5** To agree any additional work and related fees to enable the External Auditor to complete their audit plan subject to budget availability.

### **3.11.10.5 Responsibilities of CLT**

**3.11.10.5.1** To ensure that External Auditors are given access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work.

**3.11.10.5.2** To ensure that all records and systems are up to date and available for inspection.

### **3.11.10.6 Preventing Theft Fraud or Corruption**

#### **3.11.10.6.1 Why is it this important?**

**3.11.10.6.2** The Council has zero tolerance in respect of theft, fraud and corruption, whether from inside or outside the Council.

**3.11.10.6.3** The Council's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

**3.11.10.6.4** The Council also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

**3.11.10.6.5** Prevention of theft, fraud or corruption ensures the security of public money which is needed to fund services and the priorities of the Council.

#### **3.11.10.7 Key Controls**

The key controls regarding the prevention of financial irregularities are that:

- the Council has an effective Anti-Fraud and Corruption Strategy and maintains a culture that will not tolerate fraud or corruption
- all members and staff act with integrity and lead by example in accordance with the Corporate Values and within approved Codes of Conduct and professional standards set by the Council
- the Council has effective Whistle-Blowing procedures in place

#### **3.11.10.8 Responsibilities of the Assistant Director - Law and Governance**

**3.11.10.8.1** To maintain an effective Anti-Fraud and Corruption Strategy.

**3.11.10.8.2** To maintain an effective Whistle-Blowing Code

**3.11.10.8.3** To approve referrals to the police in respect of theft, fraud or corruption

#### **3.11.10.9 Responsibilities of CLT**

**3.11.10.9.1** To ensure that all suspected irregularities are reported to the Corporate Assurance Manager who will inform the statutory officers.

**3.11.10.9.2** To instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates theft, fraud or corruption.

**3.11.10.9.3** To ensure that where theft, fraud or corruption is discovered, they consider whether it is appropriate for the matter to be referred to the Police for consideration of a criminal investigation.

### **3.11.10.10 Insurance**

#### **3.11.10.10.1 Why is this important?**

All organisations, whether private or public, face risks to people, property and continued operations. Insurance forms a vital part of the management of these risks.

#### **3.11.10.11 Key Controls**

The key controls for insurance are:

- to effect corporate insurance cover through external insurance
- to negotiate all claims in consultation with the Council's insurers
- to ensure that there is adequate insurance cover for the Council to cover itself against claims from the public and external organisations, and its own workforce
- to ensure an adequate level of insurance cover for areas of risk associated to the Council and its business operations
- in conjunction with the Principal General Practice Surveyor and Corporate Asset Manager to periodically undertake a general revaluation of Council buildings and effect appropriate charges to the corresponding insurance cover following revaluation
- to identify claim trends and implement appropriate risk management measures

#### **3.11.10.12 Responsibilities of the Assistant Director - Finance**

**3.11.10.12.1** To arrange insurance cover on behalf of the Council, excluding any insurance under contracts which is the responsibility of the contractor.

**3.11.10.12.2** To hold in safe custody all insurance policies of the Council and arrange for payment of premiums by the due date.

**3.11.10.12.3** To periodically undertake a general revaluation of council buildings so that appropriate amendments to insurance cover can be arranged.

**3.11.10.12.4** Insurance records relating to liability policies must be retained indefinitely and other related correspondence must be retained for six years.

#### **3.11.10.13 Responsibilities of CLT**

**3.11.10.13.1** With regard to the insurance of property (other than buildings) and any other insurable risks appropriate to the Council's services, it is the duty of CLT to:

- periodically review the valuation of insurable assets

- inform the Assistant Director - Finance promptly of any additions, disposals or revaluations of assets, so that appropriate changes in insurance cover can be effected
- inform the Assistant Director - Finance promptly of any circumstances which necessitate the submission of a claim to an insurer.

**3.11.10.13.2** With regard to the insurance of buildings, it is the duty of CLT to inform the Assistant Director - Finance promptly of any changes to the fabric, use or content of any buildings which might affect its valuation for the purpose of insurance.

**3.11.10.13.3** To inform the Assistant Director - Finance within 30 days of any loss, liability, or damages that may lead to a claim against the Council, or by the Council, together with any supporting evidence and / or information.

**3.11.10.13.4** To inform the Assistant Director - Finance promptly of all new risks, properties or vehicles which require insurance and of any alterations affecting existing insurance.

**3.11.10.13.5** To ensure employees, or anyone covered by the Council's insurance, do not admit liability or make an offer of compensation which may prejudice the assessment of liability in respect of any insurance claim.

**3.11.10.13.6** To ensure sound systems of control are maintained to prevent invalidation of fidelity guarantees – failure to act on Audit recommendations may result in such invalidation.

### **3.11.11      Security and Accounting for Assets**

#### **3.11.11.1      Why is this important?**

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth millions of pounds financed from public funds. To ensure efficient and effective service delivery assets must be safeguarded to ensure they are available as required.

#### **3.11.11.2      Key Controls**

The key controls for the security of assets such as land, buildings, fixed plant machinery and, equipment are that systems are in place to ensure that:

- assets are used only for the purposes of the Council
- assets are properly accounted for through the asset register and inventories held and maintained in accordance with section 14
- assets no longer required are identified and approval for disposal is obtained in accordance with the Scheme of Delegation
- assets no longer required are lawfully disposed of in accordance with the regulations of the Council
- an up to date and accurate asset register or inventory is maintained, including any movements, disposals, acquisitions or write offs

### **3.11.11.3 Responsibilities of the Assistant Director - Finance**

**3.11.11.3.1** To ensure that an asset register is maintained in accordance with good practice for all fixed assets.

**3.11.11.3.2** To ensure the information required for accounting, costing and financial records is provided by Assistant Directors.

**3.11.11.3.3** To ensure that assets are valued in accordance with proper professional practices.

**3.11.11.3.4** To ensure that there is adequate insurance cover in place and the conditions relating to these policies are communicated to service managers.

### **3.11.11.4 Responsibilities of CLT**

**3.11.11.4.1** The appropriate Assistant Director - Service shall maintain an asset register or inventory in a form approved by the Assistant Director - Finance.

**3.11.11.4.2** That the conditions relating to insurance policies are complied with.

**3.11.11.4.3** To ensure that lessees and other prospective occupiers of Council land or property are not allowed to take possession of the land or enter the property until a lease or agreement, in a form approved by the Council, is executed.

**3.11.11.4.4** To ensure the proper security of all assets under their control.

**3.11.11.4.5** To ensure that a complete physical check is carried out by an officer independent of the process at least annually, with significant differences being reported.

**3.11.11.4.6** To ensure that where assets are surplus to requirements and are to be disposed of, this is dealt with in accordance with the Scheme of Delegation and is consistent with the Asset Disposal Policy

**3.11.11.4.7** To ensure that title deeds are held securely.

**3.11.11.4.8** To ensure that no Council asset is subject to personal use by an employee.

**3.11.11.4.9** To inform the Assistant Director - Finance in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

**3.11.11.4.10** To ensure that keys required to access assets are held securely and that those responsible for holding keys are aware that any loss of keys must be reported to their line manager.

**3.11.11.4.11** To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Assistant Director - Finance.

**3.11.11.4.12** To ensure that all employees are aware of their responsibilities for safeguarding the Council's assets.

**3.11.11.4.13** To notify the Assistant Director - Finance of any asset for which insurance cover may be required.

**3.11.11.4.14** To notify the Assistant Director - Finance in the event of loss or damage to a Council asset and where the loss is not recoverable from insurance or other sources should be formally written off as per delegated powers.

**3.11.11.4.15** Procedures for disposal of stocks and equipment should be by competitive quotations or auction, unless approved by the Assistant Director - Finance.

### **3.11.12      Stocks and Stores**

#### **3.11.12.1      Why is this important?**

This is important to help safeguard the Council's assets. This should be read in accordance with Section 13 "Security and Accounting for Assets".

#### **3.11.12.2      Key Controls**

**3.11.12.2.1** Each appropriate officer shall be responsible for the care and custody of the stocks and stores in their department.

**3.11.12.2.2** Continuous stock taking occurs throughout the year and a complete stock take is carried out at least once in every financial year including someone other than the stock keeper.

**3.11.12.2.3** The appropriate officer submits to the Assistant Director - Finance a year end stock valuation certificate.

#### **3.11.12.3      Responsibilities of CLT**

**3.11.12.3.1** To make arrangements for the care and custody of stocks and stores in the department.

**3.11.12.3.2** To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. Significant discrepancies should be investigated and pursued to a satisfactory conclusion.

**3.11.12.3.3** To investigate and remove from the Council's records (ie write off) discrepancies in accordance with the Council's Scheme of Delegation.

### **3.11.13      Treasury Management**

#### **3.11.13.1      Why is this important?**

The Council has significant investment and borrowings throughout the course of a financial year. The Council's Treasury Management Strategy, Annual Investment Plan

and Treasury Management Practices provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's investments.

### **3.11.13.2 Key Controls**

That the Council's borrowings and investments comply with the CIPFA Code of Practice on Treasury Management and with the Council's Treasury Management Strategy, Annual Investment Plan and Treasury Management Practices.

### **3.11.13.3 Responsibilities of Assistant Director - Finance**

**3.11.13.3.1** To review at least annually the Council's Treasury Management Strategy and Annual Investment Plan and gain approval of this by Council before the start of each financial year.

**3.11.13.3.2** To report twice a year on treasury management activities to the Governance and Standards Committee.

**3.11.13.3.3** To take an out-turn report to Council regarding treasury management activities after the end of the financial year.

**3.11.13.3.4** To ensure that staff dealing with treasury management activities are suitably trained and have access to information which enables them to carry out their responsibilities effectively.

### **3.11.14 Banking Arrangements**

#### **3.11.14.1 Why is this important?**

To safeguard the Council's cash resources.

#### **3.11.14.2 Key Controls**

**3.11.14.2.1** All arrangements for banking are approved by the Assistant Director - Finance.

**3.11.14.2.2** Regular tendering and contracting in respect of the Council's main bank contract.

**3.11.14.2.3** Ordering and control of cheques is undertaken by Assistant Director - Finance.

**3.11.14.2.4** All payments from the Council's bank accounts including but not exclusively cheques, direct debits, Standing Orders, CHAPS and BACS must be authorised by the Assistant Director - Finance or an officer nominated by him/her.

**3.11.14.2.5** To have an effective Anti-Money Laundering Policy in place.

**3.11.14.2.6** All income received by the Council must be banked in accordance with the requirements detailed in Section 18 "Income".

**3.11.14.2.7** To reconcile the Council's bank accounts in accordance with the approved overall reconciliation programme.

**3.11.14.2.8** All direct debits, standing orders and procurement cards when set up must be authorised by the Assistant Director - Finance or an officer nominated by him/her.

#### **3.11.14.3 Responsibilities of the Assistant Director - Finance**

To review on at a least an annual basis that the key controls are operating effectively.

#### **3.11.14.4 Responsibilities of CLT**

To comply with the key controls and ensure they are operating effectively.

### **3.11.15 Petty Cash and Cash Floats**

#### **3.11.15.1 Why is this important?**

Small amounts of cash and change are required for urgent or small purchases by services and this represents a risk of error or theft.

#### **3.11.15.2 Key Controls**

**3.11.15.2.1** Petty Cash holdings shall be maintained on a full reimbursement basis and must be supported by a certified receipt / voucher and where necessary a VAT receipt.

**3.11.15.2.2** The level of cash floats will be approved by the Assistant Director - Finance, along with any changes requested.

**3.11.15.2.3** Payments from petty cash shall be limited to items of a minor nature and must be for bona fide Council business expenses and should only be for items that could not otherwise be paid through the Council's creditors system or by using a corporate procurement card. Payments should not be paid to employees for work carried out or travel and subsistence which must be paid through the Payroll system. In certain circumstances payments to contractors may be classed as payments to employees. This should be dealt with accordingly.

**3.11.15.2.4** Checks will be carried out to validate the safe custody of cash floats.

#### **3.11.15.3 Responsibilities of the Assistant Director - Finance**

**3.11.15.3.1** To provide service areas of the Council with petty cash accounts to meet minor expenditure on behalf of the Council and to provide service areas for the Council with appropriate levels of cash float for the operation of their service.

**3.11.15.3.2** To approve the level of cash holdings and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.



**3.11.15.3.3** To reimburse services as often as necessary to restore the cash holdings.

**3.11.15.3.4** To ensure all reimbursements are supported by appropriate certified receipts.

#### **3.11.15.4 Responsibilities of CLT**

To ensure that services operating a petty cash account:

- obtain and retain vouchers to support each payment from the petty cash account. Payments must be supported by a certified receipt / voucher and where necessary a VAT receipt.
- make adequate arrangements for the safe custody of the cash
- produce upon demand by the Assistant Director - Finance cash and all vouchers to the total value of the approved amount
- record transactions promptly
- provide the Assistant Director - Finance with a certificate of the value of the cash held at 31 March each year or at any other times as requested by the Assistant Director - Finance
- ensure that the cash is used only for the Council's bona fide business purposes.

#### **3.11.16 Income**

##### **3.11.16.1 Why is this important?**

Income is a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted, banked and properly recorded.

##### **3.11.16.2 Key Controls**

The key controls for income are:

- all income due to the Council is identified and charges made are in accordance with the Council's approved policies or legal / contractual arrangements
- all charges are made to the correct person or organisation, at the right time, using the correct procedures
- all money received on behalf of the Council is paid at least weekly to the Council's bank and properly recorded
- The responsibility for cash collection must be separated from that:
  - for identifying the amount due
  - for reconciling the amount due to the amount received.
  - for banking the income collected
- Where it is not possible for operational reasons to put segregation of duties in place with regard to cash collection, approval from the Assistant Director - Finance must be obtained who will carry out an assessment of the risks involved and ensure alternative adequate controls are put in place to safeguard the Council; this will be done in conjunction with Internal Audit
- effective action is taken to pursue non-payment in line with the Council's debt recovery policies and procedures

- formal approval for debt write-off is obtained in line with the Council's Constitution
- all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
- any individual under / over bankings are identified and investigated by the service manager and a record of over/under bankings maintained. Where the service manager has specific concerns relating to individual or regular occurrences it must be notified to the Corporate Assurance Manager

### **3.11.16.3 Responsibilities of the Assistant Director - Finance**

**3.11.16.3.1** To approve the procedures, systems and documentation for its collection, recording, control, banking and reconciliation of all income due to the Council.

**3.11.16.3.2** To provide information to service managers on outstanding debt.

**3.11.16.3.3** To ensure that where the likelihood of collecting debts is low and following full appropriate means of recovery that these debts are written off on a regular basis and that the appropriate accounting adjustments are made.

**3.11.16.3.4** To co-ordinate proposals for charging for goods or services as part of the budget cycle.

### **3.11.16.4 Responsibilities of CLT**

**3.11.16.4.1** To propose a charging policy for the supply of goods or services, including the appropriate charging of VAT.

**3.11.16.4.2** To ensure that charges are made in line with the Council's approved policies and legal/contractual agreements.

**3.11.16.4.3** To ensure separation of duties:

- for identifying the amount due
- for reconciling the amount due to the amount received.
- for banking the income collected.

and to identify and implement alternative controls to the satisfaction of the Assistant Director - Finance where this is not practicable.

**3.11.16.4.4** To order all receipt forms, books or tickets and hold current and used ones securely.

**3.11.16.4.5** To secure all income to safeguard against loss or theft, and to ensure the security of cash handling.

**3.11.16.4.6** To ensure that income is paid fully and promptly in line with procedures, systems and documentation approved by the Assistant Director - Finance.

**3.11.16.4.7** To ensure income is not used to cash personal cheques or to make other payments such as petty cash reimbursements.

**3.11.16.4.8** To identify and investigate all individual under / over bankings and maintain a record of them. Where the service manager has specific concerns relating to individual or regular occurrences the Corporate Assurance Manager should be notified.

**3.11.16.4.9** To ensure that debtor accounts are raised promptly in line with procedures, systems and documents approved by the Assistant Director - Finance, except where payment is received at the time the goods or services are provided.

**3.11.16.4.10** To monitor payments received in respect of debtor accounts raised and ensure that appropriate recovery action is being progressed with the assistance of the Assistant Director - Finance.

### **3.11.17      Ordering and Paying for Work, Goods and Services**

#### **3.11.17.1      Why is this important?**

**3.11.17.1.1** These rules are important to ensure that all expenditure committed is for approved Council business and that this expenditure is properly accounted for to aid management of the Council's financial resources in line with its statutory duty to achieve value for money.

**3.11.17.1.2** These regulations should be read in conjunction with the Council's Contract Procedure Rules, Procurement Guidance and the Officer and the Member Codes of Conduct.

#### **3.11.17.2      General**

**3.11.17.2.1** No order should be raised unless there is an appropriate approved budget or where an approved virement has been made from another budget.

**3.11.17.2.2** Official orders must be in a form approved by the Assistant Director - Finance. Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions agreed with the Assistant Director - Finance.

**3.11.17.2.3** The Council's standard terms and conditions must not be varied without the prior approval of the Assistant Director - Finance.

**3.11.17.2.4** Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

**3.11.17.2.5** All IT hardware and software must be ordered by the ICT section.

#### **3.11.17.3      Key Controls**

**3.11.17.3.1** The key controls for ordering and paying for work, goods and services are:

- all goods and services are ordered only by approved employees and are correctly recorded and accounted for
- all goods and services shall be procured in accordance with the Council's Contract Procedure Rules and Procurement Guidance
- goods and services received are checked to ensure they are in accordance with the order
- all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
- all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention policy
- all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected and virements made if required in line with the virements procedures
- documentation relating to electronic orders / purchases must be retained.

#### **3.11.17.4 Responsibilities of the Assistant Director - Finance**

**3.11.17.4.1** To ensure that all the Council's order processing and creditor payment systems and procedures are sound and properly administered.

**3.11.17.4.2** To approve the form of official orders and associated terms and conditions.

**3.11.17.4.3** To make payments from the Council's funds on the appropriate authorisation that the expenditure has been duly incurred in accordance with financial regulations.

**3.11.17.4.4** To ensure that there is a system in place for virements.

#### **3.11.17.5 Responsibilities of CLT**

**3.11.17.5.1** To ensure that the system / procedures for order processing and creditor payments put in place by the Assistant Director - Finance are adhered to and that all procurement is carried out in accordance with the Council's Contract Procedure Rules and Procurement Guidance.

**3.11.17.5.2** To ensure that orders are only used for goods and services provided to the Council.

**3.11.17.5.3** To ensure that orders raised and invoices paid are only authorised by those employees approved to do so.

**3.11.17.5.4** To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. A separate officer should check the goods and services received to the officer authorising the order. Appropriate entries should then be made in inventories or stores records. The authoriser of the resulting invoice/payment is responsible for ensuring that the goods have been received, the

invoice is arithmetically correct and properly coded and that the necessary entries have been made on the inventory or stock records. The way in which this is achieved is the responsibility of the authoriser.

**3.11.17.5.5** To ensure that payment is not made unless a proper VAT invoice chargeable to the Council has been received, checked, coded and certified for payment, confirming:

- receipt of goods or services
- that the invoice has not previously been paid
- that expenditure has been properly incurred and is within budget provision
- that prices and arithmetic are correct and in accordance with quotations, tenders, contracts or catalogue prices
- correct accounting treatment of tax and / or VAT
- that the invoice is correctly coded to the right detail code
- that discounts have been taken where available
- that appropriate entries will be made in accounting records.

**3.11.17.5.6** To inform the Assistant Director - Finance of leasing or rental arrangements prior to being entered into.

### **3.11.18      Payments to Employees and Members**

#### **3.11.18.1      Why is this important?**

Staff costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments are in accordance with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that members' allowances are authorised in accordance with the scheme adopted by the Council.

#### **3.11.18.2      Key Controls**

The key controls for payments to employees and members are:

- proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to;
  - starters
  - leavers
  - variations
  - enhancements
  - and that payments are made on the basis of timesheets or claims
- all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
- that Her Majesty's Revenues and Customs (HMRC) regulations are complied with
- that County Council superannuation regulations are complied with

### **3.11.18.3 Responsibilities of the Assistant Director - People and Transformation**

**3.11.18.3.1** To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with prescribed procedures on the due date.

**3.11.18.3.2** To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.

**3.11.18.3.3** To make arrangements for payment of all travel and subsistence claims or financial loss allowance.

**3.11.18.3.4** To make arrangements for paying Member allowances.

**3.11.18.3.5** To provide advice and encouragement to secure payment of salaries and wages by the most economical means.

**3.11.18.3.6** To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

### **3.11.18.4 Responsibilities of CLT**

**3.11.18.4.1** To ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.

**3.11.18.4.2** To notify the Human Resources Manager of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Human Resources Manager.

**3.11.18.4.3** To ensure that adequate and effective systems and procedures are operated, so that:

- payments are only authorised to bona fide employees
- payments are only made where there is a valid entitlement
- conditions and contracts of employment are correctly applied
- employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.

**3.11.18.4.4** To ensure that payroll transactions are processed only through the payroll system.

**3.11.18.4.5** To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved.

**3.11.18.4.6** To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

### **3.11.19      VAT and Taxation**

#### **3.11.19.1      Why is this important?**

Like all organisations, the Council is responsible for ensuring its VAT and tax affairs are in order. VAT and tax issues are often very complex and the penalties for incorrectly accounting for VAT and tax are severe. It is therefore very important for all officers to be aware of their role and receive training.

#### **3.11.19.2      Key controls**

**3.11.19.2.1** The key controls for taxation are:

- budget managers are provided with relevant information and kept up to date on VAT and tax issues
- budget managers are instructed on required record keeping
- all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
- records are maintained in accordance with instructions
- returns are made to the appropriate bodies within the stipulated timescale.

#### **3.11.19.3      Responsibilities of the Assistant Director - Finance**

**3.11.19.3.1** To complete a monthly return of VAT inputs and outputs to HMRC.

**3.11.19.3.2** To monitor the partial exemption VAT limit throughout the year and make recommendations in respect of managing within this limit.

**3.11.19.3.3** To provide details to HMRC regarding the construction industry tax deduction scheme as required.

**3.11.19.3.4** To maintain up-to-date guidance for Council employees on VAT and taxation issues excluding PAYE where required.

**3.11.19.3.5** To ensure that staff dealing with VAT management are suitably trained and have access to information which enables them to carry out their responsibilities effectively.

#### **3.11.19.4      Responsibilities of the Assistant Director - People and Transformation**

**3.11.19.4.1** To complete all HMRC returns regarding PAYE.

**3.11.19.4.2** To maintain up-to-date guidance for Council employees on PAYE where required.

**3.11.19.4.3** To advise managers of the impact and responsibilities in relation to IR35

### **3.11.19.5 Responsibilities of CLT**

**3.11.19.5.1** To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations.

**3.11.19.5.2** To ensure that the potential VAT partial exemptions implications are identified and notified to the Assistant Director - Finance.

**3.11.19.5.3** To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

**3.11.19.5.4** To maintain the database of Construction Industry Taxation Scheme in respect of contractors / sub-contractors.

**3.11.19.5.5** To ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.

### **3.11.20 Application for and Acceptance of Grant Funding**

#### **3.11.20.1 Why is this important?**

External funding is a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council and because such funding may require the Council to adhere to tight conditions in relation to the scope of expenditure, timescales, future use or subsequent repayments.

#### **3.11.20.2 Key Controls**

All applications for and acceptance of grant funding is in accordance with the Application for and Acceptance of Grant Funding Procedure.

#### **3.11.20.3 Responsibilities of the Assistant Director - Finance**

To ensure that Application for and Acceptance of Grant Funding Procedure is in place.

#### **3.11.20.4 Responsibilities of CLT**

To ensure compliance with the Application for and Acceptance of Grant Funding Procedure.

## **3.12 CONTRACT PROCEDURE RULES**

### **Introduction**

**3.12.1** Procurement is the process of acquiring goods, works and services. The process spans the whole life cycle from the identification of a need, through to the end of a contract or the useful life of an asset. It involves options appraisal and the critical make or buy decision.



3.12.2 These Contract Procedure Rules (the Rules) provide a corporate framework for the procurement of all goods, services and works for the Council. The Rules are designed to ensure that all procurement activity is conducted with openness, probity and accountability. Above all, the Rules are designed to ensure that the Council obtains value for money and the required level of quality and performance in all contracts. All relevant contracts for the supply of goods and services and for the execution of works made by or on behalf of the Council shall comply with these Rules.

3.12.3 A relevant contract is any arrangement by or on behalf of the Council to procure the carrying out of works or provision of supplies or services. This includes arrangements for:

- Purchasing goods, supplies or materials
- The hiring, renting or leasing of goods or equipment
- Executing works, including building or engineering works
- Purchasing of any services, including consultancy services
- Concession contracts

3.12.4 Relevant contracts do not include:

- Contracts of employment with individual employees
- Land and property transactions
- The payment of grants to third parties. However, contracts with voluntary organisations for supplies, services or works are covered by these Rules
- Treasury management deals for borrowing or investment

3.12.5 In the context of these Rules a supplier is a contractor who supplies works, goods or services to the Council.

3.12.6 In the context of these Rules, a local supplier is defined as being located preferably in the Mansfield District Council boundaries and if not then within Nottinghamshire or Derbyshire.

3.12.7 In the context of these Rules, the lead officer for the procurement project is the Authorised Officer.

3.12.8 Compliance with the Rules ensures that:

All providers are treated fairly and equally and that all procurement takes place in an open and transparent way, encouraging competition.

The rules and procedures governing the procurement process are set out clearly for Council Members, Officers, third parties buying or commissioning on behalf of the Council, providers and other interested stakeholders.

All elements of procurement, from identifying the need through to disposal of goods or ending of contracts, are governed to ensure sound, robust procurement practice.

The Council complies with Public Contracts Regulations 2015, the Public Services (Social Value) Act 2012 and any other legislation governing public sector procurement.

The Council can defend against allegations of incorrect or fraudulent procurement practice, should the need arise.

## **Basic Principles**

3.12.9 Every contract made by the Council, or any officer or external consultant / advisor acting on its behalf must comply with the following basic principles:

- Be in line with the Council's vision and priorities
- Be aligned to the Council's Procurement Strategy
- Meet the procurement need and achieve best value
- Ensure fairness and transparency in the allocation of public contracts
- Comply with all appropriate legal requirements
- Ensure that all risks in the process are appropriately assessed and managed
- Engage with the Council's Procurement Service (whether provided internally or externally) as detailed in these Rules
- Actively engage with local businesses
- Promote and maximise the delivery of social value as detailed in the Council's Procurement Strategy
- Only an Authorised Officer as specified by the Scheme of Delegation procures goods, services or works.
- Maximise use of the Council's procurement portal when selecting suppliers / contractors for procurement exercises with an estimated contract value of below £100,000 for construction related projects and £50,000 for non-construction related projects
- Orders are raised and payments made for goods, services and works in accordance with the Council's Financial Regulations
- There is sufficient approved budgetary provision
- A Data Protection Impact Assessment has been completed where applicable

3.12.10 For any procurement activity with an IT implication regarding any IT related services e.g. software, hardware, notify the Information Technology Manager for guidance on how to proceed.

3.12.11 For any decision there needs to be an Equality Impact Assessment (EIA) screening or full assessment, as appropriate, completed.

3.12.12 Where the Council acts in partnership with another organisation then, if agreed in writing by the Assistant Director - Law and Governance, the

contractual and tendering procedures of the partner organisation may be used in substitution, in whole or in part, for the Rules. Where the Council is the lead authority these Rules are to be followed.

- 3.12.13 If an Assistant Director wishes to nominate a particular sub-contractor to a main contractor, these Rules must be followed to select the sub-contractor as well as the main contractor
- 3.12.14 Assistant Directors are responsible for ensuring that all employees in their departments receive any required training and guidance and fully comply with these Rules. In addition to their roles as managers, Assistant Directors are also responsible for monitoring compliance.
- 3.12.15 Assistant Directors will be responsible for investigating breaches of these Rules, in liaison with the Corporate Assurance Manager who will report them to the Assistant Director - Law and Governance and the Governance and Standards Committee.
- 3.12.16 Breaches will be taken seriously, and action in respect of breaches may be taken in line with the Council's Disciplinary Rules.
- 3.12.17 Where responsibility has been assigned within these Rules this does not replace line management responsibilities as determined in job descriptions and contracts of employment.
- 3.12.18 All employees involved in procurement must be aware of the requirement for openness and transparency when undertaking procurement and in the documentation of decisions and actions.

### **Declaration of Interests and Avoidance of Corruption**

- 3.12.19 Any officer who has a conflict of interest or any material interest, financial or otherwise which may affect the procurement process must declare that interest in accordance with the Council's Employee Code of Conduct and shall take no further part in the procurement process unless written approval is given by the Assistant Director - Law and Governance.
- 3.12.20 No officer shall accept any gift, fee, hospitality or reward in return for favourable treatment in a procurement exercise.
- 3.12.21 All officers shall comply with the Council's Anti-Bribery Policy and Procedures.

### **Determining the Contract Value**

- 3.12.22 The estimated value for a contract should be the highest total value that you expect to spend over the life of the contract in order to complete its objectives, calculated at the point at which the procurement of or engagement with the supplier commences. This figure should include any anticipated optional elements, including extensions and renewals that are allowed for in the terms of the contract.
- 3.12.23 In respect of Public Contract Regulations' thresholds, contract value estimations need to be calculated inclusive of VAT. However, for the Council's own thresholds the calculation is exclusive of VAT.
- Authorised officers need to be aware of the VAT % and requirements in respect of individual procurement projects and should seek appropriate advice if needed
- Whether or not any of the thresholds are exceeded, the contract value should be stated exclusive of VAT in advertising or contract award notices.
- 3.12.24 If the expenditure on an item, service or with a particular supplier is recurring then the likely expenditure over a 12 month period must be determined and multiplied by the length of the contract. Where the contract is for an uncertain duration the requirements of the Procurement Regulations are to be followed and advice should be sought from Legal Services.
- 3.12.25 Where the requirement covers several suppliers providing the same goods, services or works the contract value shall be the combined sum of all the individual contracts. The effect of this rule is that if the aggregation of such contracts exceeds the relevant threshold, then those individual contracts will be subject to the Procurement Regulations even though individually they are below the threshold.
- 3.12.26 Where the Council is collaborating or acting on behalf of other public bodies then the contract value shall be determined as the combined sum of all the individual public bodies' requirements.
- 3.12.27 Where it is intended to package the contract into several different "lots" then the contract value shall be the total value of all the combined "lots".
- 3.12.28 In the case of Concession contracts (i.e. where the service users as opposed to the Council make payments to the contractor for use of the service) then the total value (i.e. turnover) of the contract to the supplier must be used to determine the contract value.
- 3.12.29 The estimated value for a framework agreement is the highest total value that you expect to be spent across all call-offs from the framework over its term, including any optional elements and renewals that are allowed for in the terms of the agreement.

- 3.12.30 Requirements or projects may not be artificially sub-divided into smaller components with the aim of reducing the individual contract values and by doing so to avoid or distort competition.

#### Framework Call-offs

- 3.12.31 Where a framework covering the requirement(s) is already in place, then any number of contracts can be awarded for any value, so long as all contracts so awarded are in accordance with the terms of the agreement.
- 3.12.32 Aggregation of individual contract values under the framework will not apply, except in so far as the framework itself will have a maximum value (as above) and once this is reached, no more contracts can be awarded until the framework has been retendered.

#### **Decision Making Process**

- 3.12.33 Provided there is an established budget for the proposed procurement and the procurement will be undertaken in accordance with these Rules, a delegated decision is not required before a procurement process can commence unless –
- a) the proposed procurement route will either incur additional expenditure or commit the Council to incur expenditure i.e. fees associated with use of a framework; or
  - b) the procurement proposed is otherwise than in accordance with paragraphs 13 and 14 of these Rules (i.e. an exception is relied upon as set out at paragraph 16)

In these instances a formal decision must be taken prior to commencement of the procurement process. This applies to both key and non-key decisions.

- 3.12.34 The Council's Procurement Instruction Form must be completed for all procurement projects with a value of £5,000 and above and must be forwarded to the Corporate Assurance Manager prior to commencement of the procurement process to ensure compliance with the Transparency Code
- 3.12.35 A decision must be taken by way of a Delegated Decision or recorded through Officer Decision Record prior to award of a contract. This should set out the procurement route followed and compliance with these Rules or reference the previous decision where authority was obtained to apply an exemption to these Rules.
- 3.12.36 The Council's approved decision making guidance must be fully complied with.

## Contracts Finder

- 3.12.37 The Authorised Officer is responsible for ensuring that the obligations as detailed below in respect of Contracts Finder are complied with in respect of all contracts with a value in excess of £30,000 (inclusive of VAT) or where the contract opportunity has been publically advertised.
- 3.12.38 The Procurement Regulations include obligations on all local authorities to make public sector opportunities available in one place, on Contracts Finder. Contract award information relating to the winning contractor should also be made available on Contracts Finder.
- 3.12.39 Contracts Finder is free to use and is accessible at [www.gov.uk/contracts-finder](http://www.gov.uk/contracts-finder).
- 3.12.40 Publication obligations for below-threshold procurements apply to local authorities where the contract value is at least £30,000 inclusive of VAT.
- 3.12.41 The requirement to publish a contract opportunity on Contracts Finder applies where a local authority advertises an opportunity, either by publishing a Contract Notice or by advertising in another way, for example on another website, trade publication or newspaper.
- 3.12.42 Where a local authority is satisfied it is lawful not to advertise an opportunity and chooses not to advertise the opportunity at all (e.g. where quotations are sought, single tender action is being considered, a framework agreement is used), the requirement to publish an opportunity notice on Contracts Finder does not apply to that procurement if the value of the contract is less than £30,000 (inclusive of VAT).
- 3.12.43 Once a contract with a value over £30,000 inclusive of VAT has been awarded (whether by open competition or otherwise) a local authority is required to publish at least the following information on Contracts Finder:
- the full company name of the winning contractor;
  - the date on which the contract was entered into (award date);
  - the total value of the contract in pounds sterling; and
  - an indication of whether the contractor is an SME or a VCSE16.
- 3.12.44 This information is also required to be published in relation to contracts awarded as a result of a Framework Agreement (e.g. as a result of a mini competition) as well as awards that have not been openly competed (e.g. where quotations have been sought, single tender action has been undertaken etc).

- 3.12.45 If an opportunity notice already exists on Contracts Finder, this should be updated with the award details. If no opportunity notice exists on Contracts Finder (for example if the contract was not openly competed, or is a direct award or mini competition call off from a framework agreement or via a DPS) then a separate awarded opportunity notice should be published.
- 3.12.46 The Procurement Regulations requires a local authority to publish the required information on Contracts Finder within 90 calendar days after the contract award date which means the date on which the contract was signed by the last contractual party.

### **Data Protection**

- 3.12.47 Where any supplier is given possession of or access to any personal data, the Authorised Officer must ensure compliance with the Council's Data Protection Policies and related procedures and carry out a Data Protection Impact Assessment (DPIA) in consultation with the Council's Data Protection Officer. The contract must comply with the requirements under the UK GDPR and Data Protection Act 2018.

### **Partnerships**

- 3.12.48 The Rules apply to any proposal for the Council to become involved in a joint venture or partnership, including the monitoring of any such arrangement.
- 3.12.49 In relation to the Rules, a joint venture or partnership includes any arrangement involving one or more organisations in addition to the Council through which either a specific project or services within any of the functions of the Council are to be provided.
- 3.12.50 The Rules provide a framework for the Council or any of its members or officers in whatever structure is used to deliver the project or services involved (such structures may include, but are not limited to, companies, trusts and management committees).
- 3.12.51 Where the Council is not the lead partner in a joint venture or partnership, it may use the Contract Procedure Rules of the lead partner, provided agreement in writing is given by the Assistant Director - Law and Governance.

### **Frameworks**

- 3.12.52 Before using a framework consideration must be given as to whether it will deliver best value, including social value and wherever possible not preclude

existing contractors and local SMEs from engaging with the procurement process

- 3.12.53 Framework agreements procured by other local authorities, public bodies or purchasing consortia may only be used where the Council is either a named participant or where the Council is considered a recognisable class of contracting authority under the terms of the framework agreement
- 3.12.54 Procurement through frameworks must be in line with the terms and conditions of the framework chosen which may not require quotations or tenders to be invited. The Authorised Officer must consult with Legal Services before proceeding with the use of a framework.

### **Soft Market Testing**

- 3.12.55 Potential suppliers may be consulted prior to the issue of a request for quotation or invitation to tender in general terms about the nature, level, standard and packaging of the supplies, services or works and other relevant matters so as to best ensure competition and value for money, provided that this does not distort competition or prejudice any potential supplier.
- 3.12.56 When carrying out soft market testing, it must be made clear to potential suppliers that they will not receive preferential treatment in the quotation or tender process and that there is no guarantee that any procurement exercise will take place.
- 3.12.57 Soft market testing does not negate the need to undertake a formal procurement process such as a request for quotations or tender.

### **e-Auction**

- 3.12.58 An e-Auction (an electronic auction) may be used where authorised by the Assistant Directors with the approval of the Assistant Director - Law and Governance and in consultation with Legal Services. This is a procurement tool where potential suppliers can compete online in real time to give prices for supplies or services under auction.

### **Specifications and Standards**

- 3.12.59 All quotes and tenders shall, except to the extent that the Council in a particular case or specified categories of contract otherwise decides, be based on a definite specification that describes the Council's requirements in sufficient detail to enable the submission of competitive bids and objective evaluation.



- 3.12.60 The specification should be written in consultation with key stakeholders as appropriate.
- 3.12.61 Where an appropriate British Standard Specification or British Standards Code of Practice is current at the date of the quote / tender, every contract shall require that all goods and materials used or supplied and all the workmanship shall be at least of the standard required by the appropriate British Standards Specification or Code of Practice
- 3.12.62 Specifications should not include product names and can only reference trade names and marks where it is necessary to adequately specify the Council's requirements and equivalent products must be accepted

### **Normal Procedure**

- 3.12.63 The Rules relate to four categories of procurement based on the estimated value of the contract:
- (a) Less than £15,000
  - (b) Between £15,000 and £50,000 for non-construction related contracts and £100,000 for construction related contracts
  - (c) Over £50,000 for non-construction related contracts and £100,000 for construction related contracts and the Public Contract Regulations threshold
  - (d) Above statutory procurement thresholds
- 3.12.64 In all instances, goods, services or works should be obtained by one of the methods outlined below:
- (a) In-house services
  - (b) Established corporate contracts
  - (c) The Council's approved procurement methods including tendering or obtaining quotations
  - (d) Framework
  - (e) Approved e-procurement solutions
  - (f) For low-value purchases, Procurement Cards may be used

### **Invitations to Suppliers**

- 3.12.65 Requests for Quotations (RFQs) or Invitations to Tender (ITTs) should be transmitted electronically wherever possible using the Council's approved RFQ or ITT template.

Contracts up to £15,000 (excluding VAT)

- 3.12.66 Where the estimated value of a contract over the whole life of the contract is under £15,000, a minimum of **1** written quotation is required – written confirmation of the price by email is acceptable and completion of the Council's approved RFQ form is not required. This should be obtained, wherever possible, from a local SME as defined in the Rules.
- 3.12.67 A purchase order must be raised, unless this is not possible due to the use of a procurement card.

Contracts between £15,000 and £50,000 for non-construction related projects and £100,000 for construction related projects (excluding VAT)

- 3.12.68 Where the estimated value of a contract over the whole life of the contract is between £15,000 and £50,000 for non-construction related projects and £100,000 for construction related projects, a minimum of **3** written quotations should be requested using the Council's approved RFQ form or Invitation to Tender (ITT) form (where appropriate) from local SMEs as defined in the Rules unless this is not possible due to local market limitations, which need to be reported to the Corporate Assurance Manager.
- 3.12.69 A purchase order must also be raised

Contracts above £50,000 for non-construction related projects and £100,000 for construction related projects

- 3.12.70 Where the estimated value of a contract over the whole life of the contract is above £50,000 for non-construction related projects and £100,000 for construction related projects, a tendering exercise should be carried out using Nottinghamshire County Council's procurement portal and the approved ITT documentation completed except where a framework as detailed in paragraph 4 above or another legally compliant route is taken.
- 3.12.71 A purchase order must also be raised.

Contracts above the Regulation thresholds (including VAT)

- 3.12.72 Where the estimated value of a contract over the whole life of the contract exceeds the statutory thresholds, an open tender exercise must be conducted by Nottinghamshire County Council's Procurement Service in

accordance with the Regulations using the approved ITT documentation except where a framework as detailed in paragraph 4 above or another legally compliant route is taken.

3.12.73 A purchase order must also be raised

### **Vetting of Suppliers**

3.12.74 The Authorised Officer must ensure that the proposed supplier is adequately vetted for financial stability, technical competence, ethical standards, previous performance, insurance cover and ability to comply with relevant legislation and health and safety standards.

3.12.75 The vetting process will need to be proportionate to the type and value of the contract.

### **Exceptions**

3.12.76 The following exceptions do not apply to a proposed contract that exceeds the statutory thresholds, where the procedures set out in the Procurement Regulations apply. Written quotations or tenders need not be invited in accordance with this Rules in the following exceptions:

- (a) The work to be executed or the goods or services to be supplied are provided exclusively by a statutory body.
- (b) The contract is for the execution of work or the supply of goods or services certified by the appropriate Assistant Directors to be required so urgently as to preclude the invitation of tenders.
- (c) The work to be executed or the goods or services to be supplied constitutes an extension to an existing contract in respect of time period or scope where the existing contract and original procurement process allows for an extension and, subject to the Assistant Directors deciding that it would not be in the interest of the service or the Council to tender the contract. If a Contract does not specifically include an option to extend its term and an Assistant Directors decides that there are exceptional circumstances, namely circumstances which could not have been reasonably foreseen, then the term of the Contract may be extended but only where the extension does not alter the overall nature of the Contract and provided that any increase in price does not exceed 50% of the value of the original Contract.

Extensions cannot be approved where the total contract value as defined above, including previous extensions since the previous contract end date exceeds the Procurement Regulations' thresholds

- (d) In the case of the supply of goods or services that are specialised and in the opinion of the appropriate Assistant Director no reasonably satisfactory alternative is available.
  - (e) The work to be executed or goods / services to be supplied consists of repairs, enhancements or parts for existing proprietary articles that can only be provided by that supplier or manufacturer.
  - (f) The contract is funded by time limited grant funding from an external body and the Assistant Director is satisfied that the time limitation will not allow a full tender process to be completed
  - (g) The goods are to be purchased at a public auction
  - (h) The works, supplies or services can be supplied only by a particular supplier because:
    - (i) the aim is the creation or acquisition of a unique work of art or artistic performance;
    - (ii) there would be no competition for technical reasons; or
    - (iii) the supplier has exclusive rights, including intellectual property rights but only in the case of (b) and (c) where no reasonable alternative or substitute exists and the absence of genuine competition is not as a result of an artificial narrowing down of the parameters of the procurement
    - (iv) falls within the defects liability period or is covered by a warranty / guarantee
  - (i) The contract to be awarded is for legal counsel or other legal and financial advisors excluding consultants
- 3.12.77 The Council's approved Contract Exceptions Form must be completed and authorised by the Assistant Director before the contract is entered into, with a copy being forwarded to the Corporate Assurance Manager.
- 3.12.78 Use of contract exceptions will be monitored by the Corporate Assurance Manager and reported to CLT – Performance Clinic on a quarterly basis with an annual report being presented to the Governance and Standards Committee

## **Probity**

3.12.79 In every instance a record of the process should be retained securely by the Authorised Officer in accordance with the Council's Retention and Disposal Policy and will include the following:

- (a) Any information that may be required for submitting annual reports to the Government or other agencies
- (b) A copy of all documentation relevant to the decision making process
- (c) The rationale for the procurement route taken
- (d) The rationale for the social value elements included
- (d) A copy of all relevant procurement documentation
- (e) A copy of the evaluation process and reasons for the decisions as to acceptance or rejection for every tender
- (f) A copy of the award letter (including the applicable standstill period and other notification letters).
- (g) A copy of the final contract.

### **Contracts Register**

3.12.80 A register of all contracts exceeding £5,000 shall be kept and maintained by the Corporate Assurance Manager. The register shall for each contract specify the name of the supplier, the works to be executed or the supplies or services to be provided and the contract value

3.12.81 Authorised Officers are responsible for ensuring that the Corporate Assurance Manager is notified of the details stated in 3.12.81.

### **Prevention of Bribery**

3.12.82 Except in exceptional circumstances and then only with the prior written consent of the Monitoring Officer, there shall be inserted in every written contract, a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation:

- a) if the contractor shall have offered, promised or given a financial or other advantage to another person; and either the contractor intends the advantage to induce a person to perform improperly, or reward a person for the improper performance of a relevant function or activity in relation to obtaining or execution of the contract or any other contract with the Council; or the contractor knows or believes that the acceptance of the

advantage would itself constitute the improper performance of the relevant function or activity in relation to the obtaining or execution of the contract or any other contract with the Council; or

- b) if the like acts shall have been done by any person associated with the contractor or acting on his/her behalf (whether with or without the knowledge of the contractor); or
- c) if in relation to any contract with the Council the contractor or any person associated with him/her or acting on his/her behalf shall have committed any offence under the Bribery Act 2010, or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

### **Receipt & Evaluation of Quotations / Tenders**

- 3.12.83 The Authorised Officer shall ensure that the confidentiality of quotations / tenders received and the identity of the corresponding supplier is preserved at all times and that information about one supplier's offer is not given to another supplier
- 3.12.84 The award of any contract as an outcome of the evaluation of a quotation / tender should reflect best value and maximise social value wherever possible.
- 3.12.85 The method used to achieve this outcome will consider price, quality and delivery of social value with the highest combined score being the winning bid.
- 3.12.86 The method of evaluation and relevant weightings must be made clear in the RFQ / ITT. Therefore it is important that all areas of the quotation / tender are addressed in the evaluation criteria to assess a successful quotation.
- 3.12.87 The Authorised Officer shall ensure that errors or discrepancies found in quotations / tenders shall be appropriately dealt with.
- 3.12.88 The Authorised Officer shall keep a record of the withdrawal of a quotation / tender together with details of the circumstances of the withdrawal
- 3.12.89 A quote / tender that is qualified or expressed to be conditional upon the Council's acceptance of alterations to the specification or the terms and conditions of contract must be treated as non-compliant and rejected. Non-compliant quotations / tenders must not be evaluated. This does not prevent the Council from inviting variant bids. If variant bids are invited, suppliers must be required to submit a mandatory reference bid based on the specification and terms and conditions included in the invitation to quote / tender so that all bids may be compared fairly.
- 3.12.90 Prior to final contract award, the bidder must provide evidence of adequate insurance to cover public and employers' liability and any other applicable

insurance required by the Council, and produce such evidence during the life of the contract at the reasonable request of the Authorised Officer.

3.12.91 The unsuccessful bidders should be notified in a letter or e-mail which should contain:

- (a) The award criteria
- (b) The score the bidder obtained against those award criteria
- (c) The score the winning bidder obtained
- (d) The name of the winning bidder
- (e) The relative advantages / disadvantages of the bid against the successful bid
- (f) The Standstill period (if applicable)

### **Tendering Process**

3.12.92 The entire tendering process in respect of contracts in excess of £50,000 for non-construction related projects and £100,000 for construction related projects will be administered by Nottinghamshire County Council's Procurement Service in liaison with the relevant Authorised Officer.

3.12.93 Tenders may be sought by the Authorised Officer using the Council's ITT form as required for construction related projects.

3.12.94 Client officers must not liaise with bidders directly and must provide Nottinghamshire County Council's Procurement Service with all necessary documentation and information required in a timely manner.

### **Performance Bonds, Guarantees and Advance Payment Bonds**

3.12.95 In the case of all contracts valued above £500,000 the Authorised Officer shall determine, based on advice from the Assistant Director - Finance, the degree of security (if any) required to protect the Council from a contractor default. This may be a performance bond or some other form of financial or performance guarantee.

3.12.96 In the case of contracts valued below £500,000 the Authorised Officer will decide whether a bond or guarantee is required after completing an adequate risk assessment.

3.12.97 Where a performance bond and / or parent company guarantee is required, then the advert / tender documents must provide for this.

3.12.98 Where payment, or part payment of a contract is required before the goods, services or works have been supplied, the Authorised Officer shall consider if an Advance Payment Bond is required. This shall be determined in consultation with the Assistant Director - Finance.

### **Liquidated Damages**

3.12.99 For any contract a provision for liquidated damages should be considered. However where it is estimated to exceed £100,000 in value or amount, and is for the execution of works, or for the supply of goods or materials by a particular date or series of dates, provision shall be made for liquidated damages. The amount to be specified in each such contract shall be determined by the appropriate Assistant Director in consultation with the Assistant Director - Finance.

### **Contract Formalities**

#### **Signatures**

3.12.100 Signatures may be affixed to a Contract either using physical, handwritten means or an Electronic Signature, as appropriate and in accordance with UK law.

3.12.101 Electronic Signatures may only be affixed using the Council's chosen electronic signature system or an approved alternative.

3.12.102 The use of Electronic Signatures is not permitted in circumstances where:

- the Contract is to be sealed;
- a physical, handwritten signature needs to be filed;
- there is a proviso in the Contract which prevents the use of an Electronic Signature;
- the Contract may need to be enforced in a jurisdiction where Electronic Signatures are not accepted;
- the Contract needs to be notarised.

#### **Sealing**



- 3.12.103 Every contract over £50,000 shall be under seal in any of the circumstances listed below and signed by the Assistant Director - Law and Governance or some other person authorised by him/her unless (s)he is satisfied that an agreement under hand is appropriate.
- 3.12.104 Contracts are completed by each side adding their formal seal, the fixing of the Council's seal must be witnessed by the Assistant Director - Law and Governance or some other person authorised by him/her. Every Council seal will be consecutively numbered, recorded and signed by the person witnessing the seal. A contract must be sealed in any of the following circumstances:
- (a) The Council may wish to enforce the contract more than six years after its end;
  - (b) The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services;
  - (c) Where there is any doubt about the authority of the person signing for the other contracting party;
  - (d) The Total Value exceeds £50,000.

#### Archiving & lodgement of records

- 3.12.105 The original signed contract (not sealed) must be kept securely in the Authorising Officer's Section.
- 3.12.106 The original sealed contract must be deposited, by the Authorised Officer, with Legal Services.

#### **Domestic Reverse Charge**

- 3.12.107 The domestic 'reverse charge' is an anti-fraud measure that has been introduced for certain services and goods by HMRC. The reverse charge mechanism shifts the liability for accounting for output VAT from the supplier to the customer.
- 3.12.108 From 1 March 2021 the domestic VAT reverse charge must be used for most supplies of building and construction services.
- 3.12.109 The charge applies to standard and reduced-rate VAT services:
- for individuals or businesses who are registered for VAT in the UK

reported within the Construction Industry Scheme

- 3.12.110 When procuring a contract or placing an order with a supplier where the above applies; you will need to consider Domestic Reverse Charge and inform the supplier whether we are the end user and normal VAT rules applies or whether the Domestic Reverse Charge rule applies.
- 3.12.111 Notification of end user or intermediary status can be made to the supplier:
- on paper and sent by post
  - electronically in an email
  - in a contract
- 3.12.112 The notification should be kept as part of normal business records and show clearly what supplies are covered. Contracts can be either for specific supplies or it can be a Heads of Agreement or call-off type contract for supplies that are to be made at some time in the future.

An example of the wording to use is:

‘We are an end user for the purposes of section 55A of the Value Added Tax Act 1994 reverse charge for building and construction services. Please issue us with a normal VAT invoice, with VAT charged at the appropriate rate. We will not account for the reverse charge.’

### **When the reverse charge applies**

- 3.12.113 The reverse charge must be used for the following services:
- constructing, altering, repairing, extending, demolishing or dismantling buildings or structures (whether permanent or not), including offshore installation services
  - constructing, altering, repairing, extending, demolishing of any works forming, or planned to form, part of the land, including (in particular) walls, roadworks, power lines, electronic communications equipment, aircraft runways, railways, inland waterways, docks and harbours, pipelines, reservoirs, water mains, wells, sewers, industrial plant and installations for purposes of land drainage, coast protection or defence
  - installing heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection systems in any building or structure
  - internal cleaning of buildings and structures, so far as carried out in the course of their construction, alteration, repair, extension or restoration
  - painting or decorating the inside or the external surfaces of any building or structure
  - services which form an integral part of, or are part of the preparation or completion of the services described above - including site clearance, earth-moving, excavation, tunnelling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works

## **When the reverse charge doesn't apply**

3.12.114 Do not use the charge for the following services, when supplied on their own:

- drilling for, or extracting, oil or natural gas
- extracting minerals (using underground or surface working) and tunnelling, boring, or construction of underground works, for this purpose
- manufacturing building or engineering components or equipment, materials, plant or machinery, or delivering any of these to site
- manufacturing components for heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection systems, or delivering any of these to site
- the professional work of architects or surveyors, or of building, engineering, interior or exterior decoration and landscape consultants
- making, installing and repairing art works such as sculptures, murals and other items that are purely artistic signwriting and erecting, installing and repairing signboards and advertisements
- installing seating, blinds and shutters
- installing security systems, including burglar alarms, closed circuit television and public address systems

## **End users and Intermediary supplier businesses**

### **End users**

3.12.115 For reverse charge purposes consumers and final customers are called end users. They're businesses, or groups of businesses that are VAT and Construction Industry Scheme registered but do not make onward supplies of the building and construction services supplied to them.

3.12.116 The reverse charge does not apply to supplies to end users where the end user tells their supplier or building contractor in writing that they're an end user.

### **Intermediary suppliers**

3.12.117 Intermediary suppliers are VAT and Construction Industry Scheme registered businesses that are connected or linked to end users. If intermediary suppliers buy construction services and re-supply them to a connected or linked end user, without making material alterations to the supplies, they're all treated as if they're end users and the reverse charge does not apply.

To be connected or linked to an end user, intermediary suppliers must either:

- have a relevant interest in the same land where the construction works are taking place, for example, landlord and tenant
- be part of the same corporate group or undertaking as defined in [section 1161 of the Companies Act 2006](#)

3.12.118 The reverse charge does not apply to supplies to intermediary suppliers where the intermediary supplier notifies their supplier or building contractor in writing that they're intermediary suppliers. Intermediary suppliers can refer to themselves as end users.

### **Local authorities and other public bodies**

3.12.119 The end user exclusion will usually apply to supplies to public bodies.

Most supplies will either be:

- related to works to the public body's property and land
- provided to the public body so it can discharge its responsibilities under a special legal regime

3.12.120 If the public body is acting on a commercial basis, and selling on the construction service, the end user exclusion will not apply. The public body will receive a reverse charge supply and have to account for the VAT to HMRC. It will also have to establish the end user status of its customer.

Information on the changes can be found on the HMRC website at:  
<https://www.gov.uk/guidance/vat-domestic-reverse-charge-for-building-and-construction-services>

## **3.13 EMPLOYMENT PROCEDURE RULES**

### **3.13.1 Recruitment and Appointment**

#### **(a) Declarations**

- (i) The Council will draw up a statement requiring any candidate for appointment as an employee to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor, the elected mayor or employee of the Council; or the partner of such persons.
- (ii) No candidate so related to a Councillor, the elected Mayor or an employee will be appointed without the authority of the Assistant Director - Paid Service or an employee nominated by him/her.

(b) Seeking support for appointment

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or the elected Mayor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor or the elected Mayor will seek support for any person for any appointment with the Council.

**3.13.2      Recruitment of Head of Paid Service and JNC officers**

Where the Council proposes to appoint JNC officers, the Council will:

- (a) draw up a statement specifying:
  - (i) the duties of the employee concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

**3.13.3      Appointment of Head of Paid Service and JNC officers**

The Personnel Committee consisting of 11 members including the elected Mayor, who will be Chair the Committee and which is politically balanced will recommend the appointment of the Chief Executive Officer and Head of Paid Service to the Council for approval.

Appointment of JNC Officers will be delegated to the Personnel Committee

**3.13.4      Other appointments**

Employees other than JNC officers. Appointment of employees other than JNC officers is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors or the elected Mayor.

**3.13.5      Disciplinary Action**

Disciplinary action will be subject to the Joint National Conditions for Chief Executives of Local Authorities and the JNC for Chief Officers of Local Authorities.

- (a) Suspension. The Head of Paid Service, Monitoring Officer and Chief Financial Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

- (b) Independent person. No other disciplinary action may be taken in respect of any of those Statutory Officers except in accordance with a recommendation in a report made by a designated independent person.
- (c) Councillors and the elected Mayor will not be involved in the disciplinary action against any employee below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

#### **3.13.6      Dismissal**

Councillors and the elected Mayor will not be involved in the dismissal of any employee other than JNC officers except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

In respect of the dismissal of any of the Statutory Officers, namely the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, the Personnel Committee will make a recommendation to Council to approve that dismissal before notice is given to that person, provided that the procedure set out in Schedule 3 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 have been complied with.

## **Part 4**

### **Codes and Protocols**

## **4.01            MEMBERS CODE OF CONDUCT**

### **4.01.1            Introduction**

This Code applies to you as a member of this authority when you act in your role as a member and it is your responsibility to comply with the provisions of this Code.

You are a representative of this authority and the public will view you as such therefore your actions impact on how the authority as a whole is viewed and your action can have both positive and negative impacts on the authority.

This Code is based upon the "Nolan Principles - the seven principles of public life" which are included at Appendix 1.

### **4.01.2            Interpretation**

In this Code "meeting" means any meeting of:

- (a) the authority.
- (b) the executive of the authority.
- (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint subcommittees, or area committees.

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members

'member' includes the elected Mayor, a co-opted member, an elected or appointed member.

### **4.01.3            General Obligations**

When acting in your role as a member of the authority

**4.01.3.1            Do** treat others with respect

**4.01.3.2            Do not** conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by members.

**4.01.3.3            Do not** bully any person

**4.01.3.4            Do not** intimidate or attempt to intimidate any person who is or is likely to be:-

- (a) a complainant.
- (b) a witness.
- (c) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's Code of Conduct or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

**4.01.3.5            Do not disclose information** given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a



confidential nature, except where:

- (i) you have the consent of a person authorised to give it.
- (ii) you are 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:
  - (a) reasonable and in the public interest.
  - (b) made in good faith and in compliance with the reasonable requirements of the authority.
  - (c) you have consulted the Monitoring Officer prior to its release.

**4.01.3.6 Do not prevent another person** from gaining access to information to which that person is entitled by law.

**4.01.3.7 Do not conduct yourself in a manner** which could reasonably be regarded as bringing your office or authority into disrepute.

**4.01.3.8 Do not improperly use knowledge** gained solely as a result of your role as a member for the advancement of yourself, your friends, your family members, your employer or your business interests.

**4.01.3.9 When using or authorising** the use by others of the resources of the authority:

- (i) Do act in accordance with the authority's reasonable requirements including the requirements of the authority's Email Protocol, Mobile and Landline Communications Protocol, ICT Password Protocol and Security Protocol and the policies listed at Appendix 2, copies of which have been provided to you and which you are deemed to have read;
- (ii) Do make sure that such resources are not used improperly for political purposes (including party political purposes); and
- (iii) Do have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

#### **4.01.4 Interests**

As a public figure, your public role, may, at times, overlap with your personal and/or professional life and interests, however, when performing your public role as a member, **do** act solely in terms of the public interest and **do not** act in a manner to gain financial or other material benefits for yourself, your family, your friends, your employer or in relation to your

business interests.

#### Disclosable Pecuniary Interests

You must:

**4.01.4.1      comply with the statutory requirements** to register, disclose and withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest

**4.01.4.2      ensure that your register of interests** is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any changes in respect of your disclosable pecuniary interests.

**4.01.4.3      make verbal declarations** of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item business or as soon as the interest becomes apparent.

**4.01.4.4      “Meeting” means** any meeting organised by or on behalf of the authority, including:

- (i) any meeting of the Council, or a Committee or a Sub-Committee of the Council
- (ii) any meeting of the Executive and any Committee of the Executive
- (iii) in taking a decision as a Ward Councillor or as a Member of the Executive
- (iv) at any briefing by officers;
- (v) at any site visit to do with the business of the authority

#### **4.01.4.5      Other Interests**

**4.01.4.5.1      In addition to the requirement of Paragraph 3**, if you attend a meeting at which any item of business is to be considered and you are aware that you have a “non disclosable pecuniary interest or a non-pecuniary interest” in that item, you must make a verbal declaration of the existence and nature of that interest at or before the consideration of the item or as soon as the interest becomes apparent.

**4.01.4.5.2      You have a “non-disclosable pecuniary interest** or non-pecuniary interest” in an item of business of your authority where:

- (i) a decision in relation to that business might reasonably be regarded as affecting the wellbeing or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority’s administrative area, or
- (ii) it relates to or is likely to affect any interests listed in the Table in Appendix 3 to this Code, but in respect of a member of your family (other than a “relevant person” or a person with whom you have a close association).

and that interest is not a disclosable pecuniary interest.

#### **4.01.4.6      Register of Interests**

Any interests notified to the Monitoring Officer will be included in the register of Interests. A copy of the register will be available for public inspection and will be published on the authority's website.

Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register all interests which fall within the category of Disclosable Pecuniary Interests.

Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register any interests within the category of Disclosable Pecuniary Interests.

#### **4.01.4.7      Sensitive Interests**

Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

#### **4.01.4.8      Non Participation in case of Disclosable Pecuniary Interest**

- (i) Where you have a personal interest in any business of your authority you also have a pecuniary interest in that business where the 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 and where that business:
  - (a) affects your financial position or the financial position of a person or body described in paragraph 4.01.4.5.3; or
  - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph.
- (ii) Subject to paragraph (3) and (4), where you have a pecuniary interest in any business of your authority:
  - (a) You may not participate in any discussion of the matter at the meeting.
  - (b) You may not participate in any vote taken on the matter at the meeting.
  - (c) If the interest is not registered, you must disclose the interest to the meeting.

- (d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.
  - (e) Leave the room where the meeting is held while any discussion or voting takes place on that matter.
- (iii) Where you have a pecuniary interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- (iv) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a pecuniary interest that relates to the functions of your authority in respect of:
- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease.
  - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends.
  - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay.
  - (iv) an allowance, payment or indemnity given to members.
  - (v) any ceremonial honour given to members.
  - (vi) setting council tax or a precept under the Local Government Finance Act 1992.
- (v) Where, as an executive member, you may discharge a function alone, and you become aware of a pecuniary interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

#### **4.01.4.9      Gifts and Hospitality**

Members are required to declare to the Monitoring Officer and register any gifts and hospitality accepted in excess of £50.00 (Fifty Pounds). Members are required to declare gifts/hospitality over this amount but which were declined.

#### **4.01.4.10     Disclosure and Participation**

The Regulations detailing the precise nature and circumstances where a specified pecuniary interest must be disclosed are set out in Appendix 3 of this document.

Section 30 of the Localism Act 2011 provides that a member or co-opted member of a local authority and certain other authorities, on taking office, must notify the authority's monitoring officer of any disclosable pecuniary interest which that person has at the time of notification. These Regulations specify what is a pecuniary interest. Section 30(3) sets out the circumstances in which such an interest is a disclosable interest.

#### **4.01.4.11     Pre Determination or Bias**

Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as member, however, do not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When making a decision, do consider the matter with an open mind and on the contents before the meeting at which the decision is to be taken. When reaching decisions on any matter, you must have regard to any relevant advice provided to you by:-

- (a) your authority's Section 151 Officer
- (b) your authority's Monitoring Officer

Where that officer is acting pursuant to his or her statutory duties

#### **4.01.4.12     Interests arising in relation to Overview and Scrutiny Committees**

In any business before an overview and scrutiny committee of the authority (or of a sub-committee of such a committee) where:-

- (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of the authority's committees, sub-committees, joint committees or joint sub-committees.
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in (a) above and you were present when that decision was made or action was taken.

You may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and you must leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.

#### **4.01.4.13     Appendix 1**

The Principles of Public Life:

## **SELFLESSNESS**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

## **INTEGRITY**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

## **OBJECTIVITY**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

## **ACCOUNTABILITY**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

## **OPENNESS**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

## **HONESTY**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

## **LEADERSHIP**

Holders of public office should promote and support these principles by leadership and example.

## **PERSONAL JUDGEMENT**

Holders of public office may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

## **RESPECT FOR OTHERS**

Holders of public office should promote equality by not discriminating against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and

integrity of the authority's statutory officers and its other employees

## **DUTY TO UPHOLD THE LAW**

Holders of public office should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them

## **STEWARDSHIP**

Holders of public office should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

### **4.01.4.14     Appendix 2**

List of Policy Documents provided to Members in connection with Code of Conduct:

Email Protocol

Mobile and Landline Communications Protocol

ICT Password Protocol

Security Protocol

Equality and Diversity Policy

Hate Crime Policy

Protocol of Member/Employee/Partner Relations

Corporate Values

Safeguarding Children and Vulnerable Adults

Media Relations Protocol

#### 4.01.4.15 Appendix 3

### **SCHEDULE OF DISCLOSABLE PECUNIARY INTERESTS**

The duties to register and not participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any “disclosable pecuniary interests” These provisions are enforced by criminal sanction. They come into force on 1 July 2012.

A “disclosable pecuniary interest” is an interest of yourself, your partner (which means a spouse or civil partner, 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) within the following descriptions:

(In the extract from the Regulations below “M” means you and “relevant person” means you and your partner, as above)

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows:

| <b><i>Subject</i></b>                             | <b><i>Prescribed description</i></b>   |
|---|--|
| Employment, office, trade, profession or vocation | Any employment, office, trade, profession or vocation carried on for profit or gain.   |
| Sponsorship                                       | <p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</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(1).</p> |
| Contracts   | <p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p>  |



|                     |  |
|---------------------|--|
|                     | (b) which has not been fully discharged.   |
| Land                | Any beneficial interest in land which is within the area of the relevant authority.  |
| Licences            | Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.   |
| Corporate tenancies | Any tenancy where (to M's knowledge): <ul style="list-style-type: none"> <li>(a) the landlord is the relevant authority; and</li> <li>(b) the tenant is a body in which the relevant person has a beneficial interest.</li> </ul>  |
| Securities          | Any beneficial interest in securities of a body where: <ul style="list-style-type: none"> <li>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</li> <li>(b) either:             <ul style="list-style-type: none"> <li>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>(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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li> </ul> </li> </ul> |

## **4.02            LOCAL CODE OF CONDUCT FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS**

### **4.02.1        Purpose of the Code of Conduct**

**4.02.1.2      Mansfield District Council** is a local planning authority, and in that role the most important responsibilities it has are to make decisions on planning and other applications made under the Town and Country Planning Acts and to prepare, adopt and review a Local Plan, which is a comprehensive statement of planning policies and proposals covering the whole District.

**4.02.1.3 Planning is highly contentious** because its decisions affect the daily lives of everyone and the private lives of individuals, landowners and developers. This is heightened by the openness of the system (it invites public opinion before taking decisions) and the legal nature of development plans and notices. It is important therefore that the process is characterised by openness and transparent decision making.

**4.02.1.4 The purpose of this Code** is to explain how the decision-making processes work in relation to planning applications and the Local Plan. One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of land holdings and the quality of their settings. It is important therefore that the planning authority must make planning decisions affecting these interests, openly, impartially, with sound judgement and for justifiable reasons.

**4.02.1.5 It is imperative that the planning authority** is seen to be completely transparent in the way in which business is conducted and that it treats all applicants fairly and equally. The process should leave no ground for suggesting that a decision has been partial, biased or not well founded in any way. It is hoped that the guidance contained in the following paragraphs will assist councillors and officers to ensure that all business is conducted fairly, equitably and impartially. It will be of particular interest to members of the public who are applicants for planning permission, or who are affected by other people's planning proposals. It will also be of value to those interested in the preparation of the Local Plan.

**4.02.1.6 Article 6 of the European Convention on Human Rights** is concerned with guaranteeing a right of procedural fairness, transparency and accountability in the determination of civil rights and obligations. Ensuring that decisions are adequately recorded and supported by proper reasons will be encouraged as good practice.

## **4.02.2 Status of the Guidance contained within the Code**

**4.02.2.1 This Code is consistent** with and makes reference to the Royal Town Planning Institute's Code of Professional Conduct and the findings of a number of inquiries into allegations of misconduct at North Cornwall, Warwick and Bassetlaw Councils, together with advice issued by the Audit Commission, the Local Government Ombudsman and the National Planning Forum. Failure to take heed of the recommendations and advice referred to above could be taken into account in any investigations into possible misconduct or could have implications for the standing of councillors and officers.

**4.02.2.2 The Mayor will be treated as a councillor** for the purpose of this code unless the law or context implies otherwise. In particular the Mayor will follow the rules about disclosure of interests and comply with this planning code of conduct.

**4.02.2.3 If a Councillor does not comply** with the provisions of this Code they may be subject to sanctions.

**4.02.2.4 This Code applies to all councillors** regardless of whether they are on Planning Applications Committee or not, unless specified otherwise.

#### **4.02.3 The Role and Conduct of Councillors and Officers**

**Councillors and officers have different**, but complementary roles. Both serve the public, but councillors are responsible to the electorate, whilst 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 or political parties and it follows that instructions may only be given to officers through a Council or Committee or a delegated decision.

**A successful relationship** between councillors and officers can only be based on mutual trust and understanding of each other's positions. This relationship, and the trust which underpins it, must never be abused or compromised.

##### **4.02.3.1 Councillors**

**In the context of members of a Planning Applications Committee** whilst such 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. Councillors should not favour any individuals or groups, and although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Councillors must, therefore, represent their constituents as a body and vote in the interests of the whole district when discharging their planning responsibilities.

A councillor must not, in their official capacity, or in any other circumstances, use their position as a councillor improperly to confer on or secure for themselves or any other person an advantage or disadvantage. The basis of the planning system is the consideration of private proposals against the wider public interest. Much is often at stake in this process and opposing views are often strongly held by those concerned. Whilst councillors should take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Councillors who do not feel that they are able to act in this way should consider whether they are best suited to serve on the Planning Applications Committee.

Councillors not serving on the Planning Applications Committee, have the same rights in a Planning Applications Committee meeting as a member of the public who wishes to speak on an application. As such they should confine themselves to addressing the Committee for a maximum of four minutes on the planning merits or otherwise of the application. Councillors can either speak personally, in favour or against an application or as a ward member and represent the views of their ward, either in favour or against an application. A councillor speaking as a Ward member has a maximum of 6 minutes to address the Committee. A Councillor addressing the Committee should indicate to

the Chair in advance of the meeting in which capacity they are addressing the Committee, as they will not be permitted to address the Committee as both.

#### **4.02.3.2      Officers**

Officers are bound by the Employees Code of Conduct, and in addition 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 RTPI Code requires officers 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. In making delegated decisions on applications, officers will:

- a) act fairly and openly.
- b) approach each application with an open mind.
- c) carefully weigh up all the material planning considerations.
- d) avoid undue contact with interested parties.
- e) ensure that reasons for decisions are clearly stated and recorded.
- f) state how they have worked positively and proactively with the applicant .

In reporting to the Planning Applications Committee on non-delegated applications, officers will:

- a) provide professional and impartial advice.
- b) ensure that all information necessary for a decision to be made is given.
- c) set the application in the context of the Development Plan and all other material considerations.
- d) include the substance of objections and the views of people who have been consulted.
- e) provide a clear and accurate written analysis of the issues.
- f) give a clear recommendation.

Any material planning information which is received by officers after the written report has been prepared will be summarised and presented orally to the Planning Applications Committee by officers. No additional information can be submitted by supporters or objectors at the Planning Applications Committee meeting that has not previously been submitted.

#### **4.02.4          Declaration and registration of interests**

##### **4.02.4.1      Councillors**

The Department of Communities and Local Government has produced a document entitled 'Openness and transparency on personal interests' which provides a guide for

councillors on personal interests and gives basic practical information about how to be open and transparent about such interests. It is designed to help councillors following the introduction of standards arrangements resulting from the Localism Act 2011.

The guide advises that if a councillor has a disclosable pecuniary interest relating to any business that will be considered at the meeting, they must not;

- (a) participate in any discussion of that business at the meeting, or if they become aware of a disclosable pecuniary interest during the meeting, participate any further in discussion of that business,
- (b) participate in any vote or further vote taken on the matter at the meeting.

Councillors should therefore consider whether they have any disclosable pecuniary interest in any matter before them as these prohibitions apply to any form of participation, including speaking as a member of the public.

#### **4.02.4.2 Officers**

Officers shall play no part in the processing of any application in circumstances where there is, or would be perceived to be, a conflict between their personal and financial interests, those of their families or friends, and their professional duty. As required by the Code of Conduct for Officers they shall formally register the existence of any such conflict in writing to the Director. Any interest the Strategic Director has in an application shall be declared to the Chief Executive Officer.

#### **4.02.5 Member Training**

**4.02.5.1 The Council accepted a recommendation** from the Standards Committee and resolved on 10 December 2007 that members serving on the Planning Applications Committee are required to undertake necessary training comprising a basic understanding of planning procedures and policies within three months of their appointment to the Committee.

**4.02.5.2 A minimum of two mandatory councillor** Planning Applications Committee training sessions relating to planning matters are programmed to take place each Council year. A register of attendance will be kept and maintained by the Director of Place and Wellbeing. Mandatory training sessions are necessary for those members who wish to continue to serve on the Planning Applications Committee. If councillors on Planning Applications Committee do not attend any training sessions, the matter will be reported to the Planning Applications Committee by the Assistant Director – Planning and Regeneration, and that Committee will have the power to require councillors to undertake training if necessary or not to take any further part in the Committee's proceedings. Any member of the Council can attend the Planning Applications Committee as a substitute provided they have received the requisite training.

**4.02.5.3 Councillors should also endeavour** to attend any other specialised training sessions provided since these will be designed to extend their knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the training sessions referred to above. This will assist the councillor in carrying out their role properly and effectively.

**4.02.5.4 Councillors should also participate** in any review of planning decisions to ensure that councillors' judgements have been based on proper planning considerations.

#### **4.02.6 Development Proposals Submitted by Councillors and Officers and Council Development**

**4.02.6.1 Proposals to their own authority** by serving and former councillors and officers and their close friends and relatives can easily give rise to suspicions of impropriety. Whilst it is perfectly legitimate to submit such applications, it is vital that they are handled in a way that gives no grounds for accusations of favouritism.

**4.02.6.2 Councillors serving on the Planning Applications Committee** should not act as agents for a member of the public pursuing a planning matter within the District, if they do they must not take any part in the decision making process. Similarly, any councillors or officers, submitting their own planning applications to the District Council, must take no part in the decision making process.

**4.02.6.3 Councillors serving on the Planning Applications Committee** may take part in any decision where the Council is the landowner, developer or applicant provided that the councillor has not acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through the councillor's significant personal involvement in preparing or advocating the proposal the councillor will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

**4.02.6.4 Where a councillor has acted as an agent** on a planning application or could be perceived to be a chief advocate of a Council application to avoid an allegation of pre determination they must do the following:

- (i) they must not speak and vote on any such matter considered by the Planning Applications Committee.
- (ii) they need not withdraw from the meeting for that purpose but they may prefer to do so for the sake of appearances.
- (iii) they should explain that they do not intend to speak and vote because they have judged or they could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.

**4.02.6.5**      **Whilst a councillor** who has acted as an agent on a planning application or could be perceived to be a chief advocate of a Council application should not take part in the decision, they may exercise their separate speaking rights as a Ward/Local Member where they have represented their own views or those of local electors only. If a Councillor does wish to exercise this right then they should:

- (i)      Advise the Chair that they wish to speak in this capacity before commencement of the item.
- (ii)      Leave the member seating area for the duration of that item.
- (iii)      Ensure their actions are recorded.

**4.02.6.6**      **Where a councillor or an officer submits their own proposal**, they must inform the Assistant Director - Planning and Regeneration, in writing, at the time of making the application. Such proposals shall be reported to the Planning Applications Committee as main items and may not be dealt with by officers under delegated powers. The report will include a statement advising that the application has been submitted by or on behalf a councillor or officer.

**4.02.6.7**      **Where a planning application** is submitted by or on behalf of a close friend or relative of an officer of the planning service, it shall be the responsibility of the officer to notify the Assistant Director - Planning and Regeneration of this in writing. The letter shall be placed on file as a matter of record. If the nature of the relationship is such that a reasonable and detached member of the public would consider that the officer's actions may be influenced as a consequence of the relationship, the officer must take no further part in the processing of the application. Where an application is submitted by the close friend or relative of a councillor, the councillor concerned shall notify the Assistant Director - Planning and Regeneration in writing and such notification shall be placed on file as a matter of record. The responsibility for the decision in such cases will fall to the Planning Applications Committee and all applications must be determined in an identical manner to applications made by the general public and the same planning policy considerations applied.

**4.02.6.8**      **Where officers have a friendship with a professional** operating within the district, and the registration of their interest would happen with such frequency that their ability to carry out their normal duties would be impaired, they may apply in writing to the Assistant Director - Planning and Regeneration for special dispensation. Such dispensation shall be given in writing and shall only apply where the officer concerned has their work routinely supervised by two or more senior officers.

**4.02.6.9**      **Proposals for the District Council's own development** will be considered impartially and without favouritism by councillors and officers in accordance with the Council's approved scheme of decision making. All decisions on such applications shall be made strictly on their planning merits without regard to any financial or other gain which would occur to the Council if the development was

permitted. Officers involved in work relating to the promotion of such development shall not seek to influence, improperly, any officer responsible for the processing of the application. However, any such discussions regarding the provision or request for additional information or seeking clarification should be recorded on file for the purposes of transparency.

#### **4.02.7      Lobbying of and by Councillors**

**4.02.7.1      Lobbying is the process** by which members of the public and applicants seek to influence councillors prior to a decision at Committee or by officers. Lobbying is a normal and proper operation of the political process, as it is essential for the proper operation of the planning system that local concerns are adequately aired. However, to avoid compromising their position, all councillors should not:

- (i) Lobby members of the Planning Applications Committee.
- (ii) Act as an advocate, or put pressure on officers, for a particular recommendation.

**4.02.7.2      Lobbying can lead**, unless common sense and care is exercised by all parties involved, to the impartiality and integrity of a councillor being called into question. When being lobbied, councillors, and members of the Planning Applications Committee in particular, should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on an issue before they have been exposed to all the evidence and arguments. In such situations they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying that they should speak or write to the relevant officer in order that their opinions can be included in the officer's report to the Planning Applications Committee. If they do express an opinion they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at the Planning Applications Committee.

**4.02.7.3      Councillors must keep written records** of any lobbying approaches made to them, and their response. They should keep one copy and pass another copy to the Strategic Director, as soon as possible after the approach has been made. Completed records will be maintained on a central file held by the Assistant Director - Planning and Regeneration.

**4.02.7.4      All instances of lobbying** must be declared at any relevant Planning Applications Committee.

**4.02.7.5      Where a councillor considers** that he or she cannot avoid giving an opinion prior to the Committee meeting, then that councillor must declare that such an opinion has been given. This declaration will be recorded in the Minutes and the councillor should refrain from voting on the matter concerned.

**4.02.7.6      Where a councillor who sits on the Planning Applications Committee** receives written representations directly in relation to a planning application or Local Plan proposal, the councillor should pass the correspondence to



the Assistant Director – Planning and Regeneration. This will ensure that any representations made can be taken into account in any report made to the Planning Applications Committee.

#### **4.02.8 Social Contacts**

A councillor who sits on the Planning Applications Committee should minimise their social contact with known developers and their agents. Unless councillors are to enter into pre-application discussions with developers in line with paragraph then councillors should otherwise refrain altogether from such contact when developments are contemplated or applications are being proposed or when controversial decisions are likely to be needed.

#### **4.02.9 Hospitality**

**4.02.9.1 Members of the Planning Applications Committee** should reject any offers from lobbyists of gifts, hospitality or future favours made personally or by way of deals for the Council or the community, from lobbyists. Any such approach should be recorded in the Council's register for this purpose.

**4.02.9.2 In exceptional circumstances**, where the need for the taking of meals and/or refreshments arises incidental to, and in the normal course of business, between officers, councillors and applicants for planning permission the officers should pay for themselves or if practical, payment should be made by the Council. If a degree of hospitality is entirely unavoidable then the councillor should ensure it is at a minimum, its acceptance is declared as soon as possible and that the interest is to be registered where its value is over £50 (in accordance with the Council's rules on gifts and hospitality).

#### **4.02.9.3 Planning Gain**

Should the issue of planning benefit, agreement or obligation be raised by an applicant or agent (e.g. offers of the provision of community facilities/open space or funding towards such provision through a S106 Planning Obligation or otherwise), the councillors should not enter into any form of negotiation, but should refer the matter to the Assistant Director - Planning and Regeneration.

#### **4.02.9.4 Political Group Meetings**

**4.02.9.4.1 Whilst councillors may discuss planning matters** in political group meetings before taking a decision at the Planning Applications Committee, such meetings should not be used to decide how councillors should vote.

**4.02.9.4.2 Councillors have an overriding duty** to the whole of the local community and, although they may be strongly influenced by the views of others and particularly their political group, it is their responsibility alone to decide what view to take on any planning matter before the Planning Applications Committee.

**4.02.9.4.3 When approached by a member of the public** on an application that affects the councillor's ward, the councillor should:

- (i) Listen or receive viewpoints from residents or other interested parties.
- (ii) Make comments to residents, interested parties, other councillors or appropriate officers, provided they do not consist of or amount to pre-judging the issue and the councillor makes clear that they are keeping an open mind.
- (iii) Seek information through appropriate channels.
- (iv) Be a vehicle for the expression of opinion or speaking at the meeting as a ward member, provided they explain their actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.

#### **4.02.9.5 Lobbying by Councillors**

**4.02.9.5.1 A councillor on a Planning Applications Committee** should not become a member of, lead or represent an organisation whose primary purpose is to lobby or oppose planning proposals. If they do they will have fettered their discretion and are likely to have a disclosable interest.

**4.02.9.5.2 A councillor on a Planning Applications Committee** may, however join general interest groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but declare a non-disclosable interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that the councillor has reserved judgment and the independence to make up their own mind on each separate proposal.

#### **4.02.9.5.3 Pre Application Discussions**

**4.02.9.5.3.1 Any councillor**, whether on Planning Applications Committee or not, should not engage in pre-application discussions without officers being present. All enquiries should be directed to officers. Councillors may request and/or be present at certain meetings relating to requests for pre-application advice, though such advice should be given by officers. Councillors may, however, give procedural advice on how applications are dealt with, without officers being present. Any pre-application meetings not held at the Civic Centre or the application site should only be held at suitable venues and should be fully minuted.

#### **4.02.10 Decision Making Procedures**

**4.02.10.1 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 advertisements, prior notifications of

agricultural buildings, telecommunications development or demolition, hedgerow removal, certificates of lawful use or development, etc.) are made by three methods in accordance with the Council's approved Scheme of Decision Making:

- (i) By the Assistant Director - Planning and Regeneration or nominated officers with delegated authorisation from him/her to make decisions on planning applications.
- (ii) By the Assistant Director - Planning and Regeneration or nominated officers, after notification to the Chair and a nominated member of Planning Applications Committee.
- (iii) By the Planning Applications Committee.

**4.02.10.2 Non-delegated planning applications** are determined by the Planning Applications Committee. The dates of all of the meetings are always displayed in the entrance hall area of the Civic Centre.

**4.02.10.3 The Business of the Planning Applications Committee** must be conducted in accordance with the current Rules of Procedure-Part 4 of the Council's Constitution, including the details of public speaking at Planning Applications Committee set out below and the supplementary procedure rules relating specifically to the Planning Applications Committee at Appendix Two.

**4.02.10.4 Councillors on the Planning Applications Committee** should not vote on an application if they arrive late or briefly leave the meeting during consideration of that application and do not hear the whole application.

**4.02.10.5 The Council has signed up to an "Enforcement Concordat"** to ensure that all enforcement matters are dealt with fairly and equitably.

**4.02.10.6 Public speaking is allowed at the Planning Applications Committee**, and this also includes applicants, agents, councillors not on the Planning Applications Committee, Ward Members, supporters and objectors. Speaking time is limited to four minutes for each individual. A document entitled "Public Speaking Procedures at Meetings of the Planning Applications Committee" provides details on this procedure and a copy is attached at Appendix Three.

#### **4.02.11 Officer Reports to Committee**

##### **4.02.11.1 Reports will cover the following:**

- (i) The substance of comments received from people who have been consulted.
- (ii) A clear explanation of the Development Plan.
- (iii) The planning history of the site.
- (iv) Relevant material planning considerations.
- (v) A clear written recommendation, justified by an officer's written appraisal.
- (vi) Where the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify the Departure.

Oral reports to Committee will only be made to update reports and to report late objection letters and consultee responses. On very rare occasions, if officers wish to change the recommendation in the light of information received or to suggest alternative or additional conditions, this will be very carefully minuted.

#### **4.02.12 Decisions Contrary to Officer Recommendation**

**4.02.12.1 If the Planning Applications Committee is minded** to make a decision contrary to the officer's recommendation (whether for approval or refusal) it shall provide reasons for that decision, based on the planning merits of the application, and the officers present at Committee should then be given the opportunity to explain the implications of the contrary decision.

**4.02.12.2 Whilst councils make extensive use of standard wording** for conditions, in the case of any conditions which councillors may wish to add or amend, an officer should be asked to draft any such conditions and refer them for approval by the Assistant Director - Planning and Regeneration in consultation with the Chair of Planning Applications Committee.

#### **4.02.13 Committee Site Visits**

Requests for Site Visits:

**4.02.13.1 All requests for site visits** should be made using the appropriate form by 1.00 p.m. on the final working day prior to the Committee meeting.

**4.02.13.2 The Chair/Vice Chair**, Assistant Director - Planning and Regeneration and Building Control and Development Manager must be made aware of any requests for site visits;

**4.02.13.3 Reasons for the site visit request must be indicated.**

Criteria for Requesting Site Visits:

**4.02.13.4 The "substantial benefit" test** should apply in every case. Site visits should only be necessary if the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs, or if there is a good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or if the proposal is particularly contentious.

**4.02.13.5 Site visits may be triggered** by councillors who do not sit on the Planning Applications Committee, but subject to the "substantial benefit" test outlined above. A record of reasons why site visits are called should be kept.

**4.02.13.6 Site visits may be appropriate** to consider larger, more complex applications (but usually at officer instigation).

**4.02.13.7 Site visits may be appropriate** if it is considered that there is a lack of clarity with the application making visual assessment necessary.

**4.02.13.8 Site visits may be necessary** if it is considered that there is a need to consider the wider impact on the community.

**4.02.13.9 Site visits must not be requested** in any of the following cases:

- (i) Where there are clear planning policy reasons for refusal which override other material planning considerations.
- (ii) To consider boundary or neighbour disputes solely.
- (iii) To consider objections raised on competition grounds.
- (iv) To consider objections raised on the grounds of loss of property values.
- (v) To consider any other issues which are not material planning considerations.
- (vi) Where members of the Committee have already visited a site within the last year, except in exceptional circumstances.
- (vii) To consider representations from friends, neighbours or relatives

#### **Timing of Site Visits:**

**4.02.13.10 All Committee site visits** should be arranged wherever possible no later than the date of the following Planning Applications Committee Meeting

#### **Procedure at the Committee Meeting:**

**4.02.13.11 The Chair should inform the meeting** that a request for a site visit has been received, and read out the reason for the request. The Chair should also enquire of officers whether any additional information has been received or if an explanation can be given which would overcome the need for the site visit.

**4.02.13.12 A vote should then be taken** on whether or not councillors should visit the site and this should be recorded in the Minutes

**4.02.13.13 The Committee has the right to refuse** a site visit request if it considers that a site visit is not appropriate.

**4.02.13.14 The Assistant Director - Planning and Regeneration**, in association with the Democratic Services Officers will arrange for all members entitled to attend, to be notified of the date and time of the site visit. Any members of the public who have written to express their views will be notified, together with any relevant consultees.

#### **Procedure at the Site Visit Meeting:**

**4.02.13.15 Site visits should be carefully organised** to ensure that their purpose, format and conduct are clearly established at the outset and subsequently adhered to throughout the site visit.

**4.02.13.16 The primary purpose of the site visit** will be for planning officers to explain the planning issues relating to the case and for councillors to view the site.

**4.02.13.17 The site meeting should be conducted** strictly along the same lines as a Planning Inspector's site visit.

**4.02.13.18 All site visit meetings** will be carefully minuted and a record kept of those present, including any members of the public, applicants, agents, etc.

**4.02.13.19 At the commencement of each site visit**, particularly where access to private land is required, the attending officer(s), together with the Chair shall introduce the visiting Planning Applications Committee to the site occupier/owner and explain the purpose of the visit.

**4.02.13.20 The meeting should be conducted in the following manner:**

- (i) The Chair, or in the absence of the Chair, the Vice Chair of the Committee, should open the meeting.
- (ii) The Assistant Director - Planning and Regeneration or his or her representative should describe the application.
- (iii) The requestor and/or proposer of the site visit should explain their concern or interest in the proposal and the particular aspects of the application that has necessitated the site visit.
- (iv) Councillors on the Committee may comment or ask questions of the officers in attendance. Clarification and answers should be given wherever practicable.
- (v) The Chair should close the meeting and explain to those present that the meeting will be reconvened at the Civic Centre to determine the application(s).
- (vi) The Chair has the right to close the meeting at any point if undisciplined behaviour is displayed by any participants or onlookers.

Conduct of Councillors and others at the Site Meeting:

**4.02.13.21 The applicant, agent, objectors, consultees** and any other members of the public will be allowed to attend. These attendees must only point out any key features of the site that they wish the Committee to take note of.

**4.02.13.22 Councillors should not hear representations** during the site visit from any of those parties with the exception of any Ward Member(s) whose address must focus only on site features. Where a councillor is approached by the applicant or a third party, the councillor should advise them that they should make representations in writing to the authority and direct them to or inform the officer present.

**4.02.13.23 Councillors must at all times be circumspect** in their behaviour and must refrain from expressing any opinions on the merits or otherwise of the case at the site visit. They should remain present for the duration of the site visit, however long it lasts, in order to hear all of the discussion.

**4.02.13.24 Councillors should not enter a site** which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:

**4.02.13.25 If a councillor feels it is essential to visit the site** other than through attending the official site visit this should only be undertaken in circumstances where,

**4.02.13.26 The councillor has first spoken to** the Assistant Director - Planning and Regeneration about their intention to do so and why (which will be recorded on the file) and

**4.02.13.27 The councillor can ensure** they will comply with these good practice rules on site visits.

**4.02.13.28 The councillor should not enter the site** which is subject to the proposal but should only view it from a public vantage point.

#### **At the Reconvened Meeting at the Civic Centre**

**4.02.13.29 The Committee's business** shall be conducted in accordance with the Council's Constitution.

#### **4.02.14 Complaints and Sanctions**

**4.02.14.1 The Council operates its own local complaints system**, which can be used if members of the public consider this code has not been followed. A copy of the complaints procedure is attached in Appendix Three.

**4.02.14.2 Complaints by officers and councillors** regarding a breach of this Code should be made to the Monitoring Officer.

**4.02.14.3 Breaches of this Code** may be investigated and regarded as maladministration by the Local Government Ombudsman.

**4.02.14.4 Breaches of the RTPI Code of Conduct** by Officers who are members of the RTPI can also be reported to the Royal Town Planning Institute, 26 Portland Place, London W1N 4NBE.

**4.02.14.5 An applicant who has been refused planning permission** or a person served with an enforcement notice etc has a right of appeal to the Secretary of State. If an appeal is successful and it is shown that the Council's conduct in dealing with the matter was unreasonable, the appellant's costs may be awarded against the Council. This may also result in the Council's External Auditor issuing a Public Interest report

which the Council would be required to publish criticising Councillors concerned for failing to act properly in their stewardship of public funds.

**4.02.14.6 If objectors believe that the Council**, in determining to grant an application, did not observe their statutory obligations to carry out all necessary procedures, base their decision on the Development Plan and take into account all representations, they may apply for judicial review of the decision, which might result in it being quashed. In such circumstances it would be normal for the cost of the applicant to be awarded against the Council.

**4.02.14.7 The Secretary of State possesses a range of powers** which could be exercised where a local planning authority appears to be making inconsistent decisions, or decisions which are seriously in conflict with national and development plan policies. This could involve a greater use of the power to “call-in” applications, whereby an application would be determined by him/her following a public inquiry. Where permission has already been granted by the Council, powers exist to revoke or modify permissions, or to require discontinuance of a land use, which if exercised, would give rise to a liability to compensate on the part of the Council. The amount of compensation may be considerable.

#### **4.02.15 Appendix One**

Planning Applications Committee Supplementary Procedure Rules:

- Chair introduces item
- Officer presents report and updates Committee on any information received after report prepared
- Speaker(s) in opposition to application may address Committee
- Committee ask questions of Speaker(s)
- Speakers in favour of application may address Committee
- Committee ask questions of Speaker(s)
- Ward Member may address Committee
- Councillors ask questions of officers
- Proposal moved by a councillor
- Proposal seconded by a councillor
- Debate as required
- Vote
- Chair confirms decision of Committee.



- Where a motion to grant or refuse permission is rejected the following rules apply:

A detailed minute of the Committee's reasons should be made and a copy placed on the application file, as well as the Committee Minutes. The reasons should be clear and convincing and should be planning reasons. The personal circumstances of an applicant will rarely provide such grounds. A notable exception is where planning policy allows for this, for example, a dwelling for an agricultural worker.

#### **4.02.16      Appendix Two**

### **Public Speaking Procedures at Meetings of the Planning Applications Committee**

#### **Introduction**

The purpose of public speaking at Planning Applications Committee is to enable people to make their views directly on development proposals other than just by letter. This guide has been prepared by the Council to provide those who wish to address the Committee with helpful advice on how the procedures operate. All matters of procedure during the meeting will be at the discretion of the Chair of the Planning Applications Committee.

#### **Who can speak?**

You can speak if you are:

An applicant.

An individual (or representative of a company) who has commented on an application.

An agent acting for an applicant

#### **What am I allowed to say?**

The Council must decide applications according to the relevant planning policies and other material considerations. Examples of the sort of factors which can be taken into account include:

Noise and disturbance

Highway safety and traffic issues

A building which is of poor design

Loss of light caused by new building

Considerations which cannot affect the way an application is decided include:

A loss of view

A reduction in the value of a property

Business competition

Inconvenience during construction work

Private property rights (e.g. boundary disputes)

The above lists are not exhaustive.

### **Who sits on the Committee and who attends the meeting?**

The Planning Applications Committee is comprised of 11 elected Councillors representing different parts of the district. A Chair is in charge of the business of the meeting. The minutes of the meeting will be taken by a Democratic Services Officer who will also manage the time allowed for speaking. A Legal Officer and normally two Planning Officers will also be in attendance. All meetings are open to the press and public so anyone can attend and listen to the proceedings.

### **What is the order of the business at the meeting?**

Although the agenda is published prior to the meeting, applications with speakers may be taken first.

### **What is the order of speaking on each application?**

The Chair will announce each application in turn.

A planning officer will make appropriate introductory comments.

The order of speakers will be objectors, supporters/applicant/agent.

Ward member

### **What do I have to do if I want to speak?**

Anyone wishing to speak needs to notify a Democratic Services Officer at the Council by 5.00pm at least two working days before the meeting to register the request. The notification must be either in writing or e-mail (see details under further information). Requests to speak which are late will not be granted and telephone requests cannot be accepted. The use of visual aids is not permitted and copies of speakers' comments, additional written information or photographs cannot be circulated at the meeting.

### **How many speakers are allowed?**

The applicant/agent, supporters and objectors will be sent a written invitation to register their request to speak. Although you may submit a request to speak at Committee, a maximum of two speakers in support and two speakers against will be able to present their view. The invitation will contain a list of all other supporters or objectors (as appropriate) and advises that those wishing to speak should liaise with each other to agree appropriate speakers. If more than 2 people formally request to speak, speakers will be selected in order of receipt. Those unsuccessful will be notified by telephone and given details of those selected to speak.

NB. In relation to the submission of organised objections, such as by means of a petition, one spokesperson should speak for all, subject to there being a maximum of 2 speakers as described above.

### **How much time will I have?**

Each speaker will have 4 minutes. You will be timed by a Democratic Services Officer who will give you a reminder 30 seconds before the end of the 4 minutes

### **Will I be asked questions?**

Members of the Committee may ask questions to clarify points that you have made. Your comments should be made as statements. Neither Councillors nor officers will discuss the issues with you.

### **What happens if a decision is deferred?**

Applications will not be deferred because of the absence of any person who has expressed a wish to speak. However, they may be deferred for reasons such as the need for further information or a committee site visit. If an application is deferred for a site visit you will not be able to speak on site other than to point out things that they wish members to see or to answer any queries members may have.

### **Conduct**

Speakers will be expected to conduct themselves in an orderly manner and concern themselves only with planning issues.

### **Further Information**

To register your wish to speak please either confirm by letter or notify a Democratic Services Officer at the District Council by means of the following email address:

E-mail: [pca@mansfield.gov.uk](mailto:pca@mansfield.gov.uk)

Note:

A Ward Councillor who is not a member of the Planning Applications Committee can speak at the meeting, and other Councillors can speak with the Chair's permission. That a limit of six minutes be allowed for ward members representing the wider community.

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The national rules about pecuniary interest are set out in Chapter 7 of the Localism Act 2011 which is available on the internet here:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

and in the secondary legislation made under the Act, in particular The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which can be found here:

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

## **4.03        EMPLOYEES' CODE OF CONDUCT**

### **4.03.1        Standards**

Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Councillors, the elected Mayor and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the Assistant Director - Service any deficiency in the provision of service. Employees must report to the Assistant Director - Service any impropriety or breach of procedure. Where it is not possible or appropriate to discuss an issue with the Assistant Director - Service, employees should approach either the Assistant Director - Law and Governance or the appropriate Director. Where the issue relates to non-compliances with statutory provisions, Standing Orders, Financial Regulations or normal agreed procedures, the matter will be brought to the attention of the Monitoring Officer and Head of Paid Service. The Head of Paid Service is the Chief Executive Officer and the Monitoring Officer is the Assistant Director - Law and Governance.

### **4.03.2        Disclosure of information**

**4.03.2.1        It is generally accepted that open government is best.** The law requires that certain types of information must be available to members, the elected Mayor, auditors, government departments, service users and the public. The authority itself may decide to make public other types of information. Employees must be aware of which information within their authority is open and which is not, and act accordingly. No officer shall communicate to the public the proceedings of any committee meeting nor the contents of any document relating to the authority, which in either case is regarded by the authority as confidential or exempt having the meaning as described in part 3, paragraph 3.06.9.4 of this Constitution, unless required by law or expressly authorised to do so.

**4.03.2.2        Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.** Any particular information received by an employee from a Councillor or the elected Mayor which is personal to that Councillor or the elected Mayor and does not belong to the Authority should not be divulged by the employee without the prior approval of that Councillor or the elected Mayor, except where such disclosure is required or sanctioned by the law. If in doubt, employees should always ask for advice from a more senior officer before disclosing any information.

### **4.03.3        Political Neutrality**

**4.03.3.1        Employees serve the Authority as a whole.** It follows they must serve all Councillors and the elected Mayor and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected. Subject to the

Authority's conventions, employees may also be requested to advise political groups. They must do so in ways which do not compromise their political neutrality.

**4.03.3.2 Employees**, whether or not politically restricted, must follow every lawful expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work.

#### **4.03.4 Relationships**

##### **4.03.4.1 Councillors and the Elected Mayor**

Employees are responsible to the Authority through its Senior Managers. For some, their role is to give advice to Councillors, the elected Mayor and Senior Managers and all are there to carry out the Authority's work. Mutual respect between employees and Councillors and the elected Mayor is essential to good local government. Close personal familiarity between employees and individual Councillors and the elected Mayor can damage the relationship and prove embarrassing to other employees and Councillors and the elected Mayor and should therefore be avoided.

##### **4.03.4.2 The Local Community and Service Users**

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community.

##### **4.03.4.3 Contractors/Suppliers**

All relationships of a business or private nature with external Contractors/Suppliers, or potential Contractors/Suppliers should be made known to the Assistant Director and registered in the "Declaration of Interest Register" held by the Human Resources Manager. Orders and contracts must be awarded on merit by fair competition against other tenders and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against. The procedures relating to the awarding of orders and contracts are contained in the Financial Procedure Rules and Procedures for Contracts and Procurement set out in Part 4 of this Constitution

**4.03.4.4 Employees who engage or supervise Contractors/Suppliers** or have any other official relationship with Contractors/Suppliers and have previously had or currently have a relationship in a private or domestic capacity with Contractors/Suppliers, should declare that relationship to the Assistant Director and register same on the "Declaration of Interest Register" held by the Human Resources Manager

#### **4.03.5 Appointment and other Employment Matters**

**4.03.5.1 Employees involved in appointments** should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her. In all cases the extent of such relationships should be disclosed to the Human Resources Manager prior to the commencement of selection procedures.

**4.03.5.2 Similarly, employees should not be involved in decisions** relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc.

**4.03.5.3 All appointments,** remuneration, training and other employment matters shall be undertaken in accordance with the Council's Equal Opportunities policies.

#### **4.03.6 Outside Commitments**

**4.03.6.1 Some employees have conditions of service** which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the Authority's interests or where public confidence in the conduct of the authority's business would be weakened. In particular, those employees remunerated on Senior Officer 1 and above shall devote their whole time service to the Council and shall not engage in any other business or take up any other employment without the express consent of the Council. Consent will be considered by the Personnel Committee on receipt of a report from the Human Resources Manager outlining the details of the application.

**4.03.6.2 Employees should follow the Authority's rules** on the ownership of intellectual property or copyright created during their employment. The copyright in any work produced by the employee in the course of their duty remains the property of the Council and employees should not breach this.

#### **4.03.7 Personal Interests**

**4.03.7.1 Employees must declare to the Chief Executive Officer** as Head of Paid Service, any non-financial interests that they consider could bring about conflict with the Authority's interests and place a record of this on the "Declaration of Interest Register" held by the Human Resources Manager.

**4.03.7.2 Likewise, employees must declare to the Head of Paid Service** any financial interests which could conflict with the Authority's interests and place a record of this on the "Declaration of Interest Register" held by the Human Resources Manager.

**4.03.7.3 Employees should declare to the Head of Paid Service** membership of any organisation not open to the public (e.g. an organisation without formal membership, having commitment of allegiance, and/or which has secrecy about rules or membership or conduct) and place a record of this disclosure on the "Declaration of Interest Register" held by the Human Resources Manager. Employees remunerated on Senior Officer 1 level and above are required to make an entry in both the "Interest" and "Organisation" Register, even if there is nothing to declare.

#### **4.03.8 Equality Issues**

**4.03.8.1 All local government employees** should ensure that policies relating to equality issues as agreed by the Authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

#### **4.03.9 Separation of Roles During Tendering**

**4.03.9.1 Employees involved in the tendering process** and dealing with Contractors should be clear on the separation of Client and Contractor roles where applicable within the Authority. Senior employees who have both a Client and Contractor responsibility must be aware of the need for accountability and openness.

**4.03.9.2 Employees in Contractor or Client units** must exercise fairness and impartiality when dealing with all Customers, Suppliers, other Contractors and Subcontractors.

**4.03.9.3 Employees who are privy to confidential information** on tenders or costs for either internal or external Contractors should not disclose that information to any unauthorised party or organisation.

**4.03.9.4 Employees contemplating a management buyout** should, as soon as they have decided to actively pursue this option, inform the senior manager concerned and withdraw from the Contract awarding processes. A written record of this disclosure should be registered on the "Declaration of Interest Register" held by the Human Resources Manager.

**4.03.9.5 Employees should ensure that no special favour is shown** to current or recent former employees or their partners, close relatives or associates in awarding Contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

#### **4.03.10 Corruption**

**4.03.10.1 Employees must be aware that it is a serious criminal offence** for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or



not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

**4.03.10.2 Gifts of little value** (under £5.00) such as a ballpoint pen or diary to be used for business purposes at work do not need to be recorded. However, any gift accepted for personal use any, loan, fee, reward or advantage must be registered in the "Hospitality and Gifts Register" held by the Human Resources Manager.

#### **4.03.11 Use of Financial Resources/Council Property**

Employees must ensure that they use public funds and property entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Authority.

#### **4.03.12 Hospitality**

**4.03.12.1 Employees should only accept offers of hospitality** if there is a genuine need to impart information or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Authority should be seen to be represented. Offers and acceptances of hospitality should be properly authorised by the Assistant Director or Head of Paid Service as appropriate and registered in the "Hospitality and Gifts Register" held by the Human Resources Manager. Employees should not accept significant personal gifts from Contractors and outside Suppliers, although the Authority may allow employees to keep insignificant items of token value such as pens, diaries, etc. However, when receiving authorised hospitality or gift employees should be particularly sensitive to the timing of decisions which the Authority may be taking affecting those providing the hospitality.

**4.03.12.2 When hospitality or a gift has to be declined** the offer should be courteously but firmly informed of the procedures and standards operating within the Authority. Hospitality and gifts declined should also be recorded in the Register.

**4.03.12.3 Acceptance by employees of hospitality** through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the Authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that the Authority meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions. Where visits are at the expense of potential suppliers, written consent should be obtained from the employee's senior manager and an entry made on the "Register of Gifts and Hospitality" held by the Human Resources Manager, in advance of attendance.

#### **4.03.13 Sponsorship – Giving and Receiving**

**4.03.13.1 Where an outside organisation** wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with Contractors/Suppliers or potential Contractors/Suppliers.

**4.03.13.2 Where the Authority wishes to sponsor** an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to the Head of Paid Service and it being registered on the "Declaration of Interest Register" held by the Human Resources Manager. Similarly, where the Authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

#### **4.03.14 Criminal Convictions**

In the event of an employee being charged with a criminal offence or being cautioned in respect of a criminal offence, it shall be the duty of the employee to make this known to the Human Resources Manager without delay in order that the relevance to her/his continued employment can be determined.

#### **4.03.15 Dress**

Employees are required to be smart and tidy, dressing appropriately for the work they undertake and in keeping with the general philosophy underlying Customer Care initiatives and health and safety requirements.

#### **4.03.16 Alcohol and other Stimulants**

Employees should not present themselves for work at any time when their performance would be impaired adversely by the consumption of alcohol or other stimulants. In the event of using prescribed medication, where this would affect the nature and performance of an employee's work, this should be brought to the attention of her/his supervisor. A policy/procedure has been jointly agreed in relation to employees suffering from workplace problems arising from alcohol and drug use (January 1991).

#### **4.03.17 Courtesy**

**4.03.17.1 Employees are required to show courtesy** and good manners to fellow employees, members, the elected Mayor and members of the public and in all circumstances treat them with dignity and respect. Aggressive behaviour, swearing, the use of foul or abusive language is offensive, inappropriate and is unacceptable. Likewise, behaviour exhibiting sexist and racist attitudes is not acceptable. Offenders will be subject to the disciplinary procedure which may result in dismissal.

**4.03.17.2 Where employees receive abusive/offensive** telephone calls, they should endeavour to adhere to the "Violence at Work" policy and procedure, copies of which can be obtained from the Risk and Safety Team Leader.

#### **4.03.18 General**

**4.03.18.1 If any employee is in any doubt** about the propriety of any action, he/she should consult with the Assistant Director or the Human Resources Manager. the Monitoring Officer, the Head of Paid Service and the Chief Corporate Assurance Manager will be informed in appropriate cases.

**4.03.18.2 The "Declaration of Interest Register"**, the "Register of Hospitality and Gifts" and the "Register of Membership of a Specified Organisation" for employees are held by the Human Resources Manager. The Registers will only indicate that a declaration has been made and the official notification will be held on the employee's personal file; access to declarations will therefore be restricted in the same way as other personal information.

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

**4.03.19.1 In the case of the Head of Paid Service**, he/she should declare and discuss any of the issues referred to in this document with the Human Resources Manager.

### **4.04 PROTOCOL OF MEMBER/EMPLOYEE/PARTNER RELATIONS**

#### **4.04.1 Introduction**

**4.04.1.1 The purpose of this protocol** is to guide members and employees of the Council in their relations with one another. In this protocol, the words 'Member' and 'Councillor' include elected Councillors and the elected Mayor.

**4.04.1.2 Given the variety** and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It is hoped however that the approach which it adopts will serve as a guide to dealing with the issues.

**4.04.1.3 This protocol** also seeks to reflect the principles underlying the respective Codes of Conduct which apply to members and employees. The shared object of these codes is to enhance and maintain the integrity of local government and they therefore demand very high standards of personal conduct.

**4.04.1.4 Both Councillors and employees** are servants of the public and they are indispensable to one another. Mutual respect between Councillors and employees is essential to good local government. Close personal familiarity between individual Councillors and employees can damage this relationship and prove embarrassing to other Councillors and employees.

**4.04.1.5** It is important that any dealings between members and employees should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position. As close working with key partners is becoming increasingly important in the effective delivery of public services, emphasis is made on the importance of mutual respect.

#### **4.04.2 Roles and Responsibilities**

##### **Members**

**4.04.2.1** The role of the Councillor is defined by the Local Government Act 1972, the Local Government and Housing Act 1989 and by the Local Government Act 2000. In law, all Councillors are equal and have the responsibilities of trustees. For these purposes, the elected Mayor is treated as a Councillor.

##### **4.04.2.2 All Councillors are required by law to:**

- a) be guided by the Code of Conduct adopted by the Council.
- b) comply with the Council's Constitution.
- c) ensure that any facilities provided by the Council for members' use in undertaking their duties are used strictly for those duties and for no other purposes.
- d) to comply with all relevant statutory provisions.

Note: It is the responsibility of members themselves to ensure that they have proper advice. If Members are ever in any doubt about the law, the Constitution, general propriety, conflicts of interest, etc. then the Head of Paid Service, Monitoring Officer or Chief Financial Officer should be consulted.

##### **Employees**

**4.04.2.3** Employees are employed by, and serve, the whole Council. They advise the Council and its decision making processes, and are responsible for ensuring that the decisions of the Council, either directly or through its Executive, Regulatory Committees, Overview and Scrutiny Committees, Area Committees or (where decision-making has been formally delegated) to employees, are effectively implemented. All are legally required to be politically neutral in the manner in which they carry out their duties, and for senior employees this is enforced through the political restrictions of the Local Government and Housing Act 1989. All are required to abide by any Codes of Conduct for Employees introduced by the Council.

**4.04.2.4** Employees are responsible to their Line Manager, Assistant Director and ultimately the Head of Paid Service, who is responsible for the proper management of the Authority's staff. Some senior employees also have specific statutory responsibilities as statutory office holders as well, which may at times require them to give members unpalatable and unwelcome advice.

##### **Respect and Courtesy**

**4.04.2.5 For the effective conduct of Council** business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between members, employees and key partners. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both members and employees remember their respective obligations to enhance the Council's reputation and avoid criticism of employees or members in public forums and situations within the Council where embarrassment might be caused.

**4.04.2.6 If a member considers** that they have not been treated with proper respect by an employee, they may raise the issue with the relevant Assistant Director - Service who will consider the matter through normal operating procedures.

**4.04.2.7 If an employee considers** that a member is in breach then the matter will be referred through the Assistant Director to the Head of Paid Service who will review the matter with the elected Mayor. The matter alternatively may be dealt with under the Member Code of Conduct.

### **Under Pressure**

**4.04.2.8 In their dealings with employees** (especially at junior level) members need to be aware that it is easy for employees to be influenced and feel at a disadvantage. Such feelings can be intensified where members hold official and/or political office.

**4.04.2.9 A member should not require an employee** either to do anything that they are not empowered to do under the Council's policies and procedures or to undertake work outside normal duties or outside normal hours. In particular a member should not directly consult or instruct a junior employee to carry out any work but should consult on such matters with the relevant Strategic Director, Assistant Director, designated manager or Head of Paid Service. Particular care needs to be taken in connection with the use of Council property and services.

**4.04.2.10 Similarly, an employee must** neither seek to use undue influence on an individual member to make a decision in their favour nor raise personal matters to do with their job nor make claims, allegations about other staff. The Council has formal procedures for consultation, grievance, discipline and a confidential reporting code.

### **4.04.3 Employee Advice to Party Groups**

**4.04.3.1 There is now statutory recognition for party groups** and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Senior employees may properly be asked by the Head of Paid Service to provide information to such deliberations by party groups when appropriate. However, such attendance is at the discretion of the employee.

**4.04.3.2 The input provided** by such employees can take many forms, ranging from a briefing meeting with a Chair or Spokesperson prior to a meeting, to a

presentation to a full party group meeting. Whilst in practice such employee support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

**4.04.3.3 Certain points** must however be clearly understood by all those participating in this type of process, members and employees alike. In particular:

- a) Employee support in these circumstances must not extend beyond providing information and objective advice in relation to matters of Council business. Employees should not be present at meetings, or parts of meetings, when matters of party business are to be discussed.
- b) Party group meetings whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
- c) Similarly, where employees provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Executive, relevant Committee and Sub-Committee, Overview and Scrutiny Committee or Area Committee when the matter in question is considered.

**4.04.3.4 Special care needs to be exercised** whenever employees are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Members Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons employees may not be able to provide the same level of information and advice as they would to a members only meeting.

**4.04.3.5 Employees must respect the confidentiality** of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.

**4.04.3.6 Any particular cases of difficulty** or uncertainty in this area of employee advice to party groups should be raised with the Head of Paid Service who will discuss them with the relevant group leader(s).

#### **4.04.4 Support Services to Members and Party Groups**

**4.04.4.1 The only basis on which the Council** can lawfully provide services (e.g. stationery, typing, printing, photocopying, information technology, transport etc) to members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

#### **4.04.5 Members' Access to Information and to Council Documents**

**4.04.5.1 Members are free to approach** any Council Department to provide them with such information, explanation and advice (about that Department's functions) as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of their Department's activity to a request for specific information on behalf of their constituent. Such approaches should be directed to the relevant designated manager, Assistant Director, Strategic Director or Head of Paid Service.

**4.04.5.2 The legal rights of members** to inspect Council documents are covered partly by statute and partly by the common law.

**4.04.5.3 All members have a statutory right** to inspect any Council documents which contain material relating to any business which is to be transacted at an Executive Meeting, Regulatory Committee, Overview and Scrutiny Committee or Area Committee. It extends not only to reports, which are, to be submitted to the meeting, but also to any specified background papers. This right does not however apply to documents relating to certain items which may appear on the confidential part of the agenda for meetings. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contracts and industrial relations negotiations, advice from Counsel and criminal investigations.

**4.04.5.4 The common law right of members** to inspect Council documents is much broader and is based on the principle that any member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This principle is commonly known as the "need to know" principle.

**4.04.5.5 The exercise of this common law right** depends, therefore, upon the member's ability to demonstrate that he/she has the necessary "need to know". Information relating to specific individual personal details should not be available for inspection other than that agreed by the Monitoring Officer. In this respect a member has no right to examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must, initially, be determined by the Monitoring Officer. In the event of dispute, the question falls to be determined by the Head of Paid Service.

**4.04.5.6 Whilst the term "Council document"** is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a member of one party group will not have a "need to know", and therefore a right to inspect, a document which forms part of the internal workings of another party group. The Members Code of Conduct restricts the disclosure of information by members which they have gained as Councillors when the information is confidential. Such information should not therefore be made available to the public nor should it be passed on to another Councillor who cannot demonstrate a "need to know".

**4.04.5.7** Finally, any Council information provided to a member must only be used by the member for the purpose for which it was provided, i.e. in connection with the proper performance of the member's duties as a member of the Council.

A Councillor or a Committee or Sub-Committee member may acquire much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach confidences. Members should never disclose or use confidential information for personal advantage or of anyone known to him/her, or to the disadvantage or the discredit of the Council or anyone else.

**4.04.5.8** Further and more detailed advice regarding members' rights to inspect Council documents may be obtained from the Monitoring Officer or the Head of Paid Service.

**4.04.6** Relationships between Employees and elected Mayor, Chairs of Regulatory Committees, Chairs of Overview and Scrutiny Committees and Area Committees

**4.04.6.1** The role of a Chair is only legally recognised for procedural purposes (e.g. in conducting meetings and exercising a casting vote). In practice, portfolio holders and the role of Chairs may be recognised as the "lead member", typically undertaking the following roles:

- a) Liaising closely with the relevant Senior employee in developing policy and service plans.
- b) Responding to the press and making public statements on behalf of the Council.
- c) Responding to questions at Council Meetings or the relevant forum.

**4.04.6.2** It is clearly important that there should be a close working relationship between the members with Special Responsibility (i.e. those in receipt of a special responsibility allowance under the Members' Allowances Scheme) and the relevant Directors and other Senior employees of any Directorate. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the employees' ability to deal impartially with other members and other party groups.

**4.04.6.3** Whilst members with Special Responsibility will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations an employee will be under a duty to submit a report and recommendations on a particular matter. Similarly an employee will always be fully responsible for the contents of any report submitted in their name. Any issues arising between such a member and employee in this area should be referred to the Head of Paid Service for resolution in conjunction with the elected Mayor.



**4.04.6.4**     **The Council has put in place a delegation scheme**, which, in particular instances, authorises named employees to take action in consultation with identified members. Whilst such action is sometimes (incorrectly) referred to as “action taken by a member”, it is the employee, rather than the member, who takes the action and it is the employee who is accountable for it. Specific delegation to individual members may also occur.

**4.04.6.5**     **Finally, it must be remembered that employees** within a Department are accountable to their managers and that whilst employees should always seek to assist any member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their manager.

#### **4.04.7**            **Correspondence**

Correspondence between an individual member and an employee should not normally be copied by the employee to any other member. Where exceptionally it is necessary to copy the correspondence to another member, this should be made clear to the original member.

**4.04.7.1**        **Official letters on behalf of the Council** should normally be sent out in the name of the appropriate employee, rather than in the name of the elected Mayor or a member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm. Letters which for example create obligations or give instructions on behalf of the Council should never be sent out in the name of the elected Mayor or a member.

#### **4.04.8**            **Involvement of Ward Councillors**

**4.04.8.1**        **Whenever an Area Committee** or public meeting is organised by the Council to consider a local issue, all the members representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward members should be notified at the outset of the exercise.

**4.04.8.2**        **Where matters of particular sensitivity** arise the relevant ward member should be notified in writing.

#### **4.04.8.3**        **Overall Provisions**

The provisions outlined in this protocol will guide the actions of both members and employees alike. It will be appropriate to monitor and review these provisions on a continuing basis with an annual review and report to the Governance and Standards Committee.

### **4.05**              **WHISTLEBLOWING CODE**

#### **4.05.1**            **Introduction**

**4.05.1.1**      **This Code** applies to all employees working for the Council, both full and part time, temporary and casual and it also covers agencies and contractors. Reference to employees within this Code covers all of these categories.

**4.05.1.2**      **Although not covered by the Public Interest Disclosure Act**, Members are also encouraged to use this Code to raise concerns to ensure a consistent protocol is applied.

**4.05.1.3**      **Employees are often the first to realise** that there may be something seriously wrong within the Council. However, they may not express their concerns or make allegations because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

**4.05.1.4**      **The Council is committed** to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns.

**4.05.1.5**      **This Code makes it clear** that you can do so without fear of victimisation, subsequent discrimination or disadvantage. This Code is intended to encourage and enable employees to raise serious concerns or make allegations within the Council rather than overlooking a problem or 'blowing the whistle' outside. Anyone responsible for victimising an employee who uses this Code will be subject to disciplinary action.

**4.05.1.6**      **This Code applies to all employees** and those contractors working for the Council, for example, agencies, builders. It also covers suppliers and those providing services under a contract with the Council.

**4.05.1.7**      **These procedures are in addition** to the Council's Complaints Procedures, Grievance Procedure, Code of Conduct and other statutory reporting procedures applying to some departments.

**4.05.1.8**      **This Code has been discussed** with the relevant trade unions and has their support.

## **4.05.2      The Public Interest Disclosure Act**

**4.05.2.1**      **The Public Interest Disclosure Act 1998**, called the "Whistleblowers Act" provides protection for employees who disclose information that might otherwise be regarded as confidential. The Act makes it clear that where the nature of such a disclosure falls into one of six categories detailed below and the manner of the disclosure is one permitted by the Act; employees will have protection in law from detrimental action by the employer. The six categories are:

- (i)    a criminal offence has been, is being, or is about to be committed

- (ii) the employer is failing to comply with legal obligations
- (iii) a miscarriage of justice has happened or is likely to happen
- (iv) an individual's health and safety is being jeopardised
- (v) the environment is, or is likely to be damaged
- (vi) information falling into one of the above categories which has been, is being or is likely to be, deliberately concealed.

**4.05.2.2 An employee** does not have to show that, for example, a criminal offence has been committed. He or she has to have a reasonable belief that this is the case. It will be for an employment tribunal to decide whether or not such a belief was reasonable.

**4.05.2.3 The Act** gives protection to employees who make disclosures to specified persons in various circumstances. Protection applies where a disclosure is made:-

- to the employer or to another responsible person provided the employee acts in good faith
- in the course of obtaining legal advice
- to a person or body prescribed by the Secretary of State, provided the employee acts in good faith and reasonably believes the information falls within the potentially protected categories and is substantially true

**4.05.2.4 The Act also gives protection to employees** who make "external" disclosures to persons other than listed above. Employees however will only be protected under this general category if they have previously disclosed the matter to the employer or a prescribed body or have not done so because they reasonably believe they would have been victimised or evidence would have been concealed or destroyed. They must also:

- make the disclosure in good faith
- reasonably believe that the information, and any associated allegation, are substantially true
- not act for personal gain
- act reasonably

**4.05.2.5 In deciding whether an employee has acted reasonably**, all the circumstances will be taken into account but in particular:

- the identity of the person to whom the disclosure is made
- the seriousness of the relevant offence
- whether the offence is continuing or is likely to occur in the future
- whether the disclosure is made in breach of a duty of confidentiality owed by the employer to any other person

- any action the employer or prescribed person might reasonably be expected to take as a result of a previous disclosure
- whether in making the disclosure to the employer the employee complied with any procedure approved by the employer

**4.05.2.6 In disclosing “exceptionally serious” breaches**, ie where the subject of the disclosure is sufficiently serious to disclose it to persons other than detailed in paragraph 4.05.2.3, the employee will be protected as long as:-

- the disclosure is made in good faith
- the employee believes that the information disclosed and any associated allegation are substantially true
- the disclosure is not made for personal gain
- the matter disclosed is of an exceptionally serious nature
- in all the circumstances it is reasonable for the employee to make the disclosure

### **4.05.3 Aims and Scope of this Code**

#### **4.05.3.1 This Code aims to:**

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provide avenues for you to raise those concerns or make allegations and receive feedback on any action taken;
- ensure that you receive a response to your concerns or allegations and that you are aware of how to pursue them if you are not satisfied;
- reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

**4.05.3.2 There are existing procedures** in place for employees to legitimately complain about harassment, violence and aggression, discrimination and instances where they feel they have a grievance. The Whistleblowing Code is intended to cover major concerns or allegations that fall outside the scope of other procedures. These concerns or allegations include:

- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- significant risks to the Council's assets, including risks to the public as well as other employees
- damage to the working environment
- the unauthorised use of public funds
- misappropriation of money, materials and equipment, or other irregularities
- possible fraud and corruption
- sexual or physical abuse of clients, or
- other unethical conduct.

**4.05.3.3**      **Thus, any serious concerns** that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council can be reported, together with any allegations that you may wish to make, under the Code. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience, or the standards that you believe the Council subscribes to; or
- is against the Council's Constitution in particular Financial Regulations and Procurement Regulations; or
- falls below established standards of practice; or
- amounts to improper conduct.

**4.05.3.4**      **This Code does not replace** the Corporate Complaints Procedure.

#### **4.05.4      Safeguards**

Harassment or Victimisation of Employees

**4.05.4.1**      **The Council is committed** to good practice and high standards and wants to be supportive of employees.

**4.05.4.2**      **The Council recognises** that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate any harassment or victimisation (including informal pressures), and will take appropriate action, including the application of the Disciplinary Policy, to protect an employee who raises a concern or makes an allegation in good faith.

**4.05.4.3**      **In accordance with the Public Interest Disclosure Act** an employee cannot be dismissed or selected for redundancy as a result of making a disclosure. In addition an employer cannot withhold a pay rise, object to a promotion or not give training.

**4.05.4.4**      **This does not mean that** if you are already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of whistleblowing.

Confidentiality

**4.05.4.5**      **All concerns will be treated in confidence** and every effort will be made not to reveal your identity if you so wish. At appropriate time, however, you may need to come forward as a witness.

#### **Anonymous Allegations**

**4.05.4.6 This Code encourages** you to put your name to your allegation. Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.

**4.05.4.7 In exercising this discretion** the factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern or allegation; and
- the likelihood of confirming them from attributable sources.

### **Untrue Allegations**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however you make malicious or vexatious allegations, disciplinary action may be taken against you.

### **4.05.5 How to Raise a Concern**

**4.05.5.1 As a first step**, you should normally raise concerns with your immediate line manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If you have any concerns about raising the issue with your line manager then you should approach one of the following:-

Monitoring Officer - Ext 3355

Chief Executive Officer – Ext 3040

Corporate Assurance Manager – Ext 3017

This does not preclude you from raising the concern with a prescribed body as stated in Section 2 of this Code.

**4.05.5.2 Concerns or allegations** may be raised verbally or in writing or by using the online reporting form. Employees who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates)
- the reason why you are particularly concerned about the situation.

**4.05.5.3 The earlier** you express the concern, the easier it is to take action.

**4.05.5.4 Although you are not expected** to prove the truth of your concern or allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern or allegation.

**4.05.5.5**     **You may invite your trade union representative**, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised or allegations that you have made.

#### **4.05.6**            **How the council will respond**

**4.05.6.1**     **All matters raised will be logged** upon receipt by the Corporate Assurance Manager, and decisions will be made by a Statutory Officer on how to proceed

**4.05.6.2**     **The action taken by the Council** will depend on the nature of the concern. The matters raised may:

- be investigated internally
- be referred to the Police
- be referred to the External Auditor
- form the subject of an independent investigation

**4.05.6.3**     **In order to protect individuals**, the Council and those accused of misdeed or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle that the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures eg Safeguarding, child protection or discrimination issues will normally be referred for consideration under those procedures.

**4.05.6.4**     **Some concerns or allegations** may be resolved by agreed action without the need for investigation.

**4.05.6.5**     **Within ten working days** of a concern being received, the Council will write to you:

- acknowledging that the concern has been received
- indicating how it proposes to deal with the matter
- giving an estimate of how long it will take to provide a final response and the frequency of progress updates
- telling you whether any initial enquiries have been made and telling you whether further investigations will take place and if not, why not.

**4.05.6.6**     **The amount of contact** between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary the Council will seek further information from you.

**4.05.6.7**     **Where any meeting is arranged**, off-site if you so wish, you can be accompanied by a trade union or professional association representative or a friend.

**4.05.6.8 The Council will take steps to minimise** any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will arrange for you to receive advice about the procedure.

**4.05.6.9 The persons investigating the concerns** will produce a written report that:

- outlines the concern / allegation
- details the investigation process
- gives the outcome of the investigation
- details recommendations where appropriate

**4.05.6.10 The Council accepts** that the employee needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, they will be informed of the outcome of any investigation.

**4.05.6.11 If the person who expressed** the concern is not satisfied with the outcome then they have the right to take matters further as detailed below in Section 8.

#### **4.05.7 The Responsible Officer**

**4.05.7.1 The Chief Executive Officer** has overall responsibility for the maintenance and operation of this Code, with the Council's Governance and Standards Committee having responsibility for monitoring it.

#### **4.05.8 How the matter can be taken further**

**4.05.8.1 This Code is intended to provide** you with an avenue to raise concerns within the Council and the Council hopes you will be satisfied. If you are not, and if you feel it is right to take the matter outside the Council, the list below shows possible contact points:-

- External Audit (Tel: 01115 9454484)
- Audit Commission (Public Interest Disclosure Line 0303 444 8330)
- Trade Unions or Professional Bodies
- Police

**4.05.8.2 If concerns are raised through trade unions** or professional bodies then it is expected that the trade union / professional body representative will act in accordance with this policy and with the Act with regard to the information disclosed. Such a disclosure made by an employee will not be treated as grounds for disciplinary action.



**4.05.8.3** If you do take the matter outside the Council, you should take into consideration the requirements in relation to the disclosure of confidential information as set out in this Code.

## **4.06** **ANTI-FRAUD AND CORRUPTION STRATEGY**

### **4.06.1** Purpose of the Strategy

**4.06.1.1** Mansfield District Council aims to deliver high quality services and provide value for money whilst remaining fully accountable, honest and open in everything it does. It also expects that individuals and organisations which it comes into contact with, will act towards the Council with integrity and without thought or actions involving fraud or corruption.

**4.06.1.2** Fraud and corruption undermine these aims by diverting resources from legitimate activities, damaging public confidence in the Council and adversely affecting staff morale.

**4.06.1.3** In carrying out its functions and responsibilities, the Council is firmly committed to dealing with fraud and corruption and will deal equally with attempted fraud or corruption, by either perpetrators from inside or outside the Council, and is committed to an effective Anti-Fraud and Corruption Strategy designed to:

- \* encourage prevention.
- \* promote detection.
- \* deal with any subsequent investigations in a prompt, thorough and professional manner.

**4.06.1.4** The Council is fully supportive of the Local Government Fraud Strategy “Fighting Fraud Locally” and has aligned this strategy and its anti-fraud and corruption framework with the recommended strategic approach detailed below:

| ACKNOWLEDGE   | PREVENT   | PURSUE   |
|---|---|--|
| Acknowledging and understanding fraud risks by: <ul style="list-style-type: none"><li>Assessing and understanding fraud risks</li></ul> | Preventing and detecting more fraud by: <ul style="list-style-type: none"><li>Making better use of information and technology</li></ul> | Being stronger in punishing fraud and recovering losses by: <ul style="list-style-type: none"><li>Prioritising fraud recovery and the use of civil sanctions</li></ul> |

|   |  |  |
|---|--|--|
| <ul style="list-style-type: none"> <li>• Committing support and resource to tackling fraud</li> <li>• Maintaining a robust anti-fraud response</li> </ul> | <ul style="list-style-type: none"> <li>• Enhancing fraud controls and processes</li> <li>• Developing a more effective anti-fraud culture</li> </ul> | <ul style="list-style-type: none"> <li>• Developing capability and capacity to punish fraudsters</li> <li>• Collaborating across local authorities and with law enforcement</li> </ul> |
|---|--|--|

## 4.06.2 Definitions of Fraud, Corruption & Theft

### Fraud

**4.06.2.1 The Fraud Act 2006** introduced a statutory single offence of fraud which can be committed by:

- False representation
- Failure to disclose information
- Abuse of position

**4.06.2.2 The existing offences** of theft, corruption, false accounting, forgery. Counterfeiting and blackmail will continue to be offences under the relevant act but the new Fraud Act means that the offence of fraud can cover wider criminal acts and therefore offences which might have 'slipped' through can be caught under the wider definition contained in the Fraud Act 2006.

**4.06.2.3 For practical purposes**, fraud can be defined as dishonest conduct with the intention to make a gain or cause a loss or the risk of a loss to another.

### Corruption

**4.06.2.4 Corruption is the offering**, giving, soliciting or accepting of an inducement or reward which may influence a person to act against the interests of the organisation or the proper conduct of their duties.

### Theft

**4.06.2.5 In law there are now five offences** of deception in addition to the offence of making off without paying as defined below:

- (a) Obtaining property by under Theft Act 1968
- (b) Obtaining a money transfer by deception under Theft Acts 1968 & 1996
- (c) Obtaining a pecuniary advantage by deception under Theft Act 1978
- (d) Obtaining services by deception under Theft Act 1978
- (e) Evasion of liability by deception under Theft Act 1978

#### **4.06.3 Responsibility for Prevention, Detection and Investigation of Fraud and Corruption**

**4.06.3.1 The primary responsibility** for maintaining sound arrangements to prevent and detect fraud and corruption rests with management.

**4.06.3.2 Section 151 of the Local Government Act 1972** requires every local authority to make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs. At Mansfield the Assistant Director - Finance is the responsible officer.

**4.06.3.3 Under the Accounts and Audit (England) Regulations 2015**, the Council's accounting control systems must include measures to enable the prevention and detection of fraud.

**4.06.3.4 The Council's Monitoring Officer** is responsible under Section 5 of the Local Government and Housing Act 1989, to guard against, inter alia, illegality, impropriety and maladministration in the Council's affairs.

**4.06.3.5 The Council's Financial Regulations** support this strategy and detail the individual officer responsibilities in respect of the prevention, detection and investigation of fraud and corruption.

**4.06.3.6 All suspected irregularities** must be reported to the Corporate Assurance Manager who will ensure that an investigation is carried out in accordance with the Council's Fraud Response Plan, and will also maintain a log and consider the impact on the Council's risk environment.

#### **4.06.4 Arrangements to Prevent, Deter, Detect and Investigate Fraud and Corruption.**

##### **Positive Culture**

**4.06.4.1 The Council has zero tolerance** in respect of fraud and corruption, whether from inside or outside the Council.

**4.06.4.2 The Council's expectation** regarding propriety and accountability is that all its Members and employees will lead by example in ensuring adherence to all legal requirements, Council rules and regulations and Codes of Conduct and that all instructions, policies, procedures and practices are legally sound and honest.

**4.06.4.3 Members and employees should adopt** the Seven Principles of Public Life as set out by the Nolan Committee on Standards in Public Life, namely Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

**4.06.4.4 An annual corporate fraud assessment** will be carried out by the Corporate Assurance Manager with the results reported to the Corporate Leadership

Team and Governance and Standards Committee. This will inform the programme of anti-fraud carried out by the Council.

**4.06.4.5 Management and employees** at all levels should be alert to the possibility of fraud. Managers should ensure that a programme of risk based anti fraud and corruption testing is carried out in their service area in line with the Council's fraud risk assessment, with the results being reported on a quarterly basis to the Corporate Assurance Manager who will be responsible for summarising the outcomes for the Council's Corporate Leadership Team.

**4.06.4.6 Members, employees and the public** are encouraged to raise any matters of concern relating to potential incidents of fraud and corruption, in accordance with the Council's "Whistle-blowing Code".

**4.06.4.7 The Council's Internal Audit Services** will fully support the Council's anti-fraud and corruption arrangements and will provide advice and guidance to management to ensure effective delivery.

**4.06.4.8 Where any loss is incurred** by the Council due to fraud or corruption, it will take appropriate action to achieve maximum recovery.

#### **Constitution, Financial Regulations and Delegated Powers**

**4.06.4.9 The Council has adopted a Constitution** and documented its financial regulations and delegated powers to give Members and employees clear instructions and guidance for carrying out the Council's functions and responsibilities.

#### **Regulation of Investigatory Powers Act 2000 (RIPA)**

**4.06.4.10 In investigating suspected fraud and corruption**, the Council must comply with RIPA. The aim of this act is to ensure that investigatory powers are used in accordance with human rights.

**4.06.4.11 In order to ensure compliance with the Act**, the Council has nominated officers who are able to grant authorisations for covert surveillance subject to approval by a magistrate. Standard documentation has been adopted which must be used in seeking such authorisation. Further information is available from the Monitoring Officer.

#### **Member Code of Conduct**

**4.06.4.12 Members are required to observe the adopted Code of Conduct**, which incorporates general principles governing the official conduct of Members, when acting as a representative or conducting the business of the Council.

**4.06.4.13 Members are required to register financial interest** in the Council's register by providing written notification to the Monitoring Officer.

**4.06.4.14 Monitoring compliance with the Members Code of Conduct** is the responsibility of the Council's Governance and Standards Committee.

### **Employees' Code of Conduct**

**4.06.4.15 The Employees' Code of Conduct** sets out the standards which employees are expected to meet in conducting Council business. Employees who fail to live up to the standards are liable to disciplinary action.

**4.06.4.16 In accordance with Section 117 of the Local Government Act 1972**, employees must disclose any personal interest in contracts that have been or are proposed to be, entered into by the Council.

**4.06.4.17 Section 117 also prohibits** the acceptance of fees, gifts or rewards other than by way of proper remuneration from the Council. The Officer Code of Conduct provides detailed guidance to employees on offers of gifts or hospitality and the use of public funds entrusted to them.

### **Internal Control Environment**

**4.06.4.18 Internal control** is the whole system of controls, financial and otherwise, established to provide reasonable assurance of:

- Proper aims and objectives
- Effective and efficient operations
- Reliable management information and reporting
- Compliance with laws and regulations
- Safeguarding of assets

**4.06.4.19 Weaknesses** in the design and operation of administrative and financial systems will increase the risk of fraud. Systems should therefore contain efficient, effective and well-documented internal controls, including separation of duties, authorisation procedures and monitoring and reporting arrangements.

**4.06.4.20 It is management's responsibility** to install adequate internal controls and rectify weaknesses if they occur. To help managers discharge this responsibility, systems are subject to regular review by both Internal and External Audit. In addition, Financial Regulations require managers to ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with the Corporate Assurance Manager prior to implementation.

### **Recruitment Procedures**

**4.06.4.21 The Council recognises** that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential staff, in terms of their propriety and integrity. In this regard casual, temporary and contract staff should be treated in the same manner as permanent staff.

**4.06.4.22 Staff recruitment is required**, therefore, to be in accordance with procedures laid down by the Council. Written references covering the known honesty and integrity of potential staff and evidence of qualifications and eligibility to work in the UK will always be obtained. There will be an open and fair policy of recruitment with no canvassing or favouritism.

### **Disciplinary Procedures**

**4.06.4.23 The Council will treat fraud and corruption** committed by its employees as a serious offence. Employees will face disciplinary action in line with the Council's agreed disciplinary procedures where there is evidence that they have been involved in these activities. Disciplinary action may result in dismissal.

### **Training**

**4.06.4.24 A lack of procedural guidance** and training for Members, managers, auditors and investigators in prevention, detection and investigation of fraud can lead to inefficient handling of fraud issues.

**4.06.4.25 Investigation of fraud and corruption** centres on the Council's Internal Audit Service and the Benefits Investigation section. Auditors and Benefit investigators must be properly trained in fraud investigation.

**4.06.4.26 Advice and training in fraud awareness** is available from Internal Audit to managers and staff involved in internal control systems.

### **Internal Audit**

**4.06.4.27 The Council maintains** an adequate and effective system of internal audit of its accounting records and control systems as required by the Accounts and Audit Regulations 2015. The Internal Audit Service plays a proactive role in ensuring that systems and procedures are in place to prevent and deter fraud.

**4.06.4.28 The Internal Audit Service** carries out systems based reviews of all areas of Council activity and provides advice and assistance to management on procedures and controls.

### **Benefits Investigations Service**

**4.06.4.29 The Council administers Housing Benefits** on behalf of the Department for Works and Pensions and its own Council Tax Reduction Scheme. Benefit Investigation Officers will investigate cases of alleged Housing Benefit or Council Tax Reduction fraud.

**4.06.4.30 Careful consideration is given to the circumstances** of each case of suspected fraud before a prosecution is initiated, in accordance with the Council's Benefits Prosecution Policy.

**4.06.4.31 Successful prosecutions are publicised to deter fraud.**

## **Verification Framework**

**4.06.4.32 The Council has introduced the Government's Verification Framework** which is a good practice guide to be applied to all benefit claims. The guidance is designed to:-

- Detect and prevent fraudulent benefit claims
- Set a minimum standard of evidence needed for a benefit claim to be assessed
- Encourage accuracy in calculating benefit claims from the start of a claim.

## **Combining with Other Organisations**

**4.06.4.33 Arrangements are in place** and continue to develop to encourage the exchange of information between the Council and other agencies on national and local fraud and corruption activity in relation to local authorities, including the Police and Department of Works and Pensions.

**4.06.4.34 The Council participates in the National Fraud Initiative (NFI)** data matching exercise and thoroughly investigates the matches that are identified. Where any instances of fraud or overpayment are identified, action is taken to attempt to recover any losses

## **Investigation Reporting and Follow Up**

**4.06.4.35 Instances of fraud and corruption** often highlight a lack of adequate internal control. It may be that the system was weak or that the controls were bypassed or not in existence.

**4.06.4.36 The Council expects** all managers to respond to and act upon reports issued following any investigation. Recommendations made in any investigation reports must be implemented to reduce the risk of the event recurring within the timescale agreed.

## **Use of Information Systems**

**4.06.4.37 Fraudulent or corrupt** acts can be committed more easily if the Council's management information systems fail to generate the appropriate information to enable management to monitor activities in an effective manner.

**4.06.4.38 There is an increasing risk** of fraud perpetrated by using information systems technology and therefore managers should ensure that all employees are aware of the requirements of the Council's IT Security Policy.

## **Fraud Response Plan**

**4.06.4.39 This gives full guidance** on how the Council conducts investigations into allegations of fraud other than Housing Benefit or Council Tax Reduction fraud and the roles and responsibilities of all parties involved

#### **4.06.5 Conclusion**

**4.06.5.1 The Council has in place a clear network** of systems and procedures to assist it in the fight against fraud and corruption. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation.

#### **4.07 SCHEME OF MEMBERS' ALLOWANCES**

##### **SCHEME OF MEMBERS' ALLOWANCES – 2023**

With effect from 23 May, 2023

Basic allowance £6,385.95

Special Responsibility Allowance

For those members with significant responsibilities

Elected Mayor £49,377.04

Deputy Mayor £16,691.88

Portfolio Holder £13,827.83

Overview and Scrutiny Chair £6,920.95

Planning Applications Committee Chair £9,587.85

Licensing Committee Chair £7,505.10

Governance and Standards Committee Chair £4,937.00

Independent Member of Governance and Standards Committee £531.00

Leader of main Opposition Group not on Cabinet £988.45

Leaders of Groups receive an allowance based upon the number of members in the Group, subject to Groups having at least four members £320

No member shall be entitled to claim more than one Special Responsibility Allowance

Civic Allowance for Chair of Council £2,586.00

Travelling allowances for the each Ward

##### Flat Rate Travelling Allowance

|                  |                  |                     |
|------------------|------------------|---------------------|
| Area 1 - £165.04 | Area 2 – £229.84 | Area 3 - £447.80    |
| Pleasley         | <u>Vale</u>      | <u>Warsop Carrs</u> |



|                    |                       |                      |
|--------------------|-----------------------|----------------------|
| <u>Carr Bank</u>   | <u>Park Hall</u>      | <u>Market Warsop</u> |
| <u>West Bank</u>   | <u>Manor</u>          | <u>Meden</u>         |
| <u>Sherwood</u>    | <u>Maun Valley FT</u> | <u>Netherfield</u>   |
| <u>Yeoman Hill</u> | <u>Holly FT</u>       |                      |
| <u>Mill Lane</u>   | <u>Kingsway FT</u>    |                      |
| <u>Rock Hill</u>   | <u>Newlands FT</u>    |                      |
| <u>Central</u>     | <u>Ling Forest</u>    |                      |
| <u>Oakham</u>      | <u>Oak Tree</u>       |                      |
| <u>Grange Farm</u> | <u>Southwell</u>      |                      |
| <u>Brick Kiln</u>  | <u>Berry Hill</u>     |                      |
| <u>Bancroft</u>    | <u>Thompson</u>       |                      |
| <u>Wainwright</u>  | <u>Kings Walk</u>     |                      |
| <u>Penniment</u>   | <u>Lindhurst</u>      |                      |
| <u>Rufford</u>     | <u>Racecours</u>      |                      |
|                    | <u>Eakring</u>        |                      |

Elected Mayor £791.00

### **Dependants' Carer's Allowance**

For Child Care, the Dependants' Carer's Allowance, based on the National Living Wage, applicable to the age of the carer can be claimed when members are engaged in approved duties, and supported by a receipt. Care by members of the immediate family (i.e. members of the same household, grandparents, uncles, aunts) is not eligible for payment.

### **Care for Other Dependants**

Payment for the care of other dependants shall be at the appropriate rate of Nottinghamshire County Council Social Services Department.

### **Indexation**

The basic allowance, Special Responsibility Allowances, Civic, within District flat rate travel and co-optees' allowances indexed to the annual percentage salary increase that is applicable to staff agreed each year by the National Joint Council for Local Staff, specifically at the percentage increase that applies to Spinal Column Point 43 and that the increase be implemented from the start of the municipal year, rather than the financial year, for which year it is applicable.

The mileage allowance for travel outside of the district be index linked to the HRMC mileage rates.

Overnight rates (where no pre-booked) indexed to the same rates and conditions that are applicable to Officers of the Council.

24 hour aggregated meals indexed to the total maximum payable to officers for the claim of the four meals.

The Child Care element of the DCA, the maximum hourly rate indexed to the National Living Wage applicable to the age of the carer.

Care for Other Dependents, the maximum hourly rate indexed to the appropriate rate charged by Nottinghamshire County Council.

### **Expenses outside the District:**

A 24 hour maximum meal allowance of £29.44

Where no overnight stay is involved:

For overnight stay absence:

Where members do not book overnight accommodation through Democratic Services the following allowances apply –

For every 24 hours after departure time £99.72

In London (City and inner boroughs) £130.00

LGA Conference £130.00

For this purpose London means the City of London and the inner London Boroughs. In cases where subsistence is provided free of charge, no subsistence allowances should be claimed on the members' allowance claim form.

### **Travelling by Rail**

This is to be reduced to the actual cost of the journey, such claim not to exceed the ordinary standard class rail fare. First class rail is possible provided that the cost by using railcards or advance purchase is less than or equivalent to the ordinary standard class fare.

The mileage rates for all bands of motor vehicle will be that prevailing for the

HMRC which currently are:

Use of Motor Car 45p

Passenger supplement rate up to a maximum of five passengers 5p/mile

Use of Motor Cycle 24p

Where a vehicle is claiming mileage allowance by travelling in a hybrid or electric vehicle then the normal MHRC rates to apply.

Use of Bicycle 20p

Passenger supplement 5p

For hybrid and electric cars, regular HMRC rates apply.

Members to insure their vehicles for business purposes when on council business.

### **Part –Year Entitlements**

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 or other allowance shall be calculated by comparing the number of days the term of office covers in that year with the number of days in that year.

### **Repayment of Allowances**

Where payment of any allowance has already been made in respect of any period during which the member concerned is –

- i. Ceases to be a member of the authority; or
- ii. Is in any other way not entitled to receive the allowance in respect of that period.

The authority will require that such part of the allowance as relates to any such period be repaid to the authority.

### **Claims and Payments**

A claim for expenses under this scheme shall be made within four months of the date of the meeting in respect of which the entitlement to the expenses arises.

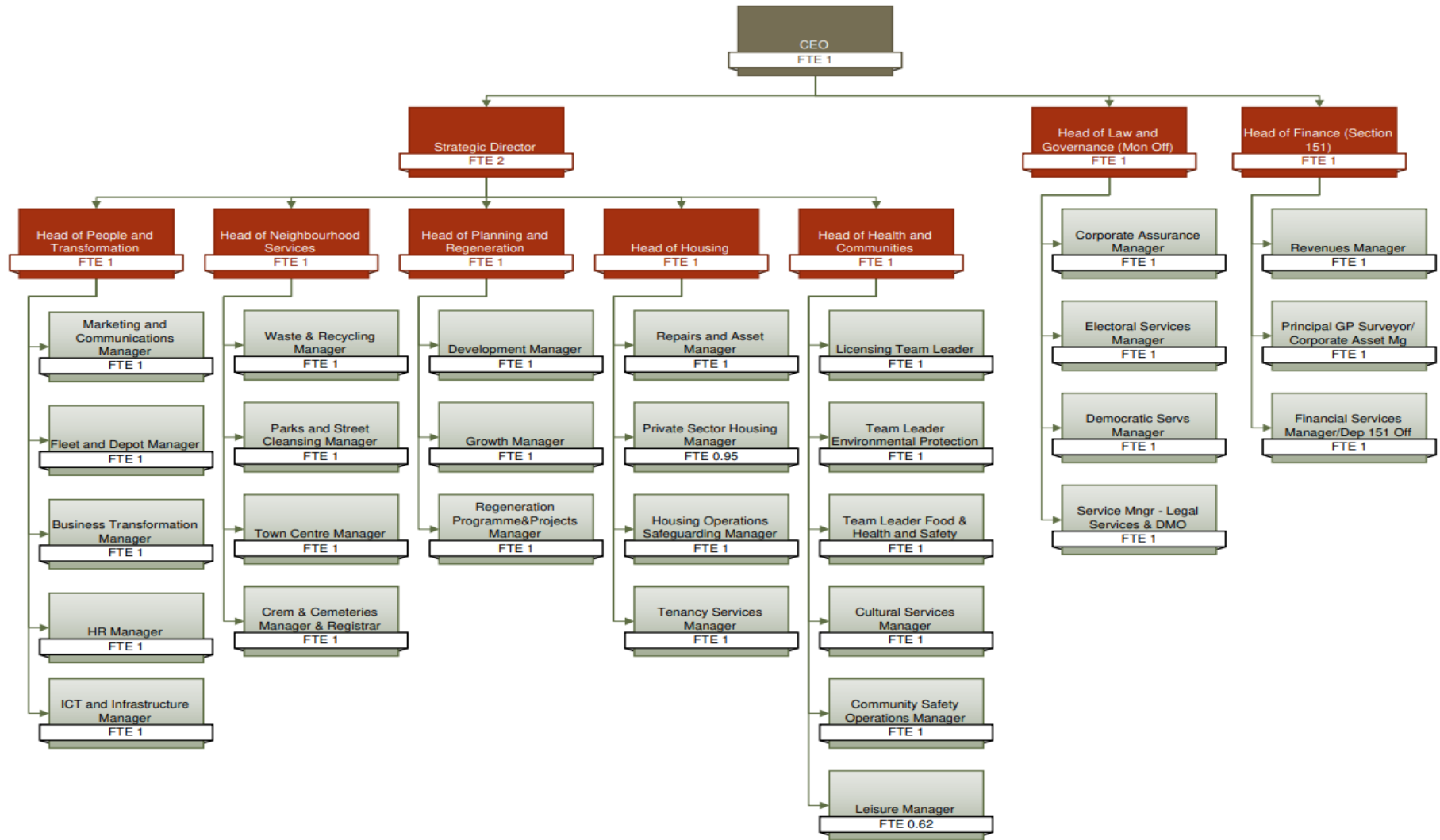
A member who is also a member of another authority to which the Regulations apply, shall not receive allowances from more than one authority in respect of the same duties.

### **Foregoing Allowances**

Any member may, by notice in writing to the Proper Officer of the Authority

(Chief Executive Officer), elect to forego his /her entitlement or any part of his /her allowance

## MANAGEMENT STRUCTURE CHART



#### **4.09      NAMES AND ADDRESSES OF EXECUTIVE MEMBERS**

| <b><u>Portfolio</u></b>   | <b><u>Name and Address</u></b>   | <b><u>Ward</u></b>     |
|---|--|------------------------|
| Executive Mayor   | Andrew Abrahams<br>Civic Centre<br>Chesterfield Road South<br>Mansfield<br>Notts<br>NG19 7BH   | N/A                    |
| Deputy Mayor and<br>Portfolio Holder for<br>Finance and Corporate | Councillor Craig Whitby<br>Civic Centre,<br>Chesterfield Road South,<br>Mansfield, Notts.<br>NG19 7BH  | Manor                  |
| Portfolio Holder for<br>Regeneration and<br>Growth                | Councillor Stuart Richardson<br>Civic Centre,<br>Chesterfield Road South,<br>Mansfield, Notts.<br>NG19 7BH   | Penniment              |
| Portfolio Holder for<br>Housing                                   | Councillor Ann Callaghan,<br>Civic Centre,<br>Chesterfield Road South,<br>Mansfield, Notts<br>NG19 7BH   | Hornby                 |
| Portfolio Holder for Wellbeing,<br>Health and Safer Communities   | Councillor Angie Jackson<br>Councillor Caroline Ellis<br>(Job Share)<br>Civic Centre,<br>Chesterfield Road South,<br>Mansfield, Notts.<br>NG19 7BH | Kings Way<br>Mill Lane |
| Portfolio Holder for the<br>Environment and<br>Leisure            | Councillor Burgin<br>Civic Centre,<br>Chesterfield Road South,<br>Mansfield, Notts<br>NG19 7BH   | Warsop Carrs           |

## **4.10 GLOSSARY OF SOME OF THE TERMS USED IN THE CONSTITUTION**

### **Agenda**

This sets out the business to be conducted at Council meetings and must be published in advance of the meeting in accordance with legislation and the Access to Information Rules.

### **Governance and Standards Committee**

The Governance and Standards Committee considers the Council's governance arrangements and ensures that the financial affairs of the Council are properly conducted.

### **Background Papers**

Papers which relate to agenda items and meetings and which must be referred to in the reports with the agenda and available for inspection by the public, in accordance with the Access to Information Rules.

### **Budget**

All the financial resources allocated to different services and projects.

### **Call-in**

A mechanism, which allows Overview & Scrutiny Committees to examine, and challenge, an Executive decision before it is implemented.

### **Chair of the Council**

The councillor elected each year to act as Chair of the Council.

### **Chairs of Committees**

The Councillors appointed each year by the Council to act as Chairs of the committees of the Council.

### **Chief Finance Officer**

The officer responsible for the administration of the financial affairs of the Council; also known as the Section 151 officer.

### **Chief Officers**

The most senior Council staff who are responsible for managing each of the Council's departments.

### **Code of Conduct for Members**

The Code which sets out the standards of behaviour expected of councillors and co-opted members.

### **Confidential Information**

Information either given to the Council by the Government on terms which forbid its public disclosure or which cannot be publicly disclosed by Court Order.

**Constitution**

The document setting out how the Council operates, how decisions are made and all the procedures that have to be followed.

**Contract Procurement Rules**

The rules which set out how the Council buys goods and services and enters into contracts.

**Co-optee/Co-opted**

A person appointed to serve on a Committee/Sub-Committee in an advisory capacity.

They are not councillors and are not entitled to vote.

**Elected Mayor**

The person elected to carry out the executive functions of the Council.

**Executive.**

The Elected Mayor and up to 9 councillors selected by the Elected Mayor, responsible for carrying out most of the local authority's functions.

**Executive Functions**

The functions which are the responsibility of the Elected Mayor or if he or she decides by the executive, individual executive members or officers.

**Exempt Information**

Information falling into one of the categories set out in the law which usually cannot be publicly disclosed – see the Access to Information Procedure Rules.

**Financial Rules**

The Rules which set out how the Council's financial procedures operate to safeguard public money.

**Five Clear Days**

The period during which copies of the agenda and reports of a meeting must normally be available for inspection under the Access to Information Rules. The period of five days not counting:

- the day of the meeting
- the day on which the meeting is called
- days which fall at the weekend or bank holidays

**Group Leaders**

People appointed by a political group to act as the leader of that group of councillors.

**Head of Paid Service**

The most senior officer, with overall responsibility for the management and operation of the Council; also known as the Chief Executive.



**Joint Committee**

A committee appointed jointly by the Council and one or more other Council's to jointly oversee carrying out functions.

**Key Decision**

A decision by the Elected Mayor, Cabinet, Cabinet Member or officer which is likely either to incur significant expenditure/make significant savings or to have a significant impact on local communities. The criteria used to identify Key Decisions are set out in the Access to Information Procedure Rules

**Licensing Committee**

The committee that makes decisions in relation to licenses that the Council issues including matters to be considered under the Licensing Act 2003 and the Gambling Act 2005.

**Local Choice Functions**

These are functions which by law the Council can choose to be either executive or non-executive functions.

**Monitoring Officer**

The officer charged with ensuring that everything that the Council does is fair and lawful.

**Officers**

The staff employed by the Council to work for it and make decisions on its behalf.

**Overview & Scrutiny**

Providing support and advice to the Executive by contributing to the review and development of policy; holding the Executive to account by questioning, challenging and monitoring their performance.

**Planning Applications Committee**

The committee of councillors which makes planning decisions (not delegated to officers) on behalf of the Council.

**Policy Framework**

The plans and strategies, which have to be adopted by the full Council and in accordance with which the Elected Mayor, Cabinet, committees and officers must operate.

**Political Group**

Two or more councillors who have joined together and asked to be recognised as a political group.

**Procedure Rules**

Detailed rules, which govern how the Council operates and how decisions are taken.

**Proper Officer**

An officer designated as being responsible for a specific function.

**Protocols**

Codes of Practice, which set out how, for example, various elements of the Council, are expected to interact with each other.

**Quorum**

The minimum number of people who have to be present before a meeting can take place.

**Governance and Standards Committee**

A Committee, with independent members, responsible for promoting and maintaining high standards of conduct by Councillors and considering written allegations that a Councillor has failed to comply with their Code of Conduct.

**Virement**

Moving funds from one area of expenditure to another.

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