



# CONSTITUTION OF THE COUNCIL

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# **Part 1**

## **Summary and Explanation**

# **SUMMARY AND EXPLANATION**

## **The Council's Constitution**

Hambleton District Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## **What's in the Constitution?**

Article 1 of the Constitution commits the Council to accountable governance, community leadership, improvement, quality and equality in service delivery. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council (Article 5).
- Scrutiny of decisions (Article 6).
- The Cabinet (Article 7).
- Other Committees (Article 8).
- Area Forums (Article 9).
- Joint arrangements (Article 10).
- Officers (Article 11).
- Decision making (Article 12).
- Appointments to Outside Bodies (Article 13).
- Finance, contracts and legal matters (Article 14).
- Review and revision of the Constitution (Article 15).
- Suspension, interpretation and publication of the Constitution (Article 16).

## **How the Council operates**

The Council is composed of 28 Councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Audit, Governance and Standards Committee has responsibility for probity issues.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader who in turn appoints his/her Cabinet from amongst the elected Councillors. The Council also appoints councillors to its Scrutiny Committee, the Planning Committee, the Audit, Governance and Standards Committee and various Panels. The Scrutiny Committee is the primary means of holding the Cabinet to account who in turn report direct to the Council.

## **How Decisions are Made**

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader and up to six other Councillors who he/she appoints. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan where they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

## **Scrutiny**

There is one Scrutiny Committee which supports the work of the Cabinet and the Council as a whole. It allows citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Scrutiny Committee also monitors the decisions of the Cabinet. It can 'call-in' a decision which has been made by the Cabinet and officers, but not yet implemented. This enables it to consider whether the decision is appropriate. It may recommend that the Cabinet reconsider the decision. It may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

## **The Council's staff**

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day to day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between officers and Members of the Council.

## **Citizens' Rights**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

Where members of the public use specific Council services, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council, the Cabinet and Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a Mayoral form of Executive;
- contribute to investigations by the Scrutiny Committee where determined as part of the Committee's line of inquiry;
- find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- see agendas, reports and background papers, and any record of decisions made by the Council, the Cabinet and committees where these are not confidential;
- complain to the Council about dissatisfaction with a service received or the way an individual was treated;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they are encouraged to use the Council's own complaints process first;
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Chief Executive Officer.



## **Part 2**

# **Articles of the Constitution**

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## Article 1 – The Constitution

### 1.01 Powers of the Council

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

### 1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of Hambleton District Council.

### 1.03 Purpose of the Constitution

The purpose of the Constitution is to:

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

### 1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

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## Article 2 – Members of The Council

### 2.01 **Composition and Eligibility**

- a) **Composition.** The Council will comprise 28 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by Parliament. The number of Councillors and the wards they represent are included at Schedule 1.
- b) **Eligibility.** Only registered voters of the District or those living or working there will be eligible to hold the office of Councillor.

### 2.02 **Election and Terms of Councillors**

**Election and Terms.** The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The Terms of Office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### 2.03 **Roles and functions of all Councillors**

- a) **Key roles.** All Councillors will:
  - i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
  - iii) effectively represent the interest of their ward and of individual constituents;
  - iv) respond to constituent's enquiries and representations, fairly and impartially;
  - v) participate in the governance and management of the Council;
  - vi) be available to represent the Council on other bodies; and
  - vii) maintain the highest standards of conduct and ethics.

Further details on roles and responsibilities are contained in Schedule 2. Councillors may fulfil more than one role and the detail is intended to cover these main roles.

#### **Rights and Duties**

- i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.04 **Conduct**

Councillors will at all times observe the Code of Member Conduct, the Planning Code, Protocol for Councillors on Gifts and Hospitality, Officers' Code of Conduct, Protocol on Member/Officer Relations, Code of Corporate Governance and Monitoring Officer Protocol set out in Part 5 of this Constitution.

2.05 **Allowances**

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

## Article 3 – Citizens and The Council

### 3.01 Citizens' Rights

Citizens have the following rights. Their right to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution and any other issues of significant public concern. The Council's Petition Scheme is contained in Schedule 5.
- b) **Information.** Citizens have the right to:
  - i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - ii) attend meetings of the Cabinet when key and other decisions are being considered except where confidential or exempt information is likely to be disclosed and the meeting is, therefore, held in private;
  - iii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
  - iv) see reports and background papers, and any records of decisions made by the Council, the Cabinet and non-Executive Committees; and
  - v) inspect the Council's accounts and make their views known to the external auditor.
- c) **Participation.** Citizens have the right to make representations to the Council directly or through their Ward Member (except where there is a conflict of interest and another member, by agreement, takes on the matter) and contribute to investigations by the Scrutiny Committee, where this is determined by the Committee as part of its enquiries.
- d) **Complaints.** Citizens have the right to complain to:
  - i) the Council itself under its Complaints Scheme or the Member Code of Conduct;
  - ii) the Ombudsman

### 3.02 Citizens' Responsibilities

Citizens must not harass or be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

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## Article 4 – The Full Council

### 4.01 Meanings

- a) **Policy Framework.** The policy framework means the following plans and strategies:-
- Plans and Strategies to manage and reduce Crime and Disorder;
  - Plans and strategies which together comprise the Development Plan;
  - Environmental Health Enforcement Strategy and Policy;
  - The Financial Strategy
  - All other strategic policies or plans.
- b) **Budget.** The budget includes 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 the setting of virement limits.

### 4.02 Functions of the full Council

Only the Council will exercise the following functions:

- a) adopting and changing the Constitution;
- b) approving or adopting the policy framework, upon recommendations from the Cabinet.
- c) approving the strategic financing of the Council, upon recommendations from the Cabinet, including:
- determination of the Financial Strategy
  - approval of the Revenue Budget
  - approval of the Capital Programme
  - setting the Council Tax base
  - setting the Council Tax
  - determination of borrowing limits
  - utilisation of reserves
- d) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision-maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget;
- e) appointing the Leader;
- f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;

- g) receiving reports from the Cabinet and Scrutiny Committee;
- h) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council (see Article 13);
- i) adopting an allowances scheme under Article 2.05;
- j) changing the name of the area or conferring the title of Honorary Alderman;
- k) confirming the appointment of the Head of Paid Service;
- l) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- m) electoral, boundary and parish issues;
- n) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- o) all other matters which, by law, must be reserved to Council;
- p) approval of all strategic policies or plans including such plans that the Council must formulate by statute (defined in Schedule 2 of the Local Authorities [Functions and Responsibilities][England]Regulations 2000 (as amended));
- q) approval of matters which require a decision that represent a significant departure from any existing strategy, policy or budget previously agreed by the Council;
- r) appointment to Committees;
- s) appointment of Committee to appoint Chief Officers.

#### **4.03 Council Meetings**

There are three types of Council meeting:

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

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

#### **4.04 Responsibility for Functions**

The Council will keep under review the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

## Article 5 – Chairing The Council

### 5.01 Role and function of the Chairman

The Chairman of Council and in his/her absence, the Vice-Chairman will have the following main roles and functions:

- 1) First Citizen
- 2) Ceremonial Role
- 3) Chairing the Council Meeting and acting as the non-political Civic Head

### 5.02 The Chairman will be elected by the Council annually and will have the following responsibilities:

- 1) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 2) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- 3) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Cabinet or hold Committee Chairs are able to hold the Cabinet and Committee Chairmen to account;
- 4) to promote public involvement in the Council's activities;
- 5) to be the conscience of the Council and uphold high standards of ethics and probity within the work of the Council; and
- 6) to attend such civic and ceremonial functions as the Council and he/she determines appropriate and to participate in activities and events that promote the District and benefit the status and tradition of the role.

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## Article 6 – Scrutiny Committee

### 6.01 Terms of Reference

The Council will appoint a Scrutiny Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000.

### 6.02 General Role

Within its Terms of Reference, the Scrutiny Committee will:

- i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- ii) make reports and/or recommendations to the full Council and/or the Cabinet and/or any policy, joint or area Committee in connection with the discharge of any functions;
- iii) consider any matter affecting the area or its inhabitants;
- iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet and officers;
- v) conduct Best Value reviews in accordance with the Council's programme;
- vi) respond to Cabinet consultation.

### 6.03 Specific Functions

a) **Policy Development and Review.** The Scrutiny Committee may:

- i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- iv) question Members of the Cabinet, and/or Committees and Chief Officers about their views on issues and proposals affecting the area; and
- v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

b) **Scrutiny.** The Scrutiny Committee may:

- i) review and scrutinise the decisions made by and performance of the Cabinet, Committees and Council officers both in relation to individual decisions and over time;
- ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

- iii) question Members of the Cabinet, Committees and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  - iv) make recommendations to the Cabinet, appropriate Committee or Council arising from the outcome of the scrutiny process;
  - v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance; and
  - vi) question and gather evidence from any person (with their consent).
- c) **Finance.** The Scrutiny Committee may exercise overall responsibility for the finances made available to it.
- d) **Annual Report.** The Scrutiny Committee must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods.

#### 6.04 **Proceedings of Scrutiny Committees**

The Scrutiny Committee will conduct its proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## Article 7 – The Executive (Cabinet)

### 7.01 Roles

The Cabinet will carry out all of the Local Authority's functions which are not the responsibility of any other part of the Local Authority, whether by law or under this Constitution.

### 7.02 Form and Composition

The Cabinet will consist of the Leader together with up to 7 other Councillors appointed to the Cabinet by the Leader one of whom shall be designated 'Deputy Leader.'

### 7.03 Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- a) he/she resigns from the office; or
- b) he/she is no longer a Councillor; or
- c) six months absence from Council duties has occurred where such absence is not approved by the Council for the purpose of section 85 of the Local Government Act 1972; or
- d) he/she is removed from office by resolution of the Council; or
- e) the date of the Annual Council Meeting immediately following the cycle of all out elections or the first Council meeting following a change in political control of the Council.

### 7.04 Other Portfolio Holders

Other Portfolio Holders shall hold office until:

- a) the annual meeting of the Council following their appointment; or
- b) they resign from office; or
- c) they are no longer Councillors; or
- d) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

### 7.05 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

#### **7.06 Responsibility for functions**

The Leader will maintain a list in Part 3 of this Constitution setting out which individual Members of the Cabinet (if any), officers or joint arrangements are responsible for the exercise of particular executive functions.

#### **7.07 Description of Executive Arrangements**

Those elements of the Constitution which constitute Executive Arrangements are contained in Schedule 3.



# Article 8 – Other Committees

## 8.01 Committees

The Council will appoint the Committees set out in the left hand column of the table Responsibility for Council Functions in Section 2.02 of Part 3 of this Constitution to discharge the functions described in column 3 of that table.

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## Article 9 – Area Committees and Forums

### 9.01 Area Committees

The Council may appoint Area Committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of Best Value and more efficient, transparent and accountable decision making.

The Council will consult with relevant Parish and Town Councils and the Chairmen of relevant Parish Meetings when considering whether and how to establish Area Committees.

### 9.02 Form, Composition and Function

- a) **Table of Area Committees.** The Council may appoint Area Committees as set out in the first column of the table below, composed as set out in the second column of that table and with the terms of reference set out in the third column.

<b>Name of Committee</b>	<b>Composition</b>	<b>Terms of Reference</b>
Area Forums	5 Area Forums covering the following areas: <ul style="list-style-type: none"><li>• Bedale</li><li>• Easingwold</li><li>• Northallerton</li><li>• Stokesley/Great Ayton</li><li>• Thirsk</li></ul> Membership to comprise all Members from the relevant Wards plus Member(s) of the North Yorkshire County Council representing those Wards.	As set out in Part 3 of this Constitution.

- b) **Delegations.** The Council and the Cabinet will include details of the delegations to Area Committees in Part 3 of this Constitution, including the functions delegated showing which are the responsibility of the Executive and which are not, the composition and membership of the Committees, budgets and any limitations on delegation.
- c) **Voting.** North Yorkshire County Council Members will not be permitted to vote at meetings unless also a Member of the District Council.

### 9.03 Conflicts of Interest – Membership of Area Committees and the Scrutiny Committee

- a) **Conflict of interest.** If the Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of the Area Committee of which the Councillor concerned is a Member, then the Councillor may not speak or vote at the Scrutiny Committee meeting unless a dispensation to do so is given by the Audit, Governance and Standards Committee.
- b) **General policy reviews.** Where the Scrutiny Committee is reviewing policy generally the Member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

9.04 **Area Committees – access to information**

Area Committees will comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas and notices for Area Committee meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

9.05 **Portfolio Holders on Area Committees**

A member of the Cabinet may serve on an Area Committee if otherwise eligible to do so as a Councillor.

9.06 **Proceedings of the Area Committees**

Proceedings of the Area Committees should take place in accordance with any Area Committee Procedure rules set out in Part 4 of the Constitution.

## Article 10 – Partnerships

### 10.01 Arrangements to promote well-being

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

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

### 10.02 Partnerships

- a) The Council may establish partnerships with one or more Local Authorities and/or their Executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other Local Authorities.
- b) The Cabinet may establish partnerships with one or more Local Authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of Joint Committees with these other Local Authorities.
- c) Except as set out below, the Cabinet may only appoint Portfolio Holders to a Joint Committee and those Members need not reflect the political composition of the Local Authority as a whole.
- d) The Council's nominee on the North Yorkshire Building Control Partnership shall be the Portfolio Holder with responsibility for Planning.
- e) The Cabinet may appoint members to a Joint Committee from outside the executive in the following circumstance:-
  - the Joint Committee has functions for only part of the area of the Authority, and that area is smaller than two-fifths of the Authority by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is a Member for a ward which is wholly or partly contained within the area;

The political balance requirements do not apply to such appointments.

- f) Details of any partnerships involving any delegations to Joint Committees will be found in the Council's Scheme of Delegations in Part 3 of this Constitution.

### 10.03 Access to Information

- a) The Access to Information Rules in Part 4 of this Constitution apply.
- b) If all the Members of a Joint Committee are Members of the Executive in each of the participating Authorities, then its access to information regime is the same as that applied to the Cabinet.
- c) If the Joint Committee contains Members who are not on the Executive of any participating Authority then the access to information rules in Part V of the Local Government Act 1972 will apply.

#### 10.04 **Delegation to and from other Local Authorities**

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

#### 10.05 **Contracting out**

The Council or Cabinet may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an Order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making.

#### 10.06 **Other matters**

When entering into partnerships the Council or Cabinet will ensure that arrangements are put in place to make sure that:-

- a) the performance of the partnership is monitored and measured both internally and by the Council.
- b) value for money and efficiencies are delivered.
- c) partnership policies are scrutinised properly.
- d) standards in respect of customer care, equality and diversity, sustainability, human rights, data protection and freedom of information are maintained at levels which are equivalent to the Council's own standards.

## Article 11 – Officers / Employees

### 11.01 Management Structure

- a) **General.** The Council may engage such employees (referred to as officers) as it considers necessary to carry out its functions.
- b) **Chief Officers.** The Council will engage persons for the following posts, who will be designated chief officers:

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers)  Provision of professional advice to all parties in the decision making process.  Together with the monitoring officer, responsibility for a system of record keeping for all the Council's decisions.  Representing the Council on partnership and external bodies (as required by statute or the Council)
1 Deputy Chief Executive	Such functions set out in the Scheme of Officer Delegation as determined by the Chief Executive.
5 x Directors	Such functions set out in the Scheme of Officer Delegation as determined by the Chief Executive.

- c) **Head of Paid Service, Monitoring Officer and Section 151 Officer.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Director of Law and Governance	Monitoring Officer
Director of Finance	Section 151 Officer

Such posts will have the functions described in Article 11.02 - 11.04 below.

The Monitoring Officer Protocol in Part 5 of the Constitution will apply.

- d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

## 11.02 Functions of the Head of Paid Service

- a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.

## 11.03 Functions of the Monitoring Officer

- a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and public.
- b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) **Supporting the Audit, Governance and Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit, Governance and Standards Committee.
- d) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by the Audit, Governance and Standards Committee or its Standards Hearings Panel and make reports or recommendations in respect of them.
- e) **Proper Officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- f) **Advising whether Executive decisions are within the Budget and Policy Framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- g) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- h) **Restrictions on posts.** The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.
- i) **Appointing a deputy.** The Monitoring Officer may from time to time appoint a Deputy Monitoring Officer who will carry out the functions of the Monitoring Officer in his/her absence.



#### 11.04 **Functions of the Section 151 Officer**

- a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Council or to the Cabinet in relation to an executive function and 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.
- b) **Administration of financial affairs.** The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.
- c) **Contributing to corporate management.** The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d) **Providing advice.** The Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- e) **Give financial information.** The Section 151 Officer will provide financial information to the media, members of the public and the community.

#### 11.05 **Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer**

The Council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### 11.06 **Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

#### 11.07 **Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

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## Article 12 – Decision Making

### 12.01 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### 12.02 Principles of decision making

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

- a) proportionality (ie the action must be proportionate to the desired outcome);
- b) due consultation and the taking of professional advice from officers;
- c) respect for human rights;
- d) a presumption in favour of openness;
- e) clarity of aims and desired outcomes; and
- f) explaining what options were considered and giving the reasons for the decision.

### 12.03 Types of Decision

- a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- b) Decisions which are Key decisions may be taken in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution. A Key Decision is one which:-
  - i) results in the Council incurring revenue or capital expenditure of more than £50,000 or the making of revenue savings of more than £50,000 for the service or function to which the decision relates; or
  - ii) is significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the Council.

In calculating whether expenditure is at the threshold level:-

- i) a decision which commits expenditure for more than one financial year will be aggregated to ascertain the expenditure level;
- ii) where expenditure by the Council is pooled with expenditure of other agencies, the aggregate figure is not to be used unless the funds from partner agencies will first be paid over to the Council and may therefore properly count as expenditure of the Council;
- iii) where a series of decisions is being taken on a capital project, ancillary decisions do not need to be considered Key Decisions unless the decision to progress the project cannot be made until an ancillary decision has been made and acted upon. This does not include applications for planning permission, but does include, for example, expenditure related to applications for grant funding to support projects which would not otherwise progress.

Savings are deliberate cuts in a budget, not underspends against a budget.

**12.04 Decision making by the full Council**

Subject to Article 12.08 the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

**12.05 Decision making by the Cabinet**

Subject to Article 12.08, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

**12.06 Decision making by the Scrutiny Committee**

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

**12.07 Decision making by other Committees established by the Council**

Subject to Article 12.08, other Council Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

**12.08 Decision making by Council bodies acting as tribunals**

The Council, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights as implemented into UK law.

## Article 13 – Appointments to Outside Bodies

### 13.01 List of Outside Bodies

The Council shall appoint Members to the Outside Bodies listed in Schedule 4. Bodies may be removed from or added to the list by Cabinet.

### 13.02 Appointments to the Bodies

- (a) If the Leader and/or Portfolio Holder is identified in Schedule 4, the holder of that position will automatically be appointed to the Outside Body. If the Leader or Portfolio Holder is replaced, the replacement shall be automatically appointed to the Outside Body.
- (b) Where the Cabinet has added an Outside Body to the list in Schedule 4 under Article 13.01, it shall also appoint the first appointee to that body.
- (c) Other vacancies will be appointed at the Annual Meeting immediately following the election of the Council. If an appointee ceases to be on the Outside Body, the Leader of the Council, in consultation with all other Party Group Leaders, shall appoint a replacement.

### 13.03 Duration of Appointment

- (a) The appointee will serve on the Outside Body until the next election of the full Council unless the governing rules of the Outside Body determine a different period.

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## Article 14 – Finance, Contracts and Legal Matters

### 14.01 **Financial Management**

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

### 14.02 **Contracts**

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

### 14.03 **Legal Proceedings**

The Director of Law and Governance is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the S151 Officer considers that such action is necessary to protect the Council's interests.

### 14.04 **Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Executive, Director of Law and Governance or other person authorised by them unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract or lease with a value exceeding £5,000 entered into on behalf of the Local Authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least one officer of the Authority or made under the common seal of the Council attested by at least one officer.

### 14.05 **Common Seal of the Council**

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

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## Article 15 – Review and Revision of the Constitution

### 15.01 **Duty to monitor and review the Constitution**

The Council, through the Audit, Governance and Standards Committee, will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### 15.02 **Changes to the Constitution**

Significant changes to the Constitution will only be approved by the full Council after consideration of the views of the Audit, Governance and Standards Committee. Minor and consequential changes required by organisational or legislative changes may be made by the Director of Law and Governance.

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**DESCRIPTION OF EXECUTIVE ARRANGEMENTS**

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Scrutiny Committee) and the Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 9 (Area Committees and Forums);
4. Article 10 (Partnerships);
5. Article 12 (Decision making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions)

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## Article 16 – Suspension, Interpretation and Publication of the Constitution

### 16.01 **Suspension of the Constitution**

- a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.01:

Part 4 Council Procedure Rules

### 16.02 **Interpretation**

The ruling of the Chairman of Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### 16.03 **Publication**

- (a) The Chief Executive will give an electronic copy of this Constitution to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Chief Executive will ensure that copies are available for inspection at Council Offices, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Chief Executive will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

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**Electoral Arrangements**

	<b>Ward Name</b>	<b>Number of Councillors</b>	<b>Parishes Covered</b>
1	Appleton Wiske & Smeatons	1	Appleton Wiske, Birkby, Deighton, East Cowton, East Rounton, Girsby, Great Smeaton, High Worsall, Hornby, Hutton Bonville, Little Smeaton, Low Worsall, Over Dinsdale, Picton, South Cowton, Welbury, West Rounton
2	Bagby & Thorntons	1	Bagby, Balk, Boltby, Borrowby, Cotcliffe, Cowesby, Crosby, Felixkirk, Hood Grange, Kepwick, Kirby Knowle, Knayton with Brawith, Landmoth-cum-Catto, Leake, Nether Silton, North Kilvington, Over Silton, South Kilvington, Sutton-under-Whitstonecliffe, Thirlby, Thornbrough, Thornton-le-Beans, Thornton-le-Moor, Thornton-le-Street, Upsall
3	Bedale	3	Ainderby Mires with Holtby, Aiskew (Aiskew Ward), Aiskew (Leeming Bar Ward), Bedale, Burneston, Crakehall, Exelby Leeming & Londonderry, Gatenby, Hackforth, Langthorne, Rand Grange, Swainby with Allerthorpe, Theakston
4	Easingwold	3	Aldwark, Alne, Beningbrough, Crayke, Easingwold, Flawith, Linton-on-Ouse, Newton-on-Ouse, Overton, Shipton, Tollerton, Youlton
5	Great Ayton	2	Bilsdale Midcable, Easby, Great Ayton, Ingleby Greenhow, Kildale, Little Ayton
6	Huby	1	Brandsby-cum-Stearsby, Dalby-cum-Skewsby, Farlington, Huby, Marton-cum-Moxby, Stillington, Sutton-on-the-Forest, Whenby, Yearsley
7	Hutton Rudby	1	Crathorne, Hutton Rudby, Middleton-on-Leven, Newby, Rudby, Seamer, Sexhow, Skutterskelfe
8	Morton-on-Swale	1	Ainderby Steeple, Danby Wiske with Lazenby, Great Langton, Killerby, Kiplin, Kirkby Fleetham with Fencote, Little Langton, Maunby, Morton-on-Swale, Newby Wiske, North Otterington, Scruton, South Otterington, Thrintoft, Warlaby, Whitwell, Yafforth
9	Northallerton North & Brompton	2	Brompton and Northallerton North Parish Ward

	<b>Ward Name</b>	<b>Number of Councillors</b>	<b>Parishes Covered</b>
10	Northallerton South	2	Northallerton Central Parish Ward and Northallerton South Parish Ward
11	Osmotherley & Swainby	1	Carlton, East Harlsey, Ellerbeck, Faceby, Great Busby, Ingleby Arncliffe, Kirby Sigston, Little Busby, Osmotherley, Potto, Sowerby-under-Cotcliffe, Thimbleby, West Harlsey, Whorlton, Winton Stank & Hallikeld
12	Raskelf & White Horse	1	Angram Grange, Birdforth, Brafferton and Helperby, Carlton Husthwaite, Coxwold, Fawdington, Husthwaite, Kilburn High & Low, Myton-on-Swale, Newburgh, Oulston, Raskelf, Thirkleby High & Low with Osgodby, Tholthorpe, Thormanby, Thornton-on-the-Hill, Wildon Grange
13	Romanby	2	Romanby (Broomfield Parish Ward) and Romanby (Romanby Parish Ward)
14	Sowerby & Topcliffe	2	Dalton, Eldmire with Crakehill, Hutton Sessay, Sessay, Sowerby, Topcliffe
15	Stokesley	2	Great and Little Broughton, Kirkby, Stokesley
16	Tanfield	1	Ainderby Quernhow, Burrill with Cowling, Carthorpe, Clifton-on-Yore, East Tanfield, Firby, Holme, Howe, Howgrave, Kirklington Cum Upsland, Pickhill with Roxby, Rookwith, Sinderby, Howgrave and Sutton with Howgrave, Snape with Thorp, Thirn, Thornton Watless, Well, West Tanfield
17	Thirsk	2	Carlton Miniott, Catton, Kirby Wiske, Newsham with Breckenbrough, Sandhutton, Skipton on Swale, Thirsk



**ROLES AND RESPONSIBILITIES OF MEMBERS**

- The Leader
- Deputy Leader
- Portfolio Holder
- Councillor – General
- Chairman of Committee
- Chairman of the Council
- Member Appointees on Outside Bodies

## **THE LEADER**

### **Main Role**

The Leader will ensure that the Cabinet is responsible to the community of Hambleton, through the Council, for the policies and performance of the Authority.

### **Personal Responsibilities**

1. To lead, and act as Chairman of, the Cabinet
2. To provide political leadership in the overall co-ordination of Council policies, strategy and service delivery.
3. To appoint the Cabinet.
4. To ensure and uphold high standards of probity and ethics in the work of the Cabinet and Council.

### **Collective Responsibilities with other Portfolio Holders**

1. To submit proposals to the Scrutiny Committee and the Council (for approval) for an annual budget and the major strategic goals that underpin it.
2. To ensure that the Council has sufficient strategic plans and policies in place to give a clear direction to the work of the Council.
3. To ensure effective service delivery arrangements, including consultation and partnership arrangements with the community, stakeholders and other partners.
4. To ensure effective arrangements for the monitoring and evaluation of the Council's plans and strategies.
5. To ensure effective performance management arrangements, including setting of targets and strategic goals.
6. To lead the search for Best Value.
7. To promote and represent the Authority and the interests of the community.
8. To represent the Council on appropriate bodies or organisations in which the Council has an interest.

### **Skills Required**

- Developed chairing skills in formal settings.
- Highly developed leadership skills at a political, community and personal level.
- Highly developed evaluation and decision-making skills.
- Highly developed communication skills sufficient to be the main focus of Council activity with the public and media.
- Ability to engage with Government and partner organisations at a National and Regional level.
- Detailed knowledge of all of the Council's policies and working knowledge of Council's practices and procedures.

## **DEPUTY LEADER**

### **Main Role**

The Deputy Leader will contribute to the co-ordination and planning of resources and performance management and the co-ordination and implementation of policies and strategies to achieve a corporate approach.

### **Personal Responsibilities**

To deputise for the Leader in his/her absence or as directed.

### **Collective Responsibilities with other Portfolio Holders**

1. To submit proposals to the Scrutiny Committee and the Council (for approval) for an annual budget and the major strategic goals that underpin it.
2. To ensure that the Council has sufficient strategic plans and policies in place to give a clear direction to the work of the Council.
3. To ensure effective service delivery arrangements, including consultation and partnership arrangements with the community, stakeholders and other partners.
4. To ensure effective arrangements for the maintaining and evaluation of the Council's plans and strategies.
5. To ensure effective performance management arrangements, including setting of targets and strategic goals.
6. To lead the search for Best Value.
7. To promote and represent the Authority and the interests of the community.
8. To represent the Council on appropriate bodies or organisations in which the Council has an interest.
9. To uphold high standards of ethics and probity within the work of the Council.

### **Skills Required**

- Developed chairing skills in formal settings.
- Developed leadership skills at a political, community and personal level.
- Developed evaluation and decision-making skills.
- Developed communication skills sufficient to be the main focus of Council activity with the public and media in the absence of the Leader.
- Ability to engage with Government and partner organisations at a National and Regional level in the absence of the Leader.
- Developed knowledge of all of the Council's policies and working knowledge of Council's practices and procedures.

## **PORTFOLIO HOLDER/CABINET MEMBER**

### **Main Role**

1. Where designated, spokespersons will act as the lead member in their designated area of responsibility to co-ordinate activities that achieve the relevant service plan objectives and be able to speak on associated Cabinet policy.
2. To exercise collective responsibility as a Portfolio Holder.

### **Personal Responsibilities**

1. To be the Cabinet spokesperson for the allocated portfolio responsibilities.
2. To work with other Portfolio Holders to achieve the Council's objectives.

### **Collective Responsibilities with other Portfolio Holders**

1. To submit proposals to the Scrutiny Committee and the Council (for approval) for financial strategies, an annual budget and the major strategic goals that underpin it.
2. To ensure that the Council has sufficient strategic and financial plans and policies in place to give a clear direction to the work of the Council.
3. To ensure effective service delivery arrangements, including consultation and partnership arrangements with the community, stakeholders and other partners.
4. To ensure effective arrangements for the maintenance and evaluation of the Council's plans and strategies.
5. To ensure effective performance management arrangements, including setting of targets and strategic goals.
6. To lead the search for Best Value.
7. To promote and represent the Authority and the interests of the community.
8. To represent the Council on appropriate bodies or organisations in which the Council has an interest.
9. To uphold high standards of ethics and probity within the work of the Council.

### **Skills Required**

- Developed evaluation and decision-making skills.
- Developed communication skills sufficient to be the main focus of Council activity with the public and media in the relevant Portfolio area.
- Ability to engage with Government and partner organisations at Local and Regional level in connection with the Portfolio area.
- Detailed knowledge of Council policies in the Portfolio area and developed knowledge of practices and procedures in that area.

## **COUNCILLOR – GENERAL**

### **Main Role**

To be the bridge between the community and the Council. As an elected Member and a Ward Councillor to make a difference to the quality of life and wellbeing of the people within the community and effectively facilitate community involvement in Local Government and the decision making process.

### **Personal Responsibilities**

1. To develop policy relating to the provision of services which meet the needs of the community.
2. To carry out a scrutiny role to ensure effective and efficient service delivery.
3. To act as the initial contact for constituents with concerns and grievances.
4. To work in partnership with Parish Councils and other local organisations to identify and pursue local needs and encourage community engagement.
5. To represent the Council on outside bodies as required and participating effectively in the appointed role.

### **Skills Required**

#### Leadership

- The ability to lead and champion the interests of the local community.

#### Chairing

- The ability to chair meetings and facilitate discussions.

#### Organisational Skills

- Manage casework.
- Use IT to support the management of casework, communicate through Council systems e.g. email.
- Basic Administration Skills.
- Time management skills.

#### Team Working and Building Relationships

- The ability to develop effective relationships with key officers and partner agencies.
- The ability to build effective relationships with all sections of the community so as to be able to represent their needs to the Council.

#### Communication

- The ability to deal with the media to ensure the Council is positively represented, whilst being able to identify when support from public relations specialists is required.
- The ability to deal with issues raised by a range of audiences including constituents, by correspondence, telephone, email and in person.
- The ability to use IT to communicate using email, internet, etc.
- Active listening and questioning skills.

- Presentation skills.
- Public speaking.

### **Community Leadership**

- The ability to engage proactively with the community, canvass opinion and seek new ways of representing others.
- The ability to help communities and their organisations to contribute to effective decision-making on issues that affect them.
- encouraging people from all sections of the community to play their part in local democracy.
- Keeps up to date with community issues of local concern, drawing information and resources from a range of sources and people.
- Is able to develop partnerships inside the Council and with external organisations.
- Is able to mediate constructively and fairly between people/groups with conflicting needs.

### **Other Skills**

- Finance and budgeting skills – interpretation of budgets and accounts.
- Influencing and persuading skills.
- Negotiation skills.
- Managing sensitive/conflict situations and mediation skills.

### **Knowledge Required**

- Knowledge of the political decision making structures.
- Knowledge of the strategic priorities and key policies of the Council.
- Knowledge of key contact officers within service areas.
- Knowledge of the diversity of communities.
- Knowledge of the voluntary and community sectors.
- Knowledge of community consultation and participation.
- Understanding of the Code of Conduct for Councillors, ethics and standards and the role of the Audit, Governance and Standards Committee.
- Understanding of national policies and their impact on the Council.
- A basic understanding of Local Government finance and audit processes.
- Knowledge and understanding of legislation and Council policies to which Members must adhere – Freedom of Information, Data Protection, Equality & Diversity legislation, Smoking Policy etc.
- Where appropriate, for those Members who sit on quasi-judicial panels, knowledge of legislation and policy relating to planning, licensing and appeals is required together with an understanding of the principles and importance of making rational decisions.

## **CHAIRMAN OF COMMITTEE**

### **Main Role**

To lead and co-ordinate the activities of the Council in the designated area of the Committee's responsibilities.

### **Duties and Responsibilities**

1. To chair the relevant Committee.
2. To take a lead on the Committee's area of responsibility.
3. To co-ordinate and control scrutiny where appropriate.
4. To uphold high standards of ethics and probity within the work of the Council.

### **Skills Required**

Developed chairing skills in formal settings.

Developed ability to represent a Committee's views and decisions.

Developed understanding of and ability to influence resources, information and processes required for a Committee to make effective decisions.

## **CHAIRMAN OF THE COUNCIL**

1. Chairing Annual/Council Meetings.
2. Attendance at Hambleton District Council Civic Functions as follows:-
  - 2.1 Civic Dinner attended by guests of the Chairman subject to adequate budget provision.
  - 2.2 Annual Civic Lunch attended by guests of the Chairman subject to adequate budget provision.
3. Attendance at other Local Authorities' Civic Functions within North Yorkshire limited to 2 per annum per Local Authority.
4. Attendance at the Royal Garden Party.
5. Attendance at 100<sup>th</sup> birthday and 60<sup>th</sup> + wedding celebrations of Hambleton residents with the Ward Member(s).
6. Host a reception for Councillors and partners following the election of a new Council.
7. Attendance as appropriate at other events (e.g., funerals of former Councillors) and ad hoc Civic functions within Hambleton (e.g., Royal visits, military events, concerts, promotional events).



## **MEMBER APPOINTEES ON OUTSIDE BODIES**

### **Main Role**

1. Where the Member is appointed in a representative role to represent the Council at the meetings of outside bodies.
2. Where the Member is appointed in an independent role to participate in the activities of the outside body within the rules governing the operation of that body.

### **Duties and Responsibilities**

1. To contribute to the work of the body.
2. Subject to the rules on disclosure of interests, to contribute to Cabinet in their policy making role or to Scrutiny Committees when considering issues relating to the outside body.
3. Report back to the Council on issues that are appropriate.

### **Skills Required**

- Developed knowledge of the policies of the Outside Body and basic knowledge of the practices and procedures of the Outside Body.

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## LIST OF OUTSIDE BODIES

Name of Body	No of Places	Representative or Independent	Appointee 2021/2022
Hambleton Over 50s Forum	1	Representative	Portfolio Holder for Leisure 2 Year Term expires AM 2022
Howardian Hills AONB	1	Representative	Councillor D Watkins Term expires AM 2023
Internal Drainage Boards (One appointee represents all the Internal Drainage Board's)	1	Independent	3 Year Term expires AM 2022 Councillor Mrs I Sanderson
Local Government Association	1	Representative	Leader of Council
Local Government North Yorkshire and York	1	Representative	Leader Substitute: Deputy Leader
Local Government North Yorkshire and York Housing Board	1	Representative	Portfolio Holder for Planning
Local Government North Yorkshire and York Spatial Planning and Transport Member Board	1	Representative	Deputy Leader of Council
Yorkshire and Humber (Local Authorities) Employers' Association	1	Representative	Deputy Leader of Council
North York Moors National Park Committee	1	Representative	Councillor D Hugill Term expires AM 2023
North Yorkshire Local Transport Body	1	Representative	Portfolio Holder for Planning
*North Yorkshire Scrutiny of Health Committee	1	Representative	Councillor K G Hardisty Term expires AM 2022
Safer Hambleton Local Delivery Team	1	Representative	Councillor C A Les
Stokesley and District Community Care Association (Trustee)	1	Representative	Councillor Mrs B S Fortune Term expires AM 2023
Thirsk and Sowerby Swimming Baths Charity	5	Independent	Councillors: P Bardon G W Dadd D B Elders Mrs J W Mortimer M S Robson Term expires AM 2023
Welcome to Yorkshire	1	Independent	Deputy Leader
York and North Yorkshire Local Enterprise Partnership Limited	1	Representative	Leader of the Council Term: 1 Year (rotates on an annual basis between the Leaders of Ryedale, Richmondshire and Hambleton District Councils)

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# HAMBLETON

## DISTRICT COUNCIL

### PUBLIC PETITION SCHEME

#### PETITIONS

1. The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. A petition is normally a request for action supported by a number of residents. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

2. Paper petitions can be sent to:

Customer Services Manager  
Hambleton District Council  
Civic Centre  
Stone Cross  
Northallerton  
DL6 2UU  
(01609) 779977 or contact [info@hambleton.gov.uk](mailto:info@hambleton.gov.uk)

or can be created, signed and submitted online.

#### WHAT ARE THE GUIDELINES FOR SUBMITTING A PETITION?

3. Petitions submitted to the Council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take; and
- the name and address and signature of any person supporting the petition.

4. Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition in the order that they appear on the petition to identify someone who will act as the petition organiser.

5. Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently. If this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

#### WHAT WILL THE COUNCIL DO WHEN IT RECEIVES MY PETITION?

6. An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

7. If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

8. If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as Council Tax banding and non-domestic rates, other procedures apply. Further information on appeal procedures can be found below:-
- [Planning](#)
  - [Licensing](#)
  - [Council Tax Banding](#)
  - [Non-Domestic Rates](#)
  - [Homelessness Applications](#)
  - [Housing Benefit](#)
  - [Car Parking](#)
9. We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.
10. To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you will receive this information by e-mail.

#### **HOW WILL THE COUNCIL RESPOND TO PETITIONS?**

11. Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:
- taking the action requested in the petition
  - considering the petition at a Council meeting
  - holding an inquiry into the matter
  - undertaking research into the matter
  - holding a public meeting
  - holding a consultation
  - holding a meeting with petitioners
  - referring the petition for consideration by the Council's Scrutiny Committee\*
  - calling a referendum
  - writing to the petition organiser setting out our views about the request in the petition

\*Scrutiny Committees are Committees of Councillors who are responsible for scrutinising the work of the Council – in other words, the Scrutiny Committee has the power to hold the Council's decision makers to account.

12. In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

Petition Subject	Appropriate Steps
Alcohol related crime and disorder	<p>If your petition is about crime or disorder linked to alcohol consumption, the Council will, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public place order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of extra policing in that area. The Council's response to your petition will set out the steps we intend to take and the reasons for taking this approach.</p>
Anti-social behaviour (ASB)	<p>As the elected representatives of your local area and licensing authority, the Council has a significant role to play in tackling anti-social behaviour. The Council, in conjunction with our partners in the local crime and disorder partnership have set out minimum service standards for responding to issues of anti-social behaviour.</p> <p>When responding to petitions on ASB, we will consider in consultation with our local partners, all the options available to us including the wide range of powers and mechanisms we have to intervene. For example, we will work with the neighbourhood policing team in the affected area to identify what action might be taken including what role CCTV might play, consider identifying a dedicated contact within the Council to liaise with the community and neighbourhood partners on issues of ASB in the area in question and, where appropriate, we will alert the crime and disorder reduction partnership and Crime and Disorder Overview and Scrutiny Committee to the issues highlighted in the petition.</p>
Street Scene	<p>If your petition is about the quality of the environment in your area the Council will consider using its planning and environmental powers to improve the quality of the environment.</p> <p>The Council has the ability to clean areas or require others to clean them. It has powers in respect of tidying up land.</p>

13. If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of [local partners](#) and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the Council is responsible [here](#).
14. If your petition is about something that a different Council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

## FULL COUNCIL DEBATES

15. If a petition contains more than 870 signatures it will be debated by the Full Council unless it is a petition asking for a senior Council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes. If you would like to present your petition to the Council meeting, or would like your Councillor or someone else to present it on your behalf, please contact Committee Services on (01609) 767015 or email [committeeservices@hambleton.gov.uk](mailto:committeeservices@hambleton.gov.uk) at least 10 working days before the meeting and they will talk you through the process.
16. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant Committee. Where the issue is one on which the Council's Cabinet are required to make a final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## OFFICER EVIDENCE

17. Your petition may ask for a senior Council officer to account for something for which the officer is responsible as part of their job. For example, your petition may ask a senior Council officer to explain progress on an issue, or to explain the advice given to elected Members to enable them to make a particular decision.
18. If your petition contains at least 435 signatures, the relevant senior officer will give evidence at a public meeting of the Council's Scrutiny Committee. A list of the senior staff that can be called to give evidence can be found [here](#). You should be aware that the Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The Committee may also decide to call relevant Councillors to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the Committee by contacting the Committee Services on (01609) 767015 e-mail: [committeeservices@hambleton.gov.uk](mailto:committeeservices@hambleton.gov.uk) up to three working days before the meeting.

## E-PETITIONS

19. The Council welcomes e-petitions which are created and submitted through our [website](#). E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide us with their name, postal address and e-mail address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.
20. When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.
21. If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.
22. When an e-petition has closed for signature, it will automatically be submitted to the Customer Services Manager. In the same way as a paper petition, you will receive an acknowledgement within 10 working days.



## **HOW DO I 'SIGN' AN E-PETITION?**

23. You can see all the e-petitions currently available for signature on our [e-petitions website](#).
24. When you sign an e-petition you will be asked to provide your name, your postcode and a valid e-mail address. When you have submitted this information you will be sent an e-mail to the e-mail address you have provided. This e-mail will include a link which you must click on in order to confirm the e-mail address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

## **WHAT CAN I DO IF I FEEL MY PETITION HAS NOT BEEN DEALT WITH PROPERLY?**

25. If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's Scrutiny Committee review the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.
26. The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Cabinet and arranging for the matter to be considered at a meeting of the Full Council.
27. Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

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## **Part 3**

# **Responsibility for Functions**

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## 1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

<b>Function</b>	<b>Decision making body</b>	<b>Membership</b>	<b>Delegation of functions</b>
Contaminated land	<u>Cabinet</u>	6 Members of the Authority including Leader and Deputy Leader	All functions relating to contaminated land, delegated to the Director of Environment.
Pollution Control and Air Quality	<u>Cabinet</u>	6 Members of the Authority including Leader and Deputy Leader	All functions relating to pollution control and contaminated land delegated to the Director of Environment.
Statutory Nuisances	<u>Cabinet</u>	6 Members of the Authority including Leader and Deputy Leader	All functions relating to detection, complaints and abatement of statutory nuisances delegated to the Director of Environment.
Interests in land	<u>Council</u>	All Members of the Authority	Obtaining information on interests in land under the Town and Country Planning Act 1990 and Local Government (Miscellaneous Provisions) Act 1976 delegated to Chief Officers.
Appointments to Committees and outside bodies	<u>Council and Cabinet</u>	All Members of the Authority	To make appointments to all committees of the Council and to the outside bodies in Schedule 4.

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## 2. **RESPONSIBILITY FOR COUNCIL FUNCTIONS**

2.01 The Council reserves to itself:-

1. Approving the strategic financing of the Council, upon recommendations from the Cabinet, including:
  - determination of the Financial Strategy
  - approval of the Revenue Budget
  - approval of the Capital Programme
  - setting the Council Tax base
  - setting the Council Tax
  - determination of borrowing limits
  - utilisation of reserves
2. Approval of all strategic policies or plans including such plans that the Council must formulate by statute (defined in Schedule 3 of the Local Authorities [Functions and Responsibilities][England] Regulations 2000).
3. Approval of matters which require a decision that represents a significant departure from any existing strategy policy or budget previously agreed by the Council.
4. Receiving reports from the Cabinet and the Scrutiny Committee.
5. Adoption of the Council's Constitution and any changes to it including Standing Orders, Delegations, Financial Regulations and Members' Allowances Schemes (other than minor or consequential amendments).
6. Appointments required under Procedure Rules.
7. Appointments to Committees.
8. Appointments to outside bodies which are not within the remit of the Cabinet or Leader.
9. Conferring the title of Honorary Alderman of the District of Hambleton.
10. Electoral, boundary and parish issues.
11. Making, amending or revoking byelaws.
12. Appointment of Chief Officers
13. Other matters which by law fall to be considered by the Council.

2.02 Other functions of the Council are delegated in accordance with the following table:-

<b>Committee</b>	<b>Membership</b>	<b>Functions</b>	<b>Delegation of functions</b>
Planning	12 Members of the Authority	<p><b>Planning and conservation</b></p> <p>Functions relating to development control and miscellaneous functions relating to public rights of way, hedgerows, high hedges and preservation of trees as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) except where the grant of planning permission would be contrary to the recommendation of the Deputy Chief Executive and in the opinion of that officer would be contrary to the provisions of the Development Plan or in any other way inconsistent with the effective operation of the Development Control process</p>	All those matters referred to in Section 4 are delegated to the officers specified, subject to the limitations specified.
Licensing	10 Members of the Authority	All functions relating to licensing and registration and miscellaneous appeals.	<p>All those matters referred to in Section 4 are delegated to the officers specified, subject to the limitations specified.</p> <p>Functions delegated to Licensing and Appeals Hearings Panel (see below).</p>
Licensing and Appeals Hearings Panel	3 Members of the Licensing Committee	<p>To determine all hearings under licensing and registration functions.</p> <p>To determine miscellaneous appeals in accordance with any Council powers and duties in accordance with Council procedures.</p>	
Audit, Governance and Standards Committee	7 Members of the Authority	<p><u>Matters which may be determined by the Committee:</u></p> <p><u>Audit &amp; Governance</u></p> <ul style="list-style-type: none"> <li>• Reviewing and approval of the annual statement of accounts. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.</li> <li>• All aspects of internal audit including:- <ul style="list-style-type: none"> <li>- consideration of the Veritau annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements;</li> <li>- consideration of summaries of specific internal audit reports as requested;</li> </ul> </li> </ul>	All the matters referred to in Section 4 are delegated to the officer specified, subject to the limitations specified.



- approval and monitoring of the annual Audit Plan;
- consideration of reports dealing with the management and performance of the providers of internal audit services;
- consideration of reports from Veritau on agreed recommendations not implemented within a reasonable timescale;
- the commissioning of work from Veritau;
- all aspects of external audit, including:-
  - consideration of the external auditor's annual letter, relevant reports and the report to those charged with governance;
  - consideration of specific reports as agreed with the external auditor;
  - commenting on the scope and depth of external audit work and to ensure that it gives value for money;
  - shall be consulted upon and make recommendations concerning the appointment of the Council's external auditors;
  - the commissioning of work from external audit;
  - consideration of the external auditor's report to those charged with governance on issues arising from the audit of accounts;
- Support effective relationships between external audit and internal audit, inspection agencies and other relevant bodies, and encourage the active promotion of the value of the audit process.
- The review of any issue referred to it by the Chief Executive or the Deputy Chief Executive, or any Council body.
- Consider the effectiveness of the authority's risk management arrangements and the control environment. Review the risk profile of the organisation and assurances that action is being taken on risk-related issues, including

Committee	Membership	Functions	Delegation of functions
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partnerships with other organisations.

- Monitor the effectiveness of the control environment, including arrangements for ensuring value for money and for managing the authority's exposure to the risks of fraud and corruption.
- All aspects of counter fraud and anti-corruption, including:-
  - monitoring of Council policies on "Raising Concerns at Work" and the anti-fraud and anti-corruption strategy and the Council's complaints process.
  - Overseeing the production of the Authority's Annual Governance Statement to recommend its adoption.
  - Consideration of the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
- All matters related to the Regulation of Investigatory Powers Act 2000.

Standards:

- To promote and maintain high standards of conduct by Members of the Council.
- To assist Members and co-opted Members of the Council to observe the Council's Code of Conduct.
- To monitor the operation of the Council's Member Code of Conduct and Planning Code.
- To advise, train or arrange training for Members and co-opted Members of the Council on matters relating to the Council's Member Code of Conduct and Planning Code.
- To formulate advice to Members and Officers on declarations of gifts and hospitality. To monitor and keep under review the arrangements for recording interests, gifts and hospitality.
- To review arrangements for designating politically restricted posts.

Committee	Membership	Functions	Delegation of functions
		<ul style="list-style-type: none"> <li>• To review the operation of the Council's complaints procedures.</li> <li>• To carry out all of the Council's functions under the Local Government Act 2000 in connection with Parish and Town Councils.</li> </ul> <p><u>Matters for determination by Cabinet:</u></p> <p><u>Audit and Governance:</u></p> <ul style="list-style-type: none"> <li>• Report to Cabinet as it deems necessary on matters of concern.</li> </ul> <p><u>Matters for determination by Council:</u></p> <p><u>Audit and Governance:</u></p> <ul style="list-style-type: none"> <li>• All aspects of Corporate Governance, including:- <ul style="list-style-type: none"> <li>- reviewing and making recommendations on changes to the Code of Corporate Governance;</li> <li>- monitoring compliance with the Code of Corporate Governance;</li> <li>- maintaining an overview of the Council's Constitution including those in respect of procurement procedure rules and financial regulations.</li> </ul> </li> <li>• The review and scrutiny of recommendations made by Cabinet to Council in respect of the Council's Annual Treasury Management Policy including the Annual Investment Strategy.</li> </ul> <p><u>Standards:</u></p> <ul style="list-style-type: none"> <li>• To advise the Council on the adoption or revision of a Code of Member Conduct and Planning Code.</li> <li>• To formulate and recommend Codes of Conduct for Officers and keep them under review.</li> <li>• To recommend protocols on Member/employee relations and to review its operation.</li> </ul>	

<b>Committee</b>	<b>Membership</b>	<b>Functions</b>	<b>Delegation of functions</b>
<u>Standards Hearings Panel</u>	3 Members of the Authority (with at least 2 party groups represented) 1 Independent Person 1 Parish Council Representative	<p><u>Matters which may be determined by the Panel:</u></p> <ul style="list-style-type: none"> <li>Investigation and determination in respect of allegations under Codes of Member Conduct for the District Council and (where relevant) Parish/Town Councils.</li> </ul> <p><u>Matters which may be determined by Cabinet:</u></p> <ul style="list-style-type: none"> <li>To make recommendations to Cabinet in respect of any matters relating to Council practice and procedures arising out of Panel determinations and which cannot appropriately be dealt with by Officers.</li> </ul>	
<u>Investigations and Disciplinary Committee</u>	7 Members of the Authority	<p><u>Matters which may be determined by the Investigations and Disciplinary Committee:</u></p> <ul style="list-style-type: none"> <li>To receive complaints relating to the conduct or capability of the Statutory Officers;</li> <li>where appropriate to conduct investigations into these complaints including, where appropriate or necessary, to appoint an Independent Investigator;</li> <li>to take any actions short of dismissal against a Statutory Officer;</li> <li>as and when necessary to appoint an Independent Panel comprising a minimum of two Independent Persons to consider and report the Panel's findings and recommendations to the Committee in the event that the Committee decides to propose a sanction of dismissal against a Statutory Officer;</li> <li>to seek the views of Cabinet in the event that the Committee proposes a sanction of dismissal against a Statutory Officer;</li> <li>to advise and make recommendations to Full Council concerning the proposed dismissal of Statutory Officers.</li> </ul>	
<u>Appeals Committee</u>	7 Members of the Authority	<p><u>Matters which may be determined by the Appeals Committee:</u></p> <p>To hear and determine appeals by Statutory Officers against sanctions less than dismissal imposed by the Investigations and Disciplinary Committee.</p>	

### 3.(A) Responsibility for Executive Functions

Who is responsible	Membership	Functions	Onward limits on delegations
The Cabinet	8 Members of the Authority including the Leader and Deputy Leader	<p>1. All functions not listed in Sections 1 and 2 above which are not otherwise the responsibility of the Council in particular:-</p> <ul style="list-style-type: none"> <li>a) to provide overall leadership and direction for the Council</li> <li>b) to ensure that the Council has strategies and policies in place which support the work of the Council and to fulfil statutory obligations</li> <li>c) to ensure co-ordination of the policies and activities of the Council</li> <li>d) to ensure effective performance of the Council in relation to stated policies and activities</li> <li>e) to lead the search for Best Value in all that the Council does</li> <li>f) to make recommendations to the Council on all strategic financing matters, including the setting of the Council Tax</li> <li>g) to ensure that the best interests of the Council are protected in its work</li> <li>h) all matters to do with the implementation of strategies and policies not within the Terms of Reference of other Committees</li> </ul> <p>2. Appointments to outside bodies in the circumstances identified in Article 13.02(b).</p>	There are no delegations to individual Portfolio Holders

### 3.(B) Responsibility for Joint Arrangements

<b>Who is responsible</b>	<b>Membership</b>	<b>Functions</b>	<b>Onward limits on delegations</b>
The North Yorkshire Building Control Partnership Joint Committee	1 Member each from Hambleton District Council, Ryedale District Council, Scarborough Borough Council, Selby District Council and Richmondshire District Council	<ol style="list-style-type: none"> <li>1. All Building Control functions</li> <li>2. All functions in connection with dangerous structures</li> <li>3. All functions relating to street naming and numbering (Ryedale District Council and Selby District Council)</li> </ol>	All matters are delegated to the Building Control Manager appointed by the Joint Committee
The Parking and Traffic Regulation Outside London Adjudication Joint Committee	1 Member from each participating Council	<ol style="list-style-type: none"> <li>1. Operate an adjudication service for disputes relating to Civil Parking Enforcement</li> </ol>	All matters are delegated to officers of the Lead Authority
North Yorkshire Police and Crime Panel	<p>2 Members from North Yorkshire County Council</p> <p>2 Members from City of York Council</p> <p>1 Member from Hambleton District Council, Ryedale District Council, Craven District Council, Richmondshire District Council, Harrogate Borough Council and Scarborough Borough Council</p>	Functions in connection with the Police Commissioner for North Yorkshire	No matters are delegated

## **SCHEME OF OFFICER DELEGATION**

### **4.0 SCHEME OF OFFICER DELEGATION**

#### **4.01 GENERAL CONDITIONS APPLYING TO ALL DELEGATED POWERS:**

- a) All delegated powers shall be exercised in accordance with:-
  - i. the Constitution of the Council;
  - ii. any relevant policies of the Council;
  - iii. approved budgets;
  - iv. decisions of the Cabinet/Council/Committees;
  - v. decisions of the Chief Executive, Management Team (MT) and/or Management Boards appointed by the Chief Executive or MT.
- b) Officers shall undertake delegated powers in accordance with any specific instructions of the Chief Executive.
- c) An officer need not exercise his delegated power and shall not do so if in his opinion the matter involves questions of policy not yet determined by the Council.
- d) Unless prohibited by statute an officer may delegate any power to another officer and authorise other officers by designation to exercise defined powers.
- e) Delegated powers shall include the carrying out of all duties and powers covered by the function including administrative and procedural acts, the exercising of discretion and the making of determinations.

#### **4.02 GENERAL POWERS DELEGATED TO CHIEF EXECUTIVE, DEPUTY CHIEF EXECUTIVE AND ALL THE DIRECTORS**

- a) To undertake the day-to-day management of the services for which they are responsible, including the deployment of personnel, premises, vehicles, plant, equipment and other resources under their control.
- b) Within the approved establishment to recruit, manage and, where necessary, dismiss staff under their control and in particular:-
  - to authorise pay and conditions (including honoraria);
  - to undertake disciplinary proceedings;
  - to defend and, if necessary, settle any claims made against the Council;
  - to be responsible for the health and safety at work of staff;
  - to implement all employment policies, practices and procedures;
  - to operate the Council's Grievance Procedure.
- c) To acquire, dispose of, grant and obtain rights in land, premises vehicles and other equipment and property on such terms and conditions as considered appropriate.
- d) To provide and commission goods and services and to undertake and commission works.
- e) To provide grants and other financial assistance.
- f) After consultation with the Leader (or in his/her absence the Deputy Leader of the Council) to authorise urgent action not covered by the Council's Scheme of Delegation and which requires an urgent decision.

- g) To sign any contract or agreement on behalf of the Council.
- h) To issue any Notice or make any Order in connection with the service for which they are responsible.
- i) To set fees and charges in consultation with the relevant Portfolio Holder.

#### 4.03 **FUNCTIONS DELEGATED TO SPECIFIC OFFICERS**

##### **CHIEF EXECUTIVE**

- i. To act as Head of Paid Service for the Council and in particular to have authority over all other officers;
- ii. To act as Electoral Registration Officer and Returning Officer;
- iii. To make (in consultation with the Leader of the Council) commercial investment decisions up to a value of £5,000,000;
- iv. To withdraw a club premises certificate in instances where the club ceases to be a qualifying club by virtue of its failure to satisfy the qualification criteria;
- v. To revoke or refuse to renew a hackney carriage and private hire driver's licence for any reasonable cause;
- vi. To revoke a hackney carriage or private hire vehicle licence where, after a period of two months following the suspension of a licence, the Council is not satisfied as to the mechanical fitness of the vehicle; and
- vii. To revoke a gambling premises licence where the annual fee has not been paid in accordance with the relevant regulations.
- viii. In cases of emergency authority is delegated to the Chief Executive, and in the event that the Chief Executive is unavailable (or declares an interest in any decision to be made) to the Deputy Chief Executive, to take any executive decision that could be taken by the Cabinet.
- ix. In cases of emergency authority is delegated to the Chief Executive, and in the event that the Chief Executive is unavailable (or declares an interest in any decision to be made) to the Deputy Chief Executive, to take any decision that would otherwise have been decided at a meeting of Council. As far as emergency situations allow the Leader of the Council will be consulted before any decision is taken under this delegated authority.
- x. In cases of emergency authority is delegated to the Chief Executive and in the event that the Chief Executive is unavailable (or declares an interest in any decision to be made) to the Deputy Chief Executive (or to any other officer authorised in writing by the Chief Executive or Deputy Chief Executive) to determine any matter that would otherwise have been decided at a meeting of the Planning Committee. As far as emergency situations allow the Chairman of the Planning Committee, or in their absence the Vice-Chairman, will be consulted before any decision is taken under this delegated authority.



- xii. In cases of emergency authority is delegated to the Chief Executive and in the event that the Chief Executive is unavailable (or declares an interest in any decision to be made) to the Deputy Chief Executive (or to any other officer authorised in writing by the Chief Executive or Deputy Chief Executive) to determine any matter that would otherwise have been decided at a meeting of the Licensing and Appeals Hearings Panel, unless specifically prohibited by law. As far as emergency situations allow the Chairman of the Licensing Committee, or in their absence the Vice-Chairman, will be consulted before any decision is taken under this delegated authority.
- xiii. In cases of emergency authority is delegated to the Chief Executive and in the event that the Chief Executive is unavailable (or declares an interest in any decision to be made) to the Deputy Chief Executive (or to any other officer authorised in writing by the Chief Executive or Deputy Chief Executive) to approve the annual internal audit plan. As far as emergency situations allow the Chairman of the Audit Governance and Standards Committee, or in their absence the Vice-Chairman, will be consulted before any decision is taken under this delegated authority.
- xiii. The Chief Executive in consultation with the Leader shall keep under review the exercise these emergency powers (set out at 4.03 viii – xii above) and shall terminate their use as soon as reasonably practicable.

**Strategy and Policy: (Director of Finance - S151 Officer)**

- i. To formulate and co-ordinate advice on strategic and corporate policy and Best Value issues.
- ii. To develop and implement performance management systems.
- iii. To undertake strategic risk management functions.

**Business Support: (Director of Finance - S151 Officer)**

- i. To provide all central administrative and clerical support.
- ii. To be responsible for the Council's insurances.
- iii. To administer the creditors system.

**Financial Matters: (Director of Finance - S151 Officer)**

- i. To undertake financial functions including:-
  - accountancy matters;
  - investments;
  - bank accounts and banking arrangements;
  - Treasury Management;
  - Internal Audit;
  - to deal with payroll and pensions matters.

**Revenues and Benefits: (Director of Finance - S151 Officer)**

- i. To undertake all functions in respect of Housing and Council Tax Benefits and the Local Council Tax Reduction Scheme.
- ii. To undertake all functions in respect of Council Tax and National Non-Domestic Rates and other revenues.

**Democratic Services: (Director of Law and Governance – Monitoring Officer)**

- i. To undertake all administrative functions of the Council relating to meetings of the Council, Cabinet, Committees and Panels.
- ii. To undertake all functions relating to Member support and development.
- iii. To undertake all functions relating to Civic Matters.

**Electoral Services: (Director of Law and Governance – Monitoring Officer)**

- i To undertake all functions relating to electoral registration matters and the conduct of elections.
- ii To undertake all functions relating to community governance by Parish and Town Councils and Parish Meetings.

**Information Governance: (Director of Law and Governance – Monitoring Officer)**

- i. To co-ordinate the response to complaints and Freedom of Information requests.

**Legal and Procurement: (Director of Law and Governance – Monitoring Officer)**

- i To undertake all legal functions including:-
  - governance;
  - the commencement, defence and settlement of any legal proceedings;
  - the issue and/or service of any Notice or Order not the responsibility of another Chief Officer.
- ii. To maintain property ownership records for all land and premises.
- iii. To undertake all functions relating to strategy on efficiency and procurement.

**Licensing: (Director of Law and Governance – Monitoring Officer)**

- i. To discharge all functions in respect of:-
  - premises licensing;
    - including the power to withdraw a club premises certificate in instances where the club ceases to be a qualifying club by virtue of its failure to satisfy the qualification criteria
  - hackney carriage and private hire licensing;
    - including the power to revoke or refuse to renew a hackney carriage and private hire driver's licence for any reasonable cause; and
    - to revoke a hackney carriage or private hire vehicle licence where, after a period of two months following the suspension of a licence, the Council is not satisfied as to the mechanical fitness of the vehicle
  - charitable collections;
  - gambling;
    - including the power to revoke a gambling premises licence where the annual fee has not been paid in accordance with the relevant regulations
  - lotteries;
  - any other licensing or registration.

**Personnel: (Director of Law and Governance – Monitoring Officer)**

- i. To formulate employment policies, practices and procedures.

**DEPUTY CHIEF EXECUTIVE**

- i. To withdraw a club premises certificate in instances where the club ceases to be a qualifying club by virtue of its failure to satisfy the qualification criteria;
- ii. To revoke or refuse to renew a hackney carriage and private hire driver's licence for any reasonable cause;
- iii. To revoke a hackney carriage or private hire vehicle licence where, after a period of two months following the suspension of a licence, the Council is not satisfied as to the mechanical fitness of the vehicle;
- iv. To revoke a gambling premises licence where the annual fee has not been paid in accordance with the relevant regulations
- v. In cases of emergency, and in the event that the Chief Executive is unavailable (or declares an interest in any decision to be made), authority is delegated to the Deputy Chief Executive to take any executive decision that could be taken by the Cabinet.
- vi. In cases of emergency, and in the event that the Chief Executive is unavailable (or declares an interest in any decision to be made), authority is delegated to the Deputy Chief Executive (or to any other officer authorised in writing by the Deputy Chief Executive) to determine any matter that would otherwise have been decided at a meeting of the Planning Committee. As far as emergency situations allow the Chairman of the Planning Committee, or in their absence the Vice-Chairman, will be consulted before any decision is taken under this delegated authority.
- vii. In cases of emergency, and in the event that the Chief Executive is unavailable (or declares an interest in any decision to be made), authority is delegated to the Deputy Chief Executive (or to any other officer authorised in writing by the Deputy Chief Executive) to determine any matter that would otherwise have been decided at a meeting of the Licensing and Appeals Hearings Panel, unless specifically prohibited by law. As far as emergency situations allow the Chairman of the Licensing Committee, or in their absence the Vice-Chairman, will be consulted before any decision is taken under this delegated authority.
- viii. In cases of emergency, and in the event that the Chief Executive is unavailable (or declares an interest in any decision to be made), authority is delegated to the Deputy Chief Executive (or to any other officer authorised in writing by the Deputy Chief Executive) to approve the annual internal audit plan. As far as emergency situations allow the Chairman of the Audit Governance and Standards Committee, or in their absence the Vice-Chairman, will be consulted before any decision is taken under this delegated authority.
- ix. Those functions set out below which are delegated to the Director of Economy and Planning, the Director of Environment and the Director of Leisure and Communities can also be exercised by the Deputy Chief Executive who has overall delegated authority for these functions.

## **Further specific Delegation to Specified Officers**

### **Building Control: (Director of Economy and Planning)**

- i. To carry out all functions in connection with the North Yorkshire Building Control Partnership.

### **Communications: (Director of Economy and Planning)**

- i. To undertake all functions relating to communications and public relations.

### **Data Management and Local Land Charges: (Director of Economy and Planning)**

- i. To carry out all functions in connection with development data (including street naming and numbering).
- ii. To undertake all functions relating to data management (including GIS).
- iii. To undertake and/or co-ordinate all functions relating to Local Land Charges/Enquiries

### **Development Management: (Director of Economy and Planning)**

- i. To undertake all functions in respect of:-
  - Development Management;
  - Environmental Impact Assessments;
  - Hazardous Substances;
  - National Parks;
  - Hedgerows;
  - High Hedges.

### **Economic Development and Tourism: (Director of Economy and Planning)**

- i. To undertake all functions in respect of Economic Development and Tourism including:-
  - developing business parks;
  - developing and managing business units;
  - providing advice and assistance;
  - financial assistance.
- ii. To undertake all functions in connection with climate change and sustainability.
- iii. To undertake all functions in respect of support for public transport.

### **Housing Matters: (Director of Economy and Planning)**

- i. To undertake all functions in respect of Housing including:-
  - facilitating the provision of housing;
  - homelessness;
  - harassment/unlawful eviction;
  - standards in private housing.

### **Planning Policy: (Director of Economy and Planning)**

- i. To undertake all functions in respect of the Local Development Framework and Supplementary Planning Documents.

- ii. To undertake all non-development management functions in connection with Conservation Areas, Listed Buildings and the built heritage.

**Emergency Planning: (Director of Environment)**

- i. Emergency Planning and Business Continuity.

**Environmental Services: (Director of Environment)**

- i. To undertake all functions relating to Environmental Health including:-
  - Food Sales, Safety and Standards;
  - Caravan Sites and Licensing;
  - Health and Safety at Work;
  - Pollution Control;
  - Pest Control;
  - Shops and Sunday Trading;
  - Animals and Licensing;
  - Home Safety;
  - Water Supply, Standards and Safety;
  - Housing Conditions, Standards and Safety;
  - Housing Improvement and Renovation;
  - Public Nuisance;
  - Private Drainage and Sewers;
  - Smoking in public places;

**Customer Services: (Director of Environment)**

- i. To undertake all functions in connection with the Council's initial point of contact with customers.

**Information and Communications Technology: (Director of Environment)**

- i. To provide all strategic ICT functions including:-
  - determination of corporate standards;
  - determination of operating platforms;
  - determination of software applications;
  - determination of information management systems.
- ii. To provide all support functions for ICT.

**Waste and Street Scene Services: (Director of Environment)**

- i. To undertake all functions in connection with:-
  - Recycling;
  - Waste Collection and Disposal;
  - Street Cleaning;
  - Litter;
  - Dogs;
  - Graffiti, fly tipping and abandoned vehicles

**Community/Partnerships: (Director of Leisure and Communities)**

- i. To undertake all functions in connection with:-
  - producing and implementing the Community Plan;
  - community grants;
  - community engagement and partnerships;
  - assets of community value.

**Community Safety: (Director of Leisure and Communities)**

- i. To undertake all functions in respect of Community Safety.
- ii. To exercise any appropriate Local Authority Power to deal with Anti-Social Behaviour in accordance with any relevant legislation and where appropriate in liaison with the Police.
- iii. To issue Exclusion Orders where appropriate in liaison with the Police.
- iv. To manage CCTV functions.

**Design and Maintenance: (Director of Leisure and Communities)**

- i. To undertake all functions in connection with:-
  - public lighting;
  - the provision, maintenance and management of car parks;
  - the management, construction, maintenance and operation of the Council's land, buildings, property, vehicles and plant which is not part of the operational responsibility of another Director;
  - land drainage;
  - markets;

**Leisure: (Director of Leisure and Communities)**

- i. To undertake all functions in respect of Leisure Services including:-
  - providing and operating indoor and outdoor leisure facilities;
  - providing leisure courses;
  - facilitating the provision of leisure facilities;
  - financial assistance;
  - all functions in respect of museums.
- ii. To undertake all functions in respect of provision of and support for the arts.
- iii. To undertake all functions in connection with co-ordinating services for young persons.
- iv. To undertake all functions relating to public health.

#### 4.04 OFFICER SCHEME OF DELEGATION PROTOCOLS:

##### **Introduction**

Under the Council's Scheme of Delegation most operational and administrative matters are delegated to Officers. These Protocols set out how the Officers propose to exercise these powers with a view to ensuring that Members still have adequate opportunity to comment on and be involved in the decision making process as appropriate.

##### **DEVELOPMENT MANAGEMENT PROTOCOL**

##### **a) Planning and Related Applications**

Listed below are the circumstances where any planning or related application would be presented to the Planning Committee for decision. The Deputy Chief Executive, or other duly authorised officer, will determine all other planning and related applications, unless any Member of the Council requests, in writing, that an application be presented to the Planning Committee. Such a request should be made to the Deputy Chief Executive within 28 days of the validation of the application.

Matters to be presented to Planning Committee:-

- i. Proposals which are contrary to the provisions of an approved or draft development plan, and which are recommended for approval.
- ii. Proposals which are contrary to approved Council development control policies, standards or guidance and which are recommended for approval.
- iii. Proposals which are potentially controversial or likely to be of significant public interest in the opinion of the Deputy Chief Executive.
- iv. Proposals which would have a significant impact on the environment in the opinion of the Deputy Chief Executive.
- v. Proposals submitted by or on behalf of the Council for its own developments, or on Council owned land, except for the approval of routine, minor developments to which no objection has been received.
- vi. Proposals submitted by or on behalf of a Member of the Council (or a relative) or by any employee of the Council (or a relative).

##### **b) Enforcement**

Listed below are the circumstances where enforcement matters will be presented to the Planning Committee. All other matters will be dealt with by the Deputy Chief Executive, or other duly authorised officer, unless any Member of the Council has requested, in writing, that a decision on an enforcement matter be made by the Planning Committee.

- i. Where the case involves a Member of the Council (or a relative) or any employee of the Council (or a relative).
- ii. Where there is a contravention of planning control involving the Council's own development that is unresolved through the planning system.
- iii. Issues of significant public interest.

## **BUDGETARY CONTROL AND FINANCIAL SERVICES PROTOCOL**

### **Matters to be presented to Cabinet:**

- i. Quarterly revenue budget monitoring statements for determination.
- ii. Quarterly capital programme monitoring statements for determination.
- iii. Quarterly statements showing utilisation of reserves for determination.
- iv. Biannual reports on the performance of the Council's fund management for information.

## **INFORMATION AND COMMUNICATION TECHNOLOGY PROTOCOL**

Cost benefit analysis of proposals for new systems will be presented to the Cabinet for determination.

## **PROTOCOL FOR PROPERTY MATTERS**

- i. Acquisitions/disposals of property will only be undertaken after receiving advice from a fully qualified valuer.
- ii. Where practicable the principle of acquiring land will be reported to the Cabinet for determination. Details of all acquisitions/disposals of land will be reported to the Cabinet for information.

## **PLANNING POLICY PROTOCOL**

### **a) Planning Policy Consultation Documents**

- i. Consultation on the Local Transport Plan and some Government planning policy documents will be reported to the Cabinet for determination.
- ii. The relevant Cabinet Portfolio Holder will be consulted on responses to policy documents of neighbouring Authorities.

### **b) Powers to Secure Repairs to Listed Buildings**

These powers will be exercised in consultation with the relevant Cabinet Portfolio Holder.

## **ECONOMIC DEVELOPMENT PROTOCOL**

### **a) Partnership Arrangements for Funding of Economic Development Projects**

These will be reported to the Cabinet for determination.

### **b) Economic Development Grant Schemes**

- i. Grants over £5,000 will be made in consultation with the Ward Member and the relevant Cabinet Portfolio Holder.
- ii. Annual grants exceeding £5,000 will be reported to the Cabinet for information.
- iii. All applications by Members and officers will be reported to the Cabinet for determination.



### **c) Responses to Consultation Documents**

The Cabinet will be asked to determine responses to the County Council's Economic Development Strategy.

## **PARTNERSHIPS PROTOCOL**

### **a) Responses on Consultation Documents**

The Cabinet will be asked to determine responses to consultations relating to sustainable development and Community Planning issues which have significant implications for the District.

### **b) Community Grant Schemes**

- i. Grants over £5,000 will be made in consultation with the relevant Cabinet Portfolio Holder.
- ii Annual grants exceeding £5,000 will be reported to the Cabinet for information.
- iii. Applications by Members and officers will be reported to Cabinet for determination.

## **LICENSING PROTOCOL**

- i. Where an objection is lodged to a Licence the matter will be presented to the Licensing and Appeals Hearings Panel for determination.
- ii. If consideration is being given to the revocation of any Licence, Registration or Permit then this will usually be referred to the Licensing and Appeals Hearings Panel for determination, save and except where an urgent decision is required and which warrants the exercise of the powers delegated to the Chief Executive, Deputy Chief Executive, and Director of Law and Governance.

## **PERSONNEL PROTOCOL**

All proposals to alter the Council's staffing establishment which will involve increased expenditure will be presented to the Cabinet for determination.

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## **Part 4**

### **Rules of Procedure**

# Council Procedure Rules

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## **PART A: COUNCIL MEETINGS**

### **1. ANNUAL MEETING OF THE COUNCIL**

#### **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 Chairman of Council is not present;
- ii) elect the Chairman of Council;
- iii) elect the Vice Chairman of Council;
- iv) receive any announcements from the Chairman and/or Head of the Paid Service;
- v) elect the Leader in the year where there is an ordinary election of Councillors or where the office is otherwise vacant;
- vi) receive a statement from the Leader on those Members who have been appointed to the Cabinet;
- vii) appoint at least one Scrutiny Committee, an Audit, Governance and Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution);
- viii) agree the Scheme of Delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- x) consider any business set out in the notice convening the meeting.

#### **1.2 Selection of Councillors on Committees and Outside Bodies**

At the Annual Meeting, the Council meeting will:

- i) decide which Committees to establish for the municipal year;
- ii) decide the size and Terms of Reference for those Committees;
- iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- iv) receive nominations of Councillors to serve on each Committee and, where appropriate, outside bodies; and
- v) appoint to those committees and outside bodies.

#### **1.3 Order of Business at the Annual Meeting**

- i) The order of business shall be as follows:
  - a) To elect the Chairman for the ensuing municipal year.
  - b) To receive apologies for absence.
  - c) To appoint the Vice Chairman for the ensuing municipal year.
  - d) Any announcements by the Chairman.
  - e) To appoint the Leader of the Council (following all out elections or in such circumstances as provided for in Article 7).
  - f) To receive from the Leader his/her appointments to the Cabinet.

- g) Questions pursuant to Procedure Rule 9.
  - h) To receive a report on the allocations to Committees.
  - i) To appoint representatives on outside bodies.
- ii) At the end of the meeting each of the following Committees shall meet to appoint their Chairman and Vice-Chairman and make any appointments to other bodies:

Planning Committee  
 Audit, Governance and Standards Committee  
 Scrutiny Committee  
 Licensing Committee

## 2. **ORDINARY MEETINGS**

2.1 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary meetings will:

- i) elect a person to preside if the Chairman and Vice Chairman are not present;
- ii) approve the minutes of the last meeting;
- iii) receive any announcements from the Chairman, Leader, Members of the Cabinet or the Chief Executive;
- iv) receive minutes and reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- v) questions on other matters which affect the District or relate to the Cabinet's forward work programme;
- vi) consider motions; and
- vii) consider any other business specified in the summons to the meeting.

## 2.2 **Order of Business at Ordinary Meetings**

- i) Except as otherwise provided for, the order of business at every meeting shall be:-
  - a) To choose a person to preside if the Chairman and Vice-Chairman are absent.
  - b) To deal with business required by statute to be dealt with before other business.
  - c) To approve as a correct record and sign the minutes of the last meeting.
  - d) To receive apologies for absence.
  - e) To deal with any business expressly required by statute.
  - f) Chairman's, or Chief Executive's announcements.
  - g) Presentations to the Council
  - h) Statement by the Leader
  - i) Statements by Portfolio Holders
  - j) To receive and consider minutes, recommendations and reports of Cabinet, Committees, etc.
  - k) To answer questions asked under Procedure Rule No. 9.
  - l) To consider motions under Procedure Rule No. 10.
  - m) Any other item specifically referred to on the agenda.

### **Variation of Order of Business**

- ii) Business falling under items (1) a), b) or c) cannot be varied, but the remainder may be varied:-
  - a) At the Chairman's discretion.
  - b) By a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

### **3. EXTRAORDINARY MEETINGS**

#### **3.1 Calling Extraordinary Meetings**

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- i) the Council by resolution;
- ii) the Chairman of the Council;
- iii) the Monitoring Officer; and
- iv) any five Members of the Council if they have signed a requisition presented to the Chairman 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.

#### **3.2 Business**

The business of an extraordinary meeting of the Council shall be confined to the purpose for which it was convened.

### **4. TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Council when fixing its annual programme of meetings or otherwise as determined by the Chief Executive in consultation with the Chairman and notified in the summons.

### **5. NOTICE OF AND SUMMONS TO MEETINGS**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence or where a Member consents send it to them electronically. 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.

### **6. CHAIRMAN OF MEETING**

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

### **7. QUORUM**

The quorum of a meeting will be one third of the whole number of Members. During any meeting if the Chairman 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 Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

### **8. DURATION OF MEETING**

Unless the majority of Members present vote for the meeting to continue, any meeting that has lasted for 3 hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 9. QUESTIONS BY MEMBERS

### 9.1. On reports of the Cabinet or Committees

A member of the Council may ask the Leader, Deputy Leader, Portfolio Holder with a designated portfolio or spokesperson role or Chairman of a Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

### 9.2 Questions on notice at full Council

Subject to Rule 9.4, a member of the Council may ask:

- the Chairman;
- the Leader or a Member of the Cabinet; or
- the Chairman of any Committee

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

### 9.3 Questions on notice at Committees

Subject to Rule 9.4, a Member of a Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affects the area and which falls within the Terms of Reference of that Committee.

### 9.4 Notice of questions

A Member may only ask a question under Rule 9.2 or 9.3 if either:

- a) they have given at least 3 working days notice in writing of the question to the Chief Executive;
- b) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given, if possible, to the Chief Executive by noon on the day before the meeting.

### 9.5 Questions of the Leader and/or Portfolio Holder without Notice

- (a) A Member may ask a question of the Leader and/or Portfolio Holder without notice upon the Leader's or Portfolio Holders' Statement or any matter considered by the Cabinet or a Council Committee since the last Council Meeting.
- (b) Each statement and all questions on it will be limited to 5 minutes in total unless the Chairman extends the period.
- (c) If the Leader or Portfolio Holder provides an answer at the Meeting the Member who asked the question may ask one supplementary question. Further supplementary questions may be asked with the permission of the Chairman. The supplementary question(s) must arise directly out of the original question or the reply.
- (d) The Leader or Portfolio Holder may choose to provide a written answer after the Meeting and if any questions remain unanswered at the end of the period referred to in Rule 9.5(b) a written answer will be provided after the meeting.

### 9.6 Response

- i) The Leader may designate another Portfolio Holder to reply to a question addressed to the Leader, Deputy Leader or Portfolio Holder notwithstanding whether the Leader also wishes to reply.



- ii) Every question shall be asked and answered without discussion, but the person of whom a question has been asked may decline to answer.
- iii) An answer may take the form of:
  - a) a direct oral answer;
  - b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
  - c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

#### 9.7 **Supplementary Question**

A Member asking a question under Rule 9.2 or 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.

#### 9.8 **Time Limits**

The questioner will be limited to two minutes initially and one minute for a relevant supplementary question.

### 10. **MOTIONS ON NOTICE**

#### 10.1 **Notice**

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by the proposer and seconder and any other Member giving the notice, must be delivered to the Chief Executive not later than 8 days before the date of the meeting. These will be entered in a book open to public inspection.

#### 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.

#### 10.3 **Motion not moved**

If a motion set out on the agenda is not moved by a Member who gave notice of it or by some other Member on their behalf it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without a new notice under Procedure Rule 10.1

#### 10.4 **Automatic reference to the Cabinet or Committee**

If the subject of any motion of which notice has been given comes within the Terms of Reference of the Cabinet or a Committee it shall, upon being moved and seconded, be referred without discussion for consideration by the Cabinet or a Committee as the Council may decide.

Except where the matter is the responsibility of the Cabinet the Chairman may, if he considers it convenient and a matter of urgency, allow the motion to be dealt with at the meeting at which it is brought forward.

#### 10.5 **Scope**

Motions must be about matters for which the Council has a responsibility or which affect the area.

## 11. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- a) to appoint a Chairman 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 the Cabinet, Committees or officers and any resolutions following from them;
- g) to refer a decision back to a committee made under delegated powers;
- h) to withdraw a motion;
- i) to amend a motion;
- j) to extend the time limit for speeches;
- k) to proceed to the next business;
- l) that the question be now put;
- m) to adjourn a debate;
- n) to adjourn a meeting;
- o) that the meeting continue beyond 3 hours in duration;
- p) to suspend a particular Council procedure rule;
- q) to exclude the public and press in accordance with the Access to Information Rules;
- r) to not hear further a Member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4;
- s) to give the consent of the Council where its consent is required by this Constitution;  
and
- t) to carry out a statutory duty which in the Chairman's opinion is urgent.

## 12. RULES OF DEBATE

### 12.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### 12.2 Right to require motion in writing

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

### 12.3 Secunder's speech

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

#### 12.4 **Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes in the case of a proposer of a motion and 3 minutes in other cases without the consent of the Chairman.

#### 12.5 **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;
- f) by way of personal explanation; and
- g) to answer a question from the Chairman.

#### 12.6 **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 wordsas 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, unless:
  - i) notice of intention to move further amendments and their nature is given to the Chairman before a vote is taken on the amendment before the meeting when the Chairman may permit two or more amendments to be discussed (but not voted on) together if the circumstances suggest that this would assist the proper conduct of business;
  - ii) if an amendment is not carried, other amendments to the original motion may be moved;
  - iii) 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;
  - iv) after an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

## 12.7 **Alteration of motion**

- a) A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- b) A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- c) Only alterations which could be made as an amendment may be made.

## 12.8 **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.

## 12.9 **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 a right to reply at the close of the debate on the amendment immediately prior to the right of reply by the mover of the original motion.
- d) Members exercising a right of reply shall confine themselves to answering previous speakers and shall not introduce new matters.
- e) The Leader may designate another Portfolio Holder to exercise a right to reply where the motion relates to an item considered as part of the receipt of Cabinet minutes, but in all cases the Leader will have final right to reply.

## 12.10 **Motions which may be moved during debate**

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

- a) to withdraw a motion;
- b) to 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) that the meeting continue beyond 3 hours in duration;
- h) to exclude the public and press in accordance with the Access to Information Rules; and
- i) to not hear further a member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4.

## 12.11 Closure motions

- a) A member may move, without comment, the following motions at the end of a speech of another member:
  - i) to proceed to the next business;
  - ii) that the question be now put;
  - iii) to adjourn a debate; or
  - iv) to adjourn a meeting.
- b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or 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 Chairman 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 Chairman 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.

## 12.12 Point of Order

A Member may raise a point of order at any time. The Chairman 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 Chairman on the matter will be final.

## 12.13 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 Chairman on the admissibility of a personal explanation will be final.

## 12.14 Summing up of debate

The Chairman may sum up the debate before putting a motion or amendment to the vote and request the appropriate officer to draw the Council's attention to relevant factors.

## 13. PREVIOUS DECISIONS AND MOTIONS

### 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 it is necessary:

- a) To carry out statutory duties which, in the Chairman's opinion, are urgent; or
- b) Where, in the Chairman's opinion, the matter is urgent or important requiring further consideration.

### 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 except on grounds in Procedure Rule 13.1. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for 6 months.

## **14. VOTING**

### **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.

### **14.2 Chairman's Casting Vote**

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

### **14.3 Show of Hands**

Unless a ballot or recorded vote is demanded under Rules 14.4 and 14.5, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **14.4 Ballots**

The vote will take place by ballot if any Member present at the meeting demands it. The Chairman will announce the numerical result of the ballot immediately the result is known.

### **14.5 Recorded Vote**

- a) If any Member present at the meeting demands 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. A demand for a recorded vote will override a demand for a ballot.
- b) Where any vote is taken at a Council meeting on setting the budget for the Council or issuing a precept then the minutes of the meeting will record the names of all Councillors present at the vote and how each Councillor voted (for or against) or the fact that they abstained from voting. Such votes will be on any decision to make the budget calculation required under Section 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF and 52ZJ of the Local Government Finance Act 1992 or to issue a precept under Chapter 4 of Part 1 of the Act.

### **14.6 Right to require individual Vote to be recorded**

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

### **14.7 Voting on appointments**

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

## **15. MINUTES**

### **15.1 Signing the Minutes**

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman 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.

**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 relating to signing of minutes.

**15.3 Form of Minutes**

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

**15.4 Effective dates of decisions**

- a) The minutes of the Council will be made available to the Leader and Monitoring Officer within two working days of the meeting.
- b) The decisions recorded in the minutes will come into effect on the seventh working day after the Council meeting.

**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.

**17. EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 20 (Disturbance by Public).

**18. MEMBERS' CONDUCT**

**18.1 Standing to speak**

When a Member speaks at full Council they must stand and address the meeting through the Chairman. If more than one member wishes to speak, the Chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

**18.2 Chairman Standing**

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

**18.3 Member not to be heard further**

If a Member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

**18.4 Member to leave the meeting**

If the Member continues to behave improperly after such a motion is carried, the Chairman 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.

**18.5 Withdrawal when disclosable pecuniary interest**

Where a Member has a disclosable pecuniary interest in any business of the Council the Member must withdraw from the room or chamber where the meeting considering the business is being held during consideration and voting on the business.

19. **GENERAL DISTURBANCE**

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

20. **DISTURBANCE BY PUBLIC**

20.1 **Removal of member of the public**

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

20.2 **Clearance of part of meeting room**

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

21. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

21.1 **Suspension**

All of these Council Rules of Procedure except Rule 14.6 and 15.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

21.2 **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.

22. **PUBLIC PETITIONS**

22.1 When a public petition is presented to the Council the petition organiser may present the petition and speak for up to 5 minutes.

22.2 The Leader of the Council or the relevant Cabinet spokesperson will provide the Cabinet's response to the petition.

22.3 Council will then debate the petition for no more than 15 minutes. No questions may be asked of the petition organiser during the debate.



## PART B: COMMITTEE MEETINGS

### 23. APPLICATION TO COMMITTEES

- 23.1 All of the Council Rules of Procedure apply to meetings of full Council. Only Rules 4 - 21 (but not Rule 18.1) apply to meetings of Committees also.
- 23.2 The Chairman of each meeting can relax Rules 12-14 if this is felt necessary to facilitate discussion prior to a decision being made.

### 24. ELECTION OF CHAIRMEN OF COMMITTEES

- 24.1 Every Committee shall, at its first meeting, before any other business, elect a Chairman and appoint a Vice-Chairman for the year. If the Chairman and Vice-Chairman are absent from a meeting, a Chairman for that meeting may be appointed.
- 24.2 The Chairman and Vice-Chairman of the Council shall not be eligible for election as Chairman or appointment as Vice-Chairman of any Committee.

### 25. EXTRAORDINARY MEETINGS

- 25.1 The Chairman of a Committee may call extraordinary meetings at any time.
- 25.2 Extraordinary meetings of Committees shall also be called at the request of not less than a quarter of the whole number of Members delivered in writing to the Chief Executive (minimum number of 3 required). The agenda for the extraordinary meeting shall set out the business to be considered and no other business shall be considered.

### 26. QUORUM OF COMMITTEES

The quorum of Committees shall be one-third of the total number of their Members, provided that this is not less than two.

### 27. MEMBERS ADDRESSING COMMITTEE MEETINGS

With the consent of the Chairman of the Committee, any Members may address the Committee on an item on its agenda.

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## Access to Information Procedure Rules

### 1. SCOPE

These rules apply to all meetings of the Council, Scrutiny Committee, the Audit, Governance and Standards Committee and any other Committees, public meetings of the Cabinet and occasions when it is proposed that an individual Portfolio Holder will make an executive decision (together called meetings).

### 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. RIGHTS TO ATTEND MEETINGS

3.1 Members of the public may attend all public meetings, subject to the exceptions in these Rules and may address the Planning Committee in accordance with rules attached as Annex 'A'. Members of the public will not be allowed to address other meetings except with the approval of the Chairman of the meeting.

3.2 Members of the public will be allowed to film, make sound recordings and/or use social media to record all public meetings provided that:-

- (a) they provide advance notice to the Chairman by the start of the meeting;
- (b) filming and recording is overt;
- (c) filming and recording is not undertaken in a manner which the Chairman considers to be disruptive or distracting to the good order and conduct of the meeting;
- (d) there is no direct filming or recording of any member of the public unless that member of the public is addressing the meeting;
- (e) there is no filming or recording of any child or vulnerable person where the Chairman considers this inappropriate or any member of the public whom the Chairman believes has a reasonable objection to being filmed;
- (f) there is no oral reporting or oral commentary on a meeting as it takes place if the person reporting or providing the commentary is present at the meeting;
- (g) where the public are excluded from a meeting there shall be no filming or recording of that part of the meeting using methods which enable persons not present at that part of the meeting to see or hear the proceedings at that part of the meeting as it takes place or later;
- (h) there is no filming of Members' personal papers at meetings.

### 4. NOTICES OF MEETING

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the designated office (Civic Centre, Stone Cross, Northallerton).

### 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 designated office 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 from the time the item was added to the agenda.

## 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 Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item

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

## 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 of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information.
- b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- c) the agenda for the meeting; and
- d) reports relating to items when the meeting was open to the public.

## 8. **BACKGROUND PAPERS**

### 8.1 **List of background papers**

The Director responsible for the report will set out in the 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; and
- b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of a political advisor.

### 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.

## 9. **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 Council's main offices.

## 10. **EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### 10.1 **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.

## 10.2 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 European Convention on Human Rights (as implemented into UK law) 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.

## 10.3 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.

## 10.4 Meaning of exempt information

Exempt information means information falling within the following 7 categories (subject to any qualification):

### Descriptions of Exempt Information:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
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.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:-
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

### Qualifications:

8. Information falling within points 1 to 7 in paragraph 10.4 above is not exempt information by virtue of that paragraph if it is required to be registered under:-
  - (a) the Companies Acts (as defined in Section 2 of the Companies Act 2006);
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Co-operative and Community Benefit Societies Act 2014;
  - (e) the Building Societies Act 1986; or

(f) the Charities Act 2011.

9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

10. Information which:-

(a) falls within any of points 1 to 7 in paragraph 10.4 above; and

(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

#### **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, 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.

#### **12. APPLICATION OF RULES TO THE CABINET**

Rules 13-24 apply to the Cabinet. If the Cabinet meets to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined at Article 12.03 of this Constitution.

If the Cabinet meets to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in Article 12.03 of this Constitution. This requirement does not include meetings whose sole purpose is for officers to brief Members.

#### **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- a) a notice (called here a forward plan) has been published in connection with the matter in question;
- b) at least 28 clear days have elapsed since the publication of the forward plan containing reference to the matter; and
- c) where the decision is to be taken at a meeting of the Cabinet notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

#### **14. THE FORWARD PLAN**

##### **14.1 Period of forward plan**

Forward plans will be prepared by the Leader and Cabinet to cover a period of four months. They will be prepared on a rolling basis.

## 14.2 Contents of forward plan

The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet or officers, in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- 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 identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- e) the means by which any such consultation is proposed to be undertaken;
- f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- g) a list of the documents submitted to the decision taker for consideration in relation to the matter.
- h) whether a decision will be taken in the public or private part of a meeting.

The Chief Executive will publish once a year a notice in at least one newspaper circulating in the area, stating:

- a) that key decisions are to be taken on behalf of the Council;
- b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a rolling basis;
- c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- g) that other documents may be submitted to decision takers;
- h) the procedure for requesting details of documents (if any) as they become available; and
- i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a forward plan and confidential information cannot be included.

## 15. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- a) it is impracticable to provide 28 clear days' notice before the decision is made;
- b) the Chief Executive has informed the Chairman of the Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- d) at least 5 clear days have elapsed since the Chief Executive complied with b) and c).

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

## 16. **SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Scrutiny Committee, or if the Chairman of the Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice Chairman will suffice.

## 17. **REPORT TO COUNCIL**

### 17.1 **When the Scrutiny Committee can require a report**

If the Scrutiny Committee thinks that a key decision has been taken which was not:

- a) included in the forward plan; or
- b) the subject of the general exception procedure; or
- c) the subject of an agreement with a Scrutiny Committee Chairman, or the Chairman of the Council under Rule 16;

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

### 17.2 **Cabinet's report to Council**

The Cabinet 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 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 Leader is of the opinion that it was not a key decision the reasons for that opinion.

### 17.3 **Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## 18. **RECORD OF DECISIONS**

After any meeting of the Cabinet, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, 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.

**19. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The Cabinet will hold meetings relating to matters which are not key decisions in public except where the public are excluded by Rule 10.

**20. NOTICE OF PRIVATE MEETING OF THE EXECUTIVE**

Members of the Cabinet 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.

**21. ATTENDANCE AT PRIVATE MEETING OF THE EXECUTIVE**

- a) Notice of private meetings of the Cabinet will be served on the Chairman of the Scrutiny Committee, at the same time as notice is served on members of the Cabinet. Where the Scrutiny Committee does not have a Chairman, the notice will be served on all the Members of that Committee.
- b) Where a matter is under consideration at a private meeting of the Cabinet the Chairman of the Scrutiny Committee or in his/her absence the Vice Chairman or other member of that Committee, may attend that private meeting with the consent of the person presiding, and speak [though not speak unless those present agree].
- c) The Chief Executive, the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet. The Cabinet may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place.
- d) A private Cabinet meeting may only take place in the presence of the Proper Officer or his/her nominee with responsibility for recording and publicising the decisions.

In all of the above examples, the provisions of Rule 18 (recording and publicising decisions) will apply.

**22. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

**22.1 Reports intended to be taken into account**

Where an individual Member of the Executive 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 5 clear days after receipt of that report.

**22.2 Provision of copies of reports to the Scrutiny Committee**

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 Leader and the Chairman of the Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

**22.3 Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual Member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Proper Officer 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 7 and 8 (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 or advice from a political or Mayor's Assistant.

## **23. SCRUTINY COMMITTEE'S ACCESS TO DOCUMENTS**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, the Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:

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

### **23.2 Limit on rights**

The 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; or
- c) the advice of a political adviser.

## **24. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **24.1 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 Cabinet and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

- a) it contains exempt information falling within paragraphs 1, 2, 3 (if it relates to terms proposed by or to the Council in the course of negotiations for a contract), 4, 5 and 7 of the categories of exempt information; or
- b) it contains the advice of a political adviser.

### **24.2 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 Cabinet which relates to any key decision unless paragraph 24.1 (a) or (b) applies.

### **24.3 Nature of rights**

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

**Planning Committee – Rules for Public Speaking**

1. The following categories of people may speak on planning applications at Planning Committee: -
  - 1.1 Representatives of Parish/Town Councils
  - 1.2 Objectors to the proposal
  - 1.3 Applicant/Agent or Supporter

Anyone wishing to speak must register with the Committee Officer before the meeting commences. If more than one person wishes to speak then those people must decide who will represent them. If they cannot agree then only the first person to register will be allowed to speak.

2. Speakers will be allowed to speak for 3 minutes (10 minutes for large scale major applications and those supported by Environmental Impact Assessments in which case a maximum of 2 speakers may, by agreement, share the 10 minutes).
3. The Chairman may intervene and prevent contributions if they are not relevant to the application.
4. Other details will be determined by the Chief Executive in consultation with the Chairman of the Committee.

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# Budget and Policy Framework Procedure Rules

## 1. GENERAL

In this part

“executive” and “executive leader” have the same meaning as in Part II of the Local Government Act 2003; and  
“plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders)(England) Regulations 2001.

## 2. THE FRAMEWORK FOR EXECUTIVE DECISIONS

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

## 3. PROCESS OF DEVELOPING THE FRAMEWORK

- a) The Cabinet will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chairman of the Scrutiny Committee will also be notified. The consultation period will usually not be less than 6 weeks in each instance.
- b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If the Scrutiny Committee wishes to respond to the Cabinet in that consultation process, then it may do so. As the Scrutiny Committee has responsibility for fixing its own work programme, it is open to the Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet’s response.
- c) Once the Cabinet has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.
- d) Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph (e).
- e) Before the Council:-
  - (i) amends the draft plan or strategy;
  - (ii) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (iii) adopts (with or without modification) the plan or strategy;it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
- f) Where the Council gives instructions in accordance with paragraph (e), it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:-
  - (i) submit a revision of the draft plan or strategy as amended by the Cabinet (the “revised draft plan or strategy”), with the Cabinet’s reasons for any amendments made to the draft plan or strategy, to the Council for the Council’s consideration; or

- ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- g) When the period specified by the Council, referred to in paragraph (f), has expired, the Council must, when;-
- (i) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
  - (ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
  - (iii) adopting (with or without modification) the plan or strategy take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.
- h) Subject to paragraph (l), where, before 8 February in any financial year, the Council's Cabinet submits to the Council for its consideration in relation to the following financial year:-
- (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 of the Local Government Finance Act 2012;
  - (ii) estimates of other amounts to be used for the purposes of such a calculation;
  - (iii) estimates of such a calculation; or
  - (iv) amounts required to be stated in a precept under Section IV of Part I of the Local Government Finance Act 2012,

and following consideration of those estimates or amounts the Council has any objection to them, it must take the action set out in paragraph (i).

- i) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (h), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- j) Where the Council gives instructions in accordance with paragraph (i), it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:-
  - (i) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
  - ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- k) When the period specified by the Council, referred to in paragraph (j), has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph (h), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 2012, take into account:-

- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (ii) the Cabinet's reasons for those amendments;
- (iii) any disagreement that the Cabinet has with any of the Council's objections; and
- (iv) the Cabinet's reasons for that disagreement,

which the Leader submitted to the Council or informed the Council of within the period specified.

- l) paragraphs (h) to (k) shall not apply in relation to –
  - (i) calculations or substitute calculations which a Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 2012; and
  - (ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

#### **4. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- a) Subject to the provisions of paragraph 6 (virement) the Cabinet, individual Members of the Cabinet and any officers, 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, subject to 5 below.
- b) If the Cabinet, individual Members of the Cabinet or any officers, Area Committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Executive Officer 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 either of those 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 5 (urgent decisions outside the budget or policy framework) shall apply.

#### **5. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- a) The Cabinet, an individual Member of the Cabinet or officers, 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 Chairman of the 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 Chairman of the Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Scrutiny Committee the consent of the Chairman of the Council will be sufficient and in the absence of both the Vice-Chairman will be sufficient.

- b) Following the decision, the decision taker will provide a 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.

6. **VIREMENT**

- a) The Council shall have the following budget heads:

<b>ECONOMY AND PLANNING</b>	<b>ENVIRONMENT</b>	<b>LEISURE AND COMMUNITIES</b>
<ul style="list-style-type: none"> <li>• Community Development (HDC)</li> <li>• Workspace Management</li> <li>• Business Grants</li> <li>• Environmental Grants and Initiatives</li> <li>• Business and Economy</li> <li>• Grants and Subscriptions</li> <li>• Information Management</li> <li>• Development Management</li> <li>• Planning Policy</li> <li>• Registered Social Landlords</li> <li>• Land Charges</li> <li>• Housing Services</li> <li>• Housing Strategy</li> <li>• Housing Standards</li> <li>• Homelessness</li> <li>• Private Sector Housing Renewal</li> <li>• Housing Advice</li> <li>• Building Control Partnership</li> <li>• Reographics</li> <li>• Communications</li> </ul>	<ul style="list-style-type: none"> <li>• Customer Services</li> <li>• Emergency Planning</li> <li>• Operational Services</li> <li>• Street Cleansing</li> <li>• Waste Collection</li> <li>• Recycling</li> <li>• Environmental Health</li> <li>• Food Safety</li> <li>• ICT Services</li> <li>• Pest Control</li> <li>• Environmental Health Licensing</li> <li>• Pollution Reduction</li> <li>• Health and Safety at Work</li> </ul>	<ul style="list-style-type: none"> <li>• CCTV</li> <li>• Community Safety (HDC)</li> <li>• Community Safety (Partnership)</li> <li>• Arts Development</li> <li>• Lifestyles</li> <li>• Hambleton Forum</li> <li>• Sports Development and Community Recreation</li> <li>• Northallerton Leisure Centre</li> <li>• Stokesley Leisure Centre</li> <li>• Bedale Leisure Centre</li> <li>• Thirsk Swimming Pool</li> <li>• Thirsk All Weather Pitch</li> <li>• Galtres Centre</li> <li>• Open Spaces</li> <li>• Leisure Services</li> <li>• Facilities Unit</li> <li>• Design and Maintenance</li> <li>• Administrative Buildings</li> <li>• Defences Against Flooding</li> <li>• Cemeteries and Closed Churchyards</li> <li>• Off Street Parking</li> <li>• Public Health</li> <li>• Footway Lighting</li> <li>• Market Undertakings</li> <li>• Depots</li> <li>• Visitor Centres</li> <li>• World of James Herriot</li> </ul>
<b>FINANCE</b>	<b>LAW AND GOVERNANCE</b>	
<ul style="list-style-type: none"> <li>• Payroll</li> <li>• Business Support</li> <li>• Interest and Investment Income</li> <li>• Corporate Management</li> <li>• Non Distributed Costs</li> <li>• Corporate Management and Support</li> <li>• Resources</li> <li>• Housing Benefits</li> <li>• Local Tax Collection</li> <li>• Revenues and Benefits Services</li> <li>• Commercialisation and Programme Management</li> </ul>	<ul style="list-style-type: none"> <li>• Legal Services</li> <li>• Democratic Services</li> <li>• Committee Services</li> <li>• Elections</li> <li>• Personnel</li> <li>• Licensing</li> <li>• Information Governance</li> <li>• Procurement</li> <li>• HR</li> </ul>	

- b) Steps taken by the Cabinet, an individual member of the Cabinet or officers, or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads where each individual virement does not exceed that specified in the Financial Procedure Rules. Beyond that limit, approval to any virement across budget heads shall require the approval of the full Council.



## 7. IN-YEAR CHANGES TO POLICY FRAMEWORK

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, an individual Member of the Cabinet or officers, 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) necessary to ensure compliance with the law, ministerial direction or Government guidance;
- b) in relation to the policy framework in respect of a policy which would normally be agreed by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## 8. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- a) Where the Scrutiny Committee is of the opinion that a Cabinet 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 and/or S151 Officer.
- b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or S151 Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the S151 Officer conclude that the decision was a departure, and to the Scrutiny Committee if the Monitoring Officer or the S151 Officer 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 Monitoring Officer and/or the S151 Officer 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 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 21 days of the request by the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the S151 Officer. The Council may either:
  - i) endorse a decision or proposal of the Cabinet 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 financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet 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 framework to accommodate it, require the executive to reconsider the matter in accordance with the advice of either the Monitoring Officer and/or the S151 Officer.

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# Cabinet Procedure Rules

## 1. HOW DOES THE CABINET OPERATE?

### 1.1 Who may make Executive decisions?

The arrangements for the discharge of executive functions are set out in the Executive arrangements adopted by the Council. The arrangements or the Leader may provide for Cabinet functions to be discharged by:

- i) the Cabinet as a whole;
- ii) a Committee of the Cabinet;
- iii) an individual Member of the Cabinet;
- iv) an officer;
- v) an Area Committee;
- vi) joint arrangements; or
- vii) another Local Authority.

### 1.2 Delegation by the Leader

At the annual meeting of the Council, the Leader 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 Leader will contain the following information about Cabinet functions in relation to the coming year.

- i) the names, addresses and wards of the people appointed to the Cabinet by the leader;
- ii) the extent of any authority delegated to Portfolio Holders individually, including details of the limitation on their authority;
- iii) the nature and extent of any delegation of Cabinet functions to Area Committees, any other authority or any joint arrangements and the names of those Portfolio Holders appointed to any joint committee for the coming year; and
- iv) the nature of an extension of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### 1.3 Sub-delegation of Executive functions

- a) Where the Cabinet or an individual member of the Cabinet is responsible for an executive function, they may delegate further to an Area Committee, joint arrangements or an officer.
- b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to an officer.
- c) Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### 1.4 The Council's Scheme of Delegation and Cabinet functions

- a) Subject to b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

- b) If the Leader is able to decide whether to delegate executive functions, he/she may amend the Scheme of Delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Chief Executive and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- c) Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chairman.

#### 1.5 **Conflicts of Interest**

- a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- b) If every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- c) If the exercise of a Cabinet function has been delegated to an individual Member or an officer, and should a conflict of interest arise, then the function 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 5 of this Constitution.

#### 1.6 **Cabinet meetings – when and where?**

The Cabinet will meet up to 10 times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

#### 1.7 **Public or private meetings of the Cabinet?**

Generally meetings of the Cabinet will be public except in the circumstances described in The Access to Information Rules in Part 4 of this Constitution.

#### 1.8 **Quorum**

The quorum for a meeting of the Cabinet shall be a minimum of three of the total number of Members of the Cabinet (including the Leader).

#### 1.9 **How are decisions to be taken by the Cabinet?**

Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

### 2 **HOW ARE CABINET MEETINGS CONDUCTED?**

#### 2.1 **Who presides?**

If the Leader is present he/she will preside. In his/her absence the Deputy Leader will preside and in his/her absence then a person appointed by the Leader to do so shall preside.

#### 2.2 **Who may attend?**

Subject to the Access to Information Rules in Part 4 of this Constitution, other Members or the public may attend Cabinet meetings. With the consent of the Leader, a non-Portfolio Holder may address the Cabinet on an item on its agenda.

## 2.3 **What business?**

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

- i) consideration of the minutes of the last meeting;
- ii) matters referred to the Cabinet (whether by the Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- iii) consideration of reports from the Scrutiny Committee; and
- iv) 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 4 of this Constitution.

## 2.4 **Consultation**

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the Scrutiny Committee, 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.

## 2.5 **Who can put items on the Cabinet agenda?**

The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a Committee of it or any Member or officer in respect of that matter. The Chief Executive will comply with the Leader's requests in this respect.

Any Member of the Cabinet may require the Chief Executive to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the Chief Executive will comply.

The Chief Executive, Deputy Chief Executive or any Director may place an item on the agenda that they feel the Cabinet needs to have a view or take a decision on.

The Monitoring Officer and/or the S151 Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties.

If there is no meeting of the Cabinet 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 **HOW ARE DECISIONS MADE BY INDIVIDUAL PORTFOLIO HOLDERS?**

### 3.1 **The time and place?**

A time and place will be designated and publicised for the place at which decisions will be made. The place will be at the main offices of the Council.

### 3.2 **Who may attend?**

Generally the public and other Members will be able to attend when decisions are made except in the circumstances described in Section 10 of the Access to Information Procedure Rules.

**3.3 What business?**

An agenda will be prepared and publicised for the meeting setting out the decision that the Member will be considering. A written report from officers will be considered by the Member and discussed with officers.

**3.4 Who can put items on the agenda?**

Either the Leader, the Portfolio Holder or Chief Officers may put items on the agenda.

**3.5 Who presides?**

The Portfolio Holder will preside.

# Scrutiny Procedure Rules

## 1. WHAT WILL BE THE NUMBER AND ARRANGEMENTS FOR SCRUTINY COMMITTEES?

- a) The Council will have the Scrutiny Committee set out in Article 6 and will appoint to it as it considers appropriate from time to time. Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.
- b) The Scrutiny Committee will perform all scrutiny functions on behalf of the Council. Subject to Section 3 below, it will consist of 11 Members of the Council based on political proportionality.
- c) The Terms of Reference of the Scrutiny Committee will be to:
  - i) perform all scrutiny functions on behalf of the Council;
  - ii) identify areas which require emergency scrutiny based on the decisions of the Cabinet, Officers or otherwise.
  - iii) propose and undertake an annual programme of work of up to two policy reviews or inquiries – either of the Council’s work or of other bodies/agencies who impact on the local community.
  - iv) review policy outcomes.
  - v) consider and undertake policy reviews referred by the Cabinet.
  - vi) initiate and consider reviews established by a corporate timetable and make recommendations to the Cabinet.
  - vii) respond to consultation requests as referred by the Cabinet.
  - viii) refer reports to the Cabinet or Council as appropriate.

## 2. WHO MAY SIT ON SCRUTINY COMMITTEES?

All Councillors except Members of the Cabinet may be Members of the Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

## 3. CO-OPTEEES

- a) The Scrutiny Committee shall be entitled to appoint up to four non-Council members as non-voting co-optees to assist with reviews. The period of co-option shall last until the review has ended.
- b) At the request of another body the Scrutiny Committee may nominate a Member or Members to act in whatever capacity it so wishes to undertake scrutiny functions for that other body.

## 4. MEETINGS OF THE SCRUTINY COMMITTEE

There shall be at least four ordinary meetings of the Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Committee meeting may be called by the Chairman of the Scrutiny Committee, by any four Members of the Committee or by the Chief Executive if he/she considers it necessary or appropriate.

## 5. QUORUM

The quorum for the Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

**6. WHO CHAIRS SCRUTINY COMMITTEE MEETINGS?**

The Chairman of the Scrutiny Committee will be drawn from among the Councillors sitting on the Committee and subject to this requirement the Committee may appoint such a person as it considers appropriate as Chairmen.

**7. WORK PROGRAMME**

The Scrutiny Committee will be responsible for its own annual work programme and in doing so it shall take into account wishes of Members on that Committee who are not Members of the largest political group on the Council.

**8. AGENDA ITEMS**

Any member of the Scrutiny Committee shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.

Any 5 Members of the Council who are not members of the Scrutiny Committee may give written notice to the Chief Executive that they wish an item to be included on the agenda of the Scrutiny Committee. If the Chief Executive receives such a notification, then he/she will include the item on the first available agenda of the Scrutiny Committee for consideration by the Committee.

The Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Cabinet to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or the Council. The Council and/or the Cabinet shall normally consider the report of the Scrutiny Committee within one month of receiving it.

**9. POLICY REVIEW AND DEVELOPMENT**

- a) The role of the Scrutiny Committee 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 policy and budget framework, the Scrutiny Committee may make proposals to the Cabinet for developments insofar as they relate to matters within its terms of reference.
- c) The Scrutiny Committee 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.

**10. REPORTS FROM SCRUTINY COMMITTEE**

- a) Once it has formed recommendations on proposals for development, the Scrutiny Committee will prepare a formal report and submit it to the Chief Executive for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (eg if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- b) If the Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet.



- c) The Council or Cabinet shall consider the report of the Scrutiny Committee within two months of it being submitted to the Chief Executive.

**11. MAKING SURE THAT SCRUTINY REPORTS ARE CONSIDERED BY THE CABINET**

- a) The agenda for Cabinet meetings shall include an item entitled "Issues arising from scrutiny." The reports of the Scrutiny Committee referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) within two months of the Scrutiny Committee completing its report/recommendations.
- b) Only one report every six months may be submitted by the Scrutiny Committee to the Cabinet.
- c) The Scrutiny Committee will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

**12. RIGHTS OF SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

- a) In addition to their rights as Councillors, Members of the Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny Committee as appropriate depending on the particular matter under consideration.

**13. MEMBERS AND OFFICERS GIVING ACCOUNT**

- a) The Scrutiny 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 any Member of the Cabinet, the Chief Executive and/or any senior officer 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 officer is required to attend the Scrutiny Committee under this provision, the Chairman of that Committee will inform the Chief Executive. The Chief Executive shall inform the Member or officer in writing giving at least 10 working days notice of the meeting which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance to take place within a maximum of 30 days from the date of the original request.

#### 14. **ATTENDANCE BY OTHERS**

The Scrutiny Committee may invite people other than those people referred to in paragraph 13 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 officers in other parts of the public sector and shall invite people to attend. Such attendance is at the discretion of the people asked.

#### 15. **CALL IN**

- a) When a decision is made by the Cabinet or an individual Portfolio Holder or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within four working days of being made. The Chairman of the Scrutiny Committee and Committee Members 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 5 working days after the publication of the decision, unless the Scrutiny Committee objects to it and calls it in.
- c) During that period, the Chief Executive shall call in a decision for scrutiny by the Committee if so requested by any three Members from two or more political groups of the Council and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the Committee on such a date as he/she may determine, where possible after consultation with the Chairman of the Committee, normally within 15 working days of the decision to call-in.
- d) Requests in c) shall be in writing, by fax or e-mail stating the reasons for call in and be jointly signed or named. If, having considered the decision, the Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, what it expects the decision-making person or body to reconsider and any alternative recommended action.
- e) If following an objection to the decision, the 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 scrutiny meeting, or the expiry of that further 15 working day period whichever is the earlier.
- f) If the matter was referred to full Council 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 has no locus 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 shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole a meeting will be convened to reconsider within 20 working days of the Council request.
- g) If the Council does not meet, or if it does but 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.

#### **Exceptions**

- h) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use.
  - i) only decisions involving costs over a value of £5,000 may be called in;

- ii) 3 Members of the Scrutiny Committee from at least two political groups are needed for a decision to be called in;

### **Call in and Urgency**

- i) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet, an individual Portfolio Holder or officer is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. 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. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- j) 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.

## **16. PROCEDURE AT SCRUTINY COMMITTEE MEETINGS**

- a) The Scrutiny Committee shall consider the following business:
  - i) minutes of the last meeting;
  - ii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
  - iii) responses of the Cabinet to reports of the Scrutiny Committee; and
  - iv) the business otherwise set out on the agenda for the meeting.
- b) Where the Scrutiny Committee conducts investigations (eg with a view to policy development), the Committee may also ask people to attend to give evidence at 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 committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - ii) that those assisting the 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 committee shall prepare a report, for submission to the Cabinet and/or the Council as appropriate and shall make its report and findings public.

## **17. JOINT REVIEWS WITH OTHER ORGANISATIONS**

- a) The Scrutiny Committee may agree to undertake a joint review with another organisation.
- b) In order to carry out a joint review the Scrutiny Committee may co-opt Members onto it using the powers in Section 3 above.

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## Financial Procedure Rules

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## **1. GENERAL**

- 1.1 The purpose of these Financial Procedure Rules is to set out a framework to control the way in which the Council manages its finances and safeguards its assets
- 1.2 Where the Council has delegated powers to Senior Officers these shall be exercised in accordance with the Financial Procedure Rules. A consultant appointed to cover the role of any Senior Officer shall be bound, as appropriate, by these rules.
- 1.3 The Financial Procedure Rules insofar as they relate to the conduct of business in Council, Cabinet or Committees shall be deemed to be part of the Council Procedure Rules.
- 1.4 These rules apply in all situations in which persons, either Members or employees, act on behalf of the Council or in connection with it.
- 1.5 All Members and employees have a general requirement for taking responsible actions to provide for the security of the Council's assets and for ensuring that the use of Council resources are legal, properly authorised and provide value for money.
- 1.6 In the case of any item, which is of sufficient financial significance, the Council's S.151 Officer may require a report to be produced, even though it might not be required according to these rules.
- 1.7 Under the provisions of Section 114 of the Local Government Finance Act 1988, the Council's S.151 Officer shall have the duty, in consultation with the Head of the Paid Service and the Monitoring Officer, to issue a report if it appears to him that the Council or any of its officers: -
  - a) has made or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful,
  - b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council, or
  - c) is about to enter an item of account the entry of which is unlawful

If such a report is issued, it must be considered by Council within 21 days and in the meantime the course of conduct which led to the report being made shall not be pursued.
- 1.8 The Chief Executive shall, in conjunction with the S151 Officer, designate the appropriate "Senior Officer(s)" for the purposes of these Financial Procedure Rules.

## **2. FINANCIAL MANAGEMENT AND ADMINISTRATION**

- 2.1 The Council is responsible for determining the budget and policy framework within which the Cabinet operates. The Cabinet is responsible for implementing, within policy, the functions of the Council not implemented through delegations to officers or delegations to other arrangements discharging Council functions.
- 2.2 The S151 Officer is legally responsible for the proper administration of the Council's financial affairs for the purpose of Section 151 of the Local Government Act 1972. The S151 Officer, in consultation with the Council's Monitoring Officer where appropriate, shall take whatever action is appropriate in discharging the responsibilities under Section 151 of the Local Government Act 1972.
- 2.3 Protocols setting out the role and responsibilities of the S151 Officer are contained within 'Part 3 – Responsibility for Functions' of the Constitution.
- 2.4 In carrying out the responsibilities for the proper administration of the Council's financial affairs, the S151 Officer is responsible for advising on effective systems of internal control which ensure compliance with all applicable statutes and regulations and that public funds are properly safeguarded and used economically, efficiently and effectively.

- 2.5 It is the responsibility of all Senior Officers to establish and maintain sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement and to achieve their financial performance targets.
- 2.6 It is the duty of all Members and employees to ensure that their actions are in accordance with these Financial Procedure Rules. Senior Officers must take the necessary steps to ensure that all Members and employees are aware of their obligations in this respect and are provided with suitable financial training.
- 2.7 Failure to comply with the Financial Procedures may lead to action being taken in accordance with the Council's disciplinary procedures. Any employee who requires further advice or is unable to comply with these Financial Procedures should inform and consult their line manager and/or the S151 Officer.
- 2.8 The S151 Officer shall review these Financial Procedure Rules on an annual basis and report to the Audit, Governance and Standards Committee and/or Council, if appropriate.
- 2.9 Any question, which arises from the interpretation of these Financial Procedure Rules, shall be determined and settled by the S151 Officer.
- 2.10 These Financial Procedure Rules shall only be suspended on the resolution of Council, or as varied by any part of the Scheme of Delegation (Part 3 – Responsibility for Functions) approved by Council.

### **3. ACCOUNTS AND ACCOUNTING SYSTEMS**

- 3.1 The Accounts and Audit Regulations 2015 require that the Council be responsible for ensuring that the financial management of the Council is adequate and effective. The accounts of the Council shall be kept by the S151 Officer and all systems of accounting and financial records throughout the Council shall be subject to his/her approval. He/she shall, from time to time, make such recommendations to the Audit, Governance and Standards Committee and the Council regarding the accounting systems and financial operations of any Council area as he/she may deem necessary.
- 3.2 The S151 Officer is responsible for the maintenance, development and control of all the Council's corporate financial information systems. Senior Officers are required to record all accounting operations on the corporate financial information systems in line with the procedures and processes agreed with the S151 Officer.
- 3.3 Senior Officers shall at an early stage consult the S151 Officer on the design of systems, forms and records, which could have an impact on the corporate financial information systems, records or needs.
- 3.4 Each Senior Officer shall be responsible for ensuring that such records and systems are properly maintained and shall carry out independent checking of financial transactions relevant to their service to ensure compliance with these Financial Procedure Rules.
- 3.5 At any time, every Senior Officer shall supply to the S151 Officer such information and explanations as appropriate.
- 3.6 The S151 Officer is responsible for the preparation of the Council's Statement of Accounts in accordance with proper practices and for selecting consistent and suitable accounting policies.
- 3.7 The Audit, Governance and Standards Committee is responsible for approving the annual Statement of Accounts.

#### **4. INTERNAL AUDIT**

- 4.1 The Accounts and Audit Regulations 2015 require that the Council undertakes an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with proper internal audit practices.
- 4.2 The Regulations also require any officer or Member of the Council to:
- a) make available such documents which relate to its accounting and other records necessary for the purpose of the audit;
  - b) supply all information and explanations that are considered necessary; and
  - c) produce cash, stores or any other Council property under their control.
- 4.3 The S151 Officer and the Council's Internal Auditor shall have access and authority, at any reasonable time, to apply any test or check to the accounts and records held.
- 4.4 In the exercise of his/her duties the S151 Officer and the Council's Internal Auditor shall have direct access to all Senior Officers and, where appropriate, the Leader of the Council and the Audit, Governance and Standards Committee.

#### **5. IRREGULARITIES, FRAUD AND CORRUPTION**

- 5.1 Where any Member or Officer has cause to suspect irregularity they shall immediately (before proceeding with any investigation) inform the S151 Officer who shall inform the Chief Executive Officer. The Chief Executive Officer shall provide facilities for investigation, and should it be found that irregularity has occurred or is occurring, it shall be the duty of the S151 Officer to inform the Chief Executive Officer who will inform the Leader of the Council.
- 5.2 A Senior Officer is authorised to call in the police forthwith, if they consider that the nature of the irregularity warrants immediate action.
- 5.3 Any case of fraud or loss or financial irregularity or bribery or corruption that is discovered or suspected to exist which involves the Council's interests will be dealt with in accordance with the Council's Disciplinary Rules and Fraud and Anti-Corruption Policy.
- 5.4 Where criminal proceedings are not instituted for whatever reason, the Chief Executive shall decide whether or not to commence a civil suit and to be automatically authorised to incur any expenditure involved.

#### **6. RISK MANAGEMENT**

- 6.1 The Accounts and Audit Regulations 2015 requires the Council to be responsible for ensuring that it has a sound system of internal control which facilitates the effective exercise of the Council's functions and which includes arrangements for risk management. This requirement shall be fulfilled through the S151 Officer who shall ensure that there is sound system of risk management in place.
- 6.2 Each Senior Officer is responsible for ensuring that an up to date list of risks is maintained and monitored for their service areas. It is the Senior Officers' responsibility to ensure that appropriate action plans to mitigate risks are drawn up, implemented and monitored.
- 6.3 The S151 Officer will review the adequacy and effectiveness of the risk management process and report to the Audit, Governance and Standards Committee at least annually.

#### **7. INSURANCES**

- 7.1 An appropriate Senior Officer shall effect all insurances via external cover or self insurance and shall be responsible for making and, where appropriate, negotiating all claims in consultation with other officers as necessary.



- 7.2 Prior to any major service changes or events taking place, which are likely to impact on insurance cover, Senior Officers shall notify the appropriate Senior Officer: -
- The terms of any indemnity which the Council is required to give
  - Any new risks, properties, vehicles or other assets which might need to be insured
  - Any changed circumstances affecting existing risks or insurance

## **8. STRATEGIC FINANCIAL PLANNING**

- 8.1 The Council will maintain a Long Term Financial Plan (the 10 Year Financial Strategy) which will act as the strategic framework within which the Council will operate its policy objectives in accordance with the Council Plan.
- 8.2 The Council's Management Team will review the 10 Year Financial Strategy annually and submit to Council for approval.
- 8.3 The Council's S151 Officer will maintain a Medium Term Financial Plan (the Budget Outlook) which will cover the current year plus the following three years. The Budget Outlook will record financial decisions taken by Council to ensure that the Council's overall spending plans are in accordance with its Financial Strategy.

## **9. ANNUAL ESTIMATES**

- 9.1 Each year, in conjunction with the S151 Officer, the appropriate Senior Officers shall prepare revenue estimates of their expenditure and income for the following financial year.
- 9.2 These annual estimates shall be in a form, and prepared within a timescale approved by the S151 Officer.
- 9.3 The estimates shall be prepared in accordance with the Council's Financial Strategy and shall take into account any guidance given by the Council, Cabinet or the Management Team.
- 9.4 The S151 Officer shall co-ordinate the preparation of the revenue estimates and discuss them with the appropriate Senior Officers.
- 9.5 The S151 Officer shall submit an annual estimates report to the Cabinet. In addition to the following financial year's estimates the report shall also show: -
- a) the original estimate for the current financial year;
  - b) the original estimate as amended by supplementary estimates and virements for the current financial year (the latest estimate); and
  - c) the actual outturn for the previous financial year.
- 9.6 The Cabinet shall examine the financial aspect of the estimates together with a report thereon by the S151 Officer, and shall submit the estimates to the Council for approval with such recommendations as they deem necessary, which may include the views and recommendations of Scrutiny Committee.
- 9.7 The S151 Officer shall further report on the robustness of these financial estimates and the adequacy of the Council's financial reserves and balances.
- 9.8 Chief Officers and the appropriate Senior Officers shall have authority to incur revenue expenditure up to the level of the approved budget.

## **10. SUPPLEMENTARY ESTIMATES**

- 10.1 Whenever it is proposed to seek the approval of the Council to the adoption of a new policy or extension of an existing policy not already sanctioned by the Council, the Cabinet shall receive details of, and give due consideration to, the financial aspects of the proposal. If the proposal involves expenditure of more than £20,000 the Cabinet shall seek approval of the Council to a supplementary estimate.
- 10.2 Before incurring any expenditure for which there is no approved estimate, or for which the estimate is insufficient (subject to a lower limit of £20,000), it shall be the duty of the appropriate Senior Officer to report on the proposals to the Cabinet. If agreed, the Cabinet shall then seek approval of the Council to a supplementary estimate.
- 10.3 If an appropriate Senior Officer fails to report a matter under sub-section 10.2 above to the Cabinet, the S151 Officer shall report it.
- 10.4 The S151 Officer may establish new expenditure budgets where such expenditure will be subsequently fully recovered from other users of the service (for example, training courses may be provided on behalf of others and then recovered from participants). This procedure is subject to a limit of £20,000.

## **11. VIREMENT**

- 11.1 Notwithstanding Rule 10. (Supplementary Estimates) above, there may be instances where there is a need to transfer an amount of an approved budget to another use (called virement). Such virements shall be subject to the following:-
- a) the items of the budget subject to this transfer are restricted to those of Employees, Premises, Transport, Transfer Payments, and Supplies and Services (excluding recharges) and Income (excluding recharges);
  - b) no item being covered by this financial regulation will create ongoing revenue expenditure in later years;
- 11.2 Approval of virements shall be in accordance with the following financial parameters:-
- a) between £0 and £10,000 –Senior Officers,
  - b) between £10,001 and £20,000 – Senior Officers in consultation with the appropriate Cabinet Spokesperson, and
  - c) above £20,000 – Cabinet following a report by the Senior Officer
- 11.3 In sub-section 11.2 c) above, the report shall include details of the approved budgets which are affected, the amount involved and the reason(s) for the virement;
- 11.4 There is no limit to the number of times virement may be used to increase a budget, but such use cannot increase a budget by more than £20,000 in total in a financial year without the prior approval of Cabinet.
- 11.5 Any proposal for virement falling outside the conditions set out in Rule 11.1a) above, shall require the approval of the Cabinet and the Council.

## **12. MONITORING OF REVENUE ESTIMATES**

- 12.1 The Chief Executive shall appoint relevant Senior Officers (known as budget holders) to be responsible for appropriate budgets.
- 12.2 It shall be the responsibility of budget holders to monitor their budgets on at least a monthly basis. The Finance Section will assist in this process.
- 12.3 The Management Team shall be responsible for monitoring progress against the revenue estimates on at least a quarterly basis.

- 12.4 Quarterly reports on financial performance against the approved budgets shall be taken to the Council's Management Team which may make recommendations to Cabinet.
- 12.5 The S151 Officer will subsequently submit quarterly reports to Cabinet identifying areas of potential or actual over or underspends, and make appropriate recommendations. The report will also assess the implications of the budget monitoring in terms of the Council's short-term medium plan and the financial strategy.
- 12.6 For the purpose of reporting and monitoring, the annual revenue estimates shall be controlled using each line in the Council's budget book.

### **13. CAPITAL EXPENDITURE**

- 13.1 The Cabinet shall maintain a capital programme for ten years. Before the beginning of each financial year Cabinet shall receive a report identifying the detailed Capital Programme for the forthcoming financial year and the following 9 years.
- 13.2 Whenever it is proposed to embark upon any scheme of a capital nature the appropriate Senior Officer concerned shall submit details to the Cabinet and shall incorporate a value for money statement, in conjunction with the S151 Officer, showing estimated cost and the probable initial and ultimate revenue charge, and how these costs are proposed to be funded.
- 13.3 Provision in the annual estimates for expenditure on a new project of this nature shall not be regarded as authority for the work to be put in hand without the procedure required by Rule 13.2.
- 13.4 If during the progress of the scheme it becomes apparent that the estimates originally submitted are likely to be exceeded by £20,000, the appropriate Senior Officer shall report the facts immediately to the Cabinet.
- 13.5 The Council's Capital Programme Working Group will be responsible for monitoring the progress of the Capital Programme, and report to the Management Team on a quarterly basis.
- 13.6 The S151 Officer will subsequently submit quarterly reports to Cabinet identifying areas of potential or actual over or underspends, and make appropriate recommendations.
- 13.7 The duties of an appropriate Senior Officer under this Procedure Rule shall be exercised by any Architect, Engineer or Surveyor, when engaged by the Council as a Consultant, where the circumstances require it.

### **14. RESERVES AND BALANCES**

- 14.1 Each year Cabinet shall receive a report reviewing the Council's Policy on Balances and Reserves. The Policy will, as a minimum, review the title, purpose and level of each reserve
- 14.2 Where it is appropriate, Cabinet shall maintain a ten year programme of expenditure to be met from earmarked reserves. Before the beginning of each financial year Cabinet shall receive a report identifying the detailed Reserve Fund Programme for the forthcoming financial year and the following 9 years.
- 14.3 Whenever it is proposed to embark upon any scheme within the Reserve Fund Programme, the appropriate Senior Officer concerned shall submit details to the Cabinet and shall incorporate a value for money statement, in conjunction with the S151 Officer, showing estimated cost and the probable initial and ultimate revenue charge.
- 14.4 The Council's Capital Programme Working Group will be responsible for monitoring the progress of the Reserve Fund Programme, and report to the Management Team on a quarterly basis.
- 14.5 The S151 Officer will subsequently submit quarterly reports to Cabinet identifying areas of potential or actual over or underspends, and make appropriate recommendations.

## **15. INCOME**

15.1 All arrangements for:-

- a) the financial organisation, accounting and book keeping necessary to ensure the proper recording of all sums due to the Council; and
- b) the collection, custody, control, disposal and prompt and proper accounting for all cash in all areas of the Council.

shall be subject to the approval of the S151 Officer.

15.2 Any change to an existing arrangement referred to in Rule 15.1 above shall not be made without the prior approval of the S151 Officer.

15.3 All monies received on behalf of the Council in any area of the Council shall be recorded and deposited promptly with a Customer Services officer or be banked in the Council's name.

15.4 All official receipts shall be in a form approved by the S151 Officer and shall be ordered, controlled and issued to appropriate Officers by Business Support, and all receipts and issues thereof shall be properly recorded and acknowledged. Each Officer issued with receipts shall be responsible for their safe custody and proper use thereof.

15.5 Where work has been (or will be) done, services rendered or goods supplied without payment, the responsible officer shall promptly notify Business Support with particulars so that an invoice can be raised to the debtor. All debtor invoices shall be raised via the Business Support section so that they can be properly recorded, accounted for in the finance system and appropriate recovery action taken where necessary.

15.6 Sums due to the Council shall not be written off in the books of account except with the consent of the Cabinet or under authority delegated to an appropriate Senior Officer under the Scheme of Delegation

15.7 No new fees and charges or alterations to existing fees and charges shall be made unless approved by a Director in consultation with the appropriate Cabinet Spokesperson.

## **16. GRANT CLAIMS**

16.1 All claims for external grants made on the Council's behalf whether Capital or Revenue shall be approved by the S151 Officer. For each grant claim appropriate supporting documents shall be kept by the relevant service officer.

## **17. ORDERING OF GOODS, SERVICES OR WORKS**

17.1 All orders for goods or works, shall be processed through the Council's e-procurement system (which feeds into the general ledger system), and authorised by appropriate officers. When placing orders officers should have regard to the Council's Procurement Procedure Rules.

17.2 All orders for goods, services or works shall be issued through the Council's e-procurement system and details of the price and discount (if any) shall be inserted whenever known. Orders given orally must be confirmed in writing the same day.

17.3 This Rule recognises that not all goods and services are supplied following the issue of a purchase order – for example, gas, electricity, water and telephone etc, but wherever possible purchase orders should be used.

## **18. PAYMENT OF ACCOUNTS**

- 18.1 All invoices, claims and accounts not resulting from a purchase order shall be completely checked by the appropriate Officers (such check being indicated by the initials of the examining officers) and certified by or under the authority of the appropriate Officer with delegated authority. The S151 Officer shall maintain a list of authorised signatories. Only authorised signatories shall sign or authorise accounts. It shall be clearly indicated upon the account the purpose, service or expenditure to which it relates and certification by the appropriate Senior Officer shall be taken to mean that:-
- a) the goods delivered or services rendered are as authorised and ordered;
  - b) they have been inspected and found satisfactory;
  - c) the price is as quoted or in the absence of a quotation is reasonable;
  - d) the invoice is arithmetically correct;
  - e) the expenditure is within the estimates or is covered by special financial provision;
  - f) all Standing Orders, Financial Regulations and Resolutions of the Council relevant to the account have been complied with;
  - g) the account has not previously been certified for payment; and
  - h) the proper entries have been made where appropriate in the stores records or inventories.
- 18.2 Where invoices, claims and accounts can be “matched” with a purchase order, these will be processed automatically through the process of Goods Receipting, and paid via the Creditors system.
- 18.3 All correct invoices should be passed for payment in a timescale which will allow payment to be made in line with the agreed terms of payment or within the appropriate Council target time (currently 20 days) where no terms are agreed. The S151 Officer shall report annually on all invoices that have attracted interest penalties under the Late Payment of Commercial Debts (Interest) Act 1998.
- 18.4 Apart from Petty Cash Accounts and Procurement Cards, the S151 Officer will make all payments due from the Council by BACS, cheque or other instrument drawn on the Council’s bank accounts.
- 18.5 All accounts for payment to a value of over £500 shall be published monthly on the Council’s website.

## **19. PETTY CASH AND PROCUREMENT CARDS**

- 19.1 All Petty Cash accounts shall be issued by or approved by the S151 Officer, who shall be authorised to operate such accounts as considered necessary.
- 19.2 All Procurement Card arrangements shall be made by or approved by the S151 Officer, who shall be authorised to operate such arrangements as considered necessary.

## **20. BANKING ACCOUNTS**

- 20.1 Under authority delegated to him/her, the S151 Officer shall arrange for such bank accounts to be kept as may be necessary from time to time and he/she shall determine the persons whose signatures are to be used in the operation of such accounts, having regard to the system of internal audit and separation of duties in force. All new bank accounts shall be opened only on the authority of the S151 Officer and, all new cheques shall be ordered only on the authority of the S151 Officer.

## **21. TREASURY MANAGEMENT**

- 21.1 The Council has adopted the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management (revised November 2009) (the Code).
- 21.2 Accordingly, the Council will create and maintain, as the cornerstones for effective Treasury Management:
- An Annual Treasury Management Strategy Statement, MRP Strategy and Annual Investment Strategy stating the policies and objectives of its Treasury Management activities.
  - Suitable Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 21.3 The content of the Strategy Statements and TMPs will follow the recommendations contained in the Code, subject only to amendment where necessary to reflect the particular circumstances of this Council. Such amendments will not result in the Council materially deviating from the Code's key recommendations.
- 21.4 The Cabinet will receive reports on its Treasury Management activities in accordance with the Code of Practice recommendations. This will include as a minimum:
- An annual Treasury Management Strategy Statement - including the Annual Investment Strategy and Minimum Revenue Provision Strategy - for the year ahead;
  - a Mid-year Review Report; and
  - an Annual Report (stewardship report) covering activities during the previous year
- 21.5 The Council's Audit, Governance and Standards Committee will provide a scrutiny rule for the Council's Treasury Management activities.
- 21.6 The Council delegates responsibility for the implementation and monitoring of its Treasury Management Policies and Practices to Cabinet. The execution and administration of Treasury Management decisions is delegated to the S151 Officer, who will act in accordance with the Council's Policy Statements and TMPs and CIPFA's *Standard of Professional Practice and Treasury Management*.
- 21.7 The S151 Officer is responsible for advising the Council on prudential indicators in accordance with the CIPFA Prudential Code for Capital Finance in Local Authorities (2011), which is deemed to part of these Rules.
- 21.8 All borrowings and investments shall be effected in the name of the Council.

## **22. STOCKS AND STORES ACCOUNTS**

- 22.1 Each appropriate Senior Officer shall be responsible for the proper custody of stocks and stores required for his/her area of responsibility and shall see that all stocks and stores received and issued are properly recorded. No items are to be issued or removed without proper authorisation.
- 22.2 For the purposes of this Rule, stocks and stores are regarded as having large numbers of items and/or a wide range of items and/or large value. The value of items issued is to be recharged. Examples of stocks and stores would include such items as fuel, corporate stationery stores, wheeled bins and items purchased for resale.
- 22.3 A delivery note submitted by the supplier is to be obtained in respect of every delivery of goods and all practicable steps must be taken to ensure that such delivery note is handed in at the time of delivery. All goods must be checked as regards quality, quantity and compliance with the specification as soon as practicable after delivery. Any discrepancy must be notified to the supplier immediately.

- 22.4 The accounts to be kept in connection with the receipt and issue of stocks and stores shall be agreed by the S151 Officer and shall be subject to his examination and check at such times as he/she thinks fit.
- 22.5 The S151 Officer, in conjunction with the appropriate Senior Officer concerned, shall make such arrangements for stock taking as he/she may deem necessary and in any event not less than once in any financial year.
- 22.6 Surpluses or deficiencies revealed in items of stocks at any time as may be appropriate shall be immediately reported to the appropriate Senior Officer concerned and the S151 Officer. The S151 Officer shall have authority to write off deficiencies or bring surpluses into charge, but if the amount is above £20,000 it shall be done in consultation with the appropriate Cabinet spokesperson.

### **23. ASSET REGISTER**

- 23.1 Each appropriate Senior Officer is responsible for notifying the S151 Officer of all assets, valued above the threshold of £6,000, under their control, for inclusion in the Council's Asset Register. Assets are to include land, buildings, vehicles, plant and equipment etc. Items such as IT equipment purchased individually should be pooled when considering their value.
- 23.2 The value of assets when procured will be their cost price but thereafter an appropriate depreciation or appreciation charge will be applied each year. The Council employs external valuers to revalue land and buildings on a 5 yearly rolling programme. The results of these revaluations are reported to the S151 Officer for inclusion in the Asset Register and the Council's financial accounts.
- 23.3 Each appropriate Senior Officer should ensure that contingency plans for the security of assets, information and the continuity of the service, in the event of a disaster, emergency or system failure, are in place.

### **24. ASSET UTILISATION AND SECURITY**

- 24.1 Each appropriate Senior Officer shall be responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under his control, and the S151 Officer for the efficient utilisation of those assets.
- 24.2 Maximum limits for cash holdings shall be agreed with the S151 Officer in line with the Council's insurance policies and shall not be exceeded without his express permission.
- 24.3 The S151 Officer shall issue confidential instructions as to the custody of keys, where appropriate. The loss of any such keys must be reported to the appropriate Senior Officer and the Director of Leisure and Communities.
- 24.4 The appropriate Senior Officers shall be responsible for maintaining proper security and privacy as respects information held in a computer or for its use and in particular to ensure compliance with the provisions of the Data Protection Acts.

### **25. LEASING**

- 25.1 All arrangements for the leasing or other financing of goods and/or asset acquisitions shall be made by the S151 Officer.

### **26. VEHICLES**

- 26.1 Each appropriate Senior Officer shall be responsible for the custody, proper use and maintenance of vehicles belonging to the Council and used in his/her area of responsibility. The appropriate Senior Officer will ensure that Council vehicles are not used for personal use/gain.

## **27. ESTATES AND PROPERTY**

- 27.1 The Council's Legal Team shall maintain a terrier of all estates and properties owned by the Council.
- 27.2 The Council's Legal Team shall be responsible for the safe custody of all documents relating to land or interests in land and all contracts (other than insurance and investment contracts) exceeding £25,000 in value.

## **28. PAYMENTS OF SALARIES AND WAGES**

- 28.1 These Rules shall be read in conjunction with such National and Local Schemes of Conditions of Service as are applicable to employees
- 28.2 The payment of all salaries, wages, pension, compensation and other emoluments to all employees or former employees and/or Members of the Council shall be made by the appropriate Senior Officer under arrangements approved by the S151 Officer.
- 28.3 All Chief Officers and Directors shall notify the Senior Officer responsible for Payroll as soon as possible and in the form prescribed by the S151 Officer of all matters affecting the payment of such emoluments, and in particular:-
- a) appointments, resignations, dismissals, suspensions, secondments and transfers;
  - b) absences from duty for sickness or other reason, apart from approved leave;
  - c) changes in remuneration, other than normal increments and pay awards and agreements of general application;
  - d) information necessary to maintain records of service for superannuation, income tax, national insurance and the like.
- 28.4 All time records or other pay documents shall be in a form prescribed or approved by the S151 Officer and shall be certified by or on behalf of an appropriate Senior Officer. The names of officers authorised to sign such records shall be sent to the S151 Officer by each appropriate Senior Officer and shall be amended on the occasion of any change.

## **29. FINANCIAL ARRANGEMENTS FOR PARTNERSHIPS**

- 29.1 The Council is responsible for approving delegations, including frameworks for partnerships.
- 29.2 Before entering into any partnership, joint venture or third party relationship, Senior Officers must obtain the S151 Officer's approval to the financial arrangements for:-
- Funding
  - Accounting and Financial Administration
- 29.3 Senior Officers must ensure that any agreement gives the S151 Officer access to accounts, records and all other documentation and the entitlement to seek explanations from officers of the funded organisation, regarding the deployment of the Council's resources.

## **30.0 EXTERNAL FUNDING**

- 30.1 Senior Officers will strategically explore all opportunities for external funding, taking account of the Council's policy framework and any additional risks implied.
- 30.2 Prior to entering into agreements, Senior Officers must inform the S151 Officer of any matched funding requirements and any accountable body responsibilities. This is to ensure that if funding is available, then all future revenue and capital implications are determined and that appropriate financial arrangements are in place.



- 30.3 The S151 Officer will ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- 30.4 Senior Officers are responsible for ensuring claims for funds are made by the due date in accordance with instructions issued by the S151 Officer.
- 30.5 Senior Officers must also inform the S151 Officer of any subsequent changes to agreements so that the revenue and capital budget implications may be addressed.

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# Procurement Procedure Rules

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### **APPLICATION AND COMPLIANCE:**

1. (1) These Rules apply to Council procurements in relation to a proposed public supply contract, public works contract or public services contract, other than a contract excluded from the application of these Rules by Rules 2 or 3.
- (2) Every procurement undertaken by the Council shall comply with the Public Contracts Regulations 2015 ("the Regulations") and any other relevant legislation and any reference to a Regulation is a reference to that Regulation in the Regulations.

### **GENERAL EXCLUSIONS AND AMENDMENT:**

2. (1) These Rules (with the exception of Rule 1(2)) do not apply to any procurement for the purchase or sale of land or any interest in land, for the lending or borrowing of money or for the employment of any officer of the Council.
- (2) These Rules may be varied for a specific procurement by Cabinet or in emergency by the Chief Executive or a Director in consultation with the Leader of the Council.

### **THRESHOLDS:**

3. (1) These Rules (with the exception of Rule 1(2) and 18) do not apply to any procurement where the estimated value of the contract (net of value added tax) at the relevant time is less than the relevant threshold.
- (2) For the purposes of paragraph (1) the relevant threshold is £125,000 in the case of a works contract, £80,000 in the case of a supply contract and £80,000 in the case of a services contract.
- (3) For the purposes of paragraph (1) the estimated value of a contract shall be the value of the total consideration payable, net of value added tax (calculated in accordance with this regulation), which the Council expects to be payable under the contract.
- (4) For the purposes of paragraph (1) the estimated value of a supply contract for the hire of goods is:-
  - (a) the value of the consideration which the Council expects to be payable under the contract if the term of the contract is fixed; or
  - (b) the value of the monthly consideration payable under the contract multiplied by 48 if the term of the contract is indefinite or uncertain at the time the contract is entered into.
- (5) For the purposes of paragraph (1) the estimated value of a services contract which does not indicate the total price is:-
  - (a) the aggregate of the value of the consideration which the Council expects to be payable under the contract if the term of the contract is fixed for 48 months or less; or
  - (b) the value of the consideration which the Council expects to be payable in respect of each month of the period multiplied by 48 if the term of the contract is fixed for more than 48 months, or over an indefinite period.
- (6) Where the Council has a single requirement for goods or services or for the carrying out of a work or works and a number of contracts have been entered into or are to be entered into to fulfil that requirement, the estimated value for the purposes of paragraph (1) of each of those contracts is the aggregate of the value of the consideration which the contracting authority expects to be payable under each of those contracts.
- (7) Where the Council intends to provide any goods to the contractor awarded a works contract for the purpose of carrying out that contract, the value of the consideration of the works contract for the purposes of paragraphs (3) and (6) shall be taken to include the estimated value at the relevant time of those goods.

- (8) The relevant threshold for the purposes of paragraph (1) for a framework agreement or other system for electronic and/or aggregated procurement is the threshold for: -
- (a) a works contract, where the agreement or system relates to the carrying out of work or works;
  - (b) a services contract, where the agreement or system relates to the provision of services; or
  - (c) a supply contract, where the agreement or system relates to the purchase or hire of goods.
- (9) The estimated value of a framework agreement or system for electronic and/or aggregated procurement is the aggregate of the values estimated in accordance with this Rule of all the contracts which could be entered into under the framework agreement or other system.
- (10) The relevant time for the purposes of paragraph (1) means the date on which a decision is made to enter into a contract.

#### **SELECTION OF CONTRACT AWARD PROCEDURES:**

4. For the purpose of awarding contracts the Council shall use one of the methods envisaged by Part 2 of the Regulations and, subject to Rules 5 to 17, comply with the requirements of the Regulations that apply to the method chosen as if the Regulations applied to that procurement PROVIDED that any requirements in the Regulations that relate to notices, time periods, publication of notices or information or electronic availability or transmission of documents shall not apply.

#### **JOINT PROCUREMENT:**

5. (1) The Council may take the lead in a Joint Procurement with one or more public bodies in which case these Rules shall apply to the Procurement.
- (2) The Council may allow another public body to take the lead in a Joint Procurement in which case that other public body's procurement rules shall apply PROVIDED that the procurement complies with the Regulations.

#### **INVITATION TO TENDER:**

6. (1) All invitations to tender shall clearly state: -
- (a) That all physical tenders shall: -
    - Be in a sealed envelope (bearing the distinctive label supplied with the tender forms);
    - Devoid of any mark or wording which might identify the sender;
    - Addressed to the Chief Executive;
    - Sent by post, courier or delivered by hand to his office.
  - (b) Whether tenders may be submitted electronically.
  - (c) That failure to comply with any of the foregoing requirements will render a tender liable to disqualification.
  - (d) The closing date and time for the receipt of tenders (Allowing a reasonable period for the applicants to prepare their tenders)
  - (e) Tenders received after that date and time will not be considered.
- (2) The invitation shall also state: -
- (a) A description of the works, supplies or services being procured;

- (b) The specification and instructions on whether any variants are permissible;
- (c) The evaluation criteria including any weightings as considered appropriate;
- (d) Pricing mechanism and instructions for completion;
- (e) The terms and conditions of contract;
- (f) Whether the Council is of the view that TUPE may apply;
- (g) The form and content of method statements to be provided;
- (h) Any further information which will inform or assist tenderers in preparing tenders.

**RECEIPT, STORAGE AND OPENING OF TENDERS:**

7. (1) All tenders shall be dated and timed (and physical tenders initialled) upon receipt and paragraphs (2) to (6) shall apply.
- (2) Electronic tenders shall be kept in a separate folder under the control of the ICT department and shall not be opened until the deadline has passed for the receipt of tenders.
- (3) All tenders for any contract shall remain in the custody of the Committee and Member Support section until the time appointed for their opening. They shall:
  - (a) be opened at one time, as soon as possible after the closing time fixed for the receipt of such tenders and
  - (b) in the presence of a panel of two officers representing separate sections.
- (4) Any written tender inadvertently opened before the closing time fixed for the receipt of such tenders shall be immediately passed to the Chief Executive with a written explanation of the circumstances. The Chief Executive shall then decide whether the tender will be considered.
- (5) When tenders are to be opened, the panel will open and certify the tenders received.
- (6) In no case will a panel include an officer employed within the section directly concerned with any tender that is to be opened.

**TENDER EVALUATION:**

8. (1) The aim of the tender evaluation process is to secure best value for money (the most economically advantageous tender) through application of the contract award criteria as specified in Regulation 67 of the Public Contract Regulations 2015.

Contracts should not be awarded on the basis of lowest price alone. There must always be an assessment of quality and the costs that will be incurred throughout the life of the asset or contract period.

- (2) Examples of other costs to be considered are:

- Delivery and installation,
- Operative resources,
- In-house management resources,
- Consumables,
- Spare parts,
- Licences,
- Taxes,
- Maintenance,
- Energy consumption,
- Depreciation,
- Disposal.

- (3) Tenders subject to the Public Contract Regulations 2015 shall be evaluated in accordance with the relevant regulations and the evaluation criteria set out in the Notice of Invitation to Tender. All other tenders are to be evaluated in accordance with the criteria set out in the Invitation to Tender.
- (4) The details of the evaluation criteria shall be determined prior to the publication of, and included in, the invitation to tender. The criteria shall be strictly observed at all times throughout the contract award process.
- (5) All evaluations should be conducted by a panel of at least two officers and all tenders received shall be subject to the tender evaluation process. The panel will be responsible for recording the details of evaluation process and they shall keep adequate records of the decisions being taken.
- (6) The Corporate Finance section is to be involved in the evaluation and any follow-up clarification of all tenders originally estimated to cost over £250,000. This figure is the estimated cost over the whole life of the contract.
- (7) All post tender clarifications are to be undertaken by someone other than the officer leading the tender evaluation.

#### **POST TENDER NEGOTIATIONS:**

9. (1) Post tender negotiations may only take place where the procurement is not subject to the Public Contract Regulations and if:-
  - (a) all/any tender(s) received are in excess of the budget provision; or
  - (b) the appropriate Director, after consultation with the Chief Executive Officer, considers that the analysis of the tenders indicates that additional financial or other benefits may be obtained for the Council through post-tender negotiation.
  - (c) If post tender negotiations are proposed, then the opportunity for such post tender negotiation shall be extended to all tenderers. All tenderers shall be invited to submit their best and final offers at the conclusion of the negotiations. (The best and final offers are to be evaluated by revisiting the objective scoring process and revising the scores as appropriate).
  - (d) Where post-tender negotiations are appropriate then a panel containing at least 2 suitable officers shall be present and a written record shall be kept of all negotiations, including notes of all meetings, phone calls, attendees etc together with any letters, information provided/received, emails etc.

#### **ACCEPTANCE OF TENDERS:**

10. (1) A Director may accept the most economically advantageous tender if payment is to be made by the Council or the highest tender if payment is to be received and the sums are within budget. If any other tender is to be accepted it shall only be:-
  - (a) after consultation with the Leader; and
  - (b) if the sum is still within the agreed budget.

If the Leader so wishes, the tenders shall be submitted to the Cabinet for determination.

- (2) Where the price of the most economically advantageous tender exceeds the budget provision by no more than 5% or £20,000, whichever is the lower, the Director shall be empowered to accept the tender if payment is to be made by the Council, subject to the concurrence of the Leader. If the Leader so wishes Cabinet will consider a report from the appropriate Director before the tender is accepted. The minutes of the meeting shall indicate which tender is to be accepted and the reason(s) therefore.
- (3) In all other circumstances acceptance of tenders shall be considered by Cabinet.

#### **ALTERATIONS:**

11. (1) Where examination of tenders reveals errors or discrepancies which would affect the tender figure(s) in an otherwise successful tender, the tenderer is to be given details of such errors and discrepancies and afforded an opportunity of confirming or withdrawing his offer. If the tenderer withdraws the next tender in competitive order is to be examined and dealt with in the same way. An exception to this procedure may be authorised only by Cabinet after consideration of a report by the Director concerned.

#### **OFFICERS AUTHORISED TO SIGN CONTRACTS:**

12. (1) Contracts shall only be signed by officers with the appropriate delegated authority. For the purpose of these Rules a contract can range from an official order with a value of a few £ to a more formal contract worth several £million.
- (2) Officers are empowered to sign contracts to various limits. The following £limits will apply unless covered by specific authorisation or delegation: -
  - (a) Directors to budget limit;
  - (b) Heads of Service to £20,000 or budget limit, whichever is the lower;
  - (c) All other staff to the value specified on their delegated authority forms.

#### **CONTRACTS PAYMENTS – ON ACCOUNT AND FINAL:**

13. (1) The Chief Executive Officer shall be informed as soon as possible of all contracts, agreements, awards or other instruments involving the payment or receipt of money on behalf of the Council.
- (2) Payment to contractors on account of contracts shall be authorised only on a certificate signed by the Director or other duly authorised officer of the appropriate department showing the total amount of the contract, the value of work executed to date, retention of money, amount paid to date, VAT and tax and the amount now certified.
- (3) Every variation on a contract for building or construction works shall be authorised in writing by the appropriate Director or other responsible officer nominated by him in writing for that purpose. A copy of the variation shall be forwarded to the Chief Executive Officer promptly.
- (4) When variations result in an overall increase in the amount of an accepted tender or estimate by 5% or £20,000 whichever is the lower, this shall be reported to Cabinet by the Director as soon as possible with an estimate of the probable new total cost.
- (5) The final certificate on a contract or accepted estimate shall not be issued by the appropriate Director until he has produced a detailed statement of account together with such vouchers and documents as the Chief Executive Officer may require relating to prime cost items and particulars of additions and omissions, and the Chief Executive Officer shall have approved the amount to be certified.
- (6) The duties of a Director under this Regulation shall be exercised by any Architect, Engineer or Surveyor, when employed by the Council as a Consultant, where the circumstances require it.



#### **POST PROJECT EVALUATION AND REPORTING:**

14. (1) All Capital schemes with a value of over £250,000 shall be subject to a review using the project evaluation template. The report shall be considered by the Capital Programme Working Group and reported on to Members, either through the Members' Bulletin or a Cabinet report subject to the nature and conclusions of the review.

#### **NOMINATED AND NAMED SUB-CONTRACT/SUB-CONTRACTORS:**

15. (1) In these Procedure Rules any reference to a contract shall, where appropriate, also be taken to include a sub-contract.
  - (2) The appropriate Director or person nominated by him shall, regardless of the value of the sub-contract, be authorised to nominate to the main contractor the person whose tender or quotation is, in his opinion, the most satisfactory, provided that where it is other than the most economically advantageous, the tender or quotation shall be referred to the Cabinet for consideration prior to any nomination being made.
  - (3) The terms of the invitation shall require an undertaking by the tenderer that if he is selected he will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against his own obligations under the main contract in relation to the work or goods included in the sub-contract.

#### **EXTERNAL SUPERVISING OFFICERS:**

16. (1) It shall be a condition of the employment by the Council of any person (not being an officer of the Council) to supervise a contract that in relation to such contract he shall comply with these Procedure Rules as if he were a Director of the Council.

#### **SPECIFICATION OF GOODS, MATERIALS AND WORKMANSHIP:**

17. (1) Where an appropriate British or European Standard Specification, British or European Standard Code of Practice or Government Departmental specification is current at the date of tender, every contract shall require that, as the case may be, all goods and materials used or supplied and all workmanship shall be at least in accordance with that standard or specification.

#### **PROCUREMENT MANUAL:**

18. (1) All those involved in conducting procurements on behalf of the Council shall have regard to the guidance in any Procurement Manual or other Guidance current at the time of the procurement and approved by the Chief Executive.

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## Officer Employment Procedure Rules

1. In these Rules  
“the 1989 Act “ means the Local Government and Housing Act 1989;  
“the 2000 Act” means the Local Government Act 2000;  
“disciplinary action” has the same meaning as in the Local Authorities(Standing Orders) (England) Regulations 2001;  
“executive” and “executive leader” have the same meaning as in Part II of the 2000 Act;  
“member of staff” means a person appointed to or holding a paid office or employment under the Council; and  
“proper officer” means an officer appointed by the Council for the purposes of the provisions in this Part.
2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the Council’s paid service or by an officer nominated by him.
3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against –
  - (a) the officer designated as the head of the Council’s paid service;
  - (b) a statutory Director within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - (c) a non-statutory Director within the mean of section 2(7) of the 1989 Act;
  - (d) a deputy Director within the meaning of section 2(8) of the 1989 Act; or
  - (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

The full Council will appoint the Head of Paid Service. A Committee of the Council will appoint Directors. All other appointments will be made by the Head of Paid Service or his/her nominee.

4. (1) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the appointment of an officer designated as the head of the Council’s paid service, the Council must approve that appointment before an offer of appointment is made to that person.  
  
(1A) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the dismissal of an officer designated as the head of the Council’s paid service, as the Council’s chief finance officer, or as the Council’s monitoring officer, the Council must approve that dismissal before notice of dismissal is given to that person.  
  
(2) Where a committee or a sub-committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a),(b), (c) or (d) of paragraph 3, at least one member of the Cabinet must be a member of that committee or sub-committee.
5. (1) In this paragraph, “appointor” means, in relation to the appointment of a person as an officer of the Council, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee or officer, as the case may be.  
  
(2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointor until

- (a) the appointor has notified the Proper Officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - (b) the Proper Officer has notified every member of the Cabinet of the Council of-
    - (i) the name of the person to whom the appointor wishes to make the offer;
    - (ii) any other particulars relevant to the appointment which the appointor has notified to the Proper Officer; and
    - (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the Cabinet to the Proper Officer; and
  - (c) either –
    - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he nor any other member of the Cabinet has any objection to the making of the offer;
    - (ii) the Proper Officer has notified the appointor that no objection was received by him within that period from the Leader; or
    - (iii) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
6. (1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the Council, the Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a),(b),(c) or (d) of paragraph 3 must not be given by the dismissor until –
- (a) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - (b) the Proper Officer has notified every member of the Cabinet of the Council of –
    - (i) the name of the person who the dismissor wishes to dismiss;
    - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
    - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the executive to the Proper Officer; and
  - (c) either –
    - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he nor any other member of the Cabinet has any objection to the dismissal;
    - (ii) the Proper Officer has notified the dismissor that no objection was received by him within that period from the executive leader; or
    - (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by –
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the Council; or

- (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
8. In paragraphs 9 to 16:-
- (a) “the 2011 Act” means the Localism Act 2011;
  - (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
  - (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
  - (d) “local government elector” means a person registered as a local government elector in the register of electors in the Council’s area in accordance with the Representation of the People Acts;
  - (e) “the Panel” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of relevant officers of the Council;
  - (f) “relevant meeting” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer; and
  - (g) “relevant officer” means the chief finance officer, the head of the authority’s paid service or monitoring officer, as the case may be.
9. A relevant officer may not be dismissed by the Council unless the procedure set out in paragraphs 10 to 16 is complied with.
10. The Council must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
11. In paragraph 10 “relevant independent person” means any independent person who has been appointed by the Council or, where there are fewer than that two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
12. Subject to paragraph 13, the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 10 in accordance with the following priority order:-
- (a) a relevant independent person who has been appointed by the Council and who is a local government elector;
  - (b) any other relevant independent person who has been appointed by the Council;
  - (c) a relevant independent person who has been appointed by another authority or authorities.
13. A Council is not required to appoint more than two relevant independent persons in accordance with paragraph 12 but may do so.
14. The Council must appoint any Panel at least 20 working days before the relevant meeting.
15. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:-
- (a) any advice, views or recommendations of the Panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and

- (c) any representations from the relevant officer.
16. Any remuneration, allowances or fees paid by the Council to any independent person appointed to the Panel must not exceed the level of remuneration, allowances and fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.
17. (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are related to or a partner of a Member or officer of the Council.
- (b) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Director or an officer nominated by him/her.
- (c) Subject to paragraph (a), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (d) Subject to paragraph (a), no Councillor will seek support for any person for any appointment with the Council.
18. Where the Council proposes to appoint a Director and it is not proposed that the appointment be made exclusively from among the existing officers, the Council will:
- (a) draw up a statement specifying:
    - (i) the duties of the officer 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 a) to be sent to any person on request.

# **Part 5**

## **Codes and Protocols**

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## **Code of Conduct for the Members of Hambleton District Council**

Hambleton District Council (“the Authority”) has adopted the following Code for the purposes of Section 27(2) of the Localism Act 2011 dealing with the conduct that is expected of Members of the Authority when they are acting in that capacity.

The Code is intended to be consistent with the following seven principles, and should be read in the light of those principles, namely that Authority Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

1. You must treat others with respect.
2. You must not do anything which may cause the Authority to breach any equality enactment.
3. You are entitled to Freedom of Expression. However, you must not bully, harass or intimidate any person, or attempt to bully, harass or intimidate any person.

Bullying includes “offensive, intimidating, malicious or insulting words and behaviour and/or an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient”.

Harassment is defined in the Equality Act 2010 as “unwanted conduct related to a relevant protected characteristic”, which has the purpose or effect of violating an individual’s dignity or “creating an intimidating, hostile, degrading, humiliating or offensive environment” for that individual.

Bullying and Harassment may more commonly arise from persistent behaviour, rather than one-off instances, although depending on the behaviour complained of one-off instances may constitute a breach of this Code.

Examples of bullying include:

- spreading malicious rumours, or insulting someone by words or behaviour;
- ridiculing or demeaning someone, picking on them or setting them up to fail;
- exclusion or victimisation;
- unfair treatment;
- overbearing supervision or other misuse of power or position;
- making threats or comments about job security without foundation;
- unwelcome sexual advances – e.g. touching, standing too close, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected and displaying offensive material;
- deliberately undermining a competent worker by overloading and constant criticism;
- preventing individuals progressing by intentionally blocking promotion or training opportunities

4. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Authority.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a Member of the Authority, into disrepute.
6. You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person any advantage or disadvantage and this includes discussing with other Members any matter in which you have a disclosable pecuniary interest.
7. If you are in receipt of any gift or hospitality which is attributable to your membership of the Authority and is of a value in excess of £25, or any offer of any such gift or hospitality, you must disclose this to the Monitoring Officer; and you must decline to accept any such gift or hospitality which could reasonably be perceived as creating an obligation upon the Authority, or upon yourself as a Member of the Authority.

8. You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
9. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
  - 9.1 You have the consent of a person authorised to give it; or
  - 9.2 You are required by law to do so; or
  - 9.3 The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
  - 9.4 The disclosure is reasonable, in the public interest, made in good faith, and made in compliance with the reasonable requirements of the Authority.
10. Where, as a Member of the Authority, you have been involved in making any decision which is subsequently subject to scrutiny within the Authority, you must not take part in the scrutiny process. In this paragraph, "scrutiny" means the formal examination by the Authority, a Committee of the Authority, or a group of people including Members of the Authority, of a policy or decision previously approved or taken by or on behalf of the Authority, in order to reach a view on its rectitude, efficacy, performance or value for money. For the purposes of this paragraph, you do not take part in a scrutiny process if you simply offer evidence or opinion to the scrutiny body, and do not participate in its decision.
- 11.1 Subject to paragraph 12, you must register in the Authority's Register of Members' Interests information regarding your personal interests. In this Code of Conduct "your personal interests" means any disclosable pecuniary interest as defined by statutory regulations in force from time to time.
- 11.2 You must register information regarding your personal interests (and those of your spouse or civil partner or persons living with you as if a spouse or civil partner) by giving written notice on the relevant form to the Monitoring Officer before the end of 28 days beginning with the day you become a Member, or within 28 days following any changes to your personal interests.
12. Where you consider that disclosure of the details of any of your disclosable pecuniary interests could lead to you, or a person connected with you, being subject to violence or intimidation, you may so inform the Monitoring Officer; and if the Monitoring Officer agrees, a note will be made in the Register to the effect that you have a disclosable pecuniary interest, details of which are withheld under Section 32 of the Localism Act 2011.
13. You must comply with any Standing Order or Procedure Rules adopted by the Authority which requires Members to leave the room during any meeting at which a matter in which they have a disclosable pecuniary interest is being discussed.
14. Where a complaint under this Code has been made against you as a Member you shall:
  - 14.1 co-operate with the Monitoring Officer during the assessment of the complaint;
  - 14.2 co-operate with and attend any meeting of the Standards Hearings Panel at which the complaint is considered.

# LOCAL CODE OF CONDUCT FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS

## 1.0 **GENERAL CONDUCT:**

- 1.1 This Code recognises the different but complementary roles of Members and Officers in offering a public planning service:-
- Officers are responsible to the Council for providing advice, reports and recommendations and some decisions under the Council's Scheme of Delegation.
  - Members are responsible for determining applications.
- 1.2 Instructions to Officers can only be given through a Council, Cabinet or Committee decision. Members can write or speak to Officers to set out their views to ensure issues they identify are addressed in reports, provided they are material planning matters.
- 1.3 Members should consider in any circumstances whether the provisions of the Member Code of Conduct apply.
- 1.4 Members of the Planning Committee and Officers involved in the planning system should not favour any individuals, groups, firms or localities. Councillors who do not feel that they can act in this way should consider whether they are best suited to serve on the Planning Committee.
- 1.5 Although they may be influenced by the opinion of others, Members alone have the responsibility to decide what view to take in the interests of the whole District having heard all the available information and evidence at Committee.
- 1.6 All Members and Officers involved with the Planning Committee should take part in the training offered by the Council.

## 2.0 **MEMBERS**

### **Gifts and Hospitality:**

- 2.1 The Code of Conduct for Members requires that the receipt of gifts and hospitality of a value exceeding £25 should be recorded with the Monitoring Officer.
- 2.2 Notwithstanding the financial limit in the Code of Conduct, all gifts which are received by Members in respect of matters relating to planning or by Members of the Planning Committee should be recorded. Offers of gifts to Members should also be recorded.

Even if receipt is unavoidable, or even a token, it should also be recorded.

### **Disclosure and Registration of Interests:**

- 2.4 Whilst it is the responsibility of Members to notify any changes to their registerable interests as they occur, all Members will be reminded about this at 12 monthly intervals.
- 2.5 Any Member with interests which would prevent them voting on a regular basis should not serve on the Planning Committee.
- 2.6 The Code of Conduct covers registration of disclosable interests.

- 2.7 Disclosable pecuniary interests (e.g., ownership of property subject to a planning application) need to be disclosed at the meeting. If a Member has a non-pecuniary personal interest (e.g., membership of an organisation making an application) he or she should disclose the interest, but then may speak and vote on that item unless the interest is likely to be seen as prejudicing their impartiality.
- 2.8 Members should inform the Committee of any significant contact with interested parties to a development where this does not constitute a declarable interest and is significantly different from the general contact which other Members of the Committee may have had.
- 2.9 A Member should not seek to influence a delegated decision on an application which if it had come before the Planning Committee would have required the Member to declare an interest and/or refrain from taking part in deliberation of the application.

**Development by Councillors:**

- 2.10 Councillors submitting their own applications, or affected by an application, should take no part in its processing.
- 2.11 A Councillor should identify their own applications and those of their relatives at the point of receipt by the Council, including when this is through an agent, and the Monitoring Officer be informed. A relative is a current spouse or partner of the Member and parents or step-parents, children or step-children, grandparents or grandchildren, siblings or step-siblings of the Member or their current spouse or partner.
- 2.12 All such proposals should be determined by reference to the Planning Committee.
- 2.13 When a Member application is under consideration they will be dealt with and regarded as no different to any other applicant.
- 2.14 Councillors should not act as agents for people pursuing planning matters.

**Development by the Council:**

- 2.15 Developments by the Council will be treated in the same way as private developments and in accordance with the Town and Country Planning General Regulations 1992 (as amended) and the Ministry of Housing, Communities and Local Government Planning Practice Guidance.
- 2.16 The Leader of the Cabinet and lead officers for Council developments shall withdraw from the Planning Committee during consideration of such items.

**Lobbying:**

- 2.17 Where Members of the Committee may be lobbied in their representational role – and whether judgements are formed in the passage of an application through the system – they should not express opinion on the development which indicates they have made up their mind until all the available arguments and evidence are available at Committee. Advice to the public should be restricted to procedural matters, including making the relevant Officer aware so that material opinions can be reflected in the report.
- 2.18 Members will be able to speak on behalf of a body of opinion, but the Committee should be made aware as to such opinion as distinct from personal views.

- 2.19 There should be no party political grouping on how to vote on applications prior to a Planning Committee Meeting, use of political whips, or similar voting because an application is moved by a Member of the same party.
- 2.20 Members should not lobby or trade with other Committee Members for a particular outcome.
- 2.21 Whilst a Member can speak on behalf of a body of opinion, they should not personally be involved in organising support for or against that opinion.
- 2.22 Members not serving on the Planning Committee may speak to the Committee in accordance with Standing Orders, but should not be deferred to by the Committee. The Chairman will decide when non Committee Members may speak.
- 2.23 A Parish or Town Council has the right to be consulted, but should not automatically be deferred to in coming to a decision. Rather their views, insofar as they are material planning considerations, should be taken account of with other available information and evidence.
- 2.24 Members should not pre-judge issues and keep an open mind on applications.
- 2.25 If a Member feels the need to go public in support of a particular outcome on an application or campaign actively for that outcome, the proper course of action for such a Member would be to make an open declaration and not vote.
- 2.26 Planning Committee Members should not organise support for or against a planning application.
- 2.27 Members should not put pressure on Officers for a particular outcome or do anything to compromise Officer impartiality.

#### **Pre-Application Discussions:**

- 2.28 Councillors talk regularly to constituents to gauge their views on matters of local concern. These informal contacts do not need to be recorded or notified to anyone.
- 2.29 However, more formal meetings with significant contact with developers and/or objectors need to be treated differently. Where a matter is contentious Officers should arrange, be present at and record the content of meetings. The record should be kept on the file.
- 2.30 Members should keep a written note of any telephone calls and keep relevant e-mails and letters.
- 2.31 Members should be clear that advice will be impartial and should make it clear at the outset that discussions will not bind the Council to make a particular decision.

#### **Call-in Procedures:**

- 2.32 Call-in procedures whereby Members can request that a proposal be determined by the Committee will require the request and reason for it to be put in writing to ensure that reasons relate to a material planning concern.

### **Reports to Committee:**

- 2.33 Reports to Committee will contain details of:-
- The proposal and site
  - Any relevant planning history
  - An exposition of the Development Plan and other material considerations
  - Details of objections and views from consultation
  - The Planning Officer's observations and advice
  - A recommendation to grant, refuse or defer with reasons
- 2.34 Where it is not possible to offer a recommendation in a written report because all the information is not available, a recommendation will be made and recorded at the Committee.
- 2.35 Members should determine applications in accordance with advice given, including verbal updates to reports, unless they have good planning reasons to the contrary and in the knowledge of all the available information and evidence.
- 2.36 Minutes will relate to the planning reasons for the decision specifically whether:-
- It is in accordance with Development Plan policies, or
  - Other material considerations indicate otherwise (and what they are)
- 2.37 If the Committee is minded to make a decision contrary to the recommendation, the relevant Officer should be given the opportunity to outline the implications for the Committee of such a decision.
- 2.38 If the Committee wish to add or amend conditions, an Officer should be invited to draft such a condition.

### **Site Visits:**

- 2.39 Selection of sites for visits prior to decision will follow the criteria in Annex 1.
- 2.40 Site visits will follow the procedures in Annex 2. Any point of explanation or clarification will be by reference to the accompanying Officers only.
- 2.41 If a private site visit is requested or if an individual Member makes a private site visit to assist their understanding of the application, they should avoid contact with the applicants/objectors over and above that required to acknowledge their presence, not trespass and give no opinions on the merit of the application or receive information which is not available to the Planning Officer. When a private visit has been requested it should only be undertaken if the person making the request is informed of these procedures and agrees to abide by them.

### **Review:**

- 2.42 Annually, the Committee will visit a sample of implemented permissions to assess the quality of those decisions.

### **Planning Agreements:**

- 2.43 Where a planning agreement (Section 106 Agreement) is to be part of a planning application, the details will be included in the report to Committee.

**Other Matters:**

- 2.44 Other requirements relating to Members generally can be found in the Member Code of Conduct and the Protocol on Member/Officer Relations.

**3.0 OFFICERS:**

**Gifts and Hospitality:**

- 3.1 The Code of Conduct for Officers requires that gifts and hospitality received by Officers should be notified to the Chief Executive.

**Development by Employees:**

- 3.2 Employees submitting their own applications, or affected by an application, should take no part in its processing.
- 3.3 An Employee should identify their own applications and those of their relatives at the point of receipt by the Council, including when this is through an agent, and the Monitoring Officer be informed.
- 3.4 All such proposals should be determined by reference to the Planning Committee.
- 3.5 When an Employee application is under consideration they will be dealt with and regarded as no different to any other applicant.

**Discussions Pre-application and During Passage Through the Planning System:**

- 3.6 In any discussions it should be made clear that they will not bind the Council to a particular decision. It is acceptable for an Officer to express an opinion on the application prior to Committee, but this must not be stated in a manner which implies this is a decision of the Council.
- 3.7 Through office practice a file note should be made of all contacts and meetings relating to an application. In contentious cases a follow-up letter will confirm the contact and outcome.
- 3.8 Officers' advice will not be partial and will be based upon the development plan and material planning considerations.

**Other Matters:**

- 3.9 Other requirements relating to Officers generally can be found in the Officers' Code of Conduct and the Protocol on Member/Officer Relations.

**SITE VISIT CRITERIA:**

1. The application under consideration raises specific issues in relation to matters such as scale, design, location, access or setting which can only be fully understood from the site itself.
2. The application raises an important point of planning principle which has wider implications beyond the site itself and as a result would lead to the establishment of an approach which would be applied to other applications.
3. The application involves judgements about the applicability of approved or developing policies of the Council, particularly where those policies could be balanced against other material planning considerations which may have a greater weight.
4. The application has attracted significant public interest and a visit would provide an opportunity for the Committee to demonstrate that the application has received a full and comprehensive evaluation prior to its determination.
5. If there is a majority of Members insufficiently familiar with the site to enable a decision to be made at the meeting.
6. Site Visits will normally be agreed prior to Planning Committee in consultation with the Chairman or Vice Chairman of the Planning Committee. Additional site visits may be selected following consideration of a report by the Planning Committee.



**PROCEDURE FOR PLANNING COMMITTEE SITE VISITS**

**The purpose of site visits:**

The purpose of a site visit is set out in the criteria in Annex 1.

It is not an opportunity for the applicant or others to address the Committee or make representations which would not have been permitted at a meeting of Planning Committee, nor is it appropriate for Members to discuss the merits of the application.

The only persons who should be present at a site visit are:-

- Members of the Planning Committee
- Interested Ward Members who wish to see the site
- A representative of the relevant Town or Parish Council
- Appropriate Officers of the Council and other relevant authorities, and
- The applicant and/or his agent

**Procedure at site visits:**

1. On arrival, the Chairman will call the Members of the Committee present to order.
2. The Chairman will ask the Planning Officer to outline the proposal to Members, drawing their attention to the relevant points regarding objections/observations received.
3. The Chairman will then ask any other officer present to address the Members.
4. Members will then be invited to ask any questions or seek clarification of facts from the Officers present. Members should not direct these questions to the applicant or others present. Any matters not to hand will be reported at the Committee meeting. Discussion on the merits of the application will not be permitted.
5. The applicant and others present (including Ward Members) will not be allowed to speak, unless he or she is specifically asked by an Officer or the Chairman to point out particular factual matters on site, or is invited to draw the Members' attention to particular factual matters relevant to the site of the planning application.
6. The Chairman will close the site visit and Members will promptly leave the site.
7. Whilst conducting site visits Members will have due regard to the health and safety of themselves and others and will follow appropriate safety instructions on site, including any guidance on parking and access. Appropriate safety wear will be worn.

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## **PROTOCOL FOR COUNCILLORS ON GIFTS AND HOSPITALITY**

### **1.0 BACKGROUND:**

- 1.1 The role of Council Member means that you are brought into contact, as part of your Council work, with many people for many different reasons. From time to time you may encounter situations where individuals, or firms, companies and other public bodies will offer gifts or hospitality.
- 1.2 The reasons for this will vary but such offers will usually be made as goodwill gestures, or for celebration or appreciation, or for helping networking or working together.
- 1.3 Some Members who hold particular positions within the Council will find themselves receiving offers of gifts and hospitality quite frequently, for example, the Chairman of the Council in his or her Civic role, or senior Members who have to liaise often with other public and private sector partners.
- 1.4 There are rules which regulate the acceptance of gifts and hospitality by Council Members. This is because the acceptance of benefits such as gifts can affect the perception of whether Councillors and the Council are acting in the public interest. Councillors are in a position of significant influence over issues that affect people's lives within their area. They are holders of the public purse and in their Council role must always act in the best interests of the people of Hambleton. They must not act in any way which undermines public trust in what they are doing.
- 1.5 Whilst most offers of gifts and hospitality are well meant and innocent, there have been, nationally, instances in the past of gifts and hospitality being offered to and accepted by Councillors for corrupt purposes to secure improper advantage. Whilst this is exceptional and rarely occurs, it is at the worst end of the scale and is very damaging to public confidence in Local Government, it is damaging to the reputation of the Authority concerned and it is unlawful. Even in situations where there are no improper motives, the acceptance of lavish gifts and hospitality can have a negative effect in terms of public perceptions.
- 1.6 This inevitably means that as a Council Member you need to be very clear about the rules that apply to gifts and hospitality and you always need to bear in mind how the public might view your accepting them. Any offers should be treated with great care. You have a prime duty to ensure that there is no conflict of interest in the performance of your duties.
- 1.7 This guidance aims to help you deal with situations where you are faced with offers of gifts and hospitality. If you are unsure, you should seek advice from the Monitoring Officer who will be pleased to help you.

### **2.0 WHAT DO WE MEAN BY GIFTS AND HOSPITALITY?**

- 2.1 Gifts and hospitality may include:-
  - (a) a gift of goods or services;
  - (b) the opportunity to acquire any goods or services freely or at a discount or at terms not available to the general public;
  - (c) the offer of food, drink, accommodation or entertainment freely provided or heavily discounted, or the opportunity to attend any cultural or sporting event on terms not available to the general public.

### **3.0 THE LEGAL POSITION:**

- 3.1 There are legal rules affecting the acceptance by Members of Local Authorities of benefits other than their official Member Allowances. The consequences of breaching the rules are serious so it is important to be aware of what they say.

Corruption:

- 3.2 The Public Bodies (Corrupt Practices) Act 1889 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to, or reward for doing or forbearing to do anything in respect of any matter or transaction in which the Authority is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 7 years.

Code of Conduct:

- 3.3 The Code of Conduct for Elected Members requires that you register in your Register of Interests any gifts or hospitality with an estimated value of £25 or more, which you receive as a Member of the Council – i.e., gifts and hospitality that could reasonably be viewed as relating to your official duties as a Council Member. You must also register the source of the gift or hospitality. You must register the gift or hospitality within 28 days of its receipt/acceptance. You need to apply honesty and common sense when you consider how the receipt of a gift may be interpreted.
- 3.4 The registration requirement in the Code is limited to gifts or hospitality worth £25 or more. If you receive a series of gifts or hospitality from the same source that add up to £25 or more, then this must be registered on your Register of Interests as an accumulation. You may have to assess the value of the gifts or hospitality, based on what you would expect a person to pay for a similar function or event run on a commercial basis.

**4.0 WHAT DOES IT MEAN IN PRACTICE? – SOME GENERAL PRINCIPLES:**

- 4.1 If you should receive an offer of gifts or hospitality, the following principles should help you deal with it:-

**(a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor**

As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner. If you have any suspicion that the motive for a gift or hospitality is an inducement or reward, you must decline it.

As set out above, it is a criminal offence to corruptly solicit or receive any gift, reward or advantage as an inducement to do or not to do something in respect of any transaction involving the Council. The onus would be on you to disprove corruption in relation to the receipt of a gift or hospitality from a person holding or seeking to obtain a contract from the Council. The legal consequences are set out above.

Additionally, the Council's Code of Conduct for Members provides that you must act in the public interest, serving the Authority and the whole community, rather than acting in the interests of any particular individual or section of the community. It is a breach of the Code improperly to confer on, or secure for yourself or any other person, any advantage or disadvantage.

**(b) Gifts or hospitality should not be accepted unless there is a commensurate benefit to the Council**

The only proper reason for accepting any gift or hospitality is that there is a benefit for the Council which would not otherwise have been available. An example is an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvass or promote the interests of the Council and its area at a meeting where there is incidental hospitality.

Acceptance of a gift is much less likely to confer such an advantage and unless the benefit and relevance to the Authority is clear, for example as in the case of a Civic gift to the Chairman received on behalf of the Council, a presumption will arise that it is purely for your personal benefit.

**(c) Never accept a gift or hospitality if acceptance might be open to misinterpretation**

The appearance of impropriety can be just as damaging to the Council and to you as a Councillor as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest.

You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you, or the Authority, favour any particular person, company or section of the community, or is placing you under any improper obligation to any person or organisation.

Certain occasions are particularly sensitive and require the avoidance of any opportunity for misunderstanding. These include:-

- ( i) when the Authority is conducting a competitive procurement process in respect of any indication of favour of a particular tenderer;
- ( ii) determining planning or licensing applications or planning or licensing policy in respect of any person or organisation which stands to gain or lose from the determination;
- (iii) funding decisions when the Authority is determining a grant application by any person or organisation;
- (iv) decisions about the allocation of work to current partners which will affect the amount of income the partner might gain from the Authority;
- ( v) when the Council is dealing with applicants for benefits, claims and dispensations;
- (vi) when the Council is engaged in legal proceedings, gifts or hospitality from other parties to the proceedings would be inappropriate.

**(d) Do not accept a gift or hospitality which puts you under an improper obligation**

Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly it is possible that they may seek to use this to persuade you to determine an issue in their favour.

**(e) Do not solicit a gift or hospitality**

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor. Also take care to avoid giving any impression that you might be open to any such improper offer.

**(f) Some other situations to avoid**

The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived by an ordinary member of the public. The following are further examples of what would not be appropriate:-

- ( i) hospitality in situations where you would be the sole guest;
- ( ii) accepting a gift or hospitality of significant value or whose value is excessive in the circumstances;
- (iii) cash or monetary gifts or gifts of substantial value (these should always be refused without exception and the refusal notified to the Monitoring Officer).

## **5.0 GIFTS AND HOSPITALITY WHICH NEED NOT BE REGISTERED:**

5.1 There are some circumstances where you may accept gifts and hospitality without the need to register the gift or hospitality. Some situations will require the exercise of your personal judgement. You should always be cautious when additional services, privileges or advantages are offered which might be related to your position as a Member.

- (a) official hospitality such as a Civic Reception or a working/business lunch in Council owned premises (provided it is ancillary to the business being conducted);
- (b) Civic hospitality provided by another Public Authority;
- (c) refreshments in connection with any meeting in the course of your work as a Member, e.g., normal refreshments;
- (d) meals or refreshments funded by other public sector partners as part of joint working/collaboration and provided it is ancillary to the business being conducted;
- (e) meals or refreshments provided as part of a ceremony or event to promote/or launch a project or initiative;
- (f) meals or refreshments provided at design/progress meetings by a consultant, contractor or advisor who is already appointed by the Council for that project, scheme or initiative (provided it is ancillary to the business being conducted);
- (g) low value gifts such as pens, calendars, diaries and other small mementos and tokens;
- (h) gifts and hospitality not related or connected with your membership of the Council, i.e., received by you outside the performance of your functions as a Member, such as gifts and hospitality you may receive from family and friends e.g., Birthday presents that are not related to your position as a Member;
- (i) gifts given to the Council that you accept formally on the Council's behalf and are retained by the Council and not by you personally e.g., a commemorative goblet for display in the Civic Centre;
- (j) hospitality known to be available to all Members of the Council e.g., Annual Meeting refreshments;
- (k) hospitality ancillary to the Council business being conducted such as an overnight stay for an 'Away Day' with a partner organisation of the Council;
- (l) hospitality ancillary to attendance at conferences, seminars and courses where the hospitality is to the Council rather than personal;
- (m) hospitality ancillary to attendance at functions where you represent the Council (opening ceremonies, public speaking events, conferences);
- (n) hospitality ancillary to attendance as Chairman of the Council at charity events, garden parties, fetes, schools, concerts, etc.

## **6.0 GIFTS AND HOSPITALITY DECLINED:**

6.1 There is no requirement to register gifts and hospitality offered but declined. When gifts or hospitality are declined, the person making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.

## **7.0 REPORTING OF INAPPROPRIATE GIFTS AND HOSPITALITY OFFERED:**

7.1 It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or not doing something as a Member of the Council. You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you. You may thereafter be required to assist the Police in providing evidence.

# Officers' Code of Conduct

## 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 and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.

## 2. DISCLOSURE OF INFORMATION

- a) It is generally accepted that open government is best. The law requires that certain types of information must be available to Members, Auditors, Government Departments, service users and the public. The Authority itself may decide to open other types of information. Employees must be aware of which information within their Authority is open and which is not, and act accordingly.
- b) 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 which is personal to that Councillor and does not belong to the Authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

## 3. POLITICAL NEUTRALITY

- a) Employees serve the Authority as a whole. It follows that they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.
- b) Subject to the Authority's conventions, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
- c) 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 interfere with their work.
- d) Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs a to c.

## 4. RELATIONSHIPS

### a) Councillors

Employees are responsible to the Authority through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the Authority's work. Mutual respect between employees and Councillors is essential to good Local Government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided. The Council's Standing Orders prohibit the canvassing of Members directly or indirectly for any Council appointment. Any canvassing will automatically disqualify the candidate concerned for appointment.

### b) 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 the community as defined by the policies of the Authority.

### **c) Contractors**

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate 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.

Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate manager.

## **5. APPOINTMENT AND OTHER EMPLOYMENT MATTERS**

- a) 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.
- b) 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.

## **6. OTHER COMMITMENTS**

- a) Your off-duty hours are your personal concern but you should not subordinate your duty to your private interests or put yourself in a position where duty and private interests conflict. In this connection, no member of staff should undertake the preparation for a third party, for reward or otherwise, of, for example, plans, accounts, or similar documents of any kind that are to be submitted to the Council for approval.
- b) Officers above Grade 10 must devote their whole time service to the work of the Council and shall not engage in any other business or take up any other additional appointment without the express consent of the Council. If you wish to apply for such consent, you should first contact your Director.
- c) As a result of legislation, there are restrictions on the political activities of the holders of certain posts, mainly the more senior positions or those covering politically sensitive areas. If you are covered by these restrictions, you will have been notified.

## **7. PERSONAL INTERESTS**

Employees must declare to an appropriate manager, any non-financial interests that they consider could bring about conflict with the Authority's interests.

## **8. EQUALITY ISSUES**

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.

## **9. SEPARATION OF ROLES DURING TENDERING**

- a) Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- b) Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.



- c) 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.
- d) Employees contemplating a management buy-out should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.
- e) Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

10. **CORRUPTION**

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.

11. **USE OF FINANCIAL RESOURCES**

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Authority.

12. **HOSPITALITY**

- a) 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. It should be properly authorised and recorded.
- b) When hospitality has to be declined the offeror should be courteously but firmly informed of the procedures and standards operating within the Authority.
- c) Employees should not accept significant personal gifts from contractors and outside suppliers, although the Authority may wish to allow employees to keep insignificant items of token value, such as pens, diaries, etc.
- d) When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Authority may be taking affecting those providing the hospitality.
- e) 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.
- f) All offers of gifts, hospitality, sponsorship or other consideration beyond the modest type mentioned must be disclosed in a Register kept by the Chief Executive.

13. **SPONSORSHIP – GIVING AND RECEIVING**

- a) Where an outside organisation wishes to sponsor or is seeking to sponsor a Local Government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

- b) Where the Authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

14. **FEES**

- a) Officers are sometimes asked by outside organisations or individuals to speak at meetings or seminars or provide some other service in relation to the work of the Council. These activities may be during or outside normal working hours. On occasions, a fee may be offered. Under no circumstances should a fee be accepted by himself/herself. Should payment of a fee be considered appropriate by your Director or the Chief Executive, the remittance concerned must be payable to the Council.
- b) If the activity has taken place outside normal working hours, payment of overtime or time off in lieu can be arranged by your Director. Either way, any recompense must come from the Council and not the outside organisation or individual.

# Protocol on Member/Officer Relations

## 1. PRINCIPLES TO BE OBSERVED

The Protocol can be neither prescriptive nor comprehensive to all the circumstances facing Members and officers. Therefore it is founded on the following principles:

- advice to political groups must be given in such a way as to avoid compromising an officer's political neutrality;
- advice must be confined to Council business, not party business;
- relationships with a particular Political Group should not be such as to create public suspicion that an officer favours that group above others;
- information communicated to an officer by a Political Group in confidence should not be communicated to other political groups;
- officers' overriding responsibilities are to the Council;
- officers' political restrictions must be respected at all times.

## 2. GUIDELINES

### 2.1 The Role of Members and Officers

- a) The role of Members is to represent their constituents within the context of any political manifesto or group to which they may subscribe.
- b) The role of officers is to advise on and implement decisions of the Council or to make delegated decisions within the policy set by the Council.
- c) All decisions of the Council which are not delegated to officers will be made by the Council, Cabinet or other Committee.
- d) Other than as described below individual Members should not seek to instruct or influence officers in the carrying out of their duties, although they may represent the views of their constituents.

### 2.2 Members' roles may be broadly described as follows:-

- collectively Members are the ultimate policy makers determining the core values of the Council and approving the Council's policy framework, strategic plans and budget;
- Members represent their Ward and act as advocate for all citizens who live in that area;
- to act as community leaders in partnership, where appropriate, with other organisations;
- to contribute to decisions taken by the Council, Cabinet and Committees, including those of outside bodies or partnerships with which the Council works;
- to help develop and review strategy;
- to monitor and review policy implementation and service quality;
- to be involved in quasi judicial matters through membership of regulatory Committees.

### 2.3 Officers' roles may be broadly described as follows:-

- to manage and deliver the services for which the Council has responsibility and to be accountable for the efficiency and effectiveness of those services;

- to provide advice to the Council, Cabinet, Committees and Working Groups and to individual Members in respect of the services provided;
- to initiate policy proposals;
- to implement agreed policy and strategies;
- to monitor and review policy implementation and service quality
- to ensure that the Council always acts in a lawful manner.

2.4 Members can expect officers to:-

- maintain confidentiality;
- perform their duties effectively, efficiently and with political neutrality;
- behave in a professional and courteous manner and offer respect, dignity and courtesy;
- be helpful to Members and respect their role;
- avoid close personal familiarity with Members and not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- report to their line manager any instances where a Member asks or pressurises the officer to deal with a matter outside of Council policy or procedure;
- demonstrate an understanding of and support for the role and pressure of being an elected Member;
- comply with relevant Codes of Conduct.

2.5 Officers can expect from Members:-

- political leadership and direction;
- respect, dignity and courtesy;
- an understanding of and support for the officers' role;
- not to be subjected to undue pressure;
- an understanding that officers are employed by the Council and are responsible to the Chief Executive and not directly to any Member irrespective of the office held;
- not to use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- compliance with the relevant Codes of Conduct.

2.6 **Advice to Political Groups/Independent Members**

- a) It is practice for Political Groups and Independent Members to give preliminary consideration to items of business in advance of the Cabinet, Committees or the Council. Officers may be called upon to support such deliberations.
- b) This support is normally by way of a briefing meeting with the leading Members prior to a Committee or Cabinet meeting. In practice such officer support is likely to be in demand from the majority Group, but can be available to all Political Groups or Independent Members within reason.

In these circumstances:

- i) officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. To observe this distinction officers will not be present at meetings, or parts of meetings, when matters of Party business are to be discussed;
  - ii) Political Group meetings, or similarly with individual Members, whilst they may form part of the preliminaries to Council decision making, can not make decisions on behalf of the Council. Conclusions reached at such meetings do not rank as Council decisions. It is essential that they are not interpreted or acted upon as such; and
  - iii) where officers may provide information and advice to a Political Group meeting in relation to a matter of Council business, this is not a substitute for providing all necessary information and advice to the relevant body when the matter is considered.
- c) Officers will not attend Political Group meetings where there are persons present who are not Members or officers of the Authority. Attendance at Political Group meetings will be subject to the prior approval of the Chief Executive.
  - d) Officers will not normally advise as to policies which a minority Party or independent Members should pursue.
  - e) Officers must respect the confidentiality of any Political Group or individual Member discussions at which they are present. They should not relay the content of any such discussion to another Political Group or individual Members.
  - f) Any cases of difficulty or uncertainty should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s) or individual Members.

## **2.7 Support Services to Members and Political Groups**

The Council provides support services to Members to assist them in discharging their role as Members. They should never be used in connection with party political or campaigning activity or for private purposes.

## **2.8 Members' Access to Information and to Council Documents**

- a) Members may approach any Department to provide them with such information, explanation and advice 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 a Department's activities to a request for specific information on behalf of a constituent.
- b) Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee or Cabinet meeting. This right applies irrespective of whether the Member is a Member of the body concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear on the confidential 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, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations. Members should not themselves or require officers to infringe the Data Protection Act.
- c) Additionally, Members have a 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 referred to as the "need to know" principle.

- d) The “need to know” must be demonstrated. A Member has no right to “a roving commission” to examine documents of the Council. Curiosity is not sufficient. The crucial question is the determination of the “need to know.” This question must initially be determined by the particular Director whose Department holds the document in question (with advice from the Director of Law and Governance). In the event of dispute, the Director is entitled to consult with the Chief Executive whose decision will be final.
- e) If meeting a request involves committing an unreasonable level of resource, the Director will consult with the appropriate Group Leader and the Director’s decision will be final.
- f) Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided ie. in connection with the proper performance of the Member’s duties as a Member of the Council.

## 2.9 **Officer/Leader/Cabinet/Chairman and Vice-Chairman Relationships**

- a) There will be a close working relationship between the Chief Executive, Leader, Portfolio Holders and the Chairman and Vice-Chairman of a Committee and similarly the Director and other senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer’s ability to deal impartially with other Members and other Political Groups.
- b) Whilst the Leader, Chairman and Vice-Chairman of a Committee will routinely be consulted as part of the process of drawing up the agenda for a meeting, in some situations a Director will be under a duty to submit a report on a particular matter. A Director will always be responsible for the contents of any report submitted in his/her name. Any issues arising should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council for matters relating to the Cabinet and relevant Chairmen for non-Executive and Scrutiny matters.
- c) Most decisions (relating to the discharge of any of the Council’s functions) will be taken by the Cabinet, a Committee or an officer under delegated powers. Action between meetings can only be taken by an officer in accordance with the Scheme of Delegation.
- d) Officers are accountable to their Director and whilst officers should always seek to assist the Leader, Portfolio Holders, Chairmen or Vice-Chairmen (or indeed any Member) they must not go beyond the bounds of whatever authority they have been given by their Director.
- e) The following guidelines apply to the Chief Executive in particular:-
  - i) The Chief Executive is the employee of the Council as a whole and his overriding responsibility is to the Council and not to any Political Group or individual Members.
  - ii) The Chief Executive is expected to work closely with the Leader and to give information, assistance and advice. Subject to maintaining his position of political neutrality, he may develop a special relationship with the Leader and Portfolio Holders and will not, without consent, disclose information on any matters discussed with that leadership to the minority political groups, or Independent Members.
  - iii) The political neutrality of the Chief Executive should be respected by everyone.
  - iv) All Members of the Council have a right of access to the Chief Executive.
  - v) It is proper for the Chief Executive to develop a working relationship with the Minority Political Groups and Independent Members on the Council, but will not advise as to policy which any Minority Party or Independent Member should pursue. The Chief Executive will not reveal to other Party Groups or Independent Member the content of confidential discussions with any Group or Independent Member, unless consent has been specifically given by the Leader of the Group or Independent Member concerned.

- vi) As an employee of the whole Council, the Chief Executive will inform the Leader of any case where he considers that the Minority Parties or Independent Members should be given information or be consulted.
  - vii) An officer will refer to the Chief Executive any request from a Member for a copy of a confidential paper and the Chief Executive will decide whether or not the paper will be made available to the Member. The Chief Executive will inform the Leader of the decision.
- f) Insofar as they are applicable, the above guidelines also apply to the Directors.

#### **2.10 Correspondence**

- a) Correspondence between an individual Member and an officer should not normally be copied (by the officer) to any other Member, except where this is part of the Council's routine procedure for a particular type of correspondence. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear.
- b) Official letters on behalf of the Council should normally be sent out over the name of the appropriate officer, rather than over the name of a Member. It may be appropriate in certain circumstances (eg. representations to a Government Minister) for a letter to appear over 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 over the name of a Member.

#### **2.11 Involvement of Ward Councillors**

- a) Members are elected to represent their constituents. The intention is that Members appropriately engage fully with their constituents and obtain their views with the intention of feeding this into the Council's activities.

Information may be sought of officers, but Members should not lobby for a particular outcome with officers.

- b) Whenever a consultation 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 involved.

#### **2.12 Press Releases**

- a) Press releases are made on behalf of the Council and will be made by the Communications Team after consulting, where practicable, with the Leader, an appropriate Member of the Cabinet or relevant Committee Chairman.
- b) Other than as set out above press releases will not be made at the instigation of individual Members.

#### **2.13 Other Individuals**

There are currently no other individuals on Council bodies.

#### **2.14 Monitoring and Review**

The application and implementation of this protocol will be monitored and reviewed by the Council's Audit, Governance and Standards Committee in consultation with the Council's Monitoring Officer.

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# Code of Corporate Governance

## **Introduction**

Hambleton District Council is committed to the principles of good corporate governance and this code specifies our intention to deliver the necessary procedures and practices to enable the highest standards to be maintained. The code schedules our commitment in five key areas:

- Community Focus
- Service Delivery Arrangements
- Structures and Processes
- Risk Management and Internal Control
- Standards of Conduct

## **Community Focus**

The Council is charged with the responsibility of 'community leader' and therefore has a duty to work with, lead and act on behalf of the communities it serves. To assist in achieving these aims the Council will:

- Publish on a timely basis an annual report presenting an objective, understandable account of the Council's activities, achievements, financial position and performance.
- Publish on a timely basis a performance plan presenting an objective, balanced and understandable account of the Council's current performance and intentions regarding improvements to service delivery.
- Put in place proper arrangements for the independent review of the financial and operational reporting process.
- Put in place proper arrangements designed to encourage individuals and groups from all sections of the community to engage with, contribute to and participate in the work of the Council.
- Make an explicit commitment to openness in all of our dealings, subject to the need to preserve confidentiality in specific instances.
- Establish clear channels of communication with all sections of the community and put in place proper monitoring arrangements to ensure this is operating effectively.
- Ensure that a vision for communities is developed and that strategic plans, priorities and targets are developed through robust mechanisms. They are developed in consultation with the local community and other key stakeholders and they are clearly articulated and disseminated.

## **Service Delivery Arrangements**

In delivering its services the Council needs to ensure agreed policies are implemented and that it strives for continuous improvements. It will therefore:

- Set standards and targets for performance of services on a sustainable basis and with reference to equality policies.
- Put in place sound systems for providing management information to aid performance management.
- Monitor and report performance against agreed standards and targets and develop comprehensive and understandable performance plans.
- Put in place arrangements to allocate resources according to priorities.

- Foster effective relationships and partnerships with other agencies including public, private and voluntary sector bodies. Also to consider outsourcing where it is efficient and effective to do so in delivering services to meet community needs, and put in place measures to ensure such arrangements operate effectively.
- Respond positively to the findings and recommendations of external auditors and statutory inspectors and put in place arrangements for the effective implementation of agreed actions.

### **Structures and Processes**

A local authority needs to establish effective political and managerial structures and processes to govern decision making and exercise authority within the Council. Arrangements will therefore be made to:

#### **Balance of Power and Authority**

- Clearly document protocols governing relationships between Members and officers.
- Ensure that the relative roles and responsibilities of executive, other Members and senior officers are clearly defined.

#### **Roles and Responsibilities – Members**

- Ensure Members meet on a formal basis regularly to set the strategic direction of the authority and monitor service delivery.
- Maintain a scheme of delegated powers which will include a formal statement of those matters specifically reserved for the collective decision of the Council.
- Put in place clearly documented and understood management processes for policy development implementation and review along with formal procedural and financial procedure rules to govern the conduct of the Council's business.
- Put in place arrangements to ensure that Members are properly trained for their roles and have access to all relevant information, advice and resources necessary to enable them to carry out their roles effectively.
- Define, in writing, the role of the executive Members including responsibility for providing effective strategic leadership and for ensuring the Council successfully discharges its responsibility for the activities of the organisation as a whole.
- Define, in writing, the roles and responsibilities of all Members of the Council together with the terms of their remuneration and its review.

#### **Roles and Responsibilities – Officers**

- Make the Chief Executive responsible to the Council for all aspects of Operational Management.
- Make the S151 Officer responsible to the Council for ensuring that appropriate advice is given to it on all financial matters, for keeping proper financial records and accounts and for maintaining an effective system of internal financial control.
- Make the Monitoring Officer responsible to the Council for ensuring that agreed procedures are followed and that all applicable statutes, regulations and other relevant statements of good practice are complied with.
- Define in writing the roles and responsibilities of all senior officers together with the terms of their remuneration and its review.
- Adopt clear protocols and codes of conduct to ensure that the implications for supporting political leadership for the whole Council are acknowledged and resolved.

## **Risk Management and Internal Control**

To ensure the Council manages risks effectively it needs to maintain a strategic framework. To this end the framework will:

- Develop and maintain robust systems for identifying and evaluating all significant risks which involve the proactive participation of all those associated with planning and delivering services.
- Put in place effective risk management systems, including systems of internal control and internal audit. These arrangements will comply with all applicable statutes, regulations and statements of best practice to ensure that public funds are properly safeguarded and are used economically, efficiently and effectively, and in accordance with the statutory and other authorities that govern their use.
- Ensure that services are delivered by trained and experienced people.
- Put in place effective arrangements for an objective review of the effectiveness of risk management and internal control, including internal audit.
- Maintain an objective and professional relationship with statutory auditors and inspectors.
- Publish on a timely basis, within the annual report, an objective, balanced and understood statement and assessment of the Council's risk management and internal control mechanisms and their effectiveness in practice.

## **Standards of Conduct**

The openness, integrity and accountability of individuals within a Council form the cornerstone of effective corporate governance. The Council therefore will:

- Develop and adopt formal codes of conduct defining the standards of personal behaviour to which individual Members, officers and agents of the Council are required to subscribe and put in place appropriate systems and processes to ensure that they are complied with.
- Put in place arrangements to ensure that Members and employees of the Council are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice.
- Put in place arrangements to ensure that their procedures and operations are designed in conformity with appropriate ethical standards, and to monitor their continuing compliance in practice.
- Put in place arrangements for whistle blowing to which staff and all those contracting with the Council have access.

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## Monitoring Officer Protocol

### A. GENERAL INTRODUCTION:

1. The Monitoring Officer is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged at Hambleton District Council.
2. The responsibilities of the Monitoring Officer role rest with the Director of Law and Governance. The Deputy Monitoring Officer is the Legal Manager or in his/her absence such other person as the Monitoring Officer shall appoint in writing.
3. A summary list of the statutory responsibilities appears in the table annexed to this document.

### B. WORKING ARRANGEMENTS:

4. Having excellent working relations with Members and Officers will assist in the discharge of the statutory responsibilities of the Monitoring Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and Officers must, therefore, work with the Monitoring Officer (and his assistant) to discharge the Council's statutory and discretionary responsibilities.
5. The following arrangements and understandings between the Monitoring Officer, Members and Senior Officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:-
  - (a) be alerted by Members or Officers to any issue(s) of concern, including, in particular, issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
  - (b) have advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) including the Council, Cabinet, Cabinet Member (when allowed) Committee meetings and Management Team (or equivalent arrangements);
  - (c) have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings and Management Team (or equivalent arrangements);
  - (d) in carrying out any investigation(s) have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of his functions;
  - (e) liaise with the other statutory officers (Head of Paid Service and the S151 Officer) regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
  - (f) meet regularly with the Head of Paid Service and the S151 Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise and ensure that the Head of Paid Service and S151 Officer have up to date information regarding emerging issues;

- (g) report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service and S151 Officer;
  - (h) as per the statutory requirements, make a report to the Council, as necessary, on the staff, accommodation and resources he requires to discharge his statutory functions;
  - (i) have a special relationship with the Chairmen of the Audit, Governance and Standards Committee and the Scrutiny Committee with a view to ensuring the effective and efficient discharge of his duties;
  - (j) develop effective working liaison and relationship with the Ombudsman, including the giving and receiving of relevant information, whether confidential or otherwise;
  - (k) maintain and keep up to date any relevant statutory Register for Members' Interests.
  - (l) give advice on the Council's Code of Member Conduct and, if appropriate, inform the Audit, Governance and Standards Committee if, in the opinion of the Monitoring Officer, there is a serious breach of the Code;
  - (m) in consultation, as necessary, with the Chairmen of the Council and the Audit, Governance and Standards Committee, defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigation body is involved;
  - (n) make arrangements to ensure effective communication between his office and the Clerks to Parish Councils on Monitoring Officer and Standards issues;
  - (o) have sufficient resources to enable him to address any matters concerning his Monitoring Officer functions;
  - (p) be responsible for preparing any training programme for Members on ethical standards and Code of Conduct issues; and
  - (q) keep the Deputy Monitoring Officer briefed on any relevant issues that he/she may be required to deal with in the absence of the Monitoring Officer.
6. To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.
7. The Monitoring Officer is also available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g., Procedure Rules, Policy Framework, Terms of Reference, Scheme of Delegations, etc.).
8. To ensure the effective and efficient discharge of this Protocol, the Head of Paid Service will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

**SUMMARY OF MONITORING OFFICER FUNCTIONS**

	DESCRIPTION:	<u>SOURCE:</u>
1.	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 of the Local Government and Housing Act 1989.
2.	Report any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 of the Local Government and Housing Act 1989.
3.	Appointment of Deputy.	Section 5 of the Local Government and Housing Act 1989.
4.	Report on resources.	Section 5 of the Local Government and Housing Act 1989.
5.	Establish and maintain Registers of Members' Interests.	Localism Act 2011.
6.	Advice to Members on interpretation of Code of Member Conduct.	Localism Act 2011.
7.	Promoting and maintaining high standards of conduct through support to the Audit, Governance and Standards Committee.	Localism Act 2011.
8.	Provide support to Parish Councils on Code of Conduct matters.	Localism Act 2011.
9.	Compensation for maladministration.	Section 92 of the Local Government Act 2000.

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## Members' Allowances Scheme – 2021/22

Members are entitled to receive allowances and expenses when undertaking their duties as Councillors.

The Scheme comprises:-

- a basic allowance per Member;
- additional allowances based on the special responsibilities that some Members have;
- travel and subsistence allowances.

The Scheme is as follows:-

	Quantum	Payment £
Basic	N/A	6,958
Leader*	5.00	34,790
Deputy Leader*	2.50	17,395
Chairman of Council	0.75	5,219
Minority Group Leader (only applicable to a group of 5 or more Members)	0.25	1,740
Chairman of Planning Committee	1.5	10,437
Vice-Chairman of Planning Committee	1	6,958
Planning Committee Member	0.25	1,740
Chairman of Audit, Governance and Standards Committee	0.25	1,740
Chairman of Scrutiny Committee	0.25	1,740
Chairman of Licensing Committee	0.25	1,740
Cabinet Member	1.50	10,437
Dependant Carer's Allowance	-	National minimum wage (currently £9.00) with a maximum of 10 hours per week
Independent Persons	-	256

\*Subject to a review each year (or as required) by the Independent Remuneration Panel.

All Members will receive the Basic Allowance. Those with special responsibilities will receive the Allowances indicated in addition to the Basic Allowance. The Special Responsibility Allowance will be the Basic Allowance multiplied by the Quantum indicated for that Special Responsibility Allowance.

No Member can receive more than one Special Responsibility Allowance.

### Subsistence Rates

	£
Breakfast	8.55
Lunch	11.75
Tea (absence after 6.30pm)	5.34
Dinner (absence after 8.30pm)	14.96

**Notes:** Tea or Dinner may be claimed but not both  
The Allowance is irrespective of the actual cost of the meal.

### Accommodation Rates

	£
Other	Up to £85
Major Cities	Up to £113
London	Up to £150
Conferences (National Conferences attended by Members and Chief Officers)	Actual Costs

**Note:** Where not included in the accommodation charge, the cost of all meals will be reimbursed up to £20 per meal upon production of receipts. In the absence of receipts, Subsistence Rates will apply.

### Travel Rates

#### Travel by Member's own private motor vehicle

Car mileage rate per mile:

Not exceeding 999cc	45p
1000cc – 1199cc	45p
1200cc and above	45p

Motorcycle rate per mile	24.0p
Bicycle rate per mile	20.0p

Carriage of Passengers to whom a Travelling Allowance would otherwise be Payable

In respect of each passenger not exceeding four, an additional 3.0p a mile for the first passenger and 2.0p a mile for the second and subsequent passengers.

## **Part 7**

# **Management Structure**

**CHIEF EXECUTIVE**

**Deputy Chief Executive**

**Director of Finance and Commercial (S151 Officer)**

- Audit Services
- Business Support
- Corporate Finance
- Corporate Performance
- Commercialisation & Programme Management
- Customer Services
- Debt Recovery
- Housing Benefits
- ICT
- Payroll
- Risk Management
- Reprographics
- Revenues (Council Tax/Business Rates)

**Director of Law and Governance (Monitoring Officer)**

- Governance
- Legal Services
- Democratic Services
- Electoral Services
- Human Resources
- Licensing
- Procurement
- Information Governance

**Director of Economy and Planning**

- Building Control
- Business & Economy
- Communications
- Conservation
- Development Management
- Economic Development
- GIS
- Housing
- Local Land Charges
- Planning Policy
- Street Naming & Numbering

**Director of Environment**

- Business Continuity
- Emergency Planning
- Environmental Health
- Food Hygiene
- Household Waste
- Health & Safety
- Pest & Pollution Control
- Recycling
- Street Scene
- Water Supply

**Director of Leisure and Communities**

- CCTV
- Community Leisure
- Community Safety
- Community Partnerships
- Design and Maintenance
- Facilities Management
- Leisure Centres
- Public Health
- Sports & Arts Development
- Car Parks and Parking Policy