

CABINET – 9TH FEBRUARY 2023

**Report of the Monitoring Officer
Lead Member: Councillor Jonathan Morgan**

Part A

ANNUAL REVIEW OF THE COUNCIL'S CONSTITUTION

Purpose of Report

To enable the Cabinet to consider and recommend to Council amendments to the Constitution following the annual review.

Recommendation

That it be recommended to Council that the changes to the Constitution set out in appendix 1 to this report be made, to be effective from the new Civic Year 2023/24.

Reason

To ensure the Constitution is kept up to date and fulfils its intended purposes.

Policy Justification and Previous Decisions

Section 2.4 of the Constitution requires the Monitoring Officer to monitor and review the Constitution. These reviews are undertaken annually with the last such review being considered by the Cabinet on 7th April 2022 (Minute 106 2022/23 refers) and at Council on 25th April 2022 (Minute 158 2022/23 refers).

The Member Conduct Committee was consulted and asked for any amendments to the Constitution relating to the role of the committee. The Committee on 28th November 2022 made recommendations to Council relating to Chapter 18 of the Constitution relating the arrangements for dealing with complaints about Member Conduct under the Localism Act 2011. The suggested changes are set out in this report.

Implementation Timetable including Future Decisions and Scrutiny

The proposed changes to the Constitution require Council approval and will be submitted to Council on 27th February 2023. Changes will come into effect from the new Civic Year 2023/24.

Changes to the Executive delegations to officers have also been identified during this year's review. This will be the subject of a separate report to the Leader, who has the authority to make such changes. Any changes made will be reported to Council.

Report Implications

The following implications have been identified for this report.

Financial Implications

There are no costs associated with making the recommended changes to the Constitution.

Risk Management

No specific risks have been identified in connection with this report.

Key Decision: No

Background Papers: None

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Part B

Background

In line with good practice, the Council reviews the Constitution annually. As part of the review consultations have taken place with officers and councillors both individually and through meetings with Group Leaders, the Chair of the Plans Committee and the Member Conduct Committee. The remainder of this report describes the recommended changes to the Constitution and the proposed amendments are set out in appendix 1 to the report.

Proposed changes to the Constitution

The 2023 annual review has seen a number of changes to almost every section of the Constitution. Most changes relate to job titles and responsibility adjustments following the senior management re-structure. There have also been various minor corrections for typographical errors.

All changes are set out in Appendix 1 which comprises the whole constitution with tracked changes. The noteworthy changes are summarised below in constitution chapter order.

INTRODUCTION

1.2 Elections and terms of office

It is proposed that the wording be amended to reflect that there will be 24 wards after the 4th May 2023 elections.

1.2 Rights and duties of Councillors

It is proposed that additional wording be added to clarify that Councillors observing a meeting means a Cabinet or Scrutiny meeting and that they are entitled to remain even though the public and the press have been excluded.

WHO DOES WHAT

3.7 Delegations to and from other local authorities

During the annual review it was noted that there was still reference to shared telephone services with Harborough District Council. This arrangement has ceased and therefore it is proposed that the relevant text be deleted.

5.5 (e) Roles of decision taking Committees - Personnel Committee

It is proposed additional text be added to match with Chapter 17 (Officer Employment procedures) whereby the Personnel Committee/Panel makes recommendations to Council on the appointments to Chief Officer, Statutory Officer posts and the Head of Paid Service.

MEETING PROCEDURES

9. Full Council procedures

9.2 .2 Ordinary meetings of full Council – Order of Business

It is proposed that reference to ‘written’ reports about announcements from the Mayor, Leader or Chief Executive be deleted. It is common practice to allow verbal updates at Council which are then minuted.

9.9 Questions on Notice by Councillors

A Councillor can ask a question on notice to the Leader or the Chair of a committee about something the Council is responsible for or something that directly affects people in the Borough. This criteria has been in existence for many years and whilst there is no need to change the criteria it is proposed that additional text be added to clarify that the Chief Executive may refuse questions on notice which do not meet the criteria. This is standard practice but the Constitution was silent on this matter. The proposed change clarifies the current position and makes it more transparent.

9.9 (d) Responding to questions at Council

A Councillor may not speak for longer than a total of one minute in replying to a supplementary question in relation to a question on notice. A councillor has suggested that it would be reasonable to extend this time to enable the Lead Member to respond fully. This matter has been considered by Group Leaders and it was felt that the length of time was sufficient as written answers can be provided subsequently if a fuller response is required. However it was suggested that if time permitted any full written responses be appended to the published Council minutes.

9.12(d) Motions on notice – Topics of motions

Motions must be about things the Council is responsible for or something that directly affects the Borough. It is proposed that additional text be added to clarify that the Chief Executive may refuse motions on notice which do not meet the criteria. This is standard practice but the Constitution was silent on this matter. The proposed change clarifies the current position and makes it more transparent.

10. Cabinet and single Cabinet member procedures

10.6 – Order of Business

It is proposed that reference to ‘written’ reports about announcements from the Leader be deleted. It is common practice to allow verbal updates at Cabinet which are then minuted.

11. Scrutiny committee procedures

11.3 Co-opted members of scrutiny bodies

It is proposed that additional text be added to clarify that co-opted members will not count towards any applicable maximum membership numbers.

11.5 Chairs and vice chairs of scrutiny bodies

(a) Appointment of Chairs and Vice-Chairs

The Scrutiny Commission appoints Chairs and Vice-Chairs of scrutiny panels. This section of the Constitution still has reference to the previous scrutiny structure and the method of appointing Chairs and Vice-Chairs of panels. Therefore it is proposed that this wording be deleted.

11.7 Call-in

For clarity it is proposed that this section be amended to reflect that only executive decisions can be called-in. This is stipulated in law but was not explicit.

11.11 Policy review and development

Scrutiny bodies can hold inquiries and consider future policy. This generally involves seeking advice from officers. The Constitution refers to appointing advisers which is not common practice and therefore it is proposed that this reference be deleted.

11.15 Whipping

Political groups should not pressure their members over how they speak or vote on scrutiny bodies. It is proposed that additional wording be added to make clear that if 'whipping' has occurred, this must be formally declared at the relevant scrutiny meeting.

12. Other committee procedures

12.3 Composition - Loughborough Area Committee

Changes to ward names wef May 2023. Reduction of members from 20 to 18.

12.7 Substitution procedures

It is proposed that this section of the Constitution be clearer that substitutes are permissible for other committees, subject to any training requirements that may apply.

12.8 Questions on notice

It is proposed that the additional text be added that the Head of Governance and HR can reject a question on notice if it does not relate to the business of the committee in question, which can involve re-directing a question to another committee if appropriate. This is standard practice but the Constitution was silent on this matter.

12.12 Plans Committee procedures– Public Speaking Rights

It is proposed to make an amendment to the meeting procedures relating to public speaking at Plans Committee, to simplify the process for Parish and Town Councils to speak at Plans Committee.

15. Petition scheme

The Council has in place a petitions scheme to enable residents to let the Council know about any concerns. Petitions can be submitted hard copy or electronically. Democratic Services promote the Council's e.petition scheme available via Modern Gov. There have been occasions where individuals have set up their own e.petition via Change.org or other platforms. It is therefore suggested that additional text be added to recognise other electronic petition platforms and that, in order to be accepted, the Council must be able to identify that the people signing the petition either live, work or study in the Borough and are of voting age (currently 18 years old) in English Local Authority elections.

OTHER PROCEDURES

16. Financial regulations

In relation to Contract Procedure Rules it is proposed that contract values be increased from £50,000 to £100,000 to reflect inflation and economic conditions.

In addition the requirement to submit an Annual Procurement Plan to Cabinet for approval be deleted as per the Cabinet resolution of 7th July 2022. Other changes include clearer wording relating to Capital Expenditure in respect of commercial property and the uplifting of financial thresholds for the disposal of assets by officer to reflect inflation and economic conditions.

17.12 (Officer employment rules) – Severance Packages and Special Severance Payments

It is proposed that an additional section be added about Severance Packages

and Special Severance Payments to reflect changes to statutory guidance published May 2022 from DLUHC. Full Council are required to vote on severance packages of £100,000 or over.

18. Arrangements for dealing with complaints about member conduct under the Localism Act 2011

The Member Conduct Committee on 28th November 2022 made recommendations to Council relating to Chapter 18 of the Constitution relating the arrangements for dealing with complaints about member conduct under the Localism Act 2011. It is proposed that Chapter 18 of the Constitution be amended as set out in the appendix.

CODES AND PROTOCOLS

22. Protocol on member/officer relations

Decisions under delegated powers

It is proposed that the reference to no executive powers being delegated to individual members be deleted. This is no longer the case as the Leader has delegated authority and so does the Lead Member for Community Support in relation to member grants.

Scheme of Delegation to officers (Council Functions)

Delegation to Chief Executive, Directors and Heads of Service

It is proposed that signing of contract values entered into on behalf of the Council be increased from up to £50,000 to up to £100,000 to reflect inflation and economic conditions.

Delegation to the Head of Paid Service – Severance Payments

It is proposed a new delegation be added in concerning severance payments to officers (other than the Head of Paid Service) to reflect changes in statutory guidance.

Delegation to Head Regulatory and Community Safety - Pavement licences

During the annual review it was noted that this delegation was duplicated. Therefore it is proposed that this delegation be deleted from Head of Contracts: Leisure, Waste and Environment and only allocated to Head of Regulatory and Community Safety.

Delegation to the Director of Commercial and Economic Development – Climate Change Strategy

It is proposed that this delegation be moved from Head of Planning & Growth to Director Commercial & Economic Development.

Delegations to the Head of Planning and Growth

The Head of Planning and Growth has proposed several amendments to the scheme of delegation relating to Council functions to provide clarity to existing delegations or to make existing delegations more efficient. These concern:

- Environmental Impact Assessments (No. 15)
- Consultations from other organisations and government (No. 18)
- Hedgrow retention notices (No. 33)

One new Council delegation is proposed to provide business efficiencies in the finalisation of committee decisions and subsequent planning decision notices. This relates to instances where minor non technical errors or typos have occurred in the wording of reports and which would otherwise require the report to be re-presented to Plans Committee to correct.

Accordingly, it is proposed that Chapter 8 of the Constitution be amended as set out in the appendix.

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1.1 Summary of citizens' rights

Citizens have the right to:

- vote at local elections and get in touch with their local Councillors
- attend full Council, Cabinet and committee meetings, except when exempt or confidential items are discussed (see 13)
- ask questions at Cabinet (see 10.7), scrutiny bodies (see 11.17) and other committees (see 12.8)
- speak at Plans Committee meetings by following the rules set out in 12.12
- contribute to scrutiny committee inquiries (see 11.18)
- look at the Forward Plan which shows what important decisions will be taken and when (see 13) – this is available on the Council's website and at the main offices.
- look at agendas, reports, minutes and background papers (see 13) – agendas, reports and minutes are available on the Council's website and at the main offices
- look at the register of members' interests (see 20) – this is available on the Council's website and at the main offices
- request information under the General Data Protection Regulations (GDPR),¹ Freedom of Information Act, Environmental Information Regulations and Data Protection Act

- have petitions considered by officers, by full Council or to call officers to account, in each case depending upon the number of signatures the petition contains (see 15)
- sign a petition calling for a referendum on an elected mayor
- make a complaint to the Council
- complain to the relevant ombudsman if they have already complained to the Council
- complain to the Monitoring Officer that a Councillor has broken the members' code of conduct (see 18)
- inspect the Council's accounts at an advertised time and comment to the external auditor.

1.2 Councillors

(a) Elections and terms of office

There are 52 Councillors, who represent ~~28~~4 wards.

Full elections are held every fourth year, with elections due in, ~~2023~~7 and ~~2027~~31 and so on.

Councillors serve for four years. They become Councillors on the fourth day after being elected. Their terms of office end four years later, on the fourth day after the elections.

(b) Role of Councillors

Councillors:

- set the Council's overall policies
- provide political leadership
- represent people in their wards – this may involve balancing different interests
- deal with casework for people in their wards
- go to full Council and Committee meetings

- work to improve the good governance of the Council and Council services
- represent the Council on other bodies.

(c) Rights and duties of Councillors

The Council will give Councillors the information and resources they need to do their jobs, as far as the law allows.

Councillors must obey the law and follow the members' code of conduct (see 20). They are guided by the protocol on member/officer relations (see 22), the protocol on presentations (see 25), and the members' planning code of good practice (see 24).

Councillors can exercise the following rights to speak at meetings for up to five minutes and may answer questions after that:

- one of the Councillors who called-in a decision may address the meeting of the Scrutiny ~~Call-in Committee~~Commission considering the call-in
- the Chair or Vice-chair of a scrutiny body may address the Cabinet or a committee in presenting that body's report
- the Chair or Vice-chair of the Audit Committee may address the Cabinet or a committee when referring matters of concern
- one of the Councillors, who submitted notice of a motion to full Council may address the body to which the motion is referred.

Councillors observing a Cabinet or scrutiny meeting are entitled to remain even though the public and the press have been excluded.

(d) Councillors' allowances

Councillors can claim allowances (see 19).

1.3 Full Council

(a) Role of full Council

Full Council is attended by all Councillors. Some things can only be done by full Council. These include:

- agreeing the Council's overall budget and policies (which are known as the budget and policy framework)
- changing the Constitution
- appointing the Leader
- appointing committees of full Council
- confirming who will be Chief Executive, Chief Finance Officer and Monitoring Officer

Proposals that go against the budget or policy framework must normally be agreed by full Council. But there is a procedure for urgent decisions outside the budget and policy framework (see 14.4).

(b) Full Council Meetings

There are three types of full Council meetings: annual meetings, ordinary meetings and special meetings. These follow the full Council procedures (see 9).

1.4 Leader and Cabinet

(a) Members of the Cabinet

The Cabinet is made up of the Leader, the Deputy Leader and between one and eight other Councillors. The Leader is appointed by full Council. The Leader appoints the Deputy Leader and Cabinet members. Members of the Cabinet cannot be the Mayor, the Deputy Mayor or a member of a scrutiny body.

(b) Cabinet meetings

Cabinet meetings follow the Cabinet procedures (see 10).

(c) Executive decisions

The Cabinet takes decisions collectively at Cabinet meetings. Some decisions are delegated to Cabinet members or officers (see 4.5 and 8.3).

Cabinet decisions must be consistent with the overall policies of full Council (policy framework). They must also be within the budget set by full Council.

(d) Key decisions

Some decisions that the Cabinet takes are identified as being particularly important and are known as key decisions (see 13). When the Cabinet is going to take a key decision, it should be shown in the Forward Plan (see 13) to provide Councillors and the public with advance notice.

(e) Role of the Leader

The Leader is responsible for:

- appointing and removing the Deputy Leader
- appointing members to and removing members from the Cabinet
- allocating executive responsibilities
- chairing Cabinet meetings.

1.5 Other committees that take decisions

Other committees that take decisions include the Plans Committee, Appeals and Reviews committee, Member Conduct Committee, Personnel Committee, Licensing Committee, and Audit Committee. Section 5 describes their roles.

1.6 Scrutiny

(a) Scrutiny bodies

The Council has two permanent scrutiny bodies, ~~all of~~ which are politically balanced committees. The Scrutiny Commission may establish task and finish panels to carry out particular scrutiny reviews.

(b) Role of scrutiny committees

Scrutiny committees scrutinise the Council's decisions and work. For more details, see Section 6.

(c) Procedure at scrutiny committees

The scrutiny committees follow the scrutiny committee procedures in Section 11.

1.7 Mayor and Deputy Mayor

(a) Election of Mayor and Deputy Mayor

The Mayor and Deputy Mayor are elected by full Council each year. The Deputy Mayor may undertake the functions of the Mayor in the absence of or at the request of the Mayor.

(b) Ceremonial role

The Mayor is the first citizen of the Borough and represents the Council at such civic and ceremonial events as the Council and he/she determines appropriate. The Mayor will also sign ceremonial documents and promote public involvement in the Council's activities.

(c) Chairing full Council

The Mayor chairs full Council. In chairing full Council, the Mayor will:

- promote the purpose of the Constitution (see 2.3)
- interpret the Constitution (see 2.2)
- get the business done efficiently but pay attention to the rights of all Councillors and the interests of local people
- make full Council a place for discussing the concerns of local people and holding the Leader and Cabinet to account
- be the conscience of Council.

1.8 Council employees

Council employees, including those engaged on a temporary basis, are called officers. Officers give advice, implement the Council's decisions and run the Council's services. Some officers have a special duty to make sure the Council follows the law or uses its resources widely (see 7.4 and 7.6).

When employing and dismissing officers, the Council follows the employment rules (see 17).

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2.1 Status of this Constitution

The Council will follow this Constitution unless it conflicts with the law.

2.2 Interpreting the Constitution

When the Constitution and the law allow the Council to do more than one thing, the Council will do what is closest to the purpose of the Constitution (see 2.3).

At full Council, the Mayor's interpretation of the Constitution will be final. When interpreting the Constitution, the Mayor will consider the purpose of the Constitution (see 2.3) and the advice of the Monitoring Officer and the Chief Executive.

If the Constitution has no procedures for a meeting, or if there is a gap in the procedures for a meeting, the chair of the meeting will decide what to do. This must be consistent with the purpose of the Constitution (see 2.3)

2.3 Purpose of the Constitution

The Constitution exists so that the Council can take its decisions and do its work effectively. It will help the Council to:

- provide clear leadership for the Borough
- assist citizens to exercise their rights (see 1.1)
- assist Councillors to exercise their rights and perform their roles (see 1.2)
- take decisions transparently and objectively following appropriate consultation and professional advice
- act openly and in public except when there are strong reasons not to (see 13)

- hold decision takers to account and make sure no one reviews their own decisions
- demonstrate the highest standards of conduct by Councillors and officers
- respect human rights
- act proportionately (~~European~~the law defines this as doing no more than is necessary in a democratic society to achieve a legitimate aim).

2.4 Monitoring and reviewing the Constitution

The Monitoring Officer will monitor and review the Constitution and may recommend changes.

2.5 Changing the Constitution

The Monitoring Officer can change the Constitution if it is to put right clerical mistakes or to make it follow the law. The Monitoring Officer can also change Section 4 (who carries out executive responsibilities) and Section 8.3 (delegation of Executive functions to officers) to reflect the wishes of the Leader.

Any other changes must be agreed by full Council after considering a report from the Monitoring Officer.

2.6 Changing governance arrangements

The Council may, by resolution, change the form of its executive arrangements or change to a different permitted model of governance. The Council may choose to hold a referendum in that event.

2.7 Suspending the Constitution

The Constitution can only be suspended where it says so (but see 9.18).

2.8 Publishing the Constitution

The Monitoring Officer will keep an up to date version of the Constitution and publish it on the Council's website. The Monitoring Officer will make copies available for inspection at the Council offices, ~~and for purchase by the public.~~

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3.1 Council responsibilities and executive responsibilities

The law divides the Council's work into three categories:

- Council responsibilities – these are the responsibility of full Council but can be delegated to committees or officers.
- Executive responsibilities – these are the responsibility of the Leader but can be allocated to Cabinet, Cabinet committees, Cabinet members or officers.
- Local choice responsibilities – it is up to the Council whether these are Council responsibilities or Executive responsibilities.

3.2 Delegation of responsibilities

Full Council can delegate some of their responsibilities to committees and officers and the Leader can delegate some of his or her responsibilities to the Cabinet, committees of the Cabinet, single Cabinet members and officers. Details of this are in Sections 4, 5 and 8. Full Council and the Leader cannot delegate to each other.

At the annual meeting of full Council, the Leader will submit a report setting out the allocation of functions made by him or her. The report will contain the following information:

- the size of the Cabinet and the names of the Councillors appointed to the Cabinet
- the extent of any functions delegated to individual Cabinet members, including details of the limitation on their authority
- the responsibilities and constitution of any Cabinet committees and the names of the Cabinet members appointed to them

- the nature and extent of any delegation to officers with details of any limitation on that delegation.

The Leader may amend the size and composition of the Cabinet and 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 or body concerned. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

3.3 How delegation works

A body or person can at any time take back responsibilities they have delegated or decide to delegate them on certain conditions.

Officers do not have to use their delegated powers: they can ask the body or person that delegated them to decide.

The Chief Executive, ~~strategic~~ directors and heads of service who have had something delegated to them can authorise other officers to do it on their behalf (unless it was delegated on condition that they do it themselves).

When exercising delegated powers an officer shall always have regard to the requirements of the Constitution, the financial, legal and human resource implications of the decision and shall consult with staff in another service area if the decision is likely to impact on the work of that service area.

Any substantive or significant decision and the reasons for that decision shall be recorded in an appropriate manner.

The Chief Executive may authorise one officer to exercise the delegated powers of another officer (or exercise those delegated powers him or herself) in the absence of the officer holding the delegated powers. In addition, ~~strategic~~ directors may exercise the delegated powers of any head of service in their directorate in the absence of that head of service if no sub-delegations have been put in place by the head of service and there is a need for a decision to be taken prior to the return of the head of service.

3.4 Interpreting the rules on delegation

When a responsibility is delegated in this Constitution, so is the authority to do anything necessary to carry it out (unless it was forbidden when the responsibility was delegated).

The exercise of delegated powers should involve each case being considered on its merits and that the decision taker should exercise discretion where that is appropriate.

3.5 Local choice responsibilities

The Council has allocated local choice functions as follows.

Function		Responsible Body
(i)	Any function under the Leicestershire Act 1985 other than a function specified or referred to in regulation 2 or Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	Cabinet
(ii)	The determination of all employment related appeals where an appeal to councillors is provided for in the Council's procedures	Personnel Committee
(iii)	The determination of appeals against a decision in respect of the waiving of the repayment of right to buy discounts	Cabinet
(iv)	The determination of all appeals against a decision made by or on behalf of the Council except those referred to in (ii) and (iii) above	Appeals and Reviews Committee
(v)	Conducting Best Value Reviews	Cabinet
(vi)	Any function relating to contaminated land	Cabinet
(vii)	The formulation of plans and policies relating to the control of pollution, management of air quality and statutory nuisances	Cabinet
(viii)	Compliance with the Council's plans and policies relating to the control of pollution, management of air quality and statutory nuisances, including consideration of the annual air quality progress report	Cabinet

Function		Responsible Body
(ix)	Obtaining information under Section 330 of the Town & Country Planning Act 1990 as to interests in land	Plans Committee
(x)	Obtaining information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 as to interests in land	Cabinet
(xi)	The making of agreements for the execution of highways works	Plans Committee
(xii)	Appointments to outside organisations and the revocation of such appointments except where the appointment is a Council function	Cabinet
(xiii)	Making of agreements with other local authorities for the placing of staff at the disposal of those authorities	Council

These functions may be delegated by the Responsible Body as set out in the scheme of delegation.

3.6 Advisory bodies and working parties

(a) General

The Council, the Cabinet, the Leader, the Chief Executive and, in consultation with the Chief Executive and the Head of ~~Strategic Support~~Governance & HR, ~~strategic~~ directors and heads of service, may from time to time establish member reference groups, working parties, advisory bodies, project boards or other suitable groups which include in their membership Councillors and/or officers and/or representatives from partner organisations or the local community.

These are not constituted as committees or sub-committees and are not authorised to make decisions on behalf of the Council. A list of such bodies is maintained by the Head of ~~Strategic Support~~Governance & HR who will also be responsible for making appointments to those bodies.

(b) Housing Management Advisory Board

The Council has established a Housing Management Advisory Board to promote tenant and leaseholder engagement in decisions relating to the Council's housing stock.

The Housing Management Advisory Board will be composed of:

- six tenants/leaseholders, selected by a panel comprising the Strategierelevant Director, lead officer for tenant participation, a representative of a recognised independent tenant participation organisation and other Borough Council officers if deemed appropriate by the Strategierelevant Director, appointed for a period of three years providing the person continues to be a tenant/leaseholder;
- three Councillors, who must not be Cabinet Members, appointed annually on the basis of political balance;
- one person who is independent of the Council, selected by a panel comprising the Strategierelevant Director, lead officer for tenant participation, two representatives from the Charnwood Housing Residents Forum and other Borough Council officers if deemed appropriate by the Strategierelevant Director, appointed for a period of three years and confirmed annually by the Board.

In respect of the Councillor appointments only, substitutes can be made. Substitutions must be for the whole meeting. A member cannot take over from their substitute or hand over to them part of the way through. Substitutes cannot appoint substitutes of their own. If a member wants to send a substitute, they must tell the Head of Strategic Support Governance & HR before the meeting

Any member can resign from the Board by giving notice to the Strategierelevant director. Appointments to vacancies will be made in the same way as the original appointment and will be for the remainder of the resigning member's term of office.

The Chair of the Housing Management Advisory Board will be appointed annually by the Board from among the tenant/leaseholder members. The Board may appoint a Vice-chair from among its members.

The quorum for meetings of the Board will be five members, at least two of whom must be tenants/leaseholders.

The Board will receive reports on matters relating to the Council's landlord functions. These will include:

- the HRA Budget, the Housing Investment Programme and the Housing Service Plan;
- other matters relating to the delivery of the housing landlord function;
- reviews of existing policies or the introduction of new policies relating to or affecting the Council's tenancies;
- matters enabling tenant scrutiny and challenge as part of delivering co-regulation of the housing landlord service;
- performance of the housing landlord function.

Where those reports relate to items which will be submitted to the Council's Cabinet, the comments and recommendations of the Board will be submitted to Cabinet with the officer report. The Chair or Vice-chair of the Board will have the right to address Cabinet to present the Board's comments and recommendations.

(c) Loughborough Area Committee

The Council has established the Area Committee with the following advisory functions:

- To carry out a consultative role in relation to budgetary and financial issues which either solely or predominantly affect the Loughborough town area.
- To carry out a consultative role in relation to matters of policy and strategic direction which relate to or affect the Loughborough town area.

The Committee will have two scheduled meetings per year, one to allow for consultation during the budget setting process for the Loughborough special expenses, and one to consider an annual report regarding activities and issues affecting the Loughborough town area.

Further meetings may be called under the relevant provisions within the Constitution, but any business to be considered by the Committee must be in accordance with its consultative roles as set out above.

Any consultation responses made by the Committee should be collective submissions, arrived at and agreed in accordance with the relevant meeting procedures within the Constitution.

The Committee cannot commission or request reports from officers, other than as may be required to assist it with business being undertaken in its consultative roles.

3.7 Delegations to and from other local authorities

The Council has made the following delegations to other local authorities.

The Council's off-street parking notice processing function has been delegated to the Executive of Leicestershire County Council.

The Council's parking enforcement adjudication function has been delegated to the Parking and Traffic Regulations Outside London Adjudication Joint Committee.

The Council has accepted the following delegations from other local authorities.

Functions for Decriminalised Parking Enforcement in respect of on-street parking have been accepted from Leicestershire County Council. This is an executive function.

~~Functions in relation to the handling of telephone calls made to Harborough Customer Services and through other communication channels from Harborough District Council. This is an executive function.~~

The Council is one of the authorities that has established and is represented on the Police and Crime Panel for the area of the Leicestershire Police.

Chapter 4 . WHO CARRIES OUT EXECUTIVE RESPONSIBILITIES?

4.1 Need to act within the budget policy framework	4.1
4.2 Gaps in the policy framework	4.1
4.3 Need to follow the Constitution	4.1
4.4 Delegation to officers	
4.5 Decisions that must be agreed by the Cabinet or a committee of the Cabinet	4.2
4.6 Responsibilities not covered by these rules	4.2

4.1 Need to act within the budget and policy framework

Executive responsibilities must be carried out within the budget and policy framework.

4.2 Gaps in the policy framework

Where a policy or strategy within the policy framework is silent on a matter under consideration the Leader (or the Cabinet, a committee of the Cabinet, or any Cabinet members or officers the Leader has delegated to) can do anything within the law in relation to that matter.

4.3 Need to follow the Constitution

Executive responsibilities must be carried out in a way that follows the Constitution, the financial procedure rules and the contract procedure rules.

4.4 Delegation to officers

The executive responsibilities delegated to officers are set out in section 8.3.

An officer can only carry out a responsibility if:

- they (or an officer who reports to them) have budgetary or management responsibility for it and
- the Constitution or the law does not require it to be carried out by someone else.

4.5 Decisions that must be agreed by the Cabinet or a committee of the Cabinet

All Executive decisions which are not delegated to officers, a single Cabinet member or a committee of the Cabinet must be agreed by the Cabinet.

Committee of the Cabinet

In accordance with the Council's policy on the repayment of right to buy discounts, a committee of the Cabinet consisting of three members of the Cabinet, to be selected by the Head of ~~Strategic Support~~Governance & HR, sits as the appeals panel to determine any appeals against decisions on the waiver of the repayment of discounts on the basis of written representations.

Single Cabinet Member Delegations

The following single Cabinet Member delegations are in place:

- Delegation to the Lead Member for Community Support ~~and Equalities~~ to make decisions on grant awards under the Member Grants scheme where a councillor has a personal interest that might lead to bias in relation to the matter, except in cases where the Lead Member for Community Support ~~and Equalities~~ has a personal interest that might lead to bias in relation to the matter.
- Delegations to the Leader of the Council, or in his/her absence to the Deputy Leader of the Council;
 - To approve the purchase of commercial properties in accordance with the relevant parameters set out in the current Capital Strategy
 - To approve the sale of commercial properties where it is considered expedient and, in the Council's, best interests

4.6 Responsibilities not covered by these rules

If a responsibility does not have to be carried out by the Cabinet or a Cabinet member and no one has budgetary and management responsibility for it, the Leader will arrange for it be carried out by the Cabinet, a committee of the Cabinet, a Cabinet member or an officer.

Chapter 5 . WHO CARRIES OUT COUNCIL RESPONSIBILITIES AND ROLES OF DECISION TAKING COMMITTEES

5.1 Who carries out Council responsibilities?	5.1
5.2 Need to follow the Constitution	5.1
5.3 Delegation to officers	5.1
5.4 Decisions that must be agreed by the Council	5.1
5.5 Roles of decision taking Committees	5.2

5.1 Who carries out Council responsibilities?

Council responsibilities can be carried out by full Council, a committee of the Council, a sub-committee or an officer. Some Council responsibilities cannot be carried out by an officer and others must be carried out by full Council. The responsibilities of the Council's committees and sub-committees are set out in section 5.5 and the responsibilities delegated to officers are set out in section 8.2.

5.2 Need to follow the Constitution

Council responsibilities must be carried out in a way that follows the Constitution, the financial procedure rules and the contract procedure rules.

5.3 Delegation to officers

The Council responsibilities delegated to officers are set out in section 8.2.

An officer can only carry out a responsibility if:

- they (or an officer who reports to them) have budgetary or management responsibility for it and
- the Constitution or the law does not require it to be carried out by someone else.

5.4 Decisions that must be agreed by the Council

All Council decisions which are not delegated to officers, a committee of the Council or a sub-committee must be agreed by the Council.

5.5 Roles of decision taking Committees

References below to panels should be interpreted as referring to the sub-committees described in relevant legislation.

(a) Appeals and Reviews Committee

Functions	Delegation
1. To consider and determine appeals against: (i) decisions taken by the Council on the grant of National Non-domestic Rates relief; (ii) any other Council decision, except those relating to employment matters, where an appeal to members is provided for in law or the Council's procedures.	No delegation
2. To determine objections to tree preservation orders.	The Appeals and Reviews Committee will follow the Procedure Rules for tree preservation order appeals when exercising this function.
3. To consider and determine appeals by councillors against decisions made by the Member Conduct Panel	The Appeals and Reviews Committee will follow the Procedure Rules for dealing with complaints about member conduct when exercising this function.

Members are recommended to attend any appropriate training prescribed by the Head of Strategic Support Governance & HR before attending any Appeals and Review Committee meetings.

(b) Audit Committee

Functions	Delegation
<p data-bbox="237 306 350 340"><u>General</u></p> <p data-bbox="237 382 927 596">1. To refer matters of concern to the Council, Cabinet, or appropriate committee. The Chair or Vice-chair of the Committee may address the Cabinet, or a committee and the Vice-chair of the Committee may address the Council before the report is considered.</p> <p data-bbox="237 638 415 672"><u>Audit activity</u></p> <p data-bbox="237 714 959 890">2. To consider the head of internal audit's 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.</p> <p data-bbox="237 932 943 999">3. To consider summaries of specific internal audit reports as requested.</p> <p data-bbox="237 1041 935 1142">4. To consider reports dealing with the management and performance of the providers of internal audit services.</p> <p data-bbox="237 1184 959 1285">5. To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.</p> <p data-bbox="237 1327 935 1436">6. To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.</p> <p data-bbox="237 1478 927 1545">7. To consider specific reports as agreed with the external auditor.</p> <p data-bbox="237 1587 951 1654">8. To comment on the scope and depth of external audit work and to ensure it gives value for money.</p> <p data-bbox="237 1696 902 1797">9. To liaise with the appropriate person or body over the appointment of the council's external auditor.</p>	<p data-bbox="989 306 1187 340">No delegation</p>

10. To commission work from internal and external audit.

Regulatory framework

11. To maintain an overview of the council's constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.

12. To review any issue referred to it by the chief executive, a director or a head of service, or any council body.

13. To monitor the effective development and operation of risk management and corporate governance in the council.

14. To monitor council policies on 'Raising Concerns at Work' and the anti-corruption strategy and the council's complaints process.

15. To oversee the production of the authority's Governance Statement and to recommend its adoption.

16. To consider the council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

17. To consider the council's compliance with its own and other published standards and controls.

18. To consider the Council's treasury management control and investment control arrangements.

Accounts

19. To approve the Authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts under the Accounts and Audit Regulations as amended.

20. 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.

21. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Regulation of Investigatory Powers Act (RIPA)

22. To consider the use of RIPA and report to Cabinet any concerns that may indicate that this is not consistent with the Council's Policy for the use of RIPA or that the Policy may not be fit for purpose. The Chair or Vice-chair of the Committee may address the Cabinet before any report to Cabinet is considered

Members of the Audit Committee must attend the mandatory training, or its equivalent, at the start of each Council term to maintain their eligibility.

Other councillors are allowed to substitute for members of the Audit Committee who are absent using procedures set out in the Committee Procedures. In order to maintain eligibility to participate in meetings a councillor must have attended mandatory training, or its equivalent, in the current Council term.

(c) Licensing Committee

Functions	Delegation
<p>1. All those functions for which the Council is responsible relating to licensing and registration set out in Regulation 2 and Schedule I of the Regulations</p>	<p>The Head of Regulatory <u>and Community Safety Services</u> is authorised to exercise the powers set out in section 8 of the Constitution.</p>
<p>2. To recommend the Council to approve or revise the Statement of Licensing Policy</p>	<p>No delegation</p>
<p>3. In those cases where a relevant representation has been received, to discharge the Council's responsibility under the Licensing Act 2003 for determining the following:</p> <ul style="list-style-type: none"> (i) application for a personal licence; (ii) application for a premises licence or club premises certificate; (iii) application for a provisional statement; (iv) application for variation to a premises licence or club premises certificate; (v) application to grant or vary the licence so as to specify the designated premises supervisor; (vi) application for transfer of a premises licence; (vii) application for interim authority; (viii) application for a temporary event notice. 	<p>Items 3, 4, 6, 7, 9, 10, 11 ad 12 have been delegated to the Licensing Sub-committee.</p> <p>The Licensing Sub-committee when considering premises licences and associated functions under the Licensing Act 2003 will comprise three members chosen by the Head of Strategic Support <u>Governance & HR</u> on the basis of availability from the members of the Committee so that it includes at least one of the Chair or Vice-chairs of the Committee, where possible. The Licensing Subcommittee will follow the Procedure Rules for licensing hearings when exercising these functions.</p>
<p>4. To determine the following matters concerning the discharge by the Council of its licensing functions under the Licensing Act 2003:</p> <ul style="list-style-type: none"> (i) application for a personal licence where there are relevant unspent convictions; (ii) the review of a premises licence or club premises certificate; (iii) decision to object where the local authority is the consultee and not the relevant authority considering the application; (iv) a police objection to a temporary event notice. 	<p>The Licensing Sub-committee when considering matters relating to Hackney Carriage and Private Hire Licensing will comprise four members (with a minimum of three members needing to be present for the meeting to be quorate) chosen by the Head of Strategic Support <u>Governance & HR</u> on the basis of availability from the members of the Committee so</p>
<p>5. To make recommendations to Council in respect of the Council's licensing policy in respect of its powers under the Gambling Act 2005</p>	<p></p>

<p>6. In those cases where a relevant representation has been received and not withdrawn, to discharge the Council's responsibility under the Gambling Act 2005 for determining the following:</p> <ul style="list-style-type: none"> (i) application for a premises licence; (ii) application for the variation of a premises licence; (iii) application for a provisional statement under section 204 of the Act; (iv) application for a club gaming permit or club machine permit under sections 271 and 273 of the Act <p>7. To determine the following matters concerning the discharge by the Council of its licensing functions under the Gambling Act 2005:</p> <ul style="list-style-type: none"> (i) an application for transfer of a premises following representations by the Gambling Commission; (ii) a review of a premises licence under section 201 of the Gambling Act 2005; (iii) whether to issue a counter notice to a temporary use notice under section 224 of the Gambling Act 2005; (iv) whether to cancel a gaming permit or club machine permit. <p>8. To determine new applications for sex establishment licences.</p> <p>9. To carry out functions relating to health and safety at work (other than in the Council's capacity as an employer) set out in Regulation 2 and Schedule 1 of the Regulations.</p> <p>10. To determine discretionary licensing fees where objections to the proposed fees have been made, and these have not been withdrawn and are not considered frivolous or vexatious by the Head of Regulatory and Community Safety Services, and provide for objectors to speak for up to five minutes at meetings of the Sub-committee.</p>	<p>that it includes at least one of the Chair or Vice-chairs of the Committee, where possible. The Licensing Subcommittee will follow the Procedure Rules for licensing hearings when exercising these functions.</p> <p>.</p> <p>No delegation</p>
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<p>11. To review the decision where an appeal is lodged against a decision to refuse an authorisation for staging hypnotism.</p> <p>12. To consider a hackney carriage proprietor and driver licensee, and/or private hire driver or operator licensee's continued fitness to hold a license, including cases where an individual licensee reaches 12 points under the Council's Penalty Point Scheme, in a rolling 12-month period.</p>	<p>No delegation</p>
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Members of the Licensing Committee must attend the mandatory training, or its equivalent, at the start of each Council term to maintain their eligibility.

(d) Member Conduct Committee

Functions	Delegation
<ol style="list-style-type: none">1. To assist the Council to promote and maintain high standards of conduct by councillors and co-opted members;2. To assist councillors and co-opted members to observe the Members' Code Conduct;3. To advise, train or arrange to train councillors and co-opted members on matters relating to the Members' Code of Conduct;4. To monitor the operation of the Members' Code of Conduct and advise the Council on the adoption or revision of the Code;5. To grant dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;6. To determine any complaints that members have breached the Code of Conduct;7. To consider requests for reviews of decisions that complaints that a member has breached the Members' Code of Conduct require no further action in accordance with the procedure for dealing with complaints;8. To exercise 6 and 7 above in relation to the parish/town councils wholly or mainly in the Council's area and the members of those parish/town councils;9. To determine any reports from the monitoring officer into complaints that members of the Borough Council have breached one of the Council's codes or protocols, other than the Members' Code of Conduct;10. To monitor the operation of and advise the Council on the adoption or revision of codes	<p>Items 6, 7 and 8 have been delegated to the Member Conduct Panel.</p> <p>The Member Conduct Panel will comprise three borough councillor members selected by the Monitoring Officer on the basis of availability from the members of the Committee. A parish member may be co-opted as a non-voting member of the Panel if the complaint is about a member of a parish/town council.</p> <p>The Panel will follow the Procedure Rules for dealing with complaints about member conduct when exercising these functions.</p>

<p>and protocols relating to standards issues other than the Members' Code of Conduct;</p> <p>11. To advise, train or arrange to train councillors and co-opted members on matters relating to codes and protocols relating to standards issues other than the Members' Code of Conduct;</p> <p>12. To make recommendations to the Cabinet or Council on major amendments to the Council's Constitution which involve standards issues;</p>	
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Members are recommended to attend any appropriate training prescribed by the Monitoring Officer before attending any Member Conduct Panel meetings.

(e) Personnel Committee

Functions	Delegation
<ol style="list-style-type: none">1. To determine the terms and conditions on which staff hold office and policies relating to those terms and conditions including procedures for dismissal2. To determine appeals by a JNC Officer against dismissal.3. To determine all other employment related appeals for JNC staff which are provided for in the Council's procedures.4. To make recommendations to Council on the appointment or dismissal of the Head of Paid Service.5. To make <u>recommendations to Council on the appointments to Chief Officer, and Statutory Officer posts <u>and excluding</u> the Head of Paid Service.</u>6. To make councillor appointments to the Joint Negotiating and Consultative Committee.7. To undertake the Chief Executive's Performance and Development Review.	<p>Officers are authorised to exercise the powers set out in section 8 of the Constitution</p> <p>Items 2,3,4,5 and 7 have been delegated to Personnel Panels.</p> <p>The Personnel Committee will appoint panels which will consist of five members (with a quorum of three) for functions 2,3,4,<u>5</u>, <u>6</u> and 7.</p>

Members cannot participate in Personnel Committee and Panel meetings unless they have attended the appropriate training on relevant personnel matters prescribed by the Head of Strategic Support Governance & HR; or they have had previous substantial involvement in the matter under consideration.

Members of the Personnel Committee must attend the mandatory training, or its equivalent, at the start of each Council term to maintain their eligibility.

Other councillors are allowed to substitute for members of the Personnel Committee who are absent using procedures set out in the Committee Procedures. In order to maintain eligibility to participate in meetings a councillor must have attended mandatory training, or its equivalent, in the current Council term.

(f) Plans Committee

Functions	Delegation of functions
<ol style="list-style-type: none"> 1. To determine applications not delegated to the Head of Planning and <u>RegenerationGrowth</u>. 2. To determine applications for certificates of lawfulness where the Head of <u>Strategic SupportGovernance & HR</u> or the Head of Planning and <u>RegenerationGrowth</u> consider the exercise of delegated powers to be inappropriate. 3. To determine applications for modifications or revocation of planning agreements. 4. To determine applications submitted by the Council which are not delegated to the Head of Planning and <u>RegenerationGrowth</u>. 5. To respond to consultation on applications not delegated to the Head of Planning and <u>RegenerationGrowth</u> in respect of county matters, proposals by the County Council, neighbouring authorities, government departments and statutory undertakers. 6. To issue and serve enforcement notices and stop notices except where delegated to the Head of Planning and <u>RegenerationGrowth</u> or the Head of <u>Strategic SupportGovernance & HR</u>. 7. To authorise other forms of enforcement action under both planning and listed buildings legislation not delegated to the Head of Planning and <u>RegenerationGrowth</u> or the Head of <u>Strategic SupportGovernance & HR</u>. 8. To carry out functions relating to the formal preservation of trees and protection of important hedgerows where the Head of Planning and <u>RegenerationGrowth</u> considers the exercise of delegated powers to be inappropriate. 	<p>Items 1 to 11 - The Head of Planning and <u>RegenerationGrowth</u> and the Head of <u>Strategic SupportGovernance & HR</u> are authorised to exercise the powers set out in section 8 of the Constitution.</p>

<p>9. To authorise completion notices under Section 94 of the Town and Country Planning Act 1990.</p> <p>10. To carry out all other functions relating to town and country planning set out in Regulation 2 and Schedule 1 of the Regulations not delegated to the Head of Planning and <u>RegenerationGrowth</u> or the Head of <u>Strategie SupportGovernance & HR</u>.</p> <p>11. To determine high hedges complaints under the High Hedges Regulations 2005 where the high hedge complaint relates to:</p> <ul style="list-style-type: none"> (i) the Council's own land; (ii) land is occupied by a councillor or Council employee; or (iii) where the complainant is a councillor or Council employee. <p>12. To recommend the Council acquire a listed building in need of repair</p> <p>13. To carry out those functions for which the Council is responsible relating to public rights of way set out in Regulation 2 and Schedule 1 of the Regulations.</p>	<p>No delegation</p> <p>The Head of Planning and <u>RegenerationGrowth</u> is authorised to exercise the powers set out in section 8 of the Constitution.</p>
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Members cannot participate in Plans Committee meetings unless they have attended the appropriate training on relevant planning matters prescribed by the Head of Strategie SupportGovernance & HR.

Members of the Plans Committee must attend the mandatory training, or its equivalent, at the start of each Council term to maintain their eligibility.

Other councillors are allowed to substitute for members of the Plans Committee who are absent using procedures set out in the Committee Procedures. In order to maintain eligibility to participate in meetings a councillor must have attended mandatory training, or its equivalent, in the current Council term and also have attended either at least one of the quarterly planning training meetings or at least one Plans Committee meeting held in the previous 12 months. If eligibility is lost, a councillor must attend the mandatory planning training, or its equivalent, to regain it.

Chapter 6 . ROLES OF SCRUTINY BODIES

6.1 Areas of work of scrutiny bodies	6.1
6.2 What powers do scrutiny bodies have?	6.2
6.3 Roles of scrutiny bodies	6.3

6.1 Areas of work of scrutiny bodies

The Council has appointed ~~four~~two standing scrutiny bodies, ~~all of~~ which are politically balanced committees

Body	Areas of work
Scrutiny Commission (politically balanced)	(i) Setting, managing and controlling the scrutiny work programme and coordinating scrutiny generally (ii) Establishing scrutiny panels and determining their scope, terms of reference and timing (iii) Considering recommendations from scrutiny panels before they are referred by the Commission to Cabinet, Council or a committee (iv) Reviewing proposed decisions on the Forward Plan and the agenda for forthcoming Cabinet meetings and making recommendations to Cabinet in respect of those proposed decisions (v) Responding to Councillor Calls for Action (vi) Monitoring the effectiveness of scrutiny through reviewing the implementation of recommendations (vii) Considering petitions holding officers to account in accordance with the Council's Petition Scheme (viii) Considering decisions of the Cabinet and officers which are called-in

Body	Areas of work
Finance and Performance Scrutiny Committee (politically balanced)	<p data-bbox="753 243 1369 310">For the services falling within the Corporate Services Directorate:</p> <ul style="list-style-type: none"> <li data-bbox="753 317 1341 531">(i) Acting as the Council's crime and disorder committee by scrutinising the discharge of crime and disorder functions by the Council and other agencies through the Community Safety Partnership <li data-bbox="753 537 1317 604">(ii) Scrutiny of external public service providers and partners <li data-bbox="753 611 1182 678">(iii) Scrutiny of the Council's commercialism strategy <li data-bbox="753 684 1325 825">(iv) Scrutiny of outside bodies, especially those which the Council gives grants to and/or has service level agreements with <li data-bbox="753 831 1317 972">(v) Scrutiny of services which are shared with other local authorities including joint scrutiny of those services <li data-bbox="753 978 1341 1045">(vi) Receiving regular performance and financial monitoring reports <li data-bbox="753 1052 1292 1192">(vii) Identifying areas of underperformance or where performance could be improved which requires further scrutiny <li data-bbox="753 1199 1333 1339">(viii) Investigating how improvements in performance can be made through examining best practice and performance at other councils <li data-bbox="753 1346 1352 1593">(ix) Reviewing the processes used to develop policy, including how consultation and stakeholder engagement are undertaken, the format of policy documents and how the successful implementation of policies is measured

6.2 What powers do scrutiny committees have?

Scrutiny bodies can:

- Send reports and recommendations to the Cabinet or full Council on anything the Council is responsible for or anything that affects the Borough or its people.
- Monitor the Forward Plan and call for reports on items that are coming up
- Require senior officers and Cabinet members to attend their meetings and answer questions (see 11.14)
- Hold inquiries
- Invite people to their meetings and gather evidence from them.

The Scrutiny Commission may establish standing and ad hoc panels to undertake scrutiny inquiries and make recommendations.

6.3 Roles of scrutiny bodies

(a) Developing and reviewing policy

Within their areas of work, scrutiny bodies can:

- Help full Council and the Cabinet to develop policy by studying issues in detail
- Carry out research and consultation on policy
- Consider and introduce schemes to involve the public in developing policy
- Work with national, regional and local organisations to promote the interest of local people.

(b) Holding the executive to account

Within their areas of work, scrutiny bodies can:

- Review the performance and decisions of the Cabinet, members of the Cabinet and Council officers (but not decisions on individual planning or licensing applications)

- Review the Council's progress in achieving its policy aims and performance targets
- Review the performance of individual services.

(c) Managing the budgets for scrutiny

Scrutiny committees are responsible for any budgets they are given.

(d) Holding others to account

Scrutiny committees can hold other public service providers to account.

(e) Annual report

The Scrutiny Commission must report annually to Council on the workings of scrutiny bodies and the operation of the scrutiny function generally.

Chapter 7 . ROLES OF OFFICERS

7.1 Senior management structure	7.1
7.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer	7.1
7.3 Role of Head of Paid Service	7.1
7.4 Role of Monitoring Officer	7.2
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7.6 Role of Chief Finance Officer	7.4
7.7 Duty to give Monitoring and Chief Finance Officers the resources they need	7.5
7.8 Duty to tell Monitoring and Chief Finance Officers about procedural, constitutional or vires issues	7.5
7.9 Restrictions on holding other posts	7.5

7.1 Senior management structure

The Council has a Chief Executive and ~~three~~strategiefour directors. Their responsibilities and those of the heads of service who report to them are shown in the senior management structure that appears at the end of this section.

7.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer

The table shows who carries out these roles.

Role	Post
Head of Paid Service	Chief Executive
Chief Finance Officer	Strategie Director for Environmental and Corporate Services of Finance, Governance & Contracts
Monitoring Officer	Head of Strategie Support Governance & HR

7.3 Role of Head of Paid Service

- The Head of Paid Service may amend the senior management structure of the Council to deliver the Council's objectives in the most effective and efficient manner, subject to seeking approval from Cabinet and/or Council when this is appropriate or required.
- The Head of Paid Service will maintain on the Council's website an up to date senior management structure chart showing post titles and the broad functional responsibilities of each post

7.4 Role of Monitoring Officer

(a) Making sure Council decisions are lawful and fair

If a proposal or decision would result in unlawful action or maladministration, the Monitoring Officer will consult the Head of Paid Service and Chief Finance Officer and report to full Council (or the Cabinet for an executive responsibility).

The proposal or decision will not be acted on until the report has been considered.

If another body is also investigating a proposal or decision that could result in unlawful action or maladministration, the Monitoring Officer can delay reporting to full Council or the Cabinet until that body has investigated.

(b) Leading on ethical issues

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct including through support of the Member Conduct Committee.

The Monitoring Officer will meet regularly with the Head of Paid Service and the Chief Finance Officer to consider issues of governance and probity.

(c) Carrying out investigations

The Monitoring Officer may investigate or arrange for another person to investigate:

- issues of governance and maladministration
- complaints of breaches of the code of conduct for members and the Council's other codes and protocols
- questions about the Council's power to act.

(d) Being proper officer for access to information

The Monitoring Officer will be the proper officer for access to information. This will include making sure that the Council publishes full Council, Cabinet, committee, single Cabinet member and officer decisions as soon as possible, along with the reasons for the decisions and the officer reports in accordance with the Access to Information rules.

(e) Giving advice

The Monitoring Officer will advise on the Council's powers to take decisions, maladministration, ethics and governance and the budget and policy framework.

(f) Monitoring Officer Protocol

The Monitoring Officer Protocol provides further guidance on the role of the Monitoring Officer within the Council and in liaising outside the Council.

(g) Legal action

The Monitoring Officer can take, or authorise another officer to take, any legal action necessary to carry out the Council's decisions or protect its interests.

(h) Authentication of documents

When the Council takes legal action, documents will be signed in the name of the Monitoring Officer, unless:

- The law or this Constitution allows someone else to sign them and
- The Monitoring Officer has given that person permission to sign them.

The common seal of the Council will be kept by the Monitoring Officer. It will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed to give effect to a properly authorised decision. It will be attested by the Monitoring Officer or a senior officer nominated by him or her.

The Council will keep a book recording when the common seal is used. The book will be signed by the officer who attests the seal.

7.5 Monitoring Officer's right to information

(a) Information for investigations

In any investigation the Monitoring Officer will have unqualified access to information from the Council and its officers.

(b) Reports to Councillors

The Monitoring Officer has the right to see all reports to Councillors.

(c) Legal opinions

The Monitoring Officer will have an adequate budget for getting legal opinions.

7.6 Role of Chief Finance Officer

(a) Making sure decisions are lawful and financially sensible

If a proposal or decision would result in unlawful spending or a loss to the Council, or if the Council is about to enter an unlawful item of account, the Chief Finance Officer will consult the Head of Paid Service and the Monitoring Officer and report to the Council's auditors and to full Council (or the Cabinet if it is an executive responsibility).

b) Managing the Council's finances

The Chief Finance Officer will have responsibility for the administration of the Council's finances.

(c) Contributing to the management of the Council as a whole

The Chief Finance Officer will contribute to the management of the Council as a whole, especially by giving financial advice. The Chief Finance Officer has the right to see all reports to Councillors.

(d) Giving advice

The Chief Finance Officer will advise on maladministration, probity, financial impropriety and the budget and policy framework.

(e) Giving financial information

The Chief Finance Officer will make information about the Council's finances available to the media and the public.

7.7 Duty to give Monitoring and Chief Finance Officers the resources they need

The Council will give the Monitoring Officer and Chief Finance Officer the accommodation, officers and resources they believe they need to do their jobs. The Monitoring Officer and Chief Finance Officer will report to full Council when necessary on the accommodation, officers and resources they need.

7.8 Duty to tell Monitoring and Chief Finance Officers about procedural, constitutional or vires issues

Directors and heads of service must alert the Monitoring Officer and Chief Finance Officer to issues of concern as soon as they come up. These will include legality, probity, vires and constitutional issues.

7.9 Restrictions on holding other posts

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

The Head of Paid Service and the Chief Finance Officer can be the same.



Chief Executive
Rob Mitchell

**Head of Transformation,
Strategy and Performance**
Helen Gretton



**Director
Housing and Wellbeing**
Peter Oliver

Head of Strategic Housing
Katie Moore

Landlord Services Manager
Andrew Staton

Repairs and Investment Manager
Deborah Bartlett

**Neighbourhoods and
Partnerships Manager**
Verity Graham

**Sport and Active Recreation
Manager**
Zoe Griffiths



**Director
Finance, Governance
and Contracts
(DCX & S151)**
Simon Jackson

Head of Finance
Lesley Tansey

**Head of Governance and
Human Resources (MO)**
Adrian Ward

**Head of Contracts:
Leisure, Waste and Environment**
Matthew Bradford



**Director
Customer Experience**
Karey Barnshaw

**Head of Regulatory and
Community Safety**
Alan Twells

Head of Planning and Growth
Richard Bennett

**Customer Services Delivery
Manager**
Adrian Le-Cras

Customer Experience Manager
Russell Clarke

**Information and Technology
Delivery Manager**
Aymen Khan

Contract Officer - Capita
Claire Werra



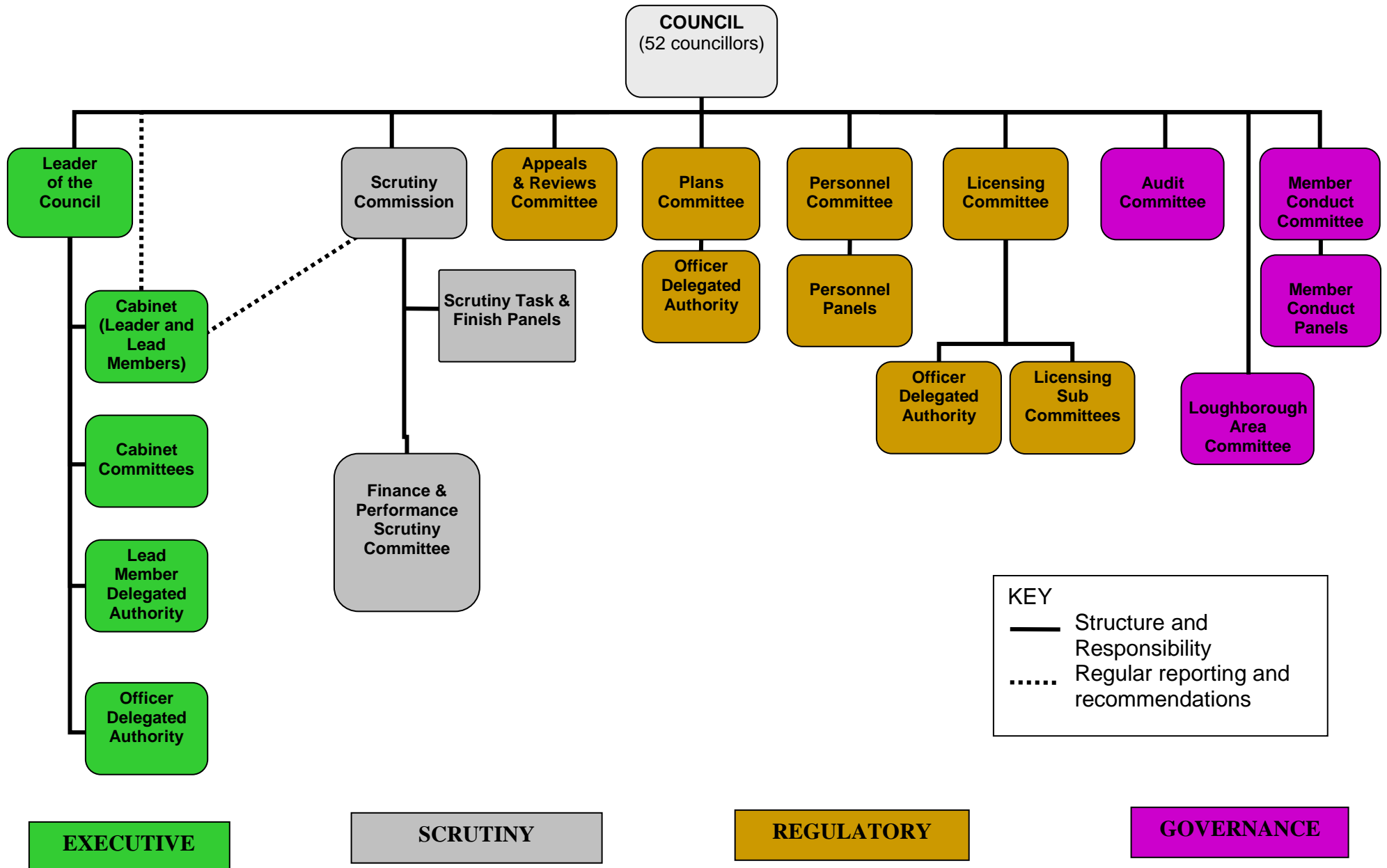
**Director
Commercial and
Economic Development
(shared with Blaby DC)**
Justin Henry

**Head of Economic
Development and Regeneration**
Chris Grace

Head of Assets and Property
Ian Browne



CHARNWOOD BOROUGH COUNCIL – DECISION MAKING STRUCTURE



Chapter 8 SCHEME OF DELEGATION TO OFFICERS

8.1 Introduction	8.1
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8.3 Delegation of Executive functions	8.15

8.1 Introduction

The principles of how delegation works are set out in sections 3.4 and 3.5 but are also copied at the end of this section.

The scheme of delegation sets out the extent to which the powers and duties of the Council are delegated to officers. Officers with delegated authority are able to take such action as may in his or her opinion be necessary or appropriate in connection with:

- (i) all operational management matters for those functions and service areas for which he or she has responsibility.
- (ii) persons and/or property for which he or she and his or her service has responsibility.
- (iii) the implementation of decisions properly authorised by the Council or a committee of the Council, the Cabinet, or a committee of the Cabinet or by an officer acting under delegated powers.
- (iv) the performance of any action for which he or she is specified as responsible in any policy, procedure or other document approved or adopted by the Council or a Committee of the Council, the Cabinet, or a Committee of the Cabinet or by an officer acting under delegated powers and making minor corrections to approved documents where the intention is clear.
- (v) all other functions, tasks and responsibilities listed in this scheme of delegation.
- (vi) anything which facilitates, or is conducive or incidental to, the discharge of the functions, tasks, or responsibilities listed in (i) to (v) above.

How delegation works

A body or person can at any time take back responsibilities they have delegated or decide to delegate them on certain conditions.

Officers do not have to use their delegated powers: they can ask the body or person that delegated them to decide.

The Chief Executive, directors and heads of service who have had something delegated to them can authorise other officers to do it on their behalf (unless it was delegated on condition that they do it themselves).

When exercising delegated powers an officer shall always have regard to the requirements of the Constitution, the financial, legal, and human resource implications of the decision and shall consult with staff in another service area if the decision is likely to impact on the work of that service area.

Any substantive or significant decision and the reasons for that decision shall be recorded in an appropriate manner.

The Chief Executive may authorise one officer to exercise the delegated powers of another officer (or exercise those delegated powers him or herself) in the absence of the officer holding the delegated powers. In addition, directors may exercise the delegated powers of any head of service in their directorate in the absence of that head of service if no sub-delegations have been put in place by the head of service and there is a need for a decision to be taken prior to the return of the head of service.

Interpreting the rules on delegation

When a responsibility is delegated in this Constitution, so is the authority to do anything necessary to carry it out (unless it was forbidden when the responsibility was delegated).

The exercise of delegated powers should involve each case being considered on its merits and that the decision taker should exercise discretion where that is appropriate.

8.2 Delegation of Council functions

Delegation to the Chief Executive, Directors and Heads of Service

1. To take such action as is required in the case of an emergency or urgency subject to:
 - (i) consultation with the Mayor, the Chair of the relevant committee, or, in the Chair's absence, the Vice-Chair.
 - (ii) consultation with the Chief Executive and relevant Directors in each case; and
 - (iii) a report on the action taken being made to the next meeting of the Council or relevant committee, as appropriate.
2. Following consultation with the Council's Human Resources team and subject to the decision complying with the Council's existing policies:
 - (i) to approve the payment of honoraria and acting up allowances in accordance with the Council's policy.
 - (ii) to approve payment of one accelerated increment on the grounds of special merit or ability, for employees within their existing grades.
 - (iii) to enter into apprenticeship agreements.
 - (iv) to authorise the extension of sick pay beyond normal entitlements.
 - (v) to approve essential and casual car allowances for individual posts where it is agreed that the post warrants such an allowance.
 - (vi) to approve post entry training of up to £5,000 per individual employee per financial year.
 - (vii) to make temporary appointments to be held against existing permanent posts or within the overall budget.
 - (viii) to change the grading of posts as a result of job evaluation, following consultation with the recognised trades unions.
 - (ix) to approve the extension of probationary periods.
 - (x) subject to the Officer Employment Procedure Rules and to any right of appeal which may be applicable, to undertake staff management, disciplinary and capability matters including dismissal within their Directorate or Service Area.

Note: in the first instance these functions will be exercised by the Head of Service with matters being determined by Chief Officers in relation to people reporting directly to them or in specific circumstances which make this appropriate or necessary.

3. To settle compensation payments in accordance with the Council's complaints procedure.
4. To negotiate and settle disputes without recourse to court proceedings including negotiating and agreeing terms through alternative dispute resolution.
5. To sign contracts up to a value of £5100,000 entered into on behalf of the Council in the course of the discharge of a Council function.

Delegation to Heads of Service

1. To undertake the periodic review of fees and charges raised within his or her service area and falling within the scope of the Council's Income and Charging Policy Framework.
2. To exercise statutory powers of entry.
3. To issue or serve any notice, warrant or direction for the purpose of enforcing any Council function or non-executive function.
4. To respond to consultation documents in relation to those Council functions for which he or she has responsibility, in consultation with the relevant Lead Member.

Delegation to the Head of Paid Service

1. To exercise the functions of the Council's head of paid service under Section 4 of the Local Government and Housing Act 1989 and in this role:
 - to exercise overall responsibility for corporate management and operational issues (including overall management responsibility for all staff);
 - to give professional advice to all parties in the decision-making process (the Cabinet, scrutiny bodies, the Council and other committees);
 - together with the Head of Governance and Human Resources, to be responsible for a system of record keeping for all the Council's decisions.
2. Subject to the Officer Employment Procedure Rules and to any right of appeal which may be applicable, to undertake staff management, disciplinary and capability matters and dismissal, including the application of staffing related policies, the exercise of discretion in the application of those policies and the settlement of employee claims against the Council, except insurance claims.
3. To suspend non-statutory chief officers and deputy chief officers where their continued presence at work may prejudice an investigation or where there is a prima facie case of gross misconduct. The members of the Cabinet are to be notified as soon as possible after the action is taken in accordance with the Officer Employment Procedure Rules set out in Part 4 of this Constitution.
4. To determine cases of early retirement due to ill health
5. To appoint to posts below the level of chief officer.
6. To agree changes to the establishment, within budget and without major operational disruption or interruption of services or involving a change from direct to indirect provision or vice-versa or other policy implications.
7. [To approve special severance payments to officers \(other than to the Head of Paid Service\) which are outside of statutory, contractual or other requirements when leaving the Council's employment up to but not including £100,000, having also obtained the Leader's approval and consulted with the s151 officer and the monitoring officer for any such payments of £20,000 and above.](#)

- [87.](#) In the exercise of 1. to [76.](#) above, to authorise expenditure to be met from the Reinvestment Reserve for the purposes of meeting any redundancy or salary protection costs that might arise.
- [98.](#) To make JNC salary progression awards.
- [109.](#) To authorise urgent expenditure.
- [110.](#) To deal with emergency issues or those that are urgent, including authority to make temporary changes to management arrangements for a period of up to three months, and generally to give effect to anything that is required to be done in those circumstances that are not otherwise provided for in the delegation arrangements.
- [124.](#) To reject any application for the early payment of a pension on the grounds of compassion which does not meet the agreed criteria.
- [132.](#) To act as Returning Officer, Acting Returning Officer or Deputy Returning Officer at:
 - (i) Local elections;
 - (ii) Police and Crime Commissioner Elections; and
 - (iii) Parliamentary elections.
- [14.3.](#) To undertake other election duties not reserved by the Council.
- [15.4.](#) To undertake the duties of Electoral Registration Officer.
- [16.](#) To make local settlements in cases of maladministration.
- [17.](#) To make agreements with other local authorities for the placing of staff at the disposal of those authorities.

Delegation to the Director of Finance, Governance and Contracts

1. To exercise all the functions of the Council's Chief Financial Officer and Responsible Financial Officer, including proper administration of the Council's financial affairs under section 151 of the Local Government Act 1972, section 114 of the Local Government Finance Act 1988, the Accounts and Audit Regulations 2003 and the Audit Commission Act 1998.
2. To update and ensure compliance with the Council's Financial Procedure Rules.
3. To calculate and set the National Non-Domestic Rate and Council Tax Bases.

Delegation to the Director of Customer Experience

1. To determine which administrative area properties, fall into where electoral boundaries cross through the curtilage of a property.

Delegation to the Director of Commercial and Economic Development

- [1.](#) To update and ensure compliance with the Council's Contracts Procedure Rules.
- [4.2.](#) [To make amendments to the Climate Change Strategy in response to future legislative changes or changes at local or regional level in consultation with the relevant Lead Member](#)

~~Delegation to the Head of Contracts, Leisure, Waste and Environment~~

~~Pavement Licences~~

- ~~1. To determine fees up to the Statutory Maximum~~
- ~~2. To determine applications for a Pavement Licence~~
- ~~3. To determine to vary a Pavement Licence~~
- ~~4. To determine to serve a Notice~~
- ~~5. To determine to revoke a Pavement Licence~~
- ~~6. To determine to apply or vary conditions of a Pavement Licence~~
- ~~7. To determine request for review in relation to any aspect~~
- ~~8. To take enforcement or other action to exercise powers under the Business and Planning Act.~~

Delegation to the Head of Planning and Growth

Development Control

1. To determine all planning applications and applications for advertisement consent, listed building consent, conservation area consent and consent to carry out works to protected trees, except where:
 - (i) the application is contrary to the provisions of the Development Plan and is recommended for permission;
 - (ii) in the opinion of the Head of Planning and Growth, the application is controversial or likely to be of significant public interest or would have a significant impact on the environment;
 - (iii) the application is submitted by or on behalf of the Council for its own development, except for the approval of development which in the opinion of the Head of Planning and Growth is not of major impact and to which no objections have been received;
 - (iv) the ward councillor(s) have made a valid request that the application should be referred to the Plans Committee for determination in accordance with the call-in procedure set out in section 12.12 of the Constitution¹;
 - (v) the application is submitted by a serving member of the Council, or a serving officer.
 - (vi) an application is received to remove or vary a planning condition or to vary a s106 legal agreement and the planning permission for the development was granted by the Plans Committee except in cases where, following consultation with the Chair and Vice Chair of the Plans Committee and relevant ward councillors, the Head of Planning and Growth is of the opinion that the variation is minor in nature.
2. Subject to the provisions of 1(vi) above, to agree non-material amendments and minor material amendments to planning permissions

¹ Applications received on or before 30th June 2016 will follow the previous ward referral procedure.

where no demonstrable harm would be caused to an interest of acknowledged importance.

3. To respond to requests for information from the Planning Inspectorate following notification of the start of an appeal against non-determination where an application would normally be reported to Plans Committee but there is insufficient time to do so. In such circumstances, in consultation with the Chair and Vice Chair of Plans Committee, to provide the local planning authority's view as to how it would have determined the planning application had it had the opportunity to do so.
4. To determine applications for certificates of lawfulness for proposed or existing uses or development.
5. To approve details submitted in compliance with conditions and planning obligations on planning permissions.
6. Rights of entry:
 - (i) to initiate a proposal under Sections 196A and 324 of the Town and Country Planning Act 1990 (rights of entry);
 - (ii) to appoint officers to enter premises for the purpose of inspection in connection with (i) above;
 - (iii) to serve notices of intention to enter premises for the purpose of inspection in accordance with Sections 196A and 325 of the 1990 Act;
 - (iv) to apply for warrants authorising entry under Section 196B of the 1990 Act.
7. To finally dispose of a planning application and remove them from the planning register under Article 40(3) and (13) the Town and Country Planning (Development Management Procedure) (England) Order 2015.
8. To serve requisitions for information under Section 330 of the Town and Country Planning Act 1990.
9. To serve planning contravention notices under Section 171C of the Town and Country Planning Act 1990.
10. To serve breach of condition notices.
11. To take formal enforcement action in relation to cases of unauthorised development not covered by other specific delegated authority except where the details of an intended delegated decision on any recommendation to take enforcement action have been circulated to the ward councillor(s) concerned (or in the case of single-member wards, to another councillor nominated by the ward councillor) and by 5 pm on the second working day following the details being circulated, a councillor who has been consulted has advised the Head of Planning and Growth, via e-mail or in writing and giving relevant planning reason(s), that the matter should be referred to the Plans Committee for determination.
12. Subject to prior consultation with the appropriate ward councillor(s) (or in the case of single-member wards, with another councillor nominated by the ward councillor), to determine cases where it is not considered expedient to take formal enforcement action in relation to cases of unauthorised development where such development is in accordance with planning policies or standards, does not result in a significant loss

- of amenity to local residents and does not have a significant impact on the character and appearance of the area.
13. To take action under Section 224 of the Town and Country Planning Act 1990 and the Town and Country (Control of Advertisement) Regulations in respect of unauthorised advertisements.
 14. To remove or obliterate posters under Section 225 of the Town and Country Planning Act 1990.
 15. To determine whether an Environmental Impact Assessment is required to accompany a planning application, ~~and the matters to be covered in the assessment and to respond to screening opinion and scoping opinion requests made under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (and any subsequent amendment or replacement of these Regulations)~~
 16. To respond to notifications and applications for determinations under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and any subsequent revisions to the Order.
 17. To serve notices under section 215 of the Town and Country Planning Act 1990 requiring the proper maintenance of land.
 18. To respond to consultations by or on behalf of government departments, PINS in respect of National Infrastructure projects, electricity undertakings and other local authorities about development proposals.
 19. To make representations in respect of proposals for the installation of Cable TV apparatus in conservation areas or in the proximity of listed buildings and responding to any subsequent consultation by the Secretary of State for Trade and Industry.
 - 20.. To impose conditions relating to the installation of Cable TV apparatus and opposing the installation of flown lines or poles in areas of the Borough not covered in 19. above.
 21. To negotiate the heads of terms of section 106 agreements.
 22. To decline to determine planning applications under section 70(a) of the Town and Country Planning Act 1990.
 23. To submit an order to the Secretary of State for revocation of a Hazardous Substances Consent in circumstances where there are no objections from the Health & Safety Executive or site operator.
 24. To serve completion notices under section 94 of the Town and Country Planning Act 1990.
 25. To serve orders under section 102 of the Town and Country Planning Act 1990 requiring the discontinuance of a use of land.
 26. To serve building preservation notices under section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in consultation with the Chair of the Plans Committee.
 27. To serve repairs notices on listed buildings under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
 28. To execute urgent works under section 54 and determine the extent of urgent works under section 9(3) of the Planning (Listed Buildings and buildings in Conservation Areas) Act 1990.
 29. To determine, in areas where no Town/Parish Council or Meeting exists, whether a community group is properly constituted, and a

representative of that group is therefore able to address the Plans Committee in accordance with the Plans Committee Procedures and to establish criteria for that determination.

30. To determine applications for the discharge of planning conditions.

31. To make minor amendments to the wording of planning conditions and planning obligations following a Plans Committee decision and before the issue of a decision notice, subject to this not materially affecting the decision.

Conservation and Trees

324. To make, confirm where there are no objections, and revoke tree preservation orders in consultation with the Chair of the Plans Committee and relevant Ward Councillors.

332. To issue Article 5 certificates for protected trees.

343. To serve hedgerow retention and hedgerow replacement notices. ~~in consultation with the Chair of the Plans Committee.~~

354. To respond to notices of intention to carry out works to trees in conservation areas.

High Hedges

365. To determine complaints received under the provisions of the High Hedges Regulations 2005, specify remedial action required to resolve complaints received under the High Hedges Regulations 2005, specify remedial action to resolve the complaints in accordance with the national guidance and initiate enforcement action as necessary, except where the high hedge complaint relates to:

- (i) the Council's own land;
- (ii) land is occupied by a councillor or Council employee; or
- (iii) where the complainant is a councillor or Council employee.

[Note: The above-mentioned exceptions will be determined by the Plans Committee]

Footpaths

376. To make and, where no objections are received, confirm footpath diversion orders.

Other

386. ~~To make amendments to the Climate Change Strategy in response to future legislative changes or changes at local or regional level in consultation with the relevant Lead Member.~~

Delegation to the Head of Regulatory and Community Safety

Environmental Health

1. To exercise powers generally under Environmental Protection, Public Protection, Food Hygiene and Food Safety, Health and Safety, Animal Welfare, Pest Control and Dog Control legislation, as amended from time to time, and in particular relating to: -
 - a. Statutory nuisances.
 - b. Air quality, water quality (recreational and drinking) and pollution control.
 - c. Prevention and control of notifiable infectious diseases.
 - d. Food safety and hygiene control
 - e. Noise control.
 - f. Contaminated land.
 - g. Stray dogs, dangerous dogs, and dog fouling.
 - h. The control of vermin and other pests.
 - i. Health Education and development.
 - j. The health safety and welfare of animals.
 - k. Health, safety, and welfare of people at work, at home or in pursuit of leisure.
 - l. Public health and infectious disease control
2. To make decisions on applications for, and renewal, variation, or transfer of, licences, registrations, permits, authorisations, approvals, certificates, or designation orders in respect of:
 - a. Premises for sale, storage, preparation, or manufacture of food.
 - b. Food export certificates and deferred port health inspection of imported foods
 - c. Offices and shops.
 - d. Animal welfare
 - e. Dangerous wild animals and guard dogs.
 - f. Designation orders for dog control.
 - g. Skin piercing, electrolysis, tattooing and acupuncture activities.
 - h. Chimney heights and furnaces.
 - i. Processes prescribed under the Pollution Prevention & Control Act.
 - j. Loudspeakers in the street.
 - k. Consent for noisy work on construction sites.
 - l. Persons with infectious diseases
3. To serve notices and authorise officers to issue fixed penalty notices, in pursuance of any statutory provisions relating to:
 - a. The maintenance repair and/or cleansing of defective, stopped up, leaking or overflowing drainage systems, water closets or soil pipes.
 - b. Filthy or verminous premises, articles or persons.
 - c. Nuisances, drainage of premises and water supplies.
 - d. Control of noise, air, and other forms of pollution.
 - e. Offences relating to burning of certain crop residues.
 - f. Food safety and food hygiene, shopping hours and trading.

- g. Works relating to unoccupied buildings under Sections 29-32 of the Local Government (Miscellaneous Provisions) Act 1982.
 - h. Closing Orders in respect of take-away food shops.
 - i. Section 76 of the Building Act 1984 (defective premises).
 - j. Noise nuisance from domestic premises, vehicles, machinery or equipment in the street.
 - k. Pest Control.
 - l. Dog Control.
 - m. Contaminated land.
 - n. Hazards in private sector properties.
 - o. Water quality.
 - p. Infectious diseases.
 - q. Health, safety and welfare of people at work, at home or in pursuit of leisure.
4. To take action to enforce the smoke-free requirements for premises and vehicles under the Health Act 2006.
 5. To engage the services of authorised veterinary practitioners to provide advice and other assistance in respect of the Council's statutory functions relating to animals.
 6. To make decisions and to enter into agreements under the relevant regulations for the purpose of enforcing controls for working with asbestos.
 7. To agree transfers of enforcement responsibilities under the Health and Safety (Enforcing Authority) Regulations 1989, as amended from time to time.
 8. To authorise any appropriate officers to act in matters arising under Food Safety legislation including: -
 - a. The power to enter any business premises in Great Britain in order to investigate offences occurring within the District Council's area.
 - b. The powers conferred for the purposes of entry, inspection, sampling, detention and destruction by Environmental Health Technical Officers.
 - c. To authorise a Veterinary Surgeon or such other person as considered appropriate to enter any other premises in Great Britain in order to investigate offences occurring within the District Council's areas.
 9. To approve premises for the purposes of production and/or processing of food as required by Food Safety legislation.
 10. To authorise Environmental Health Officers and Technicians who have received adequate training to enforce Part III of the Food and Environmental Protection Act 1985 and the Control of Pesticides Regulations 1986.
 11. To appoint inspectors under section 19 of the Health and Safety at Work etc. Act 1974 and other related Health and Safety legislation.
 12. To make appropriately qualified staff available to Leicestershire Local Authorities, Rutland County Council and the Health and Safety Executive under the terms of the Memorandum of Understanding for the Flexible Warrant Scheme.

13. To appoint and authorise such persons as is considered necessary not being Council employees, to enter premises within the administrative area of the District Council for the purpose of assisting in the carrying into effect any of the relevant statutory provisions within Health and Safety legislation.
14. To appoint, as and when necessary and in conjunction with the Proper Officer for infectious and communicable diseases, a clinician for the purposes of Section 35 of the Public Health (Control of Disease) Act 1984 and to authorise the removal of persons for treatment under the Act.
15. To appoint alternate proper officers where specified or referred to in the Public Health (Control of Diseases) Act 1984, including any subordinate regulations or orders, and in respect of the National Assistance Act 1948 (as amended).

Licensing

16. To issue or refuse any licences relating to the operation or driving of hackney carriages and private hire vehicles under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
17. To suspend, renew or revoke any licences relating to the operation or driving of hackney carriages and private hire vehicles under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
18. To determine whether qualifications meet the educational requirements for Hackney Carriage and Private Hire drivers.
19. To determine applications for charitable collections.
20. Subject to the provisions of the Council's Licensing Policy, to administer or determine the following in respect of the Council's role as Licensing Authority under the Licensing Act 2003:
 - (i) application for a personal licence where there are no relevant unspent convictions and where no relevant representation has been made;
 - (ii) application for a premises licence or club premises certificate where no relevant representation has been made;
 - (iii) application for a provisional statement where no relevant representation has been made;
 - (iv) application for variation to a premises licence or club premises certificate where no relevant representation has been made;
 - (v) application to vary a designated premises supervisor where no relevant representation has been made;
 - (vi) application for transfer of a premises licence where no relevant representation has been made;
 - (vii) application for interim authority where no relevant representation has been made;
 - (viii) a temporary event notice where there is no Police or Environmental Health objection and where no relevant representation has been agreed and conditioned;

- (ix) application for minor variations to premises licences and club premises certificates under The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009.
- 21. To take action in cases of a breach of licensing conditions.
- 22. To determine premises licence fees under section 212 of the Gambling Act 2005.
- 23. To determine an application for a premises licence under the Gambling Act 2005 where no relevant representations have been made.
- 24. To determine an application for the variation of a premises licence under the Gambling Act 2005 where no relevant representations have been made.
- 25. To determine an application for transfer of a premises licence where no representations have been made by the Gambling Commission.
- 26. To determine an application for a provisional statement under section 204 of the Gambling Act 2005 where no relevant representations have been made.
- 27. To determine an application for a club gaming permit or club machine permit under sections 271 and 273 of the Gambling Act 2005 where no relevant representations have been made.
- 28. To register small society lotteries under the Gambling Act 2005.
- 29. To renew sex establishment licences where no relevant representations have been made.
- 30. To make minor amendments and alterations, and amendments required to comply with changes to legislation and Government guidance, to the Hackney Carriage and Private Hire Licensing Policy, in consultation with the Chair of the Licensing Committee;
- 31. To authorise or reject applications regarding hypnotism, as a means of entertainment.

Pavement Licences

- 32. To determine fees up to the Statutory Maximum
- 33. To determine applications for a Pavement Licence
- 34. To determine to vary a Pavement Licence
- 35. To determine to serve a Notice
- 36. To determine to revoke a Pavement Licence
- 37. To determine to apply or vary conditions of a Pavement Licence
- 38. To determine request for review in relation to any aspect
- 39. To take enforcement or other action to exercise powers under the Business and Planning Act

Other

- 40. To grant consents and licences under the Highways Act 1980
- 41. To determine applications for street trading consent.

Delegation to the Head of Strategic Housing

1. To undertake all licensing activities under the Caravan Sites and Control of Development Act 1960 and the Mobile Homes Act 2013.
2. To undertake all licensing activities for moveable dwellings and camping sites under the Public Health Act 1936
3. To agree appropriate fee discounts for accredited sites and to amend the Park Homes Fees Policy accordingly, in consultation with the Chair of the Licensing Committee.
4. To serve notices and authorise officers to issue fixed penalty notices, in pursuance of any statutory provisions relating to:
 - a. The maintenance repair and/or cleansing of defective, stopped up, leaking or overflowing drainage systems, water closets or soil pipes.
 - b. Filthy or verminous premises, articles or persons.
 - c. Hazards in private rented properties
 - d. works relating to unoccupied buildings under Sections 29-32 of the Local Government (Miscellaneous Provisions) Act 1982
 - e. Section 76 of the Building Act 1984 (defective premises)

Delegation to the Head of Governance and Human Resources

Planning

1. To serve requisitions for information under Section 330 of the Town and Country Planning Act 1990.
2. Rights of entry:
 - (i) to initiate a proposal under Sections 196A and 324 of the Town and Country Planning Act 1990 (rights of entry);
 - (ii) to appoint officers to enter premises for the purpose of inspection in connection with (i) above;
 - (iii) to serve notice of intention to enter premises for the purpose of inspection in accordance with Sections 196A and 325 of the 1990 Act;
 - (iv) to apply for warrants authorising entry under Section 196B of the 1990 Act.
3. To issue and serve enforcement notices (including an enforcement notice in relation to the demolition of an unlisted building in a conservation area) in cases of urgency and after notifying the Chair of the Plans Committee.
4. To serve planning contravention notices under Section 171C of the Town and Country Planning Act 1990.
5. To serve breach of condition notices.
6. To determine applications for certificates of lawfulness for proposed or existing uses or development.
7. To enter into and vary an agreement under Section 106 of the Town and Country Planning Act 1990.
8. To take action, including legal proceedings where necessary, in order to remedy any breaches of the requirements of planning conditions, enforcement notices or any failure to comply with the obligations

contained in an agreement under Section 106 of the Town and Country Planning Act 1990.

9. To issue and serve a stop notice or temporary stop notice after notifying the Chair of the Plans Committee.
10. To apply for an injunction restraining a breach of planning control.
11. To apply for an injunction in relation to a listed building.
12. To serve notices under section 215 of the Town and Country Planning Act 1990 requiring the proper maintenance of land.

Other

13. To institute, defend or settle any legal proceedings, including bankruptcy action, on behalf of the Council.
14. To take immediate legal action to enforce rights or obligations when he or she considers it to be in the interests of the area or its inhabitants so to do.
15. To issue formal cautions.
16. To negotiate and settle claims without recourse to court proceedings including the use of alternative dispute resolution.
17. To make minor changes to the constitution.
18. To appoint 'proper officers' for particular purposes.
19. To prepare and execute documents, including the affixing of the common seal, to give effect to a decision made by the Council or one of its committees or sub-committees or an officer in the exercise of delegated powers.
20. To make appointments to the Member Conduct Panel from members and reserve members of the Member Conduct Committee.
21. To consider and report on any report of the Local Government Ombudsman.
22. To co-ordinate and oversee the overview and scrutiny function.
23. To make appointments to the Licensing Sub-committee and Personnel Panels where necessary from among the members and reserve members of the parent committee.
24. To implement any adjustments in basic and special responsibility allowances once the relevant officers' pay awards are finalised, including updating the Scheme of Members' Allowances as required and back dating any such adjustments to the relevant effective dates.
25. To determine which administrative area properties, fall into where electoral boundaries cross through the curtilage of a property.

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Chapter 9 FULL COUNCIL PROCEDURES

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9.1 Annual meeting of full Council

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 order of business will be:

- (a) Elect the Mayor
- (b) Elect the Deputy Mayor
- (c) Receive any declarations on interests
- (d) Approve the minutes of the last meeting
- (e) Elect the Leader (in the year in which this is required)
- (f) Review the political balance of appropriate committees (if not already undertaken)

- (g) Appoint any Council committees and scrutiny bodies for the ensuing year (if not already undertaken)
- (i) Deal with any other items on the agenda; there will be no presentations, Cabinet or committee business, questions on notice, notices of motion or petitions on the agenda unless specifically authorised by the Chief Executive
- (j) Receive any announcements from the Mayor and/or the Chief Executive.

9.2 Ordinary meetings of full Council

Ordinary meetings will take place in accordance with the programme of meetings agreed by the Council. The Chief Executive in consultation with the Mayor may if necessary amend the programme during the year.

The order of business will be:

- (a) Elect a chair (if the Mayor and Deputy Mayor are absent)
- (b) A period of reflection at the discretion of, and in a manner deemed appropriate by, the Mayor
- (c) Receive any declarations of interests from Councillors
- (d) Approve the minutes of the last meeting (see 9.7)
- (e) Deal with any unfinished business from the last meeting
- (f) Receive presentations, to be limited to one per Council meeting, from people invited by the Mayor, in consultation with the Chief Executive, to inform the Council of significant recent events or achievements in the Borough
- (g) Receive announcements from the Mayor, the Leader on ~~(prepared in the form of a written report on~~ significant, recent matters affecting the Council or the Borough) or the Chief Executive
- (h) Receive petitions (see 9.8)
- (i) Consider matters reserved to Council for decision (see 9.11)
- (j) Consider references from the Scrutiny Call-in Committee following a call-in (see 9.11 (c))

- (k) Receive position statements (see 9.10)
- (l) Consider motions on notice (see 9.12)
- (m) Receive questions on notice from Councillors (see 9.9)
- (n) Consider minute referrals (see 9.11(b))
- (o) Consider urgent decisions exempted from call-in (see 9.11 (d))
- (p) Deal with any other items on the agenda
- (q) Deal with any business containing exempt or confidential information.

9.3 Special meetings of full Council

The Chief Executive can be required to call a special meeting by full Council, the Mayor, the Monitoring Officer, the Chief Finance Officer or any five Councillors.

The Chief Executive may also call a special meeting at her or his discretion.

Special meetings will only deal with the business they have been called for.

9.4 Time and place of full Council meetings

The time and place of meetings are decided by the Chief Executive.

9.5 Quorum for full Council

The quorum will be a quarter of all Councillors.

If a quorum is not present at the time the meeting is due to start, the start time of the meeting will be put back by 30 minutes. If there is still no quorum, the business will be deferred until a quorate meeting can be arranged. If a meeting becomes inquorate part of the way through, business will halt for five minutes. If there is still no quorum, the business will be deferred until a quorate meeting can be arranged.

9.6 Changing the order of business

The Mayor can ask full Council to agree to change the order of business, except for the first two items at annual meetings.

The Mayor may allow business to be considered even though it has not been specified in the summons if he/she is of the opinion that by reason of special circumstances it should be considered as a matter of urgency. The reason shall be specified in the minutes of the meeting.

9.7 Minutes

(a) Signing the minutes

At the first ordinary meeting when the minutes are available, the Mayor will move that the minutes are correct and sign them. Full Council will not discuss the minutes.

(b) No signing of minutes at special meetings

Minutes are not signed at special meetings. They are signed at the next ordinary meeting instead.

9.8 Petitions

Under the Council's petitions scheme if a petition contains at least 3,000 signatures it will be debated at full Council (unless it is a petition asking for a senior Council officer to give evidence at a public meeting). The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be debated for a maximum of 30 minutes. The relevant Cabinet Lead Member will lead the debate which will follow the Rules of Debate.

An officer report will accompany the petition and will outline the options open to the Council. If the Council has the power to take the action the petition requests it may choose to do so. If it does not have that power, it may refer the matter to the Cabinet or appropriate Committee for decision.

Councillors who wish to submit a petition to an ordinary meeting of the Council may do so by reading out the title of the petition and then approaching the Mayor and presenting it to him/her. The petition will be dealt with in accordance with the Council's Petition Scheme.

9.9 Questions by Councillors

(a) Questions on notice

A Councillor can ask a question on notice to the Leader or the Chair of a committee about something the Council is responsible for or something that directly affects people in the Borough, [and the Chief Executive may refuse questions on notice which do not meet these criteria.](#)

The full wording of these questions must be given to the Head of [Strategic Support Governance & HR](#) by noon on the eighth working day before the full Council meeting for it to be included on the agenda for that meeting.

The questions and answers to questions will be included in the minutes of the meeting and copies published on the working day prior to the meeting. At the meeting the question and answer will be taken as read from the published copies. The Leader may ask the relevant Cabinet Lead Member to reply.

A Councillor may give notice of more than one question for a Council meeting. However, if the questions asked by a Councillor are linked they must be asked together and will be responded to together. Linked questions are those which deal with the same general subject, decision or event irrespective of whether the Councillor gave notice of them at different times.

(b) Questions without notice

A Councillor can ask a question to the Leader or the Chair of a committee without notice about any matter so long as the question is asked when the matter is being considered by the Council, and must relate directly to the agenda item. In the case of a question to the Leader, the Leader may ask the relevant Cabinet Lead Member to reply. A Councillor raising a question can speak for no longer than a total of three minutes, and a Councillor responding may not speak for longer than a total of three minutes.

(c) Supplementary questions

A Councillor can ask one supplementary question arising from a question on notice that they have submitted provided that they give notice to the Head of [Strategic Support Governance & HR](#) that they

wish to do so between the publishing of the answer to the question and noon on the date of the Council meeting. The notice can be made in writing, including by email, telephone or in person and can be made via a member of the Committee Democratic Services and Mayoralty team. A supplementary question must be addressed to the same Councillor as the first question and must be relevant to and arise directly from the first question or the answer.

A Councillor may not speak for longer than a total of one minute in asking a supplementary question relating to a question on notice.

(d) Responding to questions

The questions and answers to questions on notice will be included in the minutes of the meeting and copies published prior to the meeting. At the meeting the question and answer will be taken as read from the published copies.

The answer to a supplementary question 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.

A Councillor may not speak for longer than a total of one minute in replying to a supplementary question in relation to a question on notice.

9.10 Position Statements

- (a) One position statement may be presented to each meeting of the Council by the Leader or any member of the Cabinet in the form of a written report about a significant, topical matter affecting the Council or the Borough. Notice of position statements setting out the subject they are to cover must be received by the Head of Strategic Support Governance & HR no later than noon on the eighth working day prior to the meeting at which they are to be considered.
- (b) In addition, opposition political groups may between them request that the Leader or the relevant Cabinet Lead

Member present one position statement per Council meeting about a significant, topical matter affecting the Council or the Borough. The right to request position statements will be allocated between opposition political groups proportionally to the number of councillors in those groups. Requests for position statements setting out the subject they are to cover must be received by the Head of ~~Strategic Support~~Governance & HR no later than noon on the sixth working day prior to the meeting at which they are to be considered. If more than one request is received for a single meeting of the Council, the Chief Executive will decide which request will be granted.

- (c) Position statements are intended to enable the Council meeting to be informed about and discuss the Administration's policy approach to a significant, topical issue which affects the whole or a significant part of the Borough. They are, therefore, different from questions on notice, where the purpose is to request factual information, and motions on notice, which express a desired outcome. In order to ensure that this purpose is achieved the Chief Executive will consider each proposal for a position statement and will not include on the agenda position statements where the proposal does not meet the criteria set out in this procedure. In doing so the Chief Executive may suggest to the councillor(s) concerned that the matter could be added to the agenda in the form of a question on notice or a motion on notice.
- (d) The content of position statements will be published on the working day prior to the Council meeting. The Leader or member of the Cabinet may speak for up to 2 minutes in introducing a position statement. Any councillor may speak once during the consideration of position statements for up to 2 minutes except that the Leader or the relevant Cabinet Lead Member may also sum up at the end. At the end of the consideration of the position statement a motion may be moved to refer the subject of the statement to the Cabinet, the next ordinary meeting of the Council or a committee as appropriate. If seconded, such a motion will be put immediately to the vote. If the vote is carried, the referral will be accompanied by a written report from the appropriate officer(s) setting out the key legal, financial, service and corporate implications. No other motion may be moved.

- (e) The discussion of any position statement shall not exceed 20 minutes but the Mayor, at his or her discretion, may permit an extension of such length as he or she considers appropriate.

9.11 Consideration of Cabinet, committee and other business

- (a) Reports and recommendations from the Cabinet will be moved by the Leader or the relevant Cabinet Lead Member. Reports and recommendations from committees will be moved by the chair or another member of the committee. Reports from officers may be moved by any Councillor. The debate on the motion will follow the Rules of Debate.
- (b) Where notice has been given to the Head of ~~Strategic Support~~Governance & HR by five Councillors by noon on the fifth working day after the publication of the minutes of the Cabinet or a committee that they wish the minutes specified to be considered by Council, the consideration will follow the procedure for questions and statements without notice. No other debate will be allowed.

In order for minutes to be considered at a particular Council meeting, notice must be given to the Head of ~~Strategic Support~~Governance & HR no later than noon on the sixth working day before the meeting. Minutes will be considered at the first meeting for which appropriate notice has been given.

- (c) The Chair or any member of the Scrutiny ~~Call-in Committee~~Commission will move that any matter referred to Council following the call-in of a decision by the Scrutiny ~~Call-in Committee~~Commission be either accepted by the Council, with or without comment, or referred back to the Cabinet or other decision-making body or person together with the Council's views. The debate on the motion will follow the Rules of Debate.
- (d) Where an urgent decision is taken by the Cabinet or an urgent key decision taken by an officer which is exempted from call-in in accordance with Rule 11.9, the decision will be reported to the next available Council meeting. The

Council's consideration of the matter will follow the procedure for questions and statements without notice. No other debate will be allowed.

9.12 Motions on notice

(a) Giving notice of motions

Some motions may be moved without notice. These are listed at 9.13. For all other motions, the full wording must be received by the Head of ~~Strategic Support~~Governance & HR by noon on the ~~eighth~~sixth clear working day before the Council meeting. Notice of a motion can be given by one or more Councillors.

(b) Withdrawing a motion or moving it at a later meeting

If before a Council meeting a Councillor or the Councillors proposing a motion want to withdraw a motion or move it at a later meeting, they must write to the Head of ~~Strategic Support~~Governance and HR.

(c) Listing motions on the agenda

Motions will appear on the agenda in the order they were given to the Head of ~~Strategic Support~~Governance and HR.

(d) Topic of motions

Motions must be about things the Council is responsible for or something that directly affects the Borough, and –the Chief Executive may refuse motions which do not meet these criteria.

(e) Motion to remove the Leader or the chair or vice-chair of a committee

Any motion to remove the Leader or the chair or vice-chair of a committee appointed by Council from that position must be signed by at least 14 Councillors.

(f) Dealing with motions on notice

Motions to remove will be debated in accordance with the Rules of Debate.

Motions relating to Council functions which do not require further advice from officers can be determined by Council at the meeting to which they are submitted and will be debated in accordance with the Rules of Debate.

All other motions will be introduced by the proposer, who may speak for no longer than 3 minutes. If the motion is seconded it may be responded to by the Leader (or Cabinet Lead Member) or the Chair of a committee (as appropriate), who may speak for no longer than 3 minutes.

With the approval of Council, the motion will be referred in the form submitted or as amended in accordance with Rule 9.14h) and accompanied by a written report from the appropriate officer(s) setting out key legal, financial, service and corporate implications to the Cabinet, the next ordinary Council meeting or a committee (as appropriate) for consideration. No further debate or amendment will be allowed.

The Councillor or one of the Councillors submitting a motion may address the Cabinet or committee to which the motion has been referred.

9.13 Motions without notice

There is no need to give notice of motions to:

- appoint a chair of the meeting
- agree or correct the minutes
- change the order of business
- refer something to an appropriate body
- to make appointments arising from an item on the agenda
- agree or amend recommendations of the Cabinet, committees or officers
- withdraw or change a motion

- go to next business
- move to a vote
- adjourn a debate or meeting
- suspend a full Council procedure – see 9.19
- exclude the press and public (when allowed under the access to information procedures – see 13)
- hear a Councillor no further – see 9.17(c)
- exclude a Councillor from the meeting – see 9.17(d)
- give full Council's agreement when it is required by the Constitution.

9.14 Rules of debate

(a) No speeches until motion moved and seconded

No speeches can be made on a motion until it has been moved and seconded.

(b) Wording of motions and amendments

Unless written notice has already been given, the Mayor may require motions or amendments to be written down and handed to him or her before they are discussed.

(c) Seconder's speech

A Councillor who seconds a motion or amendment can speak when they second it or later in the debate.

(d) Content and length of speeches

Speeches (except for points of order (see 9.14(m) and (n)), personal explanations and points of order) must be about the item being discussed.

Without the Council's consent, a Councillor may not speak for longer than 3 minutes in any single speech. However in the following circumstances a Councillor may speak for 5 minutes:

- when proposing an amendment
- a nominee from each political group when debating the budget motion
- when exercising a right of reply – see 9.14(j)

(e) When a Councillor can speak again

A Councillor who has already spoken in a debate cannot speak again except to:

- speak once on any amendment moved by another Councillor
- move a further amendment if the motion has been amended since he or she last spoke
- speak on the main issue if his or her first speech was on an amendment moved by another Councillor
- exercise their right of reply – see 9.14(j)
- make a point of order – see 9.14(m)
- make a point of personal explanation – see 9.14(n)
- to seek clarification of points of fact and provide clarifications that are sought
- to move a procedural motion that can be moved without notice – see 9.14(k) and 9.14(l).

(f) Amendments to motions

An amendment must be relevant to the motion and must be a proposal:

- to refer a motion to an appropriate body
- to add, replace or leave out words.

Amendments to add, replace or leave out words must not negate the motion or result in a separate substantive decision.

(g) Debate on amendments

Only one amendment may be moved, seconded and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

If an amendment is carried, the amended motion replaces the original motion. Any further amendments will be to the motion as amended.

The same amendment cannot be moved twice.

(h) Councillor changing their own motion or amendment

A Councillor can change a motion or amendment they have moved if both the meeting and the seconder agree. The meeting will accept or reject the change without discussion.

The Councillor can only make changes that could have been made as an amendment.

(i) Withdrawing a motion

A Councillor who proposed a motion at the meeting can withdraw a motion if it has not been moved. If it has already been moved, both the meeting and the seconder must agree. The meeting will decide whether to agree without discussion.

No one can speak on a motion that has been withdrawn.

(j) Right of reply

A Councillor who moves a motion, irrespective of whether it has been amended or not, has a right to reply at the end of the debate, immediately before the vote.

If an amendment is moved, the Councillor who moved the original motion has the right to reply at the end of the debate on the amendment but not before.

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(k) Motions that can be moved during debate

When a motion is being debated, no other motions can be moved except for the following procedural motions:

- to amend or withdraw a motion or amendment
- to go to next business
- to move to a vote
- to adjourn the meeting or debate
- exclude the press and public (when allowed under the access to information procedures – see 13)
- to hear a Councillor no further – see 9.17(c)
- to exclude a Councillor from the meeting – see 9.17(d).

(l) Motions to end or postpone the debate

After a speaker has finished speaking any Councillor can move next business or propose to move to a vote or adjourn the debate or meeting. They must do this without comment.

If a motion to go to next business is seconded and the Mayor thinks full Council has discussed the item enough, the mover of the original motion will have the right of reply. Full Council will then vote on whether to go to next business. If full Council agrees to go to next business, the original motion will not be voted on and will not become a resolution of full Council.

If a motion to move to a vote is seconded and the Mayor thinks full Council has discussed the item enough, full Council will vote on whether to take the vote on the motion. If full Council decides to take the vote, the mover of the original motion will have the right to reply. Then full Council will vote on the motion without further debate.

If a motion to adjourn the debate or meeting is seconded and the Mayor thinks it is not possible to give the item enough discussion at the current meeting, full Council will vote on whether to adjourn. The mover of the original motion will not have the right of reply before this vote.

(m) Points of order

A Councillor can raise a point of order at any time. The Mayor will hear a point of order immediately. A point of order must be about the law or a full Council procedure being broken. The Councillor must say which law or procedure is being broken and how. The Mayor may consider the Chief Executive's advice when deciding on a point of order and the Mayor's decision will be final.

(n) Points of personal explanation

A Councillor can give a personal explanation at any time. This must be about something they have said in the past that they feel is now being misunderstood or misrepresented. The Mayor will have the final say over what counts as a personal explanation.

(o) Officers addressing Council

The Mayor may authorise the Chief Executive, the Chief Financial Officer and the Monitoring Officer to address the Council where the business of the Council makes this necessary or desirable.

9.15 Voting

(a) Majority

Unless the Constitution says otherwise, votes will be decided by a simple majority of Councillors present and voting.

(b) Mayor's second or casting vote

If there is the same number of votes for and against, the Mayor will have a casting vote. There is no restriction on how the Mayor chooses to exercise a casting vote.

(c) Method of voting

Votes can be:

- by the general agreement of the meeting, if there is no dissent

- by show of hands
- the electronic registering of votes
- named or recorded – see 9.15(d) and 9.15(e).

(d) Named votes

Any two Councillors present at the meeting can ask for the minutes to name who voted for, who voted against and who abstained on a vote.

A named vote will be used for any vote on a motion or amendment to a motion that sets the Council's budget or the level of the Council Tax.

(e) Right to have individual vote recorded

Any Councillor can ask for the minutes to record whether they voted for or against or abstained on a vote. The request must be made immediately after the vote.

(f) Voting on appointments

If there are three or more candidates for a position and none has more than half the votes, the candidate with the fewest votes will be eliminated and a new vote taken. This will continue until one candidate has more than half the votes.

9.16 Excluding the public

The public can only be excluded if it is under the access to information rules (see 13) or if they are making a personal attack or disrupting the meeting (see 9.18).

9.17 Councillors' behaviour

(a) Standing to speak

When they speak at full Council, Councillors must stand (unless otherwise permitted by the Mayor) and address the Mayor. If more than one Councillor stands or indicates that they wish to speak, the Mayor will ask one of them to speak and the others must sit down. While a Councillor is speaking, other Councillors must sit unless they are making a point of order or personal explanation.

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(b) Mayor standing

If the Mayor stands during a debate, any Councillor who is speaking must stop speaking and sit down. The meeting must be silent.

(c) Councillor not to be heard further

If a Councillor keeps on disrupting the meeting or behaves improperly, the Mayor can move that the Councillor is not heard further. If seconded, the motion will be voted on without being discussed.

(d) Councillor to leave the meeting

If full Council has voted not to hear a Councillor further and the Councillor continues to disrupt the meeting, the Mayor can move that the Councillor leaves the meeting or that the meeting is adjourned. If seconded, the motion will be voted on without being discussed.

(e) General disturbance

If a group of Councillors are making it impossible for full Council to do its business, the Mayor can halt the meeting for as long as necessary.

(f) Members' Code of Conduct

When required to do so by the Members' Code of Conduct, a member must not participate in an item of business and must withdraw from the meeting when it is considered.

9.18 Disruption by the public

(a) Conduct of the public

Members of the public should not disrupt the conduct of meetings and must not be abusive or threatening towards the Councillors and officers attending meetings. Any filming, recording or reporting during meetings, including social media, should not be disruptive or intrusive.

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(b) Disruption by an individual

If a member of the public is disrupting the meeting, the Mayor will warn them. If they carry on disrupting the meeting; the Mayor can halt the meeting until they leave.

(c) Clearing part of the meeting room

If there is a general disturbance in a part of a meeting room open to the public, the Mayor can have the area cleared; the Mayor can halt the meeting until the area is cleared.

9.19 Suspending and changing the procedures in this section

(a) Suspending the procedures in this section

All the full Council procedures in this section can be suspended except 9.6 (changing the order of business), 9.7(b) (no signing of minutes at special meetings) and 9.15(e) (right to have individual vote recorded). A procedure can be suspended if at least half of all Councillors are present and there is a simple majority in favour. No notice is needed for a motion to suspend a procedure. Procedures can only be suspended until the end of the meeting.

(b) Changing the full Council procedures in this section

Any motion to change the procedures in this section must be proposed and seconded. After this, it will not be discussed until the next ordinary meeting of full Council.

Chapter 10 CABINET AND SINGLE CABINET MEMBER PROCEDURES

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10.1 Who carries out executive responsibilities within the Council?

Executive responsibilities are carried out by the Leader, the Cabinet, a committee of the Cabinet or delegated to single Cabinet members or officers.

(a) The Leader

The Leader holds office from the date of appointment by full Council for a term of up to four years. The Leader's term of office will extend to the annual meeting of full Council immediately following the ordinary elections after the election of the Leader, and notwithstanding any provision in respect of the retirement of councillors generally the Leader will remain a Councillor until that day.

The Leader will cease to hold office if he or she resigns from office by giving written notice to the Chief Executive or he or she ceases to be a Councillor.

Full Council may vote to end the term of office of the Leader following a motion on notice signed by at least 14 Councillors.

(b) The Deputy Leader

The Deputy Leader is appointed by the Leader. The Deputy Leader holds that office for as long as he or she remains a Councillor and the Leader wants her or him to hold that position.

If the Leader is unable to act, the Deputy Leader may carry out the Leader's statutory functions (for example of appointing or removing Cabinet members) but does not automatically assume the position of Leader.

(c) Cabinet members

Cabinet members hold office from when they are appointed by the Leader until:

- they are removed by the Leader or
- they resign by giving written notice to the Leader or
- they stop being a Councillor

10.2 Date and place of meetings

The Cabinet will meet as frequently as its business requires except that it must meet at least four times in each Council year. The Cabinet shall meet at the Council's premises or at another location to be agreed by the Chief Executive in consultation with the Leader. The Chief Executive will call meetings in accordance with the programme agreed by Council as amended by the Cabinet and may call additional meetings or cancel meetings in consultation with the Leader.

The Leader will decide upon the agenda for the meetings of the Executive (the Cabinet). He/she may put on the agenda of any Executive meeting any matter which he/she wishes. The Proper Officer (the Chief Executive) will comply with the Leader's requests in this respect.

Any member of the Cabinet may require the Proper Officer to place an item on the agenda of the next available meeting of the Cabinet for consideration.

Any Member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees then the item will be considered at the next available meeting.

Nothing else in this section will stop Statutory Officers placing an item on the agenda of any Executive meeting on any matter which he/she wishes.

10.3 Quorum

The quorum will be the smallest number of members required to form a majority of the members appointed to it. Substitutes are not allowed.

10.4 How are decisions taken at Cabinet meeting?

All matters considered will be determined by a majority of the members of the body concerned, present and voting or, if there is no dissent, by the affirmation of the meeting. If there are equal numbers of votes for and against, the chair will have a second or casting vote.

Where, immediately after a vote is taken, any member requires it, there must be recorded in the minutes whether that person voted for or against the question or whether he or she abstained from voting.

10.5 Who chairs Cabinet Meetings?

The Leader, or in his or her absence the Deputy Leader, will chair Cabinet meetings or appoint someone else to chair them.

If the Leader and the Deputy Leader are absent, the Cabinet can appoint another Cabinet member to act as chair. If the Leader or the Deputy Leader arrives part of the way through a meeting, the acting chair will finish the item they are on and hand over the chair.

10.6 Order of business

The order of business will be:

- the minutes of the previous meeting
- declarations of interest
- announcements by the Leader ~~prepared in the form of a written report~~ on significant, recent matters within the remit of the Cabinet
- questions on notice
- reports from scrutiny committees or from Council in respect of a scrutiny committee report
- other agenda items with key decisions being considered first
- matters containing exempt or confidential information as described in the Access to Information Procedure Rules. Any such items of

business will be considered in the order set out above after the press and public have been excluded.

This procedure can be suspended if there is a simple majority in favour. It can only be suspended until the end of the meeting.

10.7 Questions on notice

Any Councillor or resident of the Borough may ask the Leader a question about the business of the Cabinet so long as notice in writing setting out the question has been given to the Head of ~~Strategic Support~~Governance & HR. Questions need to be submitted by noon on the eighth working day before a meeting to be included on the agenda for that meeting.

The person asking the question may attend the meeting at which the question is asked and may (having received an answer) ask one supplementary question and/or make a statement which must be relevant to and arise directly out of the original question or reply.

The Leader will reply to the question(s) and respond to the statement and may allow other Cabinet members to comment and officers to advise.

Questions asked under this Rule are not subject to any right of call-in. The answers to questions submitted under this rule will be included in the minutes of the meeting and published prior to the meeting.

The Head of ~~Strategic Support~~Governance & HR can reject a question on notice from a member of the public if:

- (i) it relates to an application for any permission, licence or other permission from the Council;
- (ii) there is any right of appeal to the Council or other authority is available;
- (iii) it relates to any matter directly relating to an employee of the Council;
- (iv) it relates to any matter which constitutes exempt or confidential information under Schedule 12A of the Local Government Act 1972;
- (v) in the opinion of the Monitoring Officer, it is illegal or improper.

If a question is rejected, reasons must be given. If the question relates to a matter which is not Cabinet related business, the Head of Governance &

HR will ask the questioner if they wish for their question to be re-directed to the appropriate committee or body at the next available meeting.

10.8 Speaking Rights

Where a councillor or any other person has a right to address the Cabinet they may do so for a maximum of 5 minutes. The Cabinet may increase the time allowed at its discretion.

10.9 Decisions by Cabinet committees and single Cabinet members

Where executive decisions are the responsibility of an individual member of the Cabinet, details of the decision (including any report) be published after the decision has been taken, as required in law.

10.10 Members' Code of Conduct

When required to do so by the Members' Code of Conduct, a member must not participate in an item of business and must withdraw from the meeting when it is considered.

10.11 Gaps in these procedures

If there is a gap in these procedures that means that the intention of the Constitution is uncertain, the Chair of the Cabinet, committee of the Cabinet, or the single Cabinet member, or the person presiding at the meeting, will decide what to do. The procedures for full Council meetings may be used as a guide.

These procedures may be varied for the duration of a meeting if a motion to do so is carried and there are at least half of the appointed members of the Cabinet present.

Chapter 11 SCRUTINY COMMITTEE PROCEDURES

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11.1 Number of scrutiny bodies

Full Council has appointed the two scrutiny bodies set out in section 7.

The Scrutiny Commission may appoint scrutiny panels to produce in-depth reviews of particular subjects. Such panels will report their findings to the Scrutiny Commission. The Scrutiny Commission will consider completed panel reports and will either submit the report to Cabinet, Council or a committee (as appropriate), with or without minor amendments, or refer the report back to the originating panel if the Commission does not support the panel's recommendations.

11.2 Membership and quorum of scrutiny bodies

(a) Members of scrutiny bodies

The scrutiny bodies appointed by full Council will have the following membership.

Body	Size	Quorum	Substitutes
Scrutiny Commission	Chair and Vice-chair plus five other members The number of members from each political group will be in proportion to its size and appointments will be made by Council	Four	Permitted
Finance and Performance Scrutiny Committee	Chair and Vice-chair plus seven other members The number of members from each political group will be in proportion to its size and appointments will be made by Council	f Five	Permitted

The Scrutiny Commission may establish scrutiny panels to undertake scrutiny of a particular subject over a limited time period.

The Scrutiny Commission will make appointments of Scrutiny Panel Chairs and Vice Chairs in accordance with expressions of interest.

The Head of ~~Strategic Support~~Governance & HR may make appointments to scrutiny panels in accordance with expressions of interest received from Councillors who are not members of the

Cabinet. The size of a Panel will be no more than 6 members, and political balance requirements do not apply.

Except for co-opted members (see 11.3), members of scrutiny bodies and their substitutes must be Councillors and they cannot be members of the Cabinet.

(b) Conflicts of interest and Members' Code of Conduct

Members of scrutiny bodies should not scrutinise decisions they have made.

When required to do so by the Members' Code of Conduct, a member must not participate in an item of business and must withdraw from the meeting when it is considered.

(c) Substitutes

Members of scrutiny bodies can send other Councillors as substitutes. These will have the powers of an ordinary member of the committee. Substitutions must be for a whole meeting. A member cannot take over from their substitute or hand over to them part of the way through.

There is one exception to this: a member of a panel established by the Scrutiny Commission may not send a substitute.

If a member wants to send a substitute, they must tell the Head of Strategic Support Governance & HR before the meeting.

Substitutes cannot appoint substitutes of their own.

(d) Procedures when a Councillor resigns from a committee

A Councillor can resign from a scrutiny body by writing to the Head of Strategic Support Governance & HR. A replacement member will be appointed at the next full Council meeting. The Head of Strategic Support Governance & HR may make interim appointments where a nomination is received from the leader of the group which has the right to make nominations to fill the vacancy.

(f) Procedure when a committee member stops being a Councillor

If a member of a scrutiny body stops being a Councillor, a replacement member will be appointed at the next full Council

meeting. The Head of ~~Strategic Support~~Governance & HR may make interim appointments where a nomination is received from the leader of the group which has the right to make nominations to fill the vacancy.

11.3 Co-opted members of scrutiny bodies

Each scrutiny committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-opted members.

Other scrutiny bodies and panels shall be entitled to recommend to the Scrutiny Commission the appointment of a number of people as non-voting co-opted members. Co-opted members will not count towards any applicable maximum membership numbers.

11.4 Scrutiny meetings

(a) Ordinary meetings

Scrutiny bodies other than scrutiny panels meet on dates set by full Council. Scrutiny panels meet on dates agreed by the Head of ~~Strategic Support~~Governance & HR. Scrutiny bodies may decide to hold extra meetings or alter the dates of meetings.

(b) Special meetings

The Head of ~~Strategic Support~~Governance & HR can arrange additional meetings after consulting the Chair.

The Chair of a scrutiny body may require the Head of ~~Strategic Support~~Governance & HR to call a special meeting of that body at any time. A special meeting must also be called when at least three councillor members of the body give notice in writing to the Head of ~~Strategic Support~~Governance & HR that a meeting is required.

Special meetings will only deal with the business they have been called to deal with.

(c) Cancelling a meeting

If a scrutiny body has ~~nothing to do~~ substantive business to deal with at one of its ordinary meetings, the Head of ~~Strategic Support~~Governance & HR can cancel it after consulting the Chair.

11.5 Chairs and vice chairs of scrutiny bodies

(a) Appointment of chairs and vice-chairs

The Council will annually appoint a Chair and a Vice-chair of the Scrutiny Commission and the Finance and Performance Scrutiny Committee.

The Scrutiny Commission will appoint a Chair and may appoint a Vice-chair for any scrutiny panel, ~~who will both be either the Chair or Vice-chair of the Scrutiny Commission, or a Chair or Vice-Chair of one of the other Scrutiny Committees, or another councillor member of one of the two scrutiny committees.~~

(b) Resignation of chair or vice chair

If a Councillor wants to resign as chair or vice chair, they must write to the Head of ~~Strategic Support~~Governance & HR. A new chair or vice chair will be appointed at the next appropriate Council meeting.

11.6 Programme of work

The Scrutiny Commission will be responsible for setting the overall scrutiny work programme. Any scrutiny body may suggest items for the scrutiny work programme to the Scrutiny Commission. Once an item has been added to the work programme and identified as the responsibility of a particular scrutiny body, that body may:

- (i) schedule or reschedule the date of that item's consideration;
- (ii) choose to request an officer briefing on the subject to enable it to determine how to proceed with scrutiny of the matter;
- (iii) decide which Councillors, officers and other people it wishes to require to attend its meetings in accordance with sections 11.14 and 11.18.

Scrutiny committees may also identify and schedule items for their own work programmes without reference to the Scrutiny Commission, as long as they fall within their areas of responsibility.

The Chair, and where appropriate the Vice-chair of a scrutiny body, may liaise with relevant officers to finalise such matters as the content of reports, obtaining background information, inviting witnesses and the rescheduling of items.

11.7 Call-in

The following executive decisions can be called-in:

- decisions of the Cabinet and committees of the Cabinet
- decisions taken by single Cabinet members
- key decisions taken by officers.

The Call-In process does not apply to recommendations made by the Cabinet to the Council, or where a Cabinet decision relates to a recommendation by a Scrutiny Panel.

After a decision is taken that could be called-in, a notice of that decision will be published, including electronically, normally within three working days. The notice will be sent to all Councillors at the time at which it is published.

The notice of decision will include the date it was published and will say that the decision will come into force if it is not called-in by noon on the fifth working day after that date.

Decisions can be called-in by the Chair and Vice-chair of the Scrutiny Commission or by five Councillors by providing notice in writing to the Head of Strategic Support Governance & HR setting out the reasons for the call-in and an indication of a preferred outcome or variation of the decision. If a decision is being called-in because it is believed to be outside the budget and policy framework, the call-in must say so. One of the Councillors calling-in a decision may address the meeting of the Scrutiny Commission.

When a decision is called-in, the Head of Strategic Support Governance & HRR will tell the person or body that took the decision and arrange a meeting of the Scrutiny Commission to consider the call-in.

In the case of the call-in of a Cabinet decision, the meeting of the Scrutiny Commission should take place prior to the next scheduled meeting of the Cabinet, taking into account the requirements of the Access to Information Procedure Rules, or in such longer period as may be agreed with the Leader. In other cases, the meeting of the Scrutiny Commission should take place within fifteen working days of the decision to call it in or such longer period as may be agreed with the decision taker. One of the members calling in the decision shall be given the opportunity to address the ~~Commission.~~ The Head of Strategic Support Governance & HR

shall, in consultation with the Chair and Vice-chair of the Committee make arrangements for relevant members of Cabinet and relevant officers to attend the meeting and invite such other persons that may assist the Committee in considering the matter.

The Scrutiny Commission can decide to:

- support the decision, which can then be implemented immediately or
- send the decision back with its comments to the decision taker who will then take a final decision or
- having sought advice from the Monitoring Officer and the Chief Finance Officer, send comments to full Council on any decision that recommends changing the budget or policy framework.
- If the decision is sent back to the Cabinet, the Chair or Vice-chair of the Scrutiny Commission may address the Cabinet meeting.

11.8 Decision believed to be outside the budget or policy framework

- (a) When a decision is called-in and the Scrutiny Commission believes the decision is outside the budget or policy framework, it will seek advice from the Monitoring Officer and/or the Chief Finance Officer.
- (b) If the decision is not outside the budget or policy framework, the Scrutiny Commission will consider the call-in in the normal way.
- (c) If the decision is outside the budget or policy framework, it will go as a recommendation to full Council, along with any comments from the Committee. Full Council can then:
 - make the decision-maker reconsider the decision, or
 - change the budget or policy framework so that the decision is within it – the decision can then be acted on immediately.

11.9 Urgent decisions and call-in

A decision to be taken will not be subject to call-in if the Chair of the Scrutiny Commission, upon being consulted, agrees that:

- the decision to be taken is both urgent and reasonable and

- the delay caused by the call-in process would not be in the interests of the Council or the public.

If the Chair of the Scrutiny Commission is not available, the Mayor must agree that the decision to be taken is urgent and reasonable. If the Mayor is not available, the Deputy Mayor, Chief Executive or the Chief Executive's nominee must agree.

If the Mayor is consulted under this procedure in the period between Borough Council elections and the Annual Council meeting following those elections and the Mayor has not stood for re-election or has stood for re-election but not been elected, then the Mayor should be consulted in conjunction with the Chief Executive.

Decisions to which this rule applies must be identified on the notice of decision.

Decisions to which this rule applies must be reported to the next ordinary full Council meeting with the reasons why they were urgent.

11.10 Agenda

(a) Putting items on the agenda

Any member of a scrutiny body can put an item on that body's agenda if they write to the Head of ~~Strategic Support~~Governance & HR by noon on the sixth working day before the meeting. The item must be relevant to the work of the body. The purpose of the item will be to consider whether the matter should be included in the work programme or to recommend to the Scrutiny Commission that it is included.

The Finance and Performance Scrutiny Committee is the Council's designated 'crime and disorder committee', and as such any member of the Council, including those who are not members of the committee, can put an item that relates to crime and disorder on the committee's agenda if they write to the Head of ~~Strategic Support~~Governance & HR by noon on the sixth working day before the meeting.

(b) Requests for reviews from full Council

The Scrutiny Commission must include in the work programme anything full Council or a Committee asks them to review, or provide a reason why it has decided not to do so.

(c) Requests for reviews from the Cabinet

The Scrutiny Commission can (but does not have to) include in the work programme things the Cabinet asks it to review.

(d) Councillor Call for Action

Any Councillor may, by giving notice to the Head of Strategic Support Governance & HR using the form provided, initiate a Councillor Call for Action relating to a local government matter that is not an excluded matter and where other routes to resolve the issue have not succeeded.

A Councillor Call for Action can only be initiated where:

- (i) it relates to the discharge of any of the Council's functions;
- (ii) it relates to a matter which affects the ward of the Councillor initiating it;
- (iii) it does not relate to individual planning decisions, licensing decisions or matters where the affected person or body has a statutory right of appeal;
- (iv) it does not relate to any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for a scrutiny committee meeting.

The Head of Strategic Support Governance & HR will consult the Chair and Vice-Chair of the Scrutiny Commission to determine whether the request meets the criteria for a Councillor Call for Action. Where the request does not meet the criteria for a Councillor Call for Action, the Head of Strategic Support Governance & HR will inform the Councillor making the request of the decision. Where the request does meet the criteria for a Councillor Call for Action, the Head of Strategic Support Governance & HR will arrange for the matter to be included on the agenda for the next available meeting of the Scrutiny Commission.

Where a Councillor Call for Action is included on the agenda for a Scrutiny Commission meeting, the Commission will consider whether to include the subject of the Councillor Call for Action on

the scrutiny work programme. The Councillor making the request may address the Scrutiny Commission before it is considered. If the Commission decides not to include the subject of the Councillor Call for Action on its work programme, it will provide the Councillor initiating the request with the reasons for its decision.

11.11 Policy review and development

Scrutiny bodies' role in developing the budget and policy framework is referred to in section 14.2.

In areas that are not covered by the budget and policy framework, scrutiny bodies can suggest policies for scrutiny to the Scrutiny Commission for inclusion in the work programme.

Scrutiny bodies can hold inquiries and consider future policy. This may involve ~~appointing advisers~~seeking officer advice, inviting witnesses, making site visits, holding public meetings, commissioning research or doing anything else that is necessary.

11.12 Reports from scrutiny bodies

(a) Scrutiny reports

After considering an issue a scrutiny body may prepare a report and/or recommendations. The Scrutiny Commission and the Scrutiny Committees may send their reports to the Cabinet (if it is about executive responsibilities), to full Council (if it is about Council responsibilities or would result in a change to the budget or the policy framework) or to a committee (if it relates to the responsibilities of that committee).

Any other scrutiny body (including any panel) will send its report and/or recommendations to the Scrutiny Commission. The Commission will consider the matter and submit its report and/or recommendations to the Cabinet, full Council or the committee.

The Chair or Vice-chair of a scrutiny body may address the body to which it has submitted a report. In the case of a report or recommendations initiated by a scrutiny body other than the Scrutiny Commission or the other Scrutiny Committee, the Chair, or Vice-chair of the body that initiated the recommendations or report may do so.

(b) Minority report

For each report, there can be a minority report giving any dissenting views. The Cabinet or full Council will consider the minority report at the same time as the committee report.

(c) Which report is the main report and which is the minority one?

Each member of the scrutiny body can support one report but no more than one. The report with the most support will be the main report.

(d) Timing

Once a report and/or recommendations are submitted to the Cabinet or full Council:

- the Cabinet must consider it at its next ordinary meeting if it is about executive responsibilities unless the next meeting is within ten working days of the report and/or recommendations being agreed then the report may go to the next meeting after that.
- full Council must consider it within two months.

In each case the report should be accompanied by sufficient background information and officer advice to enable Cabinet or full Council to make a decision without undue delay.

11.13 Scrutiny body members' rights to see documents

Scrutiny body members' rights to see document are set out in 13. This does not prevent more detailed liaison between the Cabinet and scrutiny bodies where this is appropriate.

11.14 Duty of Cabinet members and officers to attend scrutiny bodies

(a) Duty to attend

Scrutiny bodies can require members of the Cabinet and senior officers to attend and answer questions about:

- performance

- decisions they were involved in
- policies and their implementation.

(b) Procedure for attending

A scrutiny body should, where possible, indicate its intention to require the attendance of a Councillor or an officer at one of its meetings when suggesting the relevant item for the scrutiny work programme.

The Head of ~~Strategic Support~~Governance & HR will tell the Councillors or officers that they are required to attend, what it is about and whether they need to produce a report or provide papers. A Cabinet Lead Member required to attend a scrutiny body meeting may be accompanied by the relevant officer(s). Where appropriate a senior officer may be represented by another officer who is able to deal with the issue being scrutinised.

The Councillor or officer must be given reasonable time to compile information. This will normally be at least ten working days.

11.15 Whipping

Political groups should not pressure their members over how they speak or vote on scrutiny bodies (‘whipping’). If ‘whipping’ has occurred, this must be formally declared at the relevant scrutiny meeting.

11.16 Questions on notice

Any Councillor or resident of the Borough may ask the Chair a question about the business of a scrutiny body so long as notice in writing setting out the question has been given to the Head of ~~Strategic Support~~Governance & HR. Questions need to be submitted by noon on the sixth working day before a meeting to be included on the agenda for that meeting.

The person asking the question may attend the meeting at which the question is asked and may (having received an answer) ask one supplementary question and/or make a statement which must be relevant to and arise directly out of the original question or reply.

The Chair will reply to the question(s) and respond to the statement and may allow other members of the body to comment and officers to advise.

The answers to questions submitted under this rule will be included in the minutes of the meeting and published prior to the meeting.

The Head of ~~Strategic Support~~Governance & HR can reject a question on notice from a member of the public if:

- (i) it relates to an application for any permission, licence or other permission from the Council;
- (ii) there is any right of appeal to the Council or other authority is available;
- (iii) it relates to any matter directly relating to an employee of the Council;
- (iv) it relates to any matter which constitutes exempt or confidential information under Schedule 12A of the Local Government Act 1972;
- (v) in the opinion of the Monitoring Officer, it is illegal or improper.

If a question is rejected, reasons must be given.

11.17 Witnesses at scrutiny bodies and evidence gathering

Where a scrutiny body conducts investigations it may also ask people to attend to give evidence. Such meetings are to be conducted in accordance with the following principles:

- (i) those assisting the body by giving evidence be treated with respect and courtesy
- (ii) meetings should be held in public unless this is detrimental to the process of effectively gathering evidence
- (iii) the investigation be conducted fairly and all members of the body be given the opportunity to ask questions of attendees, and to contribute and speak
- (iv) the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

11.18 Voting

All matters considered will be determined by a majority of the members of the body concerned, present and voting or, if there is no dissent, by the affirmation of the meeting. If there are equal numbers of votes for and against, the Chair will have a second or casting vote.

Where, immediately after a vote is taken, any member requires it, there must be recorded in the minutes whether that person voted for or against the question or whether he or she abstained from voting.

11.19 Length of meetings

Meetings will end no later than **two and a half hours after the start-time** stated on the agenda unless there is a vote of the majority of the members of the body concerned present to extend the time of the meeting for up to a further 30 minutes to conclude an item of business. Such a vote will extend the overall length of the meeting to a maximum of three hours. Any items of business not completed at a meeting as a result of this rule will be deferred to the next meeting of the body concerned.

This rule does not apply to scrutiny panel evidence gathering meetings

11.20 Gaps in these procedures

If there is a gap in these procedures that means that the intention of the Constitution is uncertain, the Chair, or the person presiding at the meeting, will decide what to do. The procedures for full Council meetings may be used as a guide.

These procedures may be varied for the duration of a meeting if a motion to do so is carried and there are at least half of the appointed members of the scrutiny committee present.

Chapter 12 OTHER COMMITTEE PROCEDURES

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12.1 Which committees do these procedures apply to?

These procedures apply to the:

- Appeals and Reviews Committee
- Audit Committee
- Licensing Committee and its panels and sub-committees
- Member Conduct Committee and its panels and sub-committees
- Personnel Committee and its panels and sub-committees
- Plans Committee
- Loughborough Area Committee.

12.2 Appointment and membership of committees

Full Council is responsible for appointing and dissolving committees and for agreeing their membership and roles.

Committees are responsible for appointing any sub-committees. The terms of reference of committees identify certain panels for which appointments can be made by the Head of ~~Strategic Support~~Governance & HR.

Apart from the Loughborough Area Committee and the Licensing Committee and any sub-committees it appoints the number of members from each political group on committees and sub-committees must be in proportion to the size of the group (ie. subject to political balance requirements).

12.3 Composition

Committee	Size	Quorum	Substitutes
Appeals and Reviews Committee	Chair and Vice-chair plus three other members	Three	Permitted
Audit Committee	<p>Independent Chair plus seven Councillor members. No members of the Cabinet can be members of the Committee</p> <p>The Vice-chair will be appointed by the Committee from among its members.</p> <p>Appointment of the Independent Chair of the Audit Committee to be made by Full Council on recommendation from the S151 officer</p>	Four Councillor members	Permitted
Licensing Committee	Chair and two Vice-chairs plus 12 other members	Eight	Not permitted

Committee	Size	Quorum	Substitutes
Member Conduct Committee	<p>Chair and Vice-chair plus five Councillor members, other than the Leader and only one of whom can be a member of the Cabinet</p> <p>In addition there will be up to three members of parish/town councils in the Council's area who are not also borough councillors (parish members) who will be co-opted as non-voting members by the Council for a term of four years.</p> <p>Appointment of members of parish/town councillors to be made by Full Council on recommendation from the Monitoring Officer</p>	Four Borough Councillor members	Permitted
Personnel Committee	Chair and Vice-chair plus five other members	Four	Permitted
Plans Committee	Chair and Vice-chair plus 11 other members	Nine	Permitted
Loughborough Area Committee	<p>Chair and Vice-Chair plus 20 <u>18</u> members, <u>being those</u> elected to Borough Wards falling within or partly within the town of Loughborough, <u>being namely:</u> <u>Dishley, Hathern & Thorpe Acre,</u> Loughborough Ashby,</p>	Eleven <u>Ten</u>	Not permitted

Committee	Size	Quorum	Substitutes
	<p>Loughborough Dishley & Hathern, Loughborough Garendon East, Loughborough Hastings Nanpantan, Loughborough Lemyngton Outwoods & Shelton, Loughborough Nanpantan Southfields, Loughborough Outwoods Storer, Loughborough Shelton, Woodthorpe. Loughborough Southfields, and Loughborough Storer.</p>		

12.4 Vacancies on committees

(a) Procedure when a Councillor resigns from a committee

A Councillor can resign from a committee (except for the Loughborough Area Committee) by writing to the Head of Strategic Support Governance & HR. A replacement will be appointed at the next full Council meeting.

Where there is a vacancy on a committee which must be allocated to a political group the vacancy may be filled on an interim basis by the Head of Strategic Support Governance & HR if notice is received from the leader of the relevant political group of a nomination. The decision will be confirmed at the next available ordinary meeting of the Council.

(b) Procedure when someone stops being a Councillor

If someone stops being a Councillor, any replacement committee member will be appointed at the next full Council meeting (except for the Loughborough Area Committee).

Where there is a vacancy on a committee which must be allocated to a political group the vacancy may be filled on an interim basis by the Head of ~~Strategic Support~~Governance & HR if notice is received from the leader of the relevant political group of a nomination. The decision will be confirmed at the next available ordinary meeting of the Council.

12.5 Chairs and vice-chairs

(a) Election of chair and vice-chair

Except for the Audit Committee and the Loughborough Area Committee. the chair and vice-chair are elected each year at the first meeting after annual Council.

Except for the Audit Committee, the chair and vice-chair of all the committees must be Councillors.

The Chair of the Audit Committee will be a person who is not a Councillor but is appointed by the Council. The Vice-chair will be appointed by the Committee from among its Councillor members.

The Chair and Vice Chair of the Loughborough Area Committee will be elected annually by the Committee from amongst its members.

(b) If the chair and vice-chair are absent

If the chair and vice-chair are absent, a committee can appoint another Councillor to chair the meeting. If the chair or vice-chair arrives part of the way through the meeting, the acting chair will finish the agenda item they are on and hand over the chair.

(c) Resigning as chair or vice-chair

If a Councillor wants to resign as chair or vice-chair, they must write to the Head of ~~Strategic Support~~Governance & HR. A new chair or vice-chair will be elected at the next meeting of the body which made the appointment.

12.6 Meetings of committees

(a) Ordinary meetings

Committees meet on dates set by full Council. Committees may decide to hold extra meetings or alter the dates of meetings.

(b) Special meetings

The Head of ~~Strategic Support~~Governance & HR can arrange additional meetings after consulting the Chair.

The Chair of a committee may require the Head of ~~Strategic Support~~Governance & HR to call a special meeting of that body at any time. A special meeting must also be called when at least three members of the committee give notice in writing to the Head of ~~Strategic Support~~Governance & HR that a meeting is required.

Special meetings will only deal with the business they have been called to deal with.

(c) Cancelling a meeting

If a committee has ~~nothing to do~~ substantive business to consider at one of its ordinary meetings, the Head of ~~Strategic Support~~Governance & HR can cancel it after consulting the Chair.

12.7 Substitution procedures

Substitutes are not permitted for the Licensing Committee and the Loughborough Area Committee.

For other committees, members can send other Councillors as substitutes (subject to any training requirements that may apply). These will have the powers of an ordinary member of the committee.

Substitutions must be for the whole meeting. A member cannot take over from their substitute or hand over to them part of the way through. Substitutes cannot appoint substitutes of their own.

If a member wants to send a substitute, they must tell the Head of ~~Strategic Support~~Governance & HR before the meeting.

12.8 Questions on notice

Any Councillor or resident of the Borough may ask the Chair a question about the business of a committee so long as notice in writing setting out the question has been given to the Head of ~~Strategic Support~~Governance & HR. Questions need to be submitted by noon on the eighth working day before a meeting to be included on the agenda for that meeting.

The person asking the question may attend the meeting at which the question is asked and may (having received an answer) ask one supplementary question and/or make a statement which must be relevant to and arise directly out of the original question or reply.

The Chair will reply to the question(s) and respond to the statement and may allow other members of the committee to comment and officers to advise.

The answers to questions submitted under this rule will be included in the minutes of the meeting and published prior to the meeting.

The Head of ~~Strategic Support~~Governance & HR can reject a question on notice from a member of the public if:

(i) it relates to an application for any permission, licence or other permission from the Council;

~~(ii)~~(ii) it does not relate to the business of the committee in question;

~~(iii)~~(iii) there is any right of appeal to the Council or other authority is available;

~~(iv)~~(iv) it relates to any matter directly relating to an employee of the Council;

~~(v)~~(v) it relates to any matter which constitutes exempt or confidential information under Schedule 12A of the Local Government Act 1972;

(vi) in the opinion of the Monitoring Officer, it is illegal or improper.

If a question is rejected, reasons must be given.

12.9 Voting

All matters considered will be determined by a majority of the members of the body concerned, present and voting or, if there is no dissent, by the affirmation of the meeting. If there are equal numbers of votes for and against, the Chair will have a second or casting vote.

Where, immediately after a vote is taken, any member requires it, there must be recorded in the minutes whether that person voted for or against the question or whether he or she abstained from voting.

12.10 Members' Code of Conduct

When required to do so by the Members' Code of Conduct, a member must not participate in an item of business and must withdraw from the meeting when it is considered.

12.11 Length of meetings

Meetings will end no later than **two and a half hours** after the start-time stated on the agenda unless there is a vote of the majority of the members of the body concerned present to extend the time of the meeting for up to a further 30 minutes to conclude an item of business. Such a vote will extend the overall length of the meeting to a maximum of three hours. Any items of business not completed at a meeting as a result of this rule will be deferred to the next meeting of the body concerned.

This rule does **not apply** to meetings of the Plans Committee or to panel and sub-committee hearings.

12.12 Plans committee procedures

(a) Councillor speaking rights

A member who is not a member of the Plans Committee may address the committee called to consider planning or other applications or enforcement actions for a period of no longer than five minutes, but will not be entitled to take part in the debate or vote, provided that:

- i) the member is one of the ward members who has been, or would have been, consulted under the procedure for notifying and consulting councillors on planning applications;
- ii) the member gives notice in writing or in person to the Head of Planning and RegenerationGrowth at least two working days before the appropriate meeting.

The following councillors who are unable to exercise this right may nominate another Councillor to speak on their behalf by giving notice in writing or in person to the Head of Planning and RegenerationGrowth at least two working days before the appropriate meeting:

- councillors who represent a single member ward
- the Mayor
- the Deputy Mayor

- councillors who are ill.

If more than one member wishes to speak on the same application or enforcement action, the period of five minutes for speaking will be divided equally between the members concerned.

Members who are unable to attend the Plans Committee meeting can submit a written statement to be read out at the meeting (the relevant time limits will apply).

The Chair of the Plans Committee may, in exceptional circumstances and with the consent of the Committee, allow a member who has not given the required notice to address the meeting.

(b) Public speaking rights

Where written notice is given not later than seven working days before the meeting of the Plans Committee, and this has been confirmed not less than two working days before the meeting itself, the following people may address the committee for a period of no more than five minutes:

- i) An objector to an application where:
 - the objector has made a written comment on the application setting out the reasons for objection;
 - the grounds of objection raise material planning considerations; and
 - the objector has given written notice of a wish to speak;
- ii) A supporter to an application where:
 - the supporter has made a written comment on the application setting out the reasons for support;
 - the grounds of support raise material planning considerations; and
 - the supporter has given written notice of a wish to speak;
- ii) An applicant (or agent appointed to act on his/her behalf);
- ~~iii) iv)~~ An authorised representative of the Town/Parish Councils or Meetings that have been consulted supporting the view of those Town/Parish Councils or Meetings on an application.

iv) Where the relevant Town/Parish Council or meeting wishes to speak it must confirm that desire not less than two working days before the meeting.

iii)v)

v) Where no Town/Parish Council or Meeting exists, an authorised representative of a properly constituted community group based in that area which has made formal representations in respect of the application, supporting the view of that group on an application.

For a decision on whether to issue an enforcement notice, whether or not there is also an associated application on the agenda, the following people may address the committee for a period of no more than five minutes providing they have confirmed that they will do so not less than two working days before the meeting:

- i) The developer (or agent appointed to act on his/her behalf),
- ii) Any person who has lodged a complaint in respect of the unauthorised development,
- iii) An authorised representative of a Town/Parish Council or Meeting which has lodged a complaint in respect of the unauthorised development, in support of that complaint.
- iv) Where no Town/Parish Council or Meeting exists, an authorised representative of a properly constituted community group based in that area which has lodged a complaint in respect of the unauthorised development, in support of that complaint.

In all cases the time limit of five minutes applies to the total time available under each of the headings (i) to (iv) above. Where there is, for example, more than one objector or complainant who has made a request to speak or more than one Town/Parish Council or Meeting that has been consulted, it is the responsibility of the objectors/complainants or Councils/Meetings to appoint a representative to speak on their behalf. If no agreement can be reached by the objectors the time limit of five minutes will be divided equally among the objectors/complainants or Councils/Meetings.

Where there are both application and enforcement items relating to the same development, there will only be one opportunity to speak and that will be to the item which appears first on the agenda.

The Chair of the Plans Committee may, in exceptional circumstances and with the consent of the Committee, allow a person who has not given the required notice to address the meeting.

The Chair of the Plans Committee may ask speakers or officers to provide clarification on any points that are raised by speakers.

(c) Calling-in planning applications

After a planning application has been registered and made valid officers will write to ward councillors where the application is in their ward, part of the application site is in their ward or the application site is immediately adjacent to or within 15 metres of the boundary of their ward.

The right to call-in the application applies only to those ward councillors where the application site is wholly or partly within the boundary of their ward. Those ward councillors can request that an application is called-in to the Plans Committee which would otherwise have been determined by the Head of Planning and RegenerationGrowth under delegated authority.

To be valid a call-in request must be received in writing (which can include by email) giving a relevant planning reason or reasons no later than 5pm, 21 calendar days from the date of the consultation being sent to the ward councillors or the expiration of the initial local consultation on an application, including site notification and/or newspaper publicity, whichever is later.

In exceptional circumstances, a ward councillor can call-in an application after the 21 calendar days with the agreement of the Chair of the Plans committee and the Head of Planning & RegenerationGrowth.

Applications that are the subject of a valid request will be added to the agenda of the next reasonably available meeting of the Plans Committee for determination.

After an application has been called-in, unless a written request to withdraw it is submitted by the ward councillor, the application will be referred to the Plans Committee for determination.

A ward councillor can withdraw a call-in request at any time prior to the publication of the agenda for the meeting at which a called-in

application is due to be considered. Withdrawals of call-in requests must be in writing (which can include e-mail).

In addition, if, following a call-in which has not been withdrawn, officers believe that the issues raised by the ward councillor in his/her call-in have been addressed, officers will submit the recommendation report, which is prepared for each application, to the ward councillor. The report, which will contain a summary of the main issues regarding the application, will enable ward councillors to consider whether they wish to maintain or withdraw their call-in of an application.

A further call-in period will be given to ward councillors if significant revised or additional plans or information are received on a planning application which necessitates a further period of local consultation. The relevant councillors will be informed in writing of any significant revised or additional plans or information and any further call-in period. The length of the further call-in period will be the same period as the re-consultation period on the revised or additional details.

Ward councillors who call-in a planning application are expected to attend the Plans Committee meeting at which it is considered. If a ward councillor who has called-in a planning application is unable to attend the meeting, he/she is able to, and should, identify another councillor to speak on his/her behalf. The nominee can exercise the same ward councillor speaking rights as the councillor calling-in the planning application could have done if he/she was present at the meeting.

The following planning applications are not subject to the Call-In Procedure:

- (i) applications for Certificates of Lawfulness
- (ii) applications which fall to be determined by Leicestershire County Council or a neighbouring authority
- (iii) discharge of Planning Condition(s)
- (iv) applications for works to protected trees/trees in a Conservation Area
- (v) prior approvals - applications for prior approval of works to be carried out under permitted development rights (including notification of householder extensions etc.)

- (vi) applications for non-material amendments and minor material amendments to planning permissions where no demonstrable harm would be caused to an interest of acknowledged importance
- (vii) screening and scoping applications for Environmental Impact Assessments.

12.13 Appeals and Reviews Committee procedures

Procedure for considering objections to Tree Preservation Orders

- (a) The Head of ~~Strategic Support~~Governance & HR or his/her representative will introduce the report before the Appeals and Reviews Committee which will include written statements by both parties (i.e. the Head of Planning and Regeneration Growth and the objector(s)).
- (b) The Head of Planning and Regeneration Growth or his/her representative will present his/her case for confirming the order with or without modifications. Members of the Appeals and Reviews Committee and the objector(s) may then ask him/her questions.
- (c) The objector(s) will present his/her case, if he/she wishes to do so. Members of the Appeals and Reviews Committee and the Head of Planning and Regeneration Growth or his/her representative may then ask the objector(s) questions.
- (d) Members of the Appeals and Reviews Committee will ask the parties for any additional information or clarification they require.
- (e) The Appeals and Reviews Committee, with the advice of the Head of ~~Strategic Support~~Governance & HR or his/her representative as necessary, will then decide whether or not the order should be confirmed and, if so, whether with or without modifications. The parties will not participate in the meeting at this stage and each will have the options of sitting in the public gallery or leaving the meeting.

12.14 Licensing Committee procedures

Order of proceedings for Licensing Sub-committee hearings

1. Preliminaries

- Opening remarks by the Chair of the Sub-committee.

- The Chair will ensure the parties understand the procedure to be followed.
- The Sub-committee will decide whether part or all of the hearing should be held in private because the public interest in doing so outweighs the public interest in holding the meeting or that part of the meeting in public.
- The Sub-committee will consider requests from any of the parties for permission for another person to appear at the hearing as a witness.
- The Sub-committee will decide what action to take if a party does not attend the hearing.

2. Licensing Officer

The Licensing Officer will present his/her report and outline relevant information such as representations, information that has been requested from the parties, legislation, the Council's Licensing Policy and Government guidance.

The different parties participating in the hearing, with the consent of the Subcommittee,

and members of the Sub-committee may ask questions of the Licensing Officer.

3. The Applicant – in the case of a new licence the applicant is the person applying for the licence; in the case of a review the applicant is the responsible authority applying for the review

After the applicant has spoken, the different parties participating in the hearing, with the consent of the Sub-committee, and members of the Subcommittee may ask questions of the applicant.

If the applicant is not present any information provided by the applicant will be considered by the Sub-committee.

4. Responsible Authorities

After each responsible authority has spoken, the different parties participating in the hearing, with the consent of the Sub-committee, and members of the Sub-committee may ask questions of the responsible authority.

If any responsible authorities are not present any information provided by the responsible authorities will be considered by the Sub-committee.

5. Interested Parties (residents etc.)

After each interested party has spoken, the different parties participating in the hearing, with the consent of the Sub-committee, and members of the Subcommittee may ask questions of the interested party.

If any interested parties are not present any information provided by the interested parties will be considered by the Sub-committee.

6. Any Remaining Parties – in the case of reviews of current licences this will include the licence holder

After each remaining party has spoken, the different parties participating in the hearing, with the consent of the Sub-committee, and members of the Subcommittee may ask questions of the party.

If any remaining parties are not present any information provided by the interested parties will be considered by the Sub-committee.

7. Closing Statements

Closing statements will be made in the following order:

- Each interested party
- Each responsible authority
- The applicant
- The licence holder if the licence holder is not the applicant

8. The Decision

The Sub-committee's legal advisor will make any statements as necessary to summarise the proceedings and clarify the legal issues and principles to be applied by the Sub-committee in reaching its decision.

The Sub-committee will retire to reach its decision with the legal advisor and clerk/administrator (if present). Alternatively the Sub-committee may ask for the meeting room to be cleared to enable it to do so. If during its deliberations the Sub-committee consider it is necessary to ask a question of a party, then the Sub-committee will reconvene in the presence of all parties to do so.

The Sub-committee will reconvene to announce its decision.

12.15 Gaps in these procedures

If there is a gap in these procedures that means that the intention of the Constitution is uncertain, the Chair, or the person presiding at the meeting, will decide what to do. The procedures for full Council meetings may be used as a guide.

These procedures may be varied for the duration of a meeting if a motion to do so is carried and there are at least half of the appointed members of the committee present.

Chapter 13 ACCESS TO INFORMATION PROCEDURES

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13.1 Meetings affected by these procedures

The key decision procedures (see 13.6 to 13.10) apply to Executive decisions. The rest of the procedures in this section apply to full Council, Cabinet, scrutiny body and committee meetings except where indicated.

13.2 Other rights to information

These procedures do not affect any other rights to information under the law or this Constitution.

Where in these procedures there is a right for the public to inspect documents, the Council will provide copies of those documents on request but the Council may require a reasonable fee covering copying and postage charges before providing copies.

13.3 Public's rights to attend meetings

The public can attend meetings, except when confidential or exempt information is being discussed (see 13.4). When attending meetings the public may also photograph, film, record or report on the proceedings of those meetings. The public should not disrupt meetings in doing so.

The Council will make available reasonable resources to facilitate the reporting of its meetings.

13.4 Exceptions to public's right to attend meetings

(a) Confidential information

Meetings must be held in private when confidential information is likely to be discussed. Confidential information is information that is prevented from being made public by court order or by a government department that has provided the information.

(b) Exempt information

Meetings may be held in private when exempt information is likely to be discussed. Information is exempt if it would not be in the public interest to publish it and it falls into one or more of the categories set out below identified in Schedule 12A to the Local Government Act 1972.

(i) Information about individuals

Information relating to any individual (paragraph 1, Schedule 12A, Local Government Act 1972) or information which is likely to reveal the identity of an individual (paragraph 2).

(ii) Information about someone's finances or business

Information relating to the financial or business affairs of any particular person (including the authority holding that information) (paragraph 3).

(iii) Labour relations information

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 or the crown and employees of, or office holders under, the authority (paragraph 4).

(iv) Information that could be considered legally privileged

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (paragraph 5).

(v) Information about legal action

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 (paragraph 6).

(vi) Information about action to deal with a crime

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime (paragraph 7).

(c) Disorderly conduct

The public may also be asked to leave a meeting in order to maintain orderly conduct or to prevent disruption at a meeting.

13.5 Reports that are expected to be considered in private

- (a) If the Monitoring Officer expects that a report will be considered in private in accordance with 13.4, it will not be made available to the public. It will be marked “not for publication” and will say what category of information is involved.
- (b) If a report will be considered in private by the Cabinet, a committee of the Cabinet or an individual member of the Cabinet, at least 28 clear days’ notice will be provided in the forward plan of the decision, the date at which it will be taken and the possible reasons why it will be considered in private (see 13.8). The forward plan will also contain information about how the public may make representations that the decision should not be taken in private.
- (c) At least five clear working days before a meeting of the Cabinet, a committee of the Cabinet or an individual member of the Cabinet at which a decision will be taken in private, the Council will update the notice provided in accordance with (b) above including providing details of any representations that have been received and the results of considering them.
- (d) If the requirements set out in (b) above cannot be met, a decision can only be taken in private if the Chair of the Scrutiny Commission has agreed that the decision is urgent and cannot reasonably be delayed. In the absence of the Chair of the Scrutiny Commission, the agreement of the Mayor (or, in his/her absence, the Deputy

Mayor) must be obtained. If agreement is obtained the Council will publish a notice setting out why the decision is urgent and cannot be deferred.

- (e) If the Mayor is consulted under this procedure in the period between Borough Council elections and the Annual Council meeting following those elections and the Mayor has not stood for re-election or has stood for re-election but not been elected, then the Mayor should be consulted in conjunction with the Chief Executive.

13.6 Key decisions

A key decision is an Executive decision which is likely:

- to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates, or
- to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Borough.

The Council has developed the following guidance for what constitutes a key decision. A key decision is one which:

- commits the Council to expenditure, savings or increases or reductions in income of £150,000 or more in any financial year;
- makes proposals in relation to the budget or the policy framework under Budget and Policy Framework Procedure 14.2(a), or
- will result in the closure of any facility from which Borough Council services are provided or a reduction by more than 10% in the level of a discrete service provided.

In other cases the impact of the decision will be considered in terms of the strategic nature of the decision, the effect on the amenity of the community or quality of service provided by the Council to a significant number of people living or working in the locality affected, the size of the area affected and the likely public interest in the decision.

13.7 Procedures before taking key decisions

Before a key decision is taken, details of it must have been published in the forward plan (see 13.8) at least 28 clear days before the decision is taken, unless it is urgent (see 13.9). The agenda for meetings of the

Cabinet, committees of the Cabinet and for decisions taken by a member of the Cabinet will identify whether a decision is a key decision or not.

If an officer is to take a key decision, at least five clear working days before it is taken the Council will publish details of the proposed decision on the Council's website and make them available at the Council's main offices.

13.8 The forward plan

(a) What is in the forward plan?

The forward plan will list any key decisions that are going to be taken. For each decision, it will say:

- what the decision is about
- who will take the decision
- when the decision will be taken
- who to contact for more information or to make comments on the matter
- which document the decision takers will consider.

The forward plan will also list any decisions that are to be taken in private.

(b) Publishing the forward plan

The forward plan will be published on the Council's website and made available for inspection at the Council's main offices.

(c) Exempt and confidential information

Exempt information need not be included in the forward plan. Confidential information cannot be included.

13.9 Procedure for taking urgent key decisions

(a) General Exception

If it is not practicable to give 28 clear days' notice of a key decision through including it in the forward plan, it can still be taken providing that the following procedure is followed.

Before a key decision for which 28 clear days' notice has not been given can be taken, the Head of ~~Strategic Support~~Governance & HR must give notice to the Chair of the

Scrutiny Commission (or each member of the Commission if there is no Chair). The notice will also be published on the Council's website and made available for inspection at the Council's main offices.

The decision cannot normally be taken until five clear working days after the notice has been issued.

(b) Cases of Special Urgency

If it is not practicable to wait until five clear working days after a general exception notice has been issued, the decision can be taken only if the Chair of the Scrutiny Commission has agreed that the decision is urgent and cannot reasonably be delayed. In the absence of the Chair of the Scrutiny Commission, the agreement of the Mayor (or, in his/her absence, the Deputy Mayor) must be obtained. If agreement is obtained the Council will publish a notice setting out why the decision is urgent and cannot be deferred.

If the Mayor is consulted under this procedure in the period between Borough Council elections and the Annual Council meeting following those elections and the Mayor has not stood for re-election or has stood for re-election but not been elected, then the Mayor should be consulted in conjunction with the Chief Executive.

Decisions to which the cases of special urgency rule applies must be reported to the next ordinary full Council meeting setting out the decisions which have been taken and the reasons why they were urgent. If no cases of special urgency have occurred in the previous 12 months the Leader will submit a report to full Council at the end of the Council year to that effect.

13.10 Reports to full Council on decisions that were not in the forward plan

If a scrutiny committee thinks that a key decision has been taken which was not included in the forward plan or the subject of the general exception procedure or the cases of special urgency procedure, it may require the Cabinet to report to full Council setting out the decision, the reasons for the decision and, if appropriate, why it was not considered to be a key decision.

Such a report can be required by the committee by resolution at one of its meetings, or by the Chair of the committee or any five members of the committee giving notice to the Head of ~~Strategic Support~~Governance & HR.

13.11 Notice of meetings

At least five clear working days before each meeting, the Council will publish details of the meeting and the items to be considered at it on the Council's website and make them available at the Council's main offices, subject to copies being made available to members of the decision-making body first.

Items of urgent business may be added to the agenda after it has been published or meetings convened at shorter notice subject to the requirements of section 100B(4) of the Local Government Act 1972 and of the forward plan.

The Council will publish those reports which are available for the items to be considered at each meeting along with the agenda. If a report is added later, it will be made available as soon as it is added.

13.12 Background papers

Each report will include a list of background papers if there are any. Background papers are papers that disclose any facts or matters on which the report, or an important part of the report is based, and have been relied on to a material extent in preparing the report. They do not include published works or documents that contain exempt or confidential information (see 13.4). Background papers will be published on the Council's website and be available for inspection at the Council's main offices for a period of 6 years after the meeting.

13.13 Access to meeting papers after a meeting

For at least 6 years after a meeting, the Council will make available on its website and for inspection at the Council's main offices:

- the agenda, reports and background papers (except where this would disclose exempt or confidential information)
- the minutes (except where this would disclose exempt or confidential information)
- a summary of any business that was not open to the public if the minutes available to the public do not give a reasonable record.

13.14 Access to information about decisions taken by officers

As soon as reasonably practicable after an officer takes a non-administrative, non-operational decision, the officer will produce a written record of the decision. Those records which do not contain exempt or confidential information will be published on the Council's website and be available for inspection at the Council's main offices for a period of 6 years after the decision is taken.

Administrative and operational decisions are decisions which relate to the day to day operation of the Council within budgets and policies set by the Cabinet and full Council and do not have a significant impact.

13.15 Access to documents by members of scrutiny committees

Members of scrutiny bodies have a right to copies of any documents in the possession of or controlled by the Cabinet that are relevant to business considered by the Cabinet or a committee of the Cabinet, decisions taken by members of the Cabinet or Executive decisions taken by officers except for exempt or confidential information (unless it is relevant to something being scrutinised or in the scrutiny work programme).

If a member of a scrutiny body requests a document under this rule, the Cabinet must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after it receives the request.

Where the Cabinet determines that a member of a scrutiny body is not entitled to a copy of a document or part of a document it must provide the scrutiny body with a written statement setting out its reasons for that decision.

13.16 Extra rights of access to information for Councillors

- (a) All Councillors are entitled to inspect any document which is in the possession of or controlled by the Cabinet, the Council or one of their committees or sub-committees and contains material relating to any business to be transacted at a meeting unless:
 - (i) it contains exempt information falling within section 13.4(b)(i), 13.4(b)(iii), 13.4(b)(iv) and 13.4(b)(vi), or
 - (ii) it contains exempt information falling within Rule 13.4(b)(ii) above to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract.

- (b) The information described in (a) above will be available at least five clear working days before each meeting except where meetings are convened at shorter notice or items or reports are added to the agenda later, in which case it will be available as soon as the meeting is convened or the items or reports are added.
- (c) All Councillors are entitled to inspect any document which is in the possession of or controlled by the Cabinet and contains material relating to any decision taken by a member of the Cabinet or an officer undertaking an Executive function that is required to be published under section 13.14 unless:
 - (i) it contains exempt information falling within section 13.4(b)(i), 13.4(b)(iii), 13.4(b)(iv) and 13.4(b)(vi), or
 - (ii) it contains exempt information falling within Rule 13.4(b)(ii) above to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract.
- (d) The information described in (c) above will be available immediately after the decision has been taken.

Councillors have the right to seek information, explanation and advice which they may reasonably need in order to assist them in properly discharging their duties as a Member of the Council.

These rights are additional to any other rights Councillors have.

Chapter 14 BUDGET AND POLICY FRAMEWORK PROCEDURES

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14.1 Responsibilities for the budget and policy framework

Full Council sets the budget and policy framework and the Cabinet and officers must act within it.

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 the Council's investments, the control of its capital expenditure and the setting of virement limits.

The policy framework comprises the following documents:

- Corporate Strategy;
- Crime and Disorder Reduction Strategy;
- Customer Service Strategy;
- Plans and strategies which together comprise the Development Plan, including Development Plan Documents;
- Medium Term Financial Strategy;
- Member Development Strategy.

14.2 Developing the budget and policy framework

(a) The forward plan will include details of any proposals affecting the budget and policy framework and will say what consultation there will be. The amount of consultation must reflect the importance of the proposal. Consultation must last at least four weeks and will include the opportunity for consultation with a scrutiny body.

(b) Any reports to the Cabinet must say what consultation there has been and what the results were. The Cabinet will consider the response to the consultation and draw up firm proposals to submit to full Council.

- (c) The Cabinet's proposals will go to full Council as soon as possible.
- (d) Full Council can:
- Accept the Cabinet's proposals
 - Refer the proposals back to the Cabinet, or
 - Change the proposals, for example by adopting proposals of its own.
- (e) If full Council accepts the Cabinet's proposals without any changes, or the changes are accepted by the Leader, the decision will come into force immediately.
- (f) If full Council changes the Cabinet's proposals and the changes are not accepted by the Leader, it will be an in principle decision only.
- (g) The Leader will be given a copy of an in principle decision. The in principle decision will come into force unless the Leader objects in writing to the Head of Strategic Support Governance & HR within five clear working days, giving reasons.
- (h) If the Leader objects to an in principle decision, full Council will meet again within 15 clear working days of the Leader's decision. The full Council meeting will be called by the Chief Executive who may also call an additional meeting of the Cabinet.
- (i) At the meeting, full Council can accept the Cabinet's proposals or change them. Full Council's decision will come into force immediately.
- (j) When full Council sets the budget, it may also say what changes can be made to documents and how much can be moved between cost centres. Any other changes must be made by full Council.

14.3 Decisions outside the budget or policy framework

- (a) The Cabinet, committees of the Cabinet, single Cabinet members and any officers carrying out executive responsibilities can only take decisions if they are

- in line with the budget and policy framework
- allowed under 14.4 (urgent decisions)
- allowed under the virement limits set out in the Financial Regulations in this Constitution and the Financial Procedure Rules maintained by the Chief Financial Officer.
- necessary to obey the law or ministerial directions or government guidance.

Any other decisions must be recommended to full Council (see 14.2).

- (b) The Cabinet, committees of the Cabinet, single Cabinet members or officers carrying out executive responsibilities will seek the Monitoring Officer or Chief Finance Officer's advice if it is unclear whether proposals are in line with the budget and policy framework.

14.4 Urgent decisions outside the budget or policy framework

- (a) The Cabinet, committees of the Cabinet, single Cabinet members or officers carrying out executive responsibilities can take a decision that is outside the budget or policy framework if:

- it is urgent
- it is not practicable to arrange a full Council meeting
- the chair of the Scrutiny Commission agrees that the decision is urgent. (If the chair of the Scrutiny Commission is absent, the Mayor can agree that the decision is urgent. If the Mayor is absent, the Deputy Mayor can agree)
- if the Mayor is consulted under this procedure in the period between Borough Council elections and the Annual Council Meeting following those elections and the Mayor has not stood for re-election or has stood for re-election but not been elected, then the Mayor should be consulted in conjunction with the Chief Executive.

- (b) The record of the decision must say why it was not practicable to arrange a meeting of full Council. It must also say that the

chair of the Scrutiny Commission (or Mayor or Deputy Mayor) agreed that the decision was urgent.

- (e) The decision must be reported to the next full Council meeting explaining the decision. This must say why the decision was taken, why it was urgent and why it was not practicable to arrange a meeting of full Council.

Chapter 15 PETITION SCHEME

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15.1 The Councils petition scheme

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. The originator of any petition will be sent an acknowledgement within 10 working days of the petition being received by the Council. 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.

Petitions can be submitted in three ways:

(1) By sending a paper copy to:

Democratic Services
Charnwood Borough Council
Council Offices
Southfield Road
Loughborough
LE11 2TR

(2) By submitting an e.petition through this link on the Council's website;

<https://charnwood.moderngov.co.uk/mgEPetitionListDisplay.aspx?bcr=1>

[The Council recognises that other online electronic petition facilities are available and will accept these where it can identify that the people signing the petition either live, work or study in the Borough and are of voting age \(currently 18 years old\) in English Local Authority elections.](#)

(3) By asking your local ward councillor to submit the petition at a meeting of the full Council. Only ward members can submit a petition relevant to their ward. They cannot submit petitions on behalf of other ward members.

15.2 What are the guidelines for submitting a petition?

(a) 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
- the name and address and signature of any person supporting the petition. 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 Council's website
- an indication of whether it is intended to be

An ordinary petition – a minimum of 100 signatures required (unless the petition is considered to be very local in nature – then a minimum of 20 signatures are required).

A petition holding an officer to account (you must specify the name of the officer) – a minimum of 2000 signatures

A petition forcing debate at a full Council meeting – a minimum of 3000 signatures required

People signing the petition must either live, work or study in the Borough and may not sign a petition more than once. Petition signatories should be of voting age (currently 18 years old) in English Local Authority elections, although there may be exceptional circumstances, where a separate, supplementary petition from those below voting age in English Local Authority elections will be accepted in support of the substantive petition.

(b) 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.

15.3 Exemptions

- (a) The Council reserves the right to reject petitions which:
- are not concerned with an issue which affects the Borough or do not raise matters over which the Authority has responsibility or has some influence;
 - are defamatory, illegal, scurrilous, frivolous, offensive, out of order or relate to a specific licensing or planning application;
 - relate to substantially the same issue / subject as a petition which has been received by the Authority in the last 12 months;
 - apply to a planning or licensing application, is a statutory requirement (for example, requesting a referendum on having an elected mayor), or is on a matter where there is already an existing right of appeal, such as Council Tax banding and non-domestic rates, other procedures apply.
- (b) If you wish to raise issues of possible Borough or Parish councillor misconduct under the Members' Code of Conduct then you should do this via the formal member complaint process. Details of how you can do this, the process and a complaint form are available on the Council's website at:
<http://www.charnwood.gov.uk/pages/makingacomplaintaboutacouncillor>.
You can telephone the Monitoring Officer for advice on this process on 01509 634573.
- (c) Duplicate petitions - if more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser but only the petition organiser of the first petition will be invited to address the meeting.
- (d) If your petition is about something that a different council or other organisation is responsible for, the Council 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, the Council will always notify you of what action has been taken.
- (e) If the Council rejects a petition for any of these reasons, then we will notify you of the rejection and tell you the reasons why.

15.4 What will the Council do when it receives my petition?

- (a) 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.
- (b) 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 being held to account, then the acknowledgment 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.
- (c) 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.

15.5 How will the Council respond to petitions?

- (a) 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 Cabinet or appropriate scrutiny committee
 - writing to the petition organiser setting out our views about the request in the petition
- (b) 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. If this is the case, we will let you know. 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.

- (c) 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.

(d) Full Council debates

If a petition contains more than 3000 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 30 minutes. The Cabinet lead member will lead the debate.

- (e) The Council will decide how to respond to the petition at this meeting. An officer report will accompany the petition and will outline the options open to the Council. If the Council has the power to take the action the petition requests it may choose to do so. If not, it may refer the matter to the Cabinet or appropriate committee for decision. Before it goes to the Cabinet/committee, the petition may be looked at by a scrutiny committee and the petition organiser may be invited to give evidence. The scrutiny committee's views will then be forwarded to the Cabinet/Committee for consideration along with the petition.
- (f) The petition organiser will receive written confirmation of the eventual decision. This confirmation will also be published on our website.

(g) Officer evidence

Your petition may ask for a senior Council officer to give evidence at a public meeting about 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.

- (h) If your petition is of this nature and contains at least 2000 signatures, the relevant senior officer will give evidence at a public meeting of the Council's relevant scrutiny committee. If you are unsure which senior officer is responsible for a particular service, please contact

Democratic Services (telephone 01509 634781 or e-mail democracy@charnwood.gov.uk).

- (i) 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 the relevant Cabinet lead member or committee chair to attend the meeting.

15.6 What can I do if I feel my petition has not been dealt with properly?

- (a) 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 Commission 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. 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.

OTHER PROCEDURES

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Chapter 16 . FINANCIAL REGULATIONS

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16.1 Responsibilities of the full council

The full Council is responsible for adopting the Council's Constitution and Members' Code of Conduct and for approving the Policy Framework and Budget within which the Cabinet operates. This includes approval of the Council's Financial Regulations. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control set out in these Regulations and elsewhere in the Council's Constitution.

In adopting the Constitution and approving changes to it the full Council is also responsible for agreeing the scheme of delegation for decision-making, other than the delegation of executive functions to officers by the Cabinet, set out in the Responsibility for Functions section of the Constitution.

16.2 Responsibilities of the cabinet

At Member level, the Cabinet is responsible for the finances of the Council. It is responsible for proposing the policy framework and budget to the Council, and for discharging functions in accordance with the policy framework and budget. Cabinet decisions may be delegated as set out in the approved scheme of delegation referred to above.

16.3 Responsibilities of the Statutory Officers

(a) Head of Paid Service (Chief Executive)

The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. He or she must report to and provide information for the full Council, the Cabinet, scrutiny bodies and other committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service, with the Monitoring Officer, is responsible for the system of record keeping in relation to the decisions of the Council.

(b) **Section 151 Officer (~~Strategic~~ Director of ~~Corporate Services~~ Finance, Governance & Contracts)**

The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Council, which cannot be overridden. The statutory duties arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations as amended.

The Section 151 Officer is responsible for:

- The proper administration of the Council's financial affairs
- Setting and monitoring compliance with financial management standards
- Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- Providing financial information
- Preparing the revenue budget and capital programme
- Treasury management and banking
- Determining the Council Tax Base.

Section 114 of the Local Government Finance Act 1988 requires the Section 151 Officer, as the responsible financial officer, to report to the full Council, Cabinet and the Council's external auditor if the Council or one of its members of staff:

- has made, or is about to make, a decision which involves incurring unlawful expenditure
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
- is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- the Section 151 Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under Section 114 personally
- the Council to provide the Section 151 Officer with sufficient staff, accommodation and other resources, including legal advice where this is necessary to carry out the duties under Section 114.

The Section 151 Officer (together with the Monitoring Officer) is responsible for advising the Cabinet or full Council if a decision

is likely to be considered contrary to or not wholly in accordance with the budget. Such actions include:

- committing expenditure which is not affordable within the overall approved budget or cannot be financed in accordance with the approved reserves
- transfers between budgets which contravene the virement limits
- causing the total expenditure financed from Council Tax, grants and corporately held reserves to increase.

(c) **Monitoring Officer (Head of ~~Strategic Support~~Governance & HR)**

The Monitoring Officer is responsible for promoting and maintaining high standards of conduct in all matters affecting the Council, including financial issues, and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible under section 5 of the Local Government and Housing Act 1989 for reporting any actual or potential breaches of the law or maladministration to the full Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively.

The Monitoring Officer must ensure that Cabinet decisions and the reasons for them are made public. He or she must also ensure that Members are aware of key decisions made by the Cabinet

The Monitoring Officer is responsible for advising all Members and members of staff regarding levels of authority in decision-making.

The Monitoring Officer is responsible for advising the Cabinet and/or full Council if a decision is likely to be considered contrary to or not wholly in accordance with the policy framework.

The Monitoring Officer (together with the Section 151 Officer) is responsible for advising the Cabinet or full Council whether a decision is likely to be considered contrary to or not wholly in accordance with the budget as detailed above.

The Monitoring Officer is responsible for ensuring the Constitution is updated as appropriate.

(d) **~~Strategic~~ Directors and Heads of Service**

~~Strategic~~ Directors and Heads of Service are responsible for ensuring that Cabinet members are advised of the financial

implications of all proposals having a material financial impact and that the financial implications have been agreed in advance by the Section 151 Officer or his/her deputy.

It is the responsibility of ~~Strategic~~ Directors and Heads of Service to consult the Section 151 Officer or his/her staff on all financial matters and to seek and obtain approval on any matter liable to materially affect the Council's finances, before any commitment is incurred.

~~Strategic~~ Directors and Heads of Service must report any suspected irregularity relating to the Council's assets and interests immediately to the Section 151 Officer who will ensure that an investigation is carried out.

16.4 Audit

The Head of ~~Strategic Support~~Governance & HR is responsible for maintaining an adequate and effective internal audit function. The internal audit function will operate in accordance with the CIPFA Code of Practice for Internal Audit. The internal audit function is responsible for providing assurance on the Council's system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources. Internal audit staff will undertake effective reviews of systems and procedures on a regular basis.

The Head of ~~Strategic Support~~Governance & HR will nominate a head of internal audit who has the right to direct access to the Head of Paid Service, the Cabinet and the Audit Committee where necessary.

Internal audit staff have access at any reasonable time and have the authority to apply any test or check they deem necessary to the accounts, cash, securities or other properties or records which relate in any way to the operations of the Council and can require and receive such explanations from any Officer or Member as deemed necessary.

The external auditor has the statutory rights of access to all relevant documents under Section 6 of the Audit Commission Act 1998.

The basic duties of the external auditor are governed by Section 5 of the Audit Commission Act 1998, under which auditors need to satisfy themselves that:

- (a) the accounts are prepared in accordance with regulations made under Section 27 of the 1998 Act and comply with

the requirements of all statutory provisions applicable to the accounts;

- (b) proper practice has been observed in compilation of accounts; and
- (c) the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

16.5 SPECIFIC FINANCIAL RESPONSIBILITIES

(a) Contracts

All members of staff must comply with the requirements of the Council's Contracts Procedure Rules. Their purpose is to set clear rules for the procurement of goods, works and services for the Council. This will ensure a system of openness, integrity and accountability where the probity and transparency of the process will be beyond reproach. In turn this will lead to better value for money and give confidence to all concerned that the Borough Council is fulfilling its fiduciary responsibilities.

Any officer, Member, agent of the Council or firm, whilst acting on the Council's behalf in relation to any contractual matter directly or indirectly concerning the Council, shall conduct themselves in such a manner that the independence and integrity of the Council and the Council's procedures are at all times maintained and are seen to be maintained. Failure to observe such standards of conduct will be regarded by the Council with the utmost gravity.

The Contracts Procedure Rules set out the requirements for tendering and procurement of goods and services. The principal requirements are:

- that for all situations below the values quoted refer to the value of the contract over the whole life of the contract.
- Before commencing any proposed procurement process with an estimated value of £25,000 or more, the appropriate Head of Service must consult the Contract Compliance Officer, relevant Cabinet Lead Member and the Head of Finance;
- Public Notice must be given ~~in Source Leicestershire and on the Council's Web Site~~ if the estimated value of the contract exceeds £25,000;
- For goods and services estimated to cost over £5,000 and up to £75,000 the relevant Head of Service must obtain written quotations;

- For goods and services estimated to cost over £25,000 and up to £75,000 written quotations must be returned to and opened by the Contract Compliance Officer;
- Full tendering requirements, including compliance with relevant EU procurement directives, apply to goods and services estimated to cost over £75,000;
- For goods and services estimated to be below £500,000 in value which do not exceed the approved budget for the scheme or supplies in question, decisions on the awarding of contracts are made by the Chief Executive or his/her nominee;
- For goods and services of £500,000 in value or more or where the approved budget would be exceeded, decisions on the selection of contractors are reserved to Cabinet;
- Contracts below £5100,000 in value can be signed by the Chief Executive, ~~Strategic~~ Directors and Heads of Service;
- Contracts of £5100,000 in value or more must be ~~signed by the Chief Executive or his/her nominee~~ signed by the Chief Executive or his/her nominee made under the Council's seal.

For the purposes of The Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001, any contract with a value exceeding £5100,004 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 two officers of the Council or~~ made under the Common Seal of the Council.

The functions of the Contract Compliance Officer are assigned to the Chief Executive who will then delegate these to another officer and a deputy for the normal performance of this role. The current Contract Compliance Officer is the [Head of Finance Director - Commercial and Economic Development](#)

The Contract Compliance Officer or the Deputy Contract Compliance Officer can agree waivers to the Contracts Procedure Rules for contracts up to £500,000 in value providing they comply with UK Legislation and EU Procurement Directives and will maintain a record of any decisions taken on waivers. The Contract Compliance Officer is responsible for maintaining the Council's Contract Compliance Rules and is authorised to make amendments to those rules as necessary. An up to date copy of the rules is available on the Council's intranet.

~~At the beginning of each financial year the Contract Compliance Officer will submit an Annual Procurement Plan to Cabinet for approval, containing details of the contracts valued above~~

~~£25,000 to be let in that financial year. In approving the report, the Cabinet will agree for each contract the form of tender evaluation arrangements and whether the tender specification needs to be approved by Cabinet. Any contracts above £25,000 not in the annual plan must have their procurement arrangements agreed by Cabinet before procurement begins.~~

(b) Capital Expenditure, excluding Capital Expenditure in respect of commercial property acquired for investment purposes

Capital expenditure involves acquiring or enhancing non-current assets with a long-term value to the Council, such as land, buildings, and major items of plant and equipment or vehicles as well as the contribution or payments of grants to others to be used to fund capital expenditure. Capital assets shape the way services are delivered for the long term and may create financial commitments for the future in the form of financing costs and revenue running costs. The Council applies a de minimis minimus level of £10,000 to identify capital items.

The Council approves the three-year Capital Plan. The Cabinet is able to make the following changes to the approved Plan:

- (i) virement between existing schemes as set out in (c) below;
- (ii) slippage or bringing forward of expenditure of up to £250,000 per scheme;
- (iii) addition of new schemes to the Plan where these are fully externally funded;
- (iv) addition of new schemes to the Plan where these are funded wholly or partly from the Council's resources and where the use of the Council's resources is up to £250,000 per scheme
- (v) approval of additions or reductions in the Council resources allocated to schemes so long as any increase does not mean that the total Council resources allocated to a scheme exceeds £250,000 where it did not before, and such increase is not more than £10025,000 above the value of the original scheme
- (vi) approval of additions or reductions in the Council resources allocated to schemes where the original scheme was more than £250,000 and the change is less than £250,000.

If (v) or (vi) of the above conditions applies the Cabinet will not be able to make the change if in the view of the Section 151 Officer, the change significantly affects the scheme or the funding of the Capital Plan.

The Cabinet approves the release of funding for each project in the Programme which is over £1050,000. The release of funding for projects below this level is approved in accordance with the Council's Financial Procedure Rules.

(c) Capital Expenditure in respect of commercial property acquired for investment or economic development or regeneration purposes

Periodically the Council ~~will~~ may invest in commercial property ~~for the purposes of making a financial return, or where such an acquisition supports the Council's economic development or regeneration objectives.~~ Such investments (or divestments) may require actions in a time frame that is not naturally enabled by usual Council decision making processes.

The standard processes in respect of Capital Expenditure are therefore modified in respect of commercial properties that are acquired for investment purposes.

The Council approves the three-year Capital Plan. ~~Funding for commercial property for investment purposes will be explicitly identifiable within the Capital Plan.~~ Funding for economic development or regeneration purposes will also be explicitly (and separately) identifiable within the Capital Plan. Cabinet is able to make changes to the Capital Plan in respect of Capital Expenditure in respect of commercial property investment acquisition under the same conditions that apply to other capital expenditure.

Executive decisions relating to the investment and release of funding for the purchase of individual commercial properties, providing available funding exists within the extant Capital Plan, will be delegated to the Leader, or another Cabinet Member to whom the Leader may delegate authority.

Opportunity may allow the financially advantageous disposal of commercial properties. Approval of commercial property disposals will be delegated to the Leader or Cabinet Lead Member covering the finance portfolio, or other Cabinet Members to whom the Leader may delegate authority.

(d) Virement

Virement is the switching of resources between approved budget headings and cost centres.

The Council's scheme of virement covers both revenue and capital expenditure and is administered by the Section 151 Officer in accordance with the Budget and Policy Framework

Procedure Rules. The detailed virement rules are contained within the Financial Procedure Rules.

Budget Holders are responsible for agreeing in-year virements within delegated limits, in agreement with either the Head of Finance, Section 151 Officer or Cabinet depending on the nature and value of the virement as set out in the Financial Procedure Rules.

Cabinet approval is required for:

- virement between the budgets of two or more Directorates where the amount is in excess of £100,000
- virement between individual projects within the capital programme where the amount is in excess of £100,000.

Virements should only be made where such a virement leaves the originating budget with sufficient funds to meet its commitments.

(e) Use of Reserves

Except in the case of:

- staffing decisions delegated to the Head of Paid Service which result in redundancy or salary protection costs.
- Other expenditure as may be identified by the Head of Paid Service up to a maximum of £50,000 in accordance with guidelines for use of the Reinvestment Reserve.

Cabinet approval is required for the use of the reinvestment reserve.

(f) Write Off of Bad Debts

All write-offs of individual debts over £50,000 must be authorised by Cabinet. Authorisation levels for bad debts below £50,000 are at officer level and are detailed in the Financial Procedure Rules.

(g) Disposal of Assets excluding commercial property assets that were acquired for investment purposes

Obsolete, non-repairable or unnecessary assets should be disposed of with a view to achieving the most economically advantageous outcome for the Council having regard to the transparency and cost effectiveness of the disposal method, the timeliness of disposal and the likely price achievable.

Where individual assets, (which are not land or buildings), valued over £~~1050~~,000 need to be disposed of and written off Cabinet approval must be sought in advance. Items which are valued at or below £~~520~~,000 can be approved at officer level. Details of officer approval levels are contained in the Financial Procedure Rules.

Where land and property (buildings) assets with a freehold value of over £~~1500~~,000 or a leasehold value of over £~~5100~~,000 need to be disposed of or written off (excluding Right to Buy applications) Delegated authority from the Leader or other Cabinet Member ~~Cabinet approval~~ to the terms of the disposal must be sought in advance. Items which are valued at or below these amounts can be approved at officer level. Details of officer approval levels are contained in the Financial Procedure Rules.

(g) Year-End Balances and Carry Forward

The estimated level of year-end balances is determined by Council as part of the budgetary process. A year-end report giving details of variations from the planned budget is submitted to Cabinet by the Head of Finance.

Providing a request fulfills the requirements set out in the Financial Procedure Rules and the request is supported by the S.151 Officer then Cabinet can approve the carry forward of budget for specific items of expenditure.

(h) Accounting Policies

The Section 151 Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

(i) Accounting Records and Returns

The Section 151 Officer is responsible for determining the accounting records and returns for the Council.

(j) The Annual Statement of Accounts

The Section 151 Officer is responsible for ensuring that the Annual Statement of Accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom* (the Code) and statutory requirements.

The Audit Committee is responsible for approving the Annual Statement of Accounts, which should include:

- a narrative statement
- a statement of Accounting Policies

- a statement of Responsibilities for the Statement of Accounts
- the Accounting Statements and notes to the Accounts

(k) Financial Procedure Rules

The Section 151 Officer is responsible for maintaining the Council's Financial Procedure Rules and is authorised to make amendments to those rules as necessary. An up to date copy of the rules are displayed on the Council's intranet. All members of staff must comply with the requirements of the Financial Procedure Rules.

(l) Members Allowances

A Members Allowances Scheme must be approved annually by the Council and all payments to Members must be made in accordance with that approved scheme. The scheme can be found in ~~Section 19 of~~ the Constitution.

(m) Capital Strategy and Treasury Management

The Council prepares and maintains, as the cornerstones for effective management of capital expenditure and funding and treasury management, a Capital Strategy, a Treasury Management Statement, an Annual Investment Strategy and Minimum Revenue Provision Policy which are all approved by Council in advance of the financial year to which they relate each year and progress against them is monitored on a regular basis by Council.

The Audit Committee is responsible for ensuring effective scrutiny of the capital strategy and treasury management strategy and policies, and is required to provide comments to Council in advance of Council being asked to approved new or amended versions of these documents.

The detailed operational procedures are covered by the Treasury Management Practices document. The Section 151 Officer is the responsible officer for reviewing and maintaining the detailed operational procedures for Treasury Management.

Chapter 17 . OFFICER EMPLOYMENT PROCEDURES

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17.1 Definitions

For the purposes of interpreting these rules the following definitions apply:

- (a) “Chief Officer” includes the following as defined by Section 2(6)–(7) of the Local Government and Housing Act 1989 (“the 1989 Act”); the Chief Executive and the Chief Financial Officer (statutory chief officers) and the remaining ~~Strategic~~ Directors (non-statutory chief officers) where “non-statutory chief officer” is defined as a person for whom the head of the authority’s paid service is directly responsible, and who in respect of all or most of his or her duties is required to report directly or is directly accountable to the head of paid service, and who in respect of all or most of his or her duties is required to report directly or is directly accountable to the authority, or a committee or sub-committee of the authority;
- (b) “Deputy Chief Officer” as defined by section 2(8) of the 1989 Act means any person who is required to report directly or is directly accountable to a Chief Officer, as defined above, in respect of all or most of his or her duties.

Both the above definitions exclude persons whose duties are solely clerical, secretarial or are otherwise in the nature of support services.

A list of the post titles of the Council’s Chief Officers is set out at the end of these Rules.

In addition, the section on disciplinary action applies to the Monitoring Officer and the requirements of the Council’s Pay

Policy Statement refers to chief officers as including both Chief Officers and Deputy Chief Officers as defined above

17.2 Recruitment and appointment

Declarations

The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons. A candidate who fails to declare such relationship will be disqualified from such appointment without notice.

No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

Every Member and senior officer of the Council shall disclose to the Chief Executive or relevant Chief Officer any relationship known to that person to exist with a candidate for any appointment. It shall be the duty of the Chief Executive or relevant Chief Officer to report to the Council or to the Personnel Committee or any Member or officer to whom power has been delegated to make an appointment, any such disclosure made by a candidate, Member, or senior officer.

The Chief Executive or relevant Chief Officers shall keep a record of such disclosure made under this Rule.

Where relationship to a Member of the Council is disclosed, that Member shall withdraw from the meeting while the appointment is under consideration.

17.3 Seeking support for appointment

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.

No councillor will seek support for any person for any appointment with the Council.

17.4 Recruitment of chief officers

- (a) Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:
- (i) draw up a statement specifying:
 - the duties of the officer concerned; and
 - any qualifications or qualities to be sought in the person to be appointed;
 - (ii) make appropriate 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 for it; and
 - (iii) make arrangements for a copy of the statement mentioned in paragraph 17.4(a) to be sent to any person on request.
- (b) Where a post has been advertised as provided in Rule 17.4(a), the authority shall:
- (i) interview all qualified applicants for the post; or
 - (ii) select a short list of such qualified applicants and interview those included on the short list.
- (c) Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with Rule 17.4(b).

17.5 Appointment of Head of Paid Service

The full Council will approve the appointment of the Head of Paid Service following the recommendation of a panel appointed by the Personnel Committee, before an offer of appointment is made to any person. The panel must include at least one member of the Cabinet.

The full Council may only make or approve the appointment of the head of paid service where no well-founded objection has been made by any member of the Cabinet.

17.6 Appointment of chief officers

A panel appointed by the Personnel Committee and comprising at least one member of the Cabinet will make permanent appointments to Chief Officer posts.

An offer of employment as a Chief Officer shall only be made if no well-founded objection to such offer has been received from any member of the Cabinet.

17.7 Other appointments

Deputy Chief Officers - Appointment of Deputy Chief Officers will be the responsibility of the head of paid service or his/her nominee and will be made in accordance with the appointments and promotion policy. The appointing panel may include one member of the Cabinet.

An offer of employment shall only be made when no well-founded objection to such offer has been received from any member of the Cabinet. The process for doing so will follow that in Rule 17.8 below, adapted as appropriate. In particular if an objection is received from a member of the Cabinet, the head of paid service will consider the objection.

Officers below Deputy Chief Officer - Appointment of officers below Deputy Chief Officer (other than assistants to political groups) will be the responsibility of the head of paid service or his/her nominee.

17.8 Procedure for the appointment of chief officers

The following process will apply after the panel appointed by the Personnel Committee has interviewed all short-listed candidates:

- (a) if the panel agree on a candidate suitable for the post, they will indicate their provisional intention to make an offer to the Chief Executive;
- (b) the panel will tell the Chief Executive the name of the candidate to whom they wish to make an offer together with any relevant particulars which the panel considers relevant in making the appointment;
- (c) the Chief Executive will notify each member of Cabinet within twenty-four hours of:

- (i) the name of the person to whom the panel wish to make an offer;
- (ii) any other particulars relevant to the appointment notified by the panel;
- (iii) the period within which any objection to the making of the offer is to be made by any member of Cabinet.

The period of objection will be two working days. If the period of objection is to be shortened, then notification will be by telephone and e-mail.

If the Chief Executive notifies the panel that no objection has been received from Cabinet members within the objection period the provisional intention to make an offer will become a firm offer and, subject to Rule 4, the offer will be made without the need for the panel to re-convene.

If an objection is received from a member of Cabinet, the panel will re-convene to consider the objection. If the panel is satisfied that any objection received from Cabinet is not material or is not well-founded, they will confirm their decision and, subject to Rule 4, a formal offer will be made.

17.9 Appointment of assistants to political groups

Appointment of an assistant to a political group shall be made in accordance with the following rules:

- (a) no appointment to a post of assistant to a political group shall be made unless the Council shall have resolved to allocate a post of political assistant to each of the political groups of the Council which qualify for one;
- (b) no allocation of a post as assistant to a political group shall be made to a political group which does not qualify for one;
- (c) not more than one post of assistant to a political group shall be allocated to any one political group;
- (d) any decision required to be taken in the appointment process shall be taken by the Chief Executive or his or her nominee after consultation with the Leader of the Party (or his or her nominee) to which the post is allocated who shall be entitled to attend any interviews relating to the appointment.

17.10 Disciplinary action

- 17.10.1** The head of paid service, monitoring officer and chief finance officer may not be dismissed as a result of disciplinary action unless the requirements set out in paragraphs 17.10.2 to 17.10.7 are complied with.
- 17.10.2** The authority must invite relevant independent persons to be considered for appointment to a Panel, with a view to appointing at least two such persons to the Panel.
- 17.10.3** In paragraph 17.10.2 a 'relevant independent person' means any independent person who has been appointed by the authority under section 28(7) of the Localism Act 2011 or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
- 17.10.4** Subject to paragraph 17.10.5, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 17.10.2 in accordance with the following priority order:
- (a) a relevant independent person who has been appointed by the authority and who is a registered local government elector within the authority's area;
 - (b) any other relevant independent person who has been appointed by the authority;
 - (c) a relevant independent person who has been appointed by another authority or authorities.
- 17.10.5** The authority is not required to appoint more than two independent persons in accordance with paragraph 17.10.4 but may do so.
- 17.10.6** The authority must appoint any Panel at least 20 working days before the relevant meeting, that being a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer (i.e. the head of paid service, the monitoring officer or the chief finance officer) for disciplinary reasons.
- 17.10.6** *Before* the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular:
- (a) any advice, views or recommendations of the Panel;
 - (b) the conclusions of the investigation into the proposed dismissal; and

(c) any representations from the relevant officer.

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

Councillors will not be involved in the disciplinary action against any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

17.11 Dismissal

Councillors will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

Head of Paid Service, Monitoring Officer and Chief Financial Officer. The full Council must approve the dismissal of the Head of Paid Service, Monitoring Officer or the Chief Financial Officer following the recommendation of a panel appointed by the Personnel Committee, before any notice of dismissal is given. The panel must include at least one member of the Cabinet.

Chief Officers and Deputy Chief Officers. Where a committee, sub-committee or panel is discharging the function of dismissal of any of these officers, at least one member of the Cabinet must be a member of that committee, sub-committee or panel.

Notice of dismissal to a Chief Officer or Deputy chief officer shall only be made where no well-founded objection from any member of the Cabinet has been received.

17.12 Severance Packages and Special Severance Payments

Full Council shall vote on severance packages of £100,000 or over before they are approved. The information presented will clearly set out the components of the severance package (e.g. salary paid in lieu, redundancy compensations, pension entitlements, holiday pay and any bonuses, fees or allowances

paid), and will separately identify any special severance payments (ie. additional discretionary sums paid on top of statutory, contractual or other requirements).

Any special severance payments, of any value, made to the head of paid service must be approved by a panel appointed by the Personnel Committee which must also include at least two independent persons and, if part of a total severance package of £100,000 or over, will also require a full Council vote before approval as set out above.

17.132 List of Chief Officer posts

- Chief Executive (Head of Paid Service)
- ~~Strategic Director, Commercial Development, Asset and Leisure~~
- ~~Strategic Director, Environmental and Corporate Services of Finance, Governance & Contracts~~ (Chief Financial Officer)
- ~~Strategic Director, Community, Planning & of Housing & Wellbeing~~
- Director of Customer Experience
- Director of Commercial & Economic Development

Chapter 18 ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT MEMBER CONDUCT UNDER THE LOCALISM ACT 2011

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18.1 Introduction

This procedure is the means by which the Monitoring Officer, and the Member Conduct Committee and its panels will deal with complaints that a member or co-opted member of an authority (the 'Member') has failed to comply with the Members' Code of Conduct of the authority concerned. The Member Conduct Committee is able to consider complaints involving alleged breaches of the Code of Conduct of Charnwood Borough Council and the 27 Town and Parish Councils, ~~and 6 Parish Meetings~~ in the Borough ('relevant authorities').

Complaints that members of the Borough Council have failed to comply with the Council's codes and protocols other than the Members' Code of Conduct are dealt with in accordance with a separate procedure which is contained within this document.

The precise conduct and order of events of a meeting of the Member Conduct Committee and its panels will be a matter for the Chair of the Committee or panel as he or she and the Committee or panel consider appropriate in the circumstances. In exercising their discretion, they must have regard to the objective of ensuring the fairness and good administration of the complaints process, and the principles of natural justice.

It may be necessary for a person other than the Monitoring Officer to carry out the functions assigned to the Monitoring Officer below. As a result, references to the Monitoring Officer below also include the Deputy Monitoring Officer, and any other

person appointed by the Monitoring Officer to carry out those functions.

The Council has appointed a number of Independent Persons, who are not councillors or council employees, to assist in the process for dealing with complaints. Appointment of the Independent Persons to be made by Full Council on recommendation from the Monitoring Officer. Independent Persons are consulted at each stage of the process by the Monitoring Officer so that an independent view of the complaint and any action proposed to be taken can be considered before any decision is taken. Members being complained about also have the right to consult an Independent Person.

18.2 Making a Complaint

Charnwood Borough Councillors and the councillors of the 27 Town and Parish Councils, ~~and 6 Parish Meetings~~ in the Borough have to comply with a Code of Conduct.

Complaints that a councillor has not followed the requirements of the relevant Code must be made in writing, including by electronic means. Complaints by letter or e-mail should be addressed to the Monitoring Officer at the addresses below. A complaint form will be made available to assist complainants in making complaints. The complaint form will include provision for complainants to request that their name or details of the complaint should be withheld from the Member so that such requests can be considered by the Monitoring Officer who will decide whether to withhold that information or not.

Adrian Ward
Monitoring Officer
Charnwood Borough Council
Southfield Road
Loughborough
LE11 2TT
e-mail adrian.ward@charnwood.gov.uk

The Monitoring Officer will arrange for appropriate support to be provided to those complainants requiring assistance to put their complaint in writing, for example where they have a disability or English is not their first language.

Where it is unclear whether the complainant wishes to make a formal complaint, the Monitoring Officer will contact the complainant and determine what outcome the complainant is seeking. Where appropriate the Monitoring Officer will refer the complaint to the appropriate service or another authority to respond to.

Where a complaint that a Member has failed to comply with the Code of Conduct of a relevant authority is received the Monitoring Officer will write to the complainant to acknowledge receipt of the complaint within 5 working days and explain the process for dealing with the complaint.

18.3 When a complaint is received

When a complaint that a Member has failed to comply with the Code of Conduct of a relevant authority is received, the Monitoring Officer will, subject to considering any requests to the contrary made by complainant, inform the Member and consider whether an informal resolution of the complaint, for example an offer by the Member to make an apology or undertake training, is practicable and appropriate. The Monitoring Officer will consult with one of the Independent Persons appointed by the Borough Council and consider, but not be bound by, the views of the complainant before concluding any informal resolution of a complaint.

Where a complaint that a Member has failed to comply with the Code of Conduct of a relevant authority is received that the Monitoring Officer believes is not resolvable informally, he or she will review the complaint and obtain any necessary information that he or she requires to determine whether the complaint merits further action or investigation. Subject to considering any requests to the contrary made by the complainant, the Monitoring Officer may ~~seek to request~~ the Member to respond to the complaint where he or she thinks appropriate in reaching his or her decision. Normally the Monitoring Officer will seek to inform the Member that a complaint has been made about him or her at the earliest opportunity. The Monitoring Officer will consult with one of the Independent Persons appointed by the Borough Council before reaching his or her decision.

In determining whether a complaint merits further action or investigation, the Monitoring Officer will consider:

- (i) whether the complaint is about the conduct of a member or co-opted member of the Borough Council or one of the 27 Parish/Town Councils in the Borough who was in office and the Code of Conduct in force at the time of the alleged conduct;
- (ii) whether the conduct would, if proven, be a breach of the Code of Conduct;
- (iii) whether the complaint is sufficiently serious to merit further action.

Within 15 working days of a complaint that a Member has failed to comply with the Code of Conduct of a relevant authority being received, the Monitoring Officer will inform the complainant, the

Member and, where the Member is a parish or town councillor, the Clerk of the outcome of his or her initial consideration of the complaint. Following consultation with one of the Independent Persons appointed by the Borough Council, the Monitoring Officer may decide that:

- (i) an informal resolution of the complaint is appropriate, and no further action is required;
- (ii) the complaint does not merit further action or investigation having considered the issues set out in paragraph 3.3 above and no further action is required;
- (iii) the complaint merits investigation;
- (iv) the complaint merits further action other than an investigation, for example providing guidance or training for all councillors on a particular issue.

If the Monitoring Officer and the Independent Person disagree on the course of action to be taken and the complainant is not satisfied with the outcome of the Monitoring Officer's initial consideration of the complaint, he or she may request that the complaint is referred to a Panel of the Member Conduct Committee to determine whether the complaint merits further action or not.

If the Monitoring Officer and the Independent Person agree on a course of action other than that the complaint merits investigation, the complainant will be given 10 working days to appeal in writing, setting out the reasons why they disagree with the decision.

If an appeal is received from the complainant, the Councillor being complained about will be given 10 working days to submit their own written response should they wish to do so. The original complaint, the Monitoring Officer's fact-finding summary and the written appeal submissions from the complainant and Councillor being complained about will then be submitted to the Chair and Vice-chair of the Member Conduct Committee for consideration. Having considered the relevant documentation, either the Chair or Vice-chair has the option to refer the complaint to a Panel of the Member Conduct Committee for consideration, or to take no action.

If the complaint identifies criminal conduct, including offences relating to disclosable pecuniary interests, or a breach of other regulation by any person, the Monitoring Officer will refer the complainant to the Police or other appropriate regulatory body.

Anonymous complaints – The Monitoring Officer will only refer anonymous complaints for investigation or other action where they are accompanied by documentary, photographic or other evidence which indicates an exceptionally serious or significant

matter which can be satisfactorily dealt with without the need to interview the complainant.

Withdrawn complaints – The Monitoring Officer will consider requests by the complainant to withdraw a complaint. The Monitoring Officer will not refer for investigation or further action complaints which are withdrawn except where the public interest in taking action due to the seriousness of the complaint significantly outweighs the complainant's desire to withdraw the complaint and the complaint is accompanied by documentary, photographic or other evidence which indicates the matter can be satisfactorily dealt with without the need to interview the complainant.

The Monitoring Officer will consider requests by complainants that their identity and/or the nature of the complaint are withheld from the Member. As a matter of fairness and natural justice, Members should usually be told who has made a complaint against them and what the complaint is about. In exceptional circumstances the Monitoring Officer will agree to a request that the identity of the complaint should not be disclosed to the Member. The circumstances in which such requests will be agreed to are:

- (i) the complainant has reasonable grounds for believing that they will be at risk of harm if their identity is disclosed;
- (ii) the complainant is an officer who works closely with the Member and they are afraid of the consequences to their employment if their identity is disclosed;
- (iii) the complainant has provided reasonable evidence that they suffer from a serious health condition and there are medical risks associated with their identity being disclosed.

The Monitoring Officer will consider whether, in exceptional circumstances, not to provide the Member with all or part of the details of the complaint if to provide the information would be against the public interest or prejudice the investigation. The circumstances in which this might be appropriate are:

- (i) the Member is likely to attempt to intimidate the complainant or witnesses;
- (ii) the Member is likely to attempt to tamper with evidence and this is not outweighed by the fairness to the Member of being able to preserve evidence;
- (iii) the disclosure to the Member of details of the complaint is likely to result in the identity of the complainant becoming apparent and the Monitoring Officer has decided to withhold that information from the Member.

18.4 Initial consideration of complaints by panels of the Member Conduct Committee

Where a meeting of a panel is required, the Monitoring Officer will appoint members to the panel from among the members ~~and reserve members~~ of the Member Conduct Committee to consider the complaint (reserves are permitted). The Panel will comprise 3 Borough Council members selected on the basis of political balance. If the Member is a Parish or Town Councillor, one of the Parish Members of the Committee will also be appointed as a non-voting member of the Panel.

Except in exceptional circumstances, an agenda for the meeting will be sent to the members of the Panel at least five clear working days before the meeting. In addition to the documentation supplied by the complainant, the agenda papers for the meeting will include a report by the Monitoring Officer setting out a summary of the information he or she has gathered, the views of the Independent Person who the Monitoring Officer has consulted, and, where applicable, the written appeal submission from the complainant, and a statement by the Member and the views of the Independent Person who the Member has consulted if the Member wishes these to be submitted.

Meetings of the Panel are subject to the provisions of Part VA of the Local Government Act 1972. The Monitoring Officer will consider whether the agenda papers include exempt information to which the press and public, including the complainant and the Member, should not have access. The Panel's decision will be recorded in the form of the minutes of its meeting having regard for any exempt information that it considered and communicated to the complainant, the Member and, where the Member is a parish or town councillor, the Clerk by letter.

The Panel will appoint a Chair from among its voting members. The Chair will deal with the following administrative matters prior to the consideration of any complaints:

- (i) ensuring the meeting is quorate (the Panel's quorum is three Borough Council members);
- (ii) dealing with any disclosures of interest;
- (iii) ensuring that the members of the Panel understand the procedure to be followed.

The Panel will come to one or more of the following decisions in respect of each complaint submitted to it:

- (i) to refer the complaint to the Monitoring Officer for investigation;

- (ii) to refer the complaint to the Monitoring Officer for other action;
- (iii) to refer the complainant to the Police as their complaint identifies a criminal offence;
- (iv) to take no action in respect of the complaint.

18.5 Investigation of Complaints

(a) Investigation reports

Where a complaint has been referred for investigation, the Monitoring Officer ~~_, or another person appointed by the Monitoring Officer~~ will appoint a suitable person to carry out ~~the an~~ investigation (the 'Investigator'), ~~will conduct that investigation, and which it~~ will be completed within a maximum period of six months. The Investigator may refer the complaint back to the Monitoring Officer where:

- (i) as a result of the investigation the Investigator believes that the complaint is materially more or less serious than was apparent when the investigation was begun;
- (ii) as a result of new evidence, the Investigator believes that a different decision about whether to begin an investigation would have been taken had that evidence been known;
- (iii) in cases where (i) or (ii) apply the Investigator will also consider factors such as whether during the course of the investigation there has been a failure to co-operate by people involved in the complaint, whether there have been further complaints about the conduct of the Member or other members of the relevant authority;
- (iv) the Member has died, is seriously ill or has resigned from the relevant authority and the Investigator believes that it is no longer appropriate to continue the investigation.

The Monitoring Officer will consider any referrals back from the Investigator or matters as set out in section 18.5(a) arising from his or her own investigation. Having consulted the Independent Person, the Monitoring Officer will review his or her decision on how the complaint should be dealt with, in accordance with the process set out in section 18.3. Where the decision to investigate a complaint was made by a panel, the Monitoring Officer will refer the complaint and the matters raised back to a panel.

Following receipt by the Monitoring Officer of the report on the outcome of an investigation, the Monitoring Officer will inform the complainant, the Member and, where the Member is a parish or town councillor, the Clerk of the outcome of his or her initial consideration of the report by letter. Following consultation with one of the Independent Persons appointed by the Borough Council, the Monitoring Officer may decide that:

- (i) the Member has not breached the code of conduct and no further action is required;
- (ii) the Member has breached the code of conduct but has taken appropriate steps to remedy the situation and no further action is required;
- (iii) the Member has a case to answer and the Investigator's report should be referred to a panel of the Member Conduct Committee for a hearing.

If the Monitoring Officer and the Independent Person disagree on the course of action to be taken and the complainant is not satisfied with the outcome of the Monitoring Officer's consideration of the investigation, he or she may request that the Investigator's report is referred to a panel of the Member Conduct Committee to determine whether the complaint should be referred to a hearing or not.

If a review of the Monitoring Officer's decision is requested, the Monitoring Officer will appoint members to the panel from among the members ~~and reserve members~~ of the Member Conduct Committee to consider the complaint (reserves are permitted). The Panel will comprise 3 Borough Council members selected on the basis of political balance. If the Member is a Parish or Town Councillor, one of the Parish Members of the Committee will also be appointed as a non-voting member of the Panel.

Except in exceptional circumstances, an agenda for the meeting will be sent to the members of the Panel at least five clear working days before the meeting. In addition to the Investigator's report the Monitoring Officer will provide the views of the Independent Person who the Monitoring Officer has consulted and the views of the Independent Person who the Member has consulted if the Member wishes this to be submitted.

Meetings of the Panel are subject to the provisions of Part VA of the Local Government Act 1972. The Monitoring Officer will consider whether the agenda papers include exempt information to which the press and public, including the complainant and the Member, should not have access. The Panel's decision will be recorded in the form of the minutes of its meeting having regard for any exempt information that it considered and communicated to the complainant, the Member and, where the Member is a parish or town councillor, the Clerk by letter.

The Panel will appoint a Chair from among its voting members. The Chair will deal with the following administrative matters prior to the consideration of any complaints:

- (i) ensuring the meeting is quorate (the Panel's quorum is three Borough Council members);

- (ii) dealing with any disclosures of interest;
- (iii) ensuring that the members of the Panel understand the procedure to be followed.

The Panel will come to one of the following decisions in respect of each complaint submitted to it:

- (i) the Member has not breached the code of conduct and no further action is required;
- (ii) the Member has breached the code of conduct but has taken appropriate steps to remedy the situation and no further action is required;
- (iii) the Member has a case to answer and the Investigator's report should be referred to a panel of the Member Conduct Committee for a hearing.

18.6 Hearings and Appeals

Pre-hearing process

Where a hearing is required, the Monitoring Officer will undertake a pre-hearing process and then prepare a report for the Panel setting out the results of the process.

The object of the pre-hearing process is to enable the hearing to take place fairly and as efficiently as is reasonably practicable, through conveying to the Panel those aspects, issues and matters related to the Investigator's report and the observations or representations made or received in respect of it that are relevant to the matter which was the subject of the investigation. As such, the Monitoring Officer's covering report will concern itself with procedure and shall not contain any recommendation as to the outcome of the hearing.

The Monitoring Officer will invite the Member and Investigator to participate in the pre-hearing process. The Monitoring Officer will:

- (i) write to the Member enclosing a copy of the Investigator's report, where possible to inform the Member of the provisional date(s) of the Panel hearing and to request him or her to return the following information, within 14 days:
 - Member's response to the evidence set out in the Investigator's report;
 - Member's evidence relating to the allegation not previously submitted or identified in the Investigator's report;
 - Mitigating circumstances desired to be submitted by or on behalf of the Member;

- Arrangements for the Panel hearing (witnesses, representation, request for documents or matters to be considered in private, etc.);
 - Details of proposed witnesses which are wished to be called; and
 - Any views of an Independent Person sought by the Member which he or she wishes to submit.
- (ii) Upon receipt of the Member's comments in response to the Investigator's report, the Monitoring Officer will copy that response to the Investigator and request within 14 days the return of information relating to:
- Response to the Member's representations; and
 - Arrangements for the Panel hearing (witnesses, request for documents or matters to be considered in private, etc.).

The Monitoring Officer will produce his or her report on the outcome of the pre-hearing process. The report will:

- (i) collate the paperwork to be presented or submitted to the hearing
- (ii) identify the main facts of the case that are in dispute;
- (iii) identify those issues, where appropriate, that are not relevant to the Panel's hearing of the complaint;
- (iv) set out the views of the Independent Person(s) which have been sought by the Monitoring Officer and the Member (where the Member wishes those to be included);
- (v) list those witnesses which may be called to give evidence; and
- (vi) determine what papers (if any) are likely to be considered in the absence of press or public at the hearing and therefore exempted from publication prior to the hearing,

The Monitoring Officer will appoint members to the Panel from among the members ~~and reserve members~~ of the Member Conduct Committee to consider the complaint (reserves are permitted). The Panel will comprise 3 Borough Council members selected on the basis of political balance. If the Member is a Parish or Town Councillor, one of the Parish Members of the Committee will also be appointed as a non-voting member of the Panel.

Except in exceptional circumstances, an agenda for the meeting will be sent to the members of the Panel, at least five clear working days before the meeting. The Monitoring Officer will provide the Member and the Investigator with a copy of the agenda. The Monitoring Officer will publish that part of the

agenda which he or she considers does not contain exempt information.

18.7 Hearing Principles

Hearings are not a court and, therefore, evidence will not be taken on oath and persons attending the Panel will not be expected to stand when addressing the meeting or giving evidence. However, the Panel remains quasi-judicial and the principles of natural justice will be applied. All comments or questions must be put to, or through, the Chair. The Panel will reach its decisions on the balance of probabilities based on the evidence presented to it.

The Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another person. The Panel may take legal advice, in private if necessary, from ~~its legal adviser~~ the Monitoring Officer at any time during the hearing or while they are considering the outcome. The substance of any ~~legal~~ advice given to the Panel should be shared with the Member and the Investigator if they are present.

During the course of the hearing, the Panel can ask the Monitoring Officer to obtain further information if the Panel decides that it requires that information in order to reach a decision. The hearing will be adjourned until the Monitoring Officer provides that information. The Panel can make such a request only once per hearing;

18.8 Hearings by a Panel of Members of the Member Conduct Committee

The Panel will appoint a Chair from among its members. The Chair of the Panel will:

- (i) introduce those present;
- (ii) establish that the hearing is quorate (the Panel's quorum is 3 Borough Council members);
- (iii) deal with any disclosures of interest;
- (iv) ensure that the participants understand the procedure to be followed;
- (iv) ensure that the Member, if unaccompanied, was made aware that he or she could have been represented.

Meetings of the Panel are subject to the provisions of Part VA of the Local Government Act 1972. The Monitoring Officer will consider whether the agenda papers include exempt information

to which the press and public, ~~including the complainant and the Member,~~ should not have access.

If the Member is not present, the Panel will consider any indication from the Member that he/she would not be present, and any reasons provided. The Panel will then determine whether to hold the hearing in the absence of the Member or adjourn the hearing to another date.

If witnesses are to be called and the Panel has decided that the hearing should be held in exempt session, the Monitoring Officer will advise the Panel as to whether such witnesses should only be permitted to be present when they are called to answer questions.

The Investigator will put the case against the Member and may call witnesses. The Member and/or his/her representative may ask questions of the investigating officer and any witnesses. The Panel may ask questions of the investigating officer and any witnesses.

The Member and/or his/her representative will put his/her case and may call witnesses. The Investigator may ask questions of the Member and any witnesses. The Panel may ask questions of the Member and any witnesses.

The Independent Person, if present, will give their views on the complaint, and may be questioned by the Investigator, the Member, or the Panel.

The Investigator will sum up first, followed by the Member and/or his/her representative. No new evidence may be introduced at this stage.

The Panel may withdraw to consider the case and come to a decision in private. The Monitoring Officer and the officer recording the proceedings will remain with the Panel. If it is necessary to recall either party to clarify certain points, both parties will ~~return~~ be present. On their return, the Chair will announce the Panel's decision in respect of the material facts and whether they amounted to a breach of the code of conduct.

If the Panel finds against the Member, he/she will be asked if he/she wishes to respond to the finding before the Panel considers whether to impose a sanction. The views of the Investigator and the Independent Person regarding potential sanctions will also be sought.

If the Panel finds against the Member, the Panel may impose one or more of the following sanctions:

- (i) issue a formal letter to the Member setting out the breach of the Code which has been identified;
- (ii) censure the Member;
- (iii) make recommendations to full Council to remove the Member from committee(s) and other appointments unless these are subject to political balance requirements;
- (iv) where political balance requirements apply make recommendations to the relevant Group Leader to remove the Member from committee(s) and other appointments;
- (v) make recommendations to the Leader to remove the Member from the Cabinet or from the role of Cabinet Support Member
- (vi) recommend that the Member undertake training or issue an apology.
- (vii) recommend removal from outside body appointments (for Charnwood Borough Council appointments this would be subject to approval of Cabinet);
- (viii) withdraw specified facilities (IT equipment, internet access, email access) for a specified period;
- (vx) exclude the Member from council premises for a specified period, except where necessary to attend council or committee meetings.

(+) Where the Member is a parish/town councillor the Panel's decision will be in the form of a recommendation to the relevant authority on what sanction to impose.

Once the Panel has sufficient information to enable it to determine whether a sanction should be applied and, if appropriate, what the sanction should be, the Panel may withdraw to consider the representations and evidence in private. On their return, the Chair will announce the Panel's decision.

~~After considering any verbal or written representations from the Investigator,~~ The Panel will also consider whether it should make any recommendations to the authority, with a view to promoting and maintaining high standards of conduct among members which will be announced by the Chair.

18.9 After the hearing and appeals

The Panel will announce its decision on the day. The Panel's decision and reasons will be recorded in the form of the minutes of its meeting having regard for any exempt information that it considered and communicated to the relevant parties by letter. The Panel will, wherever possible, issue its full written decision and reasons within 10 working days of the end of the hearing.

The written decision will be provided to the Member, the complainant, the Investigator and where the Member is a parish/town councillor, the Parish/Town Clerk. The written decision will, if a finding has been made that the Member had failed to comply with the Code of Conduct, provide information as to the Member's right to appeal against the finding

Where the Panel has determined that the Member failed to comply with the Code of Conduct, the Monitoring Officer will arrange for the publication of a notice of the Panel's findings and the Member's right to appeal in a local newspaper and on the Borough Council's website.

Where the Panel has determined that the Member did not fail to comply with the Code of Conduct, the Monitoring Officer will arrange for the publication of a notice of the Panel's findings in a local newspaper and on the Borough Council's website unless the Member requests that no notice is published.

If the Panel finds against the Member, the Member may ask for that decision to be reviewed by the Borough Council's Appeals and Review Committee. A request for a review must be made in writing, giving the reasons for the request, to the Monitoring Officer/Deputy Monitoring Officer within 10 working days of the date of the written notification of the Panel's decision.

On receipt of the review the Monitoring Officer/Deputy Monitoring Officer in consultation with the Independent Person will consider the validity of the appeal in terms of whether there has been a procedural breach or new evidence has come to light.

The appeal will normally be heard within 20 working days of the receipt of the written request stating the wish for the finding to be reviewed. The appeal will be conducted following the procedure set out in section 8 but will consider only material relevant to the reasons for the review request set out by the Member.

18.10 Non-Code of Conduct Complaints - Before the meeting of the Member Conduct Panel

The Monitoring Officer will make enquiries and, where he or she considers it appropriate, investigate any allegations of misconduct in accordance with the Monitoring Officer Protocol.

Any investigation will be conducted as quickly as is reasonably possible, having regard to the nature of the complaint. Unless it is inappropriate to do so, the Monitoring Officer will inform the complainant and the Member that the investigation is taking place, the matter being investigated and of the likely length of the investigation.

If, following an investigation, in the opinion of the Monitoring Officer there is no case to answer or the matter can be resolved by agreement of the parties involved, the Monitoring Officer will inform the parties involved and the Chair of the Member Conduct Committee of that finding.

If, following an investigation, in the opinion of the Monitoring Officer there is a case to answer and there is no possibility of the matter being resolved by agreement of the parties involved, the Monitoring Officer will:

- (i) prepare a report and inform the Member of the procedure which will be used;
- (ii) once the report is completed, inform the Member and send him/her a copy of the report;
- (iii) ask the Member or his/her representative to provide details of the evidence which he/she wishes to present at the hearing and the witnesses which he/she wishes to call at the hearing.

The Monitoring Officer's report will normally include:

- (i) details of the alleged misconduct;
- (ii) a summary of the investigation;
- (iii) the names of any witnesses and copies of any documentary evidence to be presented at the hearing.

~~The Monitoring Officer will appoint members to a Panel from among the members and reserve members of the Member Conduct Committee to consider the complaint. The Panel will comprise 3 Borough Council members selected on the basis of political balance.~~

~~Except in exceptional circumstances, an agenda for the meeting will be sent to the members of the Panel, at least five clear working days before the meeting. The Monitoring Officer will provide the Member and the Investigator with a copy of the agenda. The Monitoring Officer will publish that part of the agenda which he or she considers does not contain exempt information.~~

~~18.11 The meeting of the Panel~~

~~The Panel will appoint a Chair from among its members. The Chair of the Panel will:~~

- ~~(i) introduce those present;~~
- ~~(ii) establish that the hearing is quorate (the Panel's quorum is 3 Borough Council members);~~
- ~~(iii) deal with any disclosures of interest;~~

- ~~(iv) ensure that the participants understand the procedure to be followed;~~
- ~~(v) ensure that the Member, if unaccompanied, was made aware that he or she could have been represented.~~

~~— Meetings of the Panel are subject to the provisions of Part VA of the Local Government Act 1972. The Monitoring Officer will consider whether the agenda papers include exempt information to which the press and public, including the complainant and the Member, should not have access.—~~

~~— If the Member is not present, the Panel will consider any indication from the Member that he/she would not be present, and any reasons provided. The Panel will then determine whether to hold the hearing in the absence of the Member or adjourn the hearing to another date.~~

~~— The investigating officer will put the case against the Member and may call witnesses. The Member and/or his/her representative may ask questions of the investigating officer and any witnesses. The Panel may ask questions of the investigating officer and any witnesses.~~

~~— The Member and/or his/her representative will put his/her case and may call witnesses. The investigating officer may ask questions of the Member and any witnesses. The Panel may ask questions of the Member and any witnesses.~~

~~— The investigating officer will sum up first, followed by the Member and/or his/her representative. No new evidence may be introduced at this stage.~~

~~— The Panel may withdraw to consider the case and come to a decision in private. The Monitoring Officer and the officer recording the proceedings will remain with the Panel. If it is necessary to recall either party to clarify certain points, both parties will return. On their return, the Chair will announce the Panel's decision.—~~

~~— If the Panel finds against the Member, he/she will be asked if he/she wishes to respond to the finding before the Panel considers whether to impose a sanction. If the Panel finds against the Member, the Panel may impose one or more of the following sanctions:~~

- ~~(i) issue a formal letter to the Member setting out the breach which has been identified;~~
- ~~(ii) censure the Member;~~
- ~~(iii) make recommendations to full Council to remove the Member from committee(s) and other appointments unless these are subject to political balance requirements;~~

- ~~(iv) where political balance requirements apply make recommendations to the relevant Group Leader to remove the Member from committee(s) and other appointments;~~
- ~~(v) make recommendations to the Leader to remove the Member from the Cabinet or from the role of Cabinet Support Member~~
- ~~(vi) recommend that the Member undertake training or issue an apology.~~

~~Once the Panel has sufficient information to enable it to determine whether a sanction should be applied and, if appropriate, what the sanction should be, the Panel may withdraw to consider the representations and evidence in private. On their return, the Chair will announce the Panel's decision.~~

~~After considering any verbal or written representations from the investigating officer, the Panel will consider whether it should make any recommendations to the Council, with a view to promoting and maintaining high standards of conduct among members which will be announced by the Chair.~~

~~The Panel will announce its decision on the day. The Panel's decision and reasons will be recorded in the form of the minutes of its meeting having regard for any exempt information that it considered and communicated to the relevant parties by letter. The Panel will, wherever possible, issue its full written decision and reasons within 10 working days of the end of the hearing.~~

~~The hearing process as set out in section 18.8 will be followed.~~

The Panel will consider what publicity is appropriate in connection with its decision. The Panel will ask for the views of the Member when considering what publicity is appropriate.

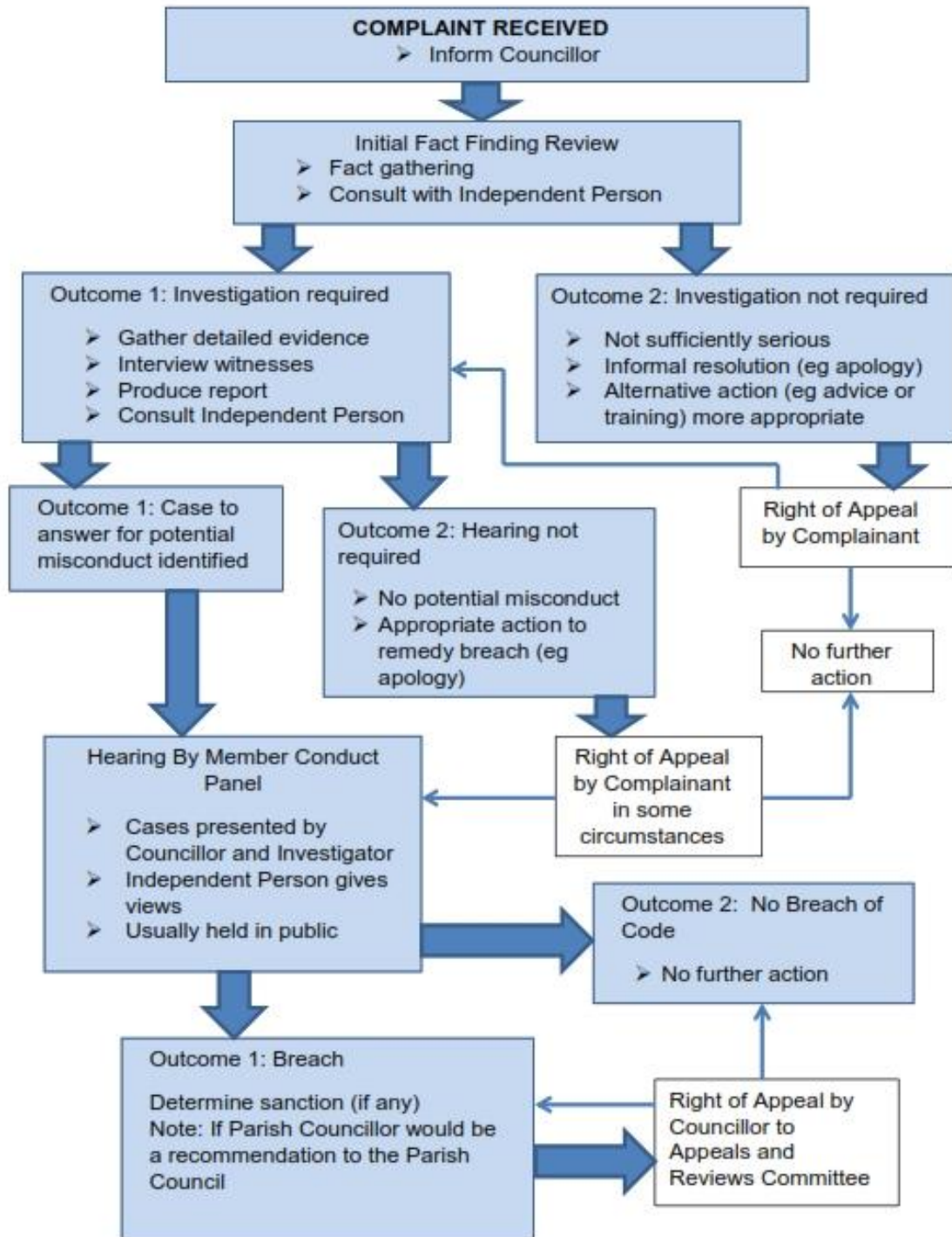
18.12 The Right of Appeal

If the Panel finds against the Member, the Member may ask for that decision to be reviewed. A request for a review must be made in writing, giving the reasons for the request, to the Monitoring Officer within 10 working days of the date of the written notification of the Panel's decision.

The appeal will be heard by the Appeals and Reviews Committee only after the Monitoring Officer in consultation with the Independent Person has considered the validity of the appeal in terms of whether there has been a procedural breach or if new evidence has come to light. The appeal will normally be heard within four weeks of the receipt of the written request stating the wish for the finding to be reviewed.

The appeal will be conducted following the procedure set out in section 18.11 but will consider only material relevant to the reasons for the review request set out by the Member.

MEMBER CONDUCT COMPLAINTS – SUMMARY OF PROCEDURE



Chapter 19 . SCHEME OF MEMBERS' ALLOWANCES

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19.3	Special Responsibility Allowance	19.1
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19.1 Introduction

In accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003, Charnwood Borough Council has agreed the following scheme for members' allowances. In the scheme the term year means the financial year to which the scheme applies.

19.2 Basic Allowance

Subject to paragraph 8, for each year a basic allowance as specified in schedule 1 to this scheme shall be payable to each councillor.

19.3 Special Responsibility Allowance

- (a) Subject to paragraph 8, for each year a special responsibility allowance shall be payable to those councillors and co-opted members who have the special responsibilities that are specified in schedule 2 to this scheme. For those councillors who have more than one special responsibility allowance, the highest will be paid at 100% and the second or subsequent allowances will be paid at 50%.
- (b) Where a majority of councillors belong to the same political group (the controlling group), a special responsibility allowance shall be paid to at least one person who is not a member of the controlling group and has special responsibilities specified in schedule 2 to this scheme.

19.4 Basic Allowance Co-opted Members

Subject to paragraph 8, for each year, a basic allowance as specified in schedule 1 to this scheme shall be payable to co-opted members and Parish Members of the Member Conduct Committee.

19.5 Carers' Allowance

Expenditure incurred by councillors in providing childcare or in providing care for an elderly, sick or disabled dependent relative to facilitate their attendance at duties specified in the Regulations and approved by the Council shall be reimbursed in accordance with schedule 3 to this scheme.

19.6 Travel and Subsistence Allowances

Expenditure incurred by councillors in respect of travel and subsistence to facilitate their attendance at duties specified in the Regulations and approved by the Council shall be payable in accordance with schedule 4 to this scheme.

The travel and subsistence allowances set out in this scheme are available to the Co-opted and Parish Members of Council committees described in paragraph 3.

19.7 Approved Duties

Duties specified in the Regulations, together with specific duties approved by the Charnwood Borough Council in respect of which travel, subsistence and carers' allowances are payable are listed in schedule 5 to this scheme.

19.8 Renunciation

A councillor may by notice in writing given to the Head of Finance and Property Services elect to forego any part of his or her entitlement to an allowance under this scheme.

19.9 Part-year Entitlements and Ceasing of Payments

Councillors who are elected, or cease to be elected, part way through the Municipal Year shall receive their basic allowance pro-rata. The same provisions exist for those councillors who are appointed to a position attracting a Special Responsibility Allowance or who cease to hold a position attracting a Special Responsibility Allowance.

19.10 Pensions

Members of the Council are not entitled to be eligible for membership of the Local Government Pension Scheme

19.11 Claims and payments

Payment of basic and special responsibility allowances shall be made in monthly instalments of one-twelfth of the amounts specified in this scheme.

Claims for carers' allowance shall be in accordance with the conditions as specified in schedule 3 to this scheme.

Claims for travel and subsistence allowances shall be in accordance with the conditions as specified in schedule 4 to this scheme.

19.12 IT for councillors

In addition to the allowances specified in the Local Authorities (Members Allowances) (England) Regulations 2003, Charnwood Borough Council has authorised the IT support to councillors set out in schedule 6.

19.13 Schedules

All amounts in the following schedules are paid from 1st April 2022 to 31st March 2023.

SCHEDULE 1

BASIC ALLOWANCES

	Allowance
Councillor	£5,318
Parish Member of the Member Conduct Committee	£265

SCHEDULE 2

SPECIAL RESPONSIBILITY ALLOWANCES

	Allowance
Leader	£12,883
Deputy Leader	£9,017
Cabinet Lead Members *	£5,153
Cabinet Deputy Lead Members **	£2,209
Mayor	£7,214
Deputy Mayor	£1,803
Independent Chair of Audit Committee	£3,608
Chair of Plans Committee	£3,864
Leader of the Opposition	£4,319
Chair of the Member Conduct Committee	£1,547
Chair of the Licensing Committee	£2,576
Vice -Chair of the Plans Committee	£1,547
Vice-Chair of the Licensing Committee (2)	£773
Chair of the Scrutiny Commission	£3,864
Vice-Chair of the Scrutiny Commission	£1,547
Chair of Finance & Performance Scrutiny Committee	£3,608
Vice-chair Finance & Performance Scrutiny Committee	£1,443

* There shall be no more than 10 members of the Cabinet in total, including the Leader and Deputy Leader.

** For 2022/23 there are no such appointments

SCHEDULE 3

CARERS' ALLOWANCE

A Carers' Allowance shall be payable for duties specified in the Local Authorities (Members' Allowances) (England) Regulations 2003 and approved by the Council subject to the following conditions:

- (i) The maximum hourly rate reimbursed for independent care of a child under the age of 14 shall be equal to the minimum wage.
- (ii) The maximum hourly rate reimbursed for the professional care of a dependent relative shall be equal to the Leicestershire County Council's hourly rate for a Home Care Assistant.
- (iii) Councillors must certify that the costs have been actually and necessarily incurred and the allowance shall be paid as a reimbursement of incurred expenditure against receipts.
- (iv) The allowance shall not be payable to a member of the claimant's own household.
- (v) The Head of Strategic Support shall be able to exercise discretion in respect of the above conditions in exceptional and justified circumstances.

- (vi) Claims shall be made within four months of the duty to which it relates.

SCHEDULE 4

TRAVEL AND SUBSISTENCE ALLOWANCES

Travel and Subsistence Allowance shall be payable in respect of duties specified in the Regulations and approved by the Council (see Schedule 5). Claims shall be made within four months of the approved duties to which they relate.

In respect of travel the following may be claimed:

- (a) The actual cost of travel by public service must not exceed the ordinary or any available cheap fare. Standard class rail fare may be claimed. In the case of travel by ship, first class fare is applicable.
- (b) Deposit or portage of luggage and sleeping car accommodation subject to reduction by one-third of the subsistence allowance for that night.
- (c) Taxi-cab fares in cases of urgency or where no public service is reasonably available. The amount claimed shall not exceed the actual fare and any reasonable gratuity.
- (d) The cost of hiring a car which must not exceed the rate applicable to the members' own car.
- (e) Where a councillor uses his or her own motor car or motorcycle, the mileage rate claimed shall be as the rates available to staff (casual users) and agreed by the National Joint Council for Local Government Services (JNC) on an annual basis.

Current rates per mile are:

	Up to 10,000 miles	Over 10,000 miles
Car	45p per mile	25p per mile
Motorcycle	24p per mile	24 per mile
Bicycle	20p per mile	20p per mile

For journeys out of the county, councillors are encouraged to use rail travel. However, if they use their car, the cost claimed shall be the mileage rate above or the cost of standard return rail fare, whichever is the lower.

- (f) Where a councillor carries an official passenger, the additional mileage allowance of 5p per mile per passenger set by HMRC applies.

In respect of subsistence:

Subsistence allowance for councillors shall be the same as for staff and in accordance with guidance from the Inland Revenue such that the Council will refund actual amounts spent in respect of subsistence where supported by receipts and provided that the amounts are reasonable. The following rates are considered by the Inland Revenue to be acceptable as a guideline as to whether actual expenditure is reasonable and also for payment as “flat rates” where receipts are not available:

In the case of absence not involving overnight stay, but not at the normal place of residence:

- (i) for more than four hours before 11am – Breakfast allowance - £4
- (ii) for more than five hours after this time, ending before 8.30pm – Lunch/Tea allowance - £5
- (iii) for more than five hours ending after 8.30pm – Dinner allowance - £8

Use will not be made of a “flat rate” in respect of overnight absence as all expenditure in that respect should be claimed based on actual expenditure only, supported by receipts. However, a flat rate (without the need for receipts) of up to £5 for incidental expenses resulting from overnight absence is claimable. Where possible, overnight accommodation should be booked by the Council so that the VAT element can be reclaimed.

Subsistence allowances may not be claimed where adequate refreshments are provided.

SCHEDULE 5

APPROVED DUTIES OF THE COUNCIL

The Council has agreed that an approved duty, for the purpose of the payment of travel (except those marked with an asterix * for which travel expenses cannot be claimed), subsistence and carers’ allowances, is attendance at meetings of the following, where the councillor attending is a member of the relevant body or is acting as a substitute for such, or has been requested to attend to assist with the business being considered by the body:

- Council*
- Cabinet*
- Scrutiny Bodies*
- Plans Committee* and its site inspections
- Licensing Committee* and its Sub-committees*
- Member Conduct Committee* and its Panels*
- Audit Committee*
- Personnel Committee* and its Panels*
- Appeals and Reviews Committee* and its Panels*
- Joint Consultative Committee*
- Housing Management Advisory Board*

** NB. Travel expenses cannot be claimed for attending these meetings*

Meetings of all outside bodies to which the Council makes appointments and upon which the councillor serves as a representative of the Council or substitute representative.

Conferences authorised by committees or in accordance with the scheme of delegation.

Interviews for the appointment of staff.

The opening of tenders in accordance with the requirements of the Council's Constitution.

Attendance by Cabinet Members at meetings within the Borough that relate directly to their lead member role.

Attendance by the Mayor and Deputy Mayor at meetings and events, both inside and outside the Borough, that relate directly to their roles.

Such other meetings at which individual members have been appointed to represent the Borough Council other than as members of outside bodies, either by virtue of a specific resolution or in the capacity of Leader or Deputy Leader or as Chair or Vice-chair of a Committee.

Training sessions, briefings and other meetings certified by the Head of Strategic Support.

Further to the above, the Council has agreed the following:

- (i) That travel allowance and carers' allowance, but not subsistence allowance be payable to a borough councillor in respect of attendance by invitation at a Parish Council or Parish Meeting to participate in the discussion of a Borough Council function.
- (ii) That travel and subsistence allowance and carers' allowance be payable to a borough councillor in respect of attendance at Borough Council premises or other establishments within the Borough on such occasions as they consider necessary in connection with the discharge of the Council's functions up to a limit of 15 occasions in each Council year. These are known as "duty days". This provision is an authorisation to carry out an approved duty of a councillor's own choice on 15 occasions of whatever duration and not 15 duty days which might be interpreted, for example, as 30 half days. Visits to the Council offices for IT support purposes should be classed as duty days if travel and subsistence or carers' allowances are to be claimed.
- (iii) That travel and subsistence allowance and carers' allowance be payable to a borough councillor in respect of full meetings of political

groups held at Borough Council premises and specifically related to the business of the Borough Council on not more than 15 occasions in the period commencing with the day of the Annual Meeting of the Council in any year and terminating on the day preceding the Annual Meeting in the following year.”

SCHEDULE 6

IT FOR COUNCILLORS

On request, the Council provides all Councillors with a computer or a tablet device, a printer and appropriate software and support.

If a Councillor chooses to use their own device no payment is made for this.

No payments are made towards home broadband or other connectivity costs.

CODES AND PROTOCOLS

20. Members' Code of Conduct	20.1
21. Officers' Code of Conduct	21.1
22. Protocol on Member/Officer Relations	22.1
23. Monitoring Officer Protocol	23.1
24. Members' Planning Code of Good Practice	24.1
25. Protocol on Presentations to Councillors	25.1

CHAPTER 20 MEMBERS' CODE OF CONDUCT

CODE OF CONDUCT FOR ELECTED AND CO-OPTED MEMBERS OF CHARNWOOD BOROUGH COUNCIL

The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

BACKGROUND TO THIS CODE OF CONDUCT

This section sets out general interpretation and background to the Code of Conduct, including definitions used within the code, the purpose of the code, the principles the code is based on and when the code applies. It does not form part of the Code of Conduct itself and consequently does not contain any obligations for you to follow, as these are contained in the 'Code of Conduct' section below.

All councils are required to have a local Member Code of Conduct.

Definitions

For the purposes of this Code of Conduct, a "member" means a member or co-opted member of Charnwood Borough Council ('the Council').

A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint subcommittee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow members, Council officers and the reputation of the council and local government. It sets out general principles of conduct expected of all members and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of member and local government.

General principles of member conduct

Everyone in public office at all levels; i.e. all who serve the public or deliver public services, including ministers, civil servants, members and council officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles, which are set out in Appendix A.

Building on these principles, the following general principles have been developed specifically for the role of member and these principles underpin the obligations in the Code of Conduct that follows.

In accordance with the public trust placed in you, you should:

- act with integrity and honesty
- act lawfully
- treat all persons fairly and with respect; and
- lead by example and act in a way that secures public confidence in the role of member.

In undertaking your role you should:

- impartially exercise your responsibilities in the interests of the local community
- do not improperly seek to confer an advantage, or disadvantage, on any person;
- avoid conflicts of interest;
- exercise reasonable care and diligence;
- ensure that public resources are used prudently in accordance with your Council's requirements and in the public interest; and
- uphold high standards of conduct, show leadership at all times and not misuse your position when acting as a member.

Application of the Code of Conduct

This Code of Conduct applies to you as a member or co-opted member of the Council. It applies as soon as you sign your declaration of acceptance of the office of member or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a member.

This Code of Conduct applies to you when you:

- act in your capacity as a member or co-opted member of the Council; and
- conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed).

Where you act as a representative of the Council:

- on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct. It is your responsibility to comply with the provisions of this Code and to ensure all its obligations are met. You are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct which you are unsure of.

THE CODE OF CONDUCT

Standards of member conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a member. Should your conduct be perceived to fall short of these standards or the Nolan Principles, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a member:

1.1 I will treat other councillors and members of the public with respect.

1.2 I will treat council officers, employees and representatives of partner organisations and those volunteering for the council with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in members.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and notify them to the Council, the relevant social media provider or the police. This also applies to fellow members, where action could then be taken under the Member Code of Conduct, and council officers where concerns should be raised in line with the council's member-officer protocol.

2. Bullying, harassment and discrimination

As a member:

2.1 I will not bully any person.

2.2 I will not harass any person.

2.3 I will promote equalities and not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the Council

As a member:

3.1 I will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the council.

Officers work for the council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a member:

4.1 I will not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the Council; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I will not improperly use knowledge gained solely as a result of my role as a member for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I will not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a member:

5.1 I will not bring my role or Council into disrepute or conduct myself in a manner which could reasonably be regarded as bringing my role or Council into disrepute.

As a Member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other members and/or the Council and may lower the public's confidence in your or the Council's ability to discharge your/its functions. For

example, behaviour that is considered dishonest and/or deceitful can bring the Council into disrepute.

You are able to hold the Council and fellow members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a member:

6.1 I will not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

6.2 I will not place myself under a financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.

Your position as a member of the Council provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

As a member you need to be able to act impartially in the exercise of your responsibilities and ensure that you make decisions in the interests of the local community. You should therefore avoid any financial or other obligations to outside individuals or organisations whose influence may prevent you from acting impartially.

7. Use of Council resources and facilities

As a member:

7.1 I will not misuse council resources.

7.2 I will, when using the resources of the Council or authorising their use by others:

- a. act in accordance with the Council's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the Council to assist you in carrying out your duties as a member.

Examples include:

- office support
- stationery
- equipment such as phones, ipads, dongles, computers etc.
- transport
- access and use of council buildings and rooms.

These are given to you to help you carry out your role as a member more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the council's own policies regarding their use.

8. Making decisions

As a member:

- 8.1 When reaching decisions on any matter I will have regard to any relevant advice provided to me by officers and professional third parties.**
- 8.2 I will give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.**
- 8.3 I will make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on individual and independent merit**
- 8.4 I will be as open as possible about my decisions and actions and the decisions and actions of the authority and will be prepared to give reasons for those decisions and actions, notwithstanding my other obligations under this Code.**

To assist members in acting lawfully, officers may give advice from time to time. It is important that as a member you have due regard to any such advice given and consider it fully, even if (for good reason) you may choose not to follow that advice.

In making any decisions, giving reasons helps instil public confidence in the role of the member and can be a legal requirement in certain situations. You should ensure that you always give reasons in accordance with any specific requirements and having regard to the benefits of transparency generally.

As a member you must act impartially and not improperly seek to confer an advantage, or disadvantage, on any person. It is therefore important that when you are making decisions that involve choosing one party over another, that you do so based on independent merit. You should be open and transparent about the decisions that you have made and the actions of the authority.

9. Complying with the Code of Conduct

As a Member:

9.1 I will undertake Code of Conduct training provided by my Council.

9.2 I will cooperate with any Code of Conduct investigation and/or determination.

9.3 I will not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

9.4 I will comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a member to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the Council or its governance. If you do not understand or are concerned about the council's processes in handling a complaint you should raise this with the Monitoring Officer.

Protecting your reputation and the reputation of the Council

10. Interests

As a member:

10.1 I will register and disclose my interests in accordance with the provisions set out in Appendix B

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, Council employees and fellow members know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises.

The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other members when making or taking part in decisions, so that decision

making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as defined in Appendix B, is a criminal offence under the Localism Act 2011

The provisions of this paragraph 10.1 shall be applied in such a manner as to recognise that this Code of Conduct should not obstruct a member's service on more than one local authority. For the avoidance of doubt, participation in discussion and decision-making at one local authority will not by itself normally prevent you from taking part in discussion and decision-making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a member's judgement of the public interest and will only regard a matter as giving rise to an interest which might lead to bias in exceptional circumstances.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from the Monitoring Officer, or from the clerk in the case of town and parish councils.

11. Gifts and hospitality

As a member:

11.1 I will not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.

11.2 I will register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

11.3 I will register with the Monitoring Officer any significant gift or hospitality with an estimated value of at least £50 that I have been offered but have refused to accept.

In order to protect your position and the reputation of the Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a member. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated

with your duties as a member. If you are unsure, do contact the Monitoring Officer for guidance.

12. Dispensations

As a member:

- 12.1 I may request a dispensation from the Monitoring Officer for one meeting only.**
- 12.2 I must make the request in writing detailing what my interest is, why the dispensation is required and for what meeting.**
- 12.3 I must make my request 5 days prior to the meeting at which the Dispensation is required.**
- 12.4 If I wish to make a further request for dispensation, this must be made to the Member Conduct Committee.**
- 12.5 I will only be granted a Dispensation where there are reasonable grounds for doing so and where such grounds are in the public interest.**

Appendix B sets out the situations where a Member's personal interest in a matter may prevent them from participating in the decision-making process. In certain circumstances, however, there may be reasonable grounds to allow a Member to participate in decision-making on that matter where it would be in the public interest to do so. Where you consider that there may be good grounds for you to continue to participate you should request a dispensation from the Monitoring Officer.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B – Interests

1. Definitions

“**Disclosable Pecuniary Interest**” means any interest described as such in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#) and includes an interest of yourself, or of your Partner (if you are aware of your Partner's interest) that falls within the descriptions set out in the [following](#) table. A Disclosable Pecuniary Interest is a Registerable Interest.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship].
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and

	(b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.
Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with

	<p>whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>
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* **‘director’** includes a member of the committee of management of an industrial and provident society.

* **‘securities’** means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

“Other Registerable Interest” is a personal interest in any business of your authority which relates to or is likely to affect:

- a) Any body of which you are in general control or management and to which you are nominated or appointed by your authority; or
- b) any body
 - (i) exercising functions of a public nature
 - (ii) any body directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

“Registrable Interests” are interests that you are required to register in accordance with this Code of Conduct and include both Disclosable Pecuniary Interests and Other Registerable Interests.

“Non-Registrable Interests” are interests that you are not required to register but need to be disclosed in accordance with section 3.3.

A **“Dispensation”** is agreement that you may continue to participate in the decision-making process notwithstanding your interest as detailed at section 12 of the Code of the Conduct and this Appendix B.

A **“Sensitive Interest”** is as an interest which, if disclosed, could lead to the member, or a person connected with the member, being subject to violence or intimidation. In any case where this Code of Conduct requires to you to disclose an interest (subject to the agreement of the Monitoring Officer in accordance with paragraph 2.2 of this Appendix regarding registration of interests), you do not have to disclose the nature of the interest, if it is a Sensitive Interest. In such circumstances you just have to disclose that you have an interest.

A matter “**directly relates**” to one of your interests where the matter is directly about that interest. For example, the matter being discussed is an application about a particular property in which you or somebody associated with you has a financial interest.

A matter “**affects**” your interest where the matter is not directly about that interest but would still have clear implications for the interest. For example, the matter concerns a neighbouring property.

2. Registering Interests

2.1. Within 28 days of becoming a member or co-opted member or your re-election or re-appointment to office you must register with the Monitoring Officer any Disclosable Pecuniary Interests and any Other Registerable Interests.

2.2. Where you have a Sensitive Interest, you must notify the Monitoring Officer with the reasons why you believe it is a Sensitive Interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

2.3. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

3. Declaration at and Participation in Meetings

If you are present at a meeting and you have either a Registerable or Non-Registerable Interest in any matter to be considered or being considered, and the interest is not a Sensitive Interest, you must disclose that interest to the meeting (whether or not it is registered).

To determine whether your interest affects your ability to participate in a meeting, you must first determine what type of interest you have and, if necessary, go on to apply the tests as set out below.

3.1. Disclosable Pecuniary Interests

3.1.1. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests:

- a. you must disclose the interest;
- b. not participate in any discussion or vote on the matter; and
- c. must not remain in the room unless you have been granted a Dispensation.

3.2. Other Registerable Interests

3.2.1. Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests:

- a. you must disclose the interest;
- b. may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter; and
- c. must not remain in the room unless you have been granted a Dispensation.

3.2.2 The provisions of paragraph 3.1.1 and 3.2.1 shall be applied in such a manner as to recognise that this Code should not obstruct a member's service on more than one local authority. For the avoidance of doubt, participation in discussion and decision making at one local authority will not by itself normally prevent you from taking part in discussion and decision making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a member's judgement of the public interest and will only regard a matter as giving rise to an interest which might lead to bias in exceptional circumstances.

3.3. Non-Registerable Interests

3.3.1. Where a matter arises at a meeting which directly relates to a financial interest or the well-being of yourself or of a friend, relative or close associate (and is not a Registerable Interest):

- a. you must disclose the interest;
- b. may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter; and
- c. must not remain in the room unless you have been granted a Dispensation.

3.3.2. Where a matter arises at a meeting which does not directly relate to but affects

- a. a financial interest or the well-being of yourself or of a friend, relative or close associate; or
 - b. a financial interest or wellbeing of a body included in those you need to disclose under Other Registerable Interests
- you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test in paragraphs 3.3.3 and 3.3.4 should be applied.

3.3.3. Where a matter under paragraph 3.3.2 affects the financial interest or well-being or body:

- a. to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest;

you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a Dispensation.

3.3.4. Where a matter under paragraph 3.3.2 does not affect the financial interest or well-being or body:

- a. to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and/or
- b. a reasonable member of the public knowing all the facts would not believe that it would affect your view of the wider public interest;

you may remain in the room, speak if you wish to and take part in any discussion or vote on the matter, provided you have disclosed your interest under paragraph 3.3.2.

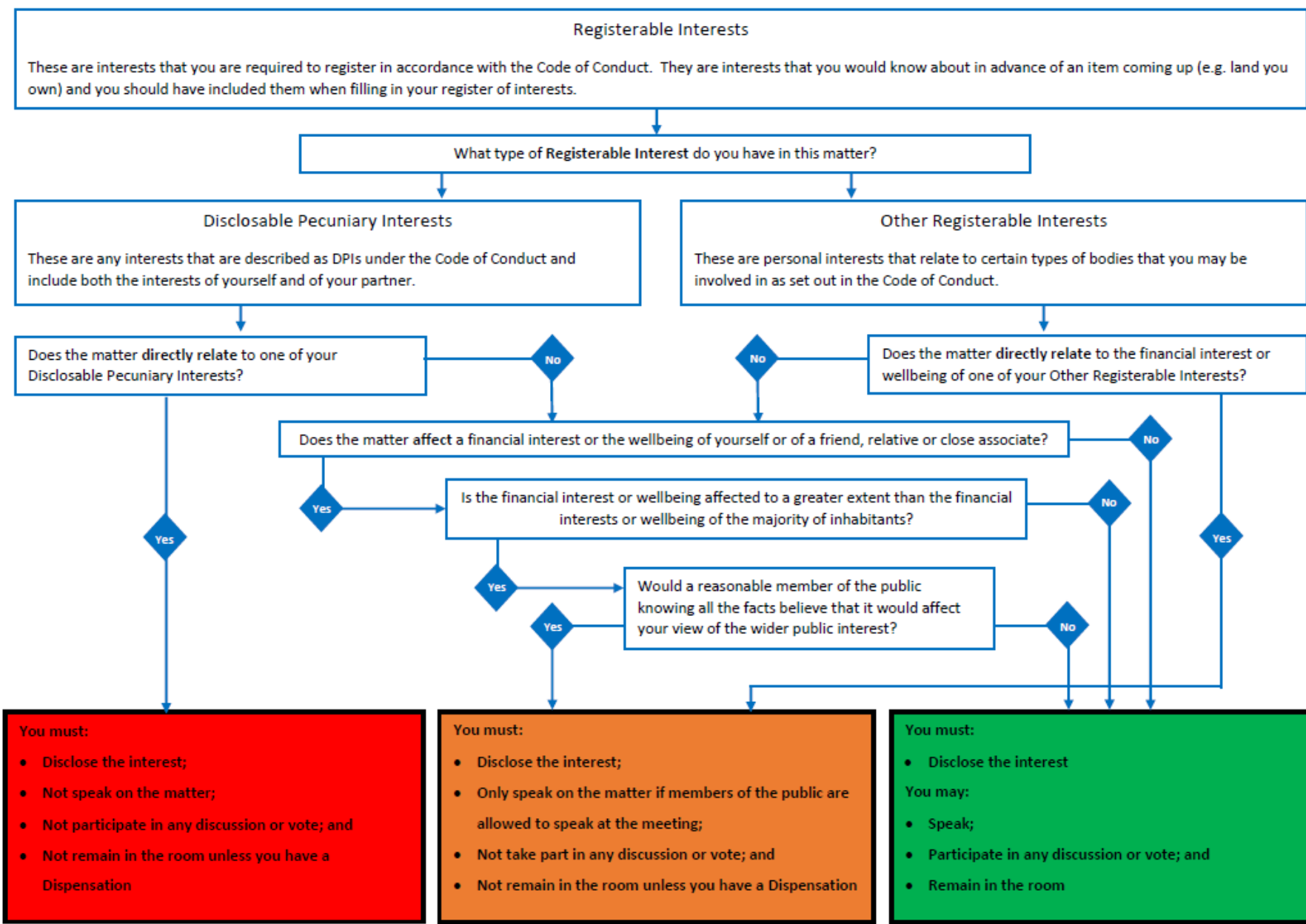
4. Single-Member-Decision-Making

4.1. Some local authorities operate single-member-decision-making where their constitutions allow. In the event that you are making a decision as a single member the following section applies in relation to any interests you may have.

4.1.1. Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function (i.e., single-member-decision-making) and the interest is:

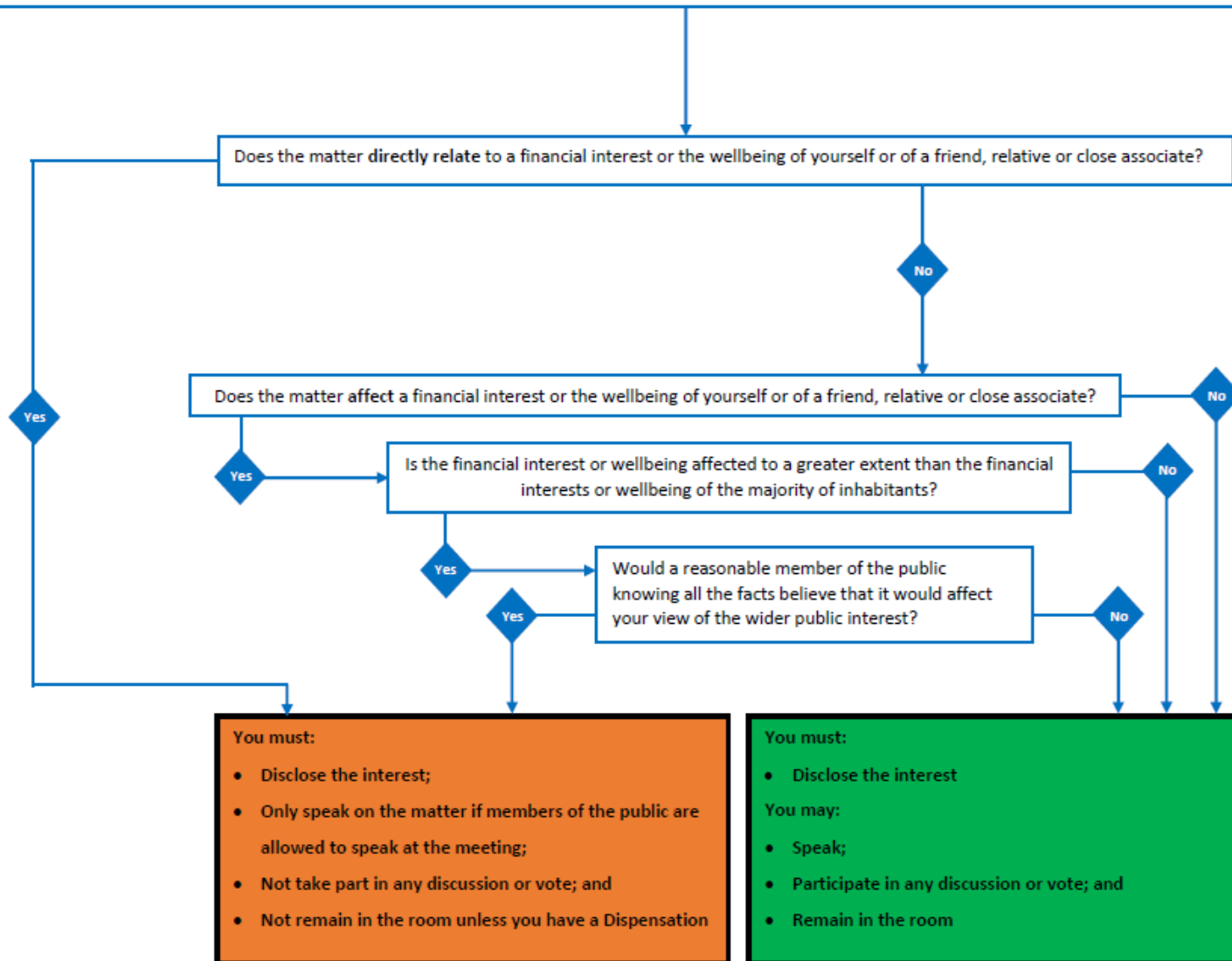
- a. A Registrable Interest; or
- b. A Non-Registrable Interest that falls under paragraph 3.3.3 above;
you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

4.1.2. Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function (i.e. single-member-decision-making) and the interest is a Non-Registrable Interest that falls under paragraph 3.3.4 , you must make sure that any written statement of that decision records the existence and nature of your interest.



Non-Registerable Interests

These are interests that you are not required to register but may become relevant when a particular item arises. These are usually interests that relate to other people you are connected with (e.g. friends, relatives or close associates) but can include your own interests where you would not have been expected to register them.



Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on Local Government Ethical Standards. If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

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

Best practice 2: Councils should include provisions in their code of conduct requiring members to comply with any formal standards investigation and prohibiting trivial or malicious allegations by members.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both members and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish member towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

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

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing its Model Code on an annual basis to ensure it is still fit for purpose.

CHAPTER 21 OFFICERS' CODE OF CONDUCT

1. INTRODUCTION

- 1.1 The Council believes that its activities demand the highest standards of confidence of the public and that this confidence will derive from the way in which the Council and its employees conduct themselves in undertaking its business.
- 1.2 It is, therefore, important for the Council to provide guidance on standards of conduct, which is available to, and understood by staff at all levels, and this Code of Conduct has been prepared accordingly. Where examples are listed in the Code as guidance, they are not intended to be exhaustive.
- 1.3 The Code is additional to appropriate statutes, sections of the National Scheme of Conditions of Service, the Council's Procedure Rules and Financial Regulations and any departmental rules of conduct that may be issued from time to time by chief officers.
- 1.4 The Code applies to all employees of Charnwood Borough Council and is incorporated into, and forms part of the contractual relationship between the Council and its employees. As such, it can be used in any proceedings under the Council's disciplinary and grievance procedures.

2. STANDARDS

- 2.1 All 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. All employees are expected to treat others with respect at all times.
- 2.2 Mutual respect between employees and councillors is essential to good working relationships. 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.
- 2.3 Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.
- 2.4 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.

- 2.5 Employees should deal with all matters with a level of competence appropriate to their role and in accordance with any professional codes of conduct which apply to them.
- 2.6 Employees who have serious and genuine concerns about any wrong doing in the Council's work or decisions, should raise their concerns by specific reference to the Council's Whistleblowing Policy, without fear of harassment or victimisation.

2.7 Equality Issues

All employees should ensure that Council policies relating to equality issues in employment and service delivery 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.

2.8 Dress and personal appearance at work

Employees are reminded that standards of dress, personal appearance and hygiene, including standards required in the interests of health and safety, can be matters affecting public confidence and they should therefore make themselves aware of and comply with the expected standards for their particular employment.

3. DISCLOSURE OF INFORMATION

- 3.1 Employees must respect the confidentiality of any information they are given. Managers and supervisors should make themselves and their staff aware where information they come into contact within the course of their employment is confidential. Employees should not prevent another person from gaining access to information to which that person is entitled by law.
- 3.2 Any information received by an employee from a councillor which is personal to that councillor and does not belong to the Council should not be divulged by that employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.
- 3.3 All information contained in personal data relating to members of the public and employees must be obtained, held and processed fairly and lawfully in accordance with the purposes of the Data Protection Act 1998 and must not be used or disclosed in any manner incompatible with that Act.
- 3.4 Employees should not use any information obtained in the course of their employment for personal gain of benefit, nor should they pass it on to others who might use it in such a way.

- 3.5 Employees should not contact the media or disclose information relating to the work of the Council to the media other than as part of their job or as an official spokesperson of the Council.

4. POLITICAL NEUTRALITY

- 4.1 Employees serve the Council as a whole but recognise the differences between the Council's functions and particularly the role of the Cabinet. They must, therefore, serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.
- 4.2 Subject to the Council's conventions, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
- 4.3 Employees, whether or not in a politically restricted post, must not allow their own personal or political opinions to interfere with their work.
- 4.4 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 4.1 to 4.3.

5. APPOINTMENT AND OTHER EMPLOYMENT MATTERS

- 5.1 Employees involved in appointment and promotions should ensure that these are made in accordance with the Council's Equal Opportunities Policy and Procedures on the basis of merit. 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, or seek to influence an appointment or promotion for any purpose.
- 5.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend.
- 5.3 Employees should not approach members on matters to do with reorganisations, their terms and conditions of employment or other employment matters except through procedures laid down in the employee handbook or agreed by the Head of Paid Service.

6. OUTSIDE COMMITMENTS

- 6.1 All employees should be clear about their contractual obligations and should not engage in any other business or take outside employment which conflicts with the Council's interests, for example, working with or for someone who does business or seeks to do business with the Council or obtain grants, consents or permits from the Council.

- 6.2 Officers on administrative, professional or technical grades above Scale 6 must not engage in any other business, such as any paid or unpaid employment or running a business, or take up any other additional appointment, without first receiving the express consent in writing of the Chief Executive.
- 6.3 The Council will not attempt to preclude any of its employees from engaging in any other businesses or from undertaking additional employment but any such employment must not, in the Council's view, conflict with or react detrimentally to the Authority's interests, or in any way weaken public confidence in the conduct of the Authority's business.
- 6.4 Employees should not use the Council's premises, facilities and other resources in connection with their outside commitments.

7. PERSONAL INTERESTS

- 7.1 Employees must declare in writing to their chief officer and also to the Chief Executive for recording in the Register of Interests, any non-financial interest that they consider could bring about conflict with the Authority's interests. For example:
- membership of another local authority with which the Council deals regularly
 - membership of any voluntary organisation, club or society that regularly seeks assistance from the council or to which the Council appoints representatives
 - membership of any organisation (other than a political party or a trade union) which seeks to influence the Council's policies and decisions.
- 7.2 Employees must declare in writing to their chief officer and also to the Chief Executive for recording in the Register of Interests, any financial interests which could conflict with the authority's interests. For example, employees should disclose any land, other than their home, or business in which they have an interest which is to be, or likely to be, the subject of a Council decision.
- 7.3 In addition, Section 117 of the Local Government Act 1972 requires employees to make a formal declaration about any contracts with the Council in which they or their partner have a pecuniary interest. This includes being employed by or receiving any kind of remuneration from a firm which has a contract with the Council. Such declarations should be made in writing to their chief officer and the Chief Executive. It is a criminal offence to fail to comply with the provision. The only exception to the legal requirement to disclose a pecuniary interest, is where the interest is so distant or small that no reasonable person would expect it to influence an employee who might have dealings with the firm concerned. In such cases it need not be disclosed.

- 7.4 Employees should declare in writing to their chief officer and also to the Chief Executive membership of any organisation which requires a commitment of allegiance and which is secretive about its rules, membership or conduct.

8. INVOLVEMENT IN CONTRACTS

- 8.1 Orders and contracts must be awarded on merit by fair competition against other tenders, in accordance with the Council's Financial Regulations and Contracts Procedure Rules. 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 in awarding contracts.
- 8.2 Employees who are privy to confidential information on tenders or costs for contractors should not disclose that information to any unauthorised party or organisation.
- 8.3 Employees who engage or supervise contractors or have any other official relationships with contractors and have previously had or currently have a relationship in a business or personal capacity with contractors or potential contractors, should declare that relationship in writing to their chief officer and also to the Chief Executive for recording in the Register of Interests.
- 8.4 Employees in their official relationships with contractors and potential contractors should not conduct themselves in such a manner so as to convey that they are in a position of giving special favour, or in their dealings conduct themselves so as to directly or indirectly canvass or infer that they seek a gift, loan, fee, reward or advantage, or any offer of such.

9. GIFTS AND HOSPITALITY

- 9.1 Employees must be aware that it is a serious criminal offence for them 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. Employees should advise their chief officer at the earliest opportunity of any such approach which is made to them.

Hospitality

- 9.2 Employees should only accept offers of hospitality if there is a genuine need to represent the Council. Offers to attend purely social or sporting functions should not be accepted unless there is a reasonable expectation for the Council to be represented. The acceptance of hospitality should be properly authorised in advance, formally accepted and registered, by informing the employee's chief officer and the Chief

Executive. Hospitality should be registered within 28 days of its acceptance.

- 9.3 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. Employees should not accept hospitality, entertainment or working lunches from contractors and outside suppliers or people or organisations subject to decisions by the Council, such as environmental health, licensing and development control. Where visits to suppliers are required, employees should ensure that the Council meets the employees' costs of such visits rather than accept hospitality from suppliers.
- 9.4 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 and where the Authority is satisfied that any purchasing decision is not compromised. In those circumstances, employees are not required to register the hospitality.

Gifts

- 9.5 Employees should not accept personal gifts from contractors and outside suppliers or people or organisations subject to decisions by the Council, with the exception of items of token value such as pens, and diaries. It is a criminal offence for employees to receive any payment or reward in connection with their employment other than that received from their employer.
- 9.6 Each employee is personally responsible for decisions regarding the acceptance of hospitality or gift items. If there is any doubt such items should be refused, and employees should seek advice from a more senior member of management or the chief officer.
- 9.7 Employees must register any gift of other than token value which cannot be politely refused by disclosing receipt of it to their chief officer and the Chief Executive. Registrations of gifts should be made within 28 days of their receipt.

Sponsorship – giving and receiving

- 9.8 Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the requirements of this Code concerning the acceptance of gifts or hospitality apply. Particular care must be taken when contractors or potential contractors are potential sponsors to avoid the appearance that providing sponsorship is linked to the awarding of any contract.
- 9.9 Where the Council wishes to sponsor an event or service or where the Council through sponsorship, grant aid, financial or other means, gives

support in the community, employees must follow the requirements of this Code concerning conflicts of interest.

CHAPTER 22 PROTOCOL ON MEMBER/OFFICER RELATIONS

Purpose

1. The conduct of both members and officers is governed by the Codes of Conduct detailed in Part 5 of the Council's Constitution. The purpose of this Protocol is to guide both members and officers of the Borough Council in their relationships with each other.
2. The Protocol aims to provide greater clarity and certainty in the relationship between members and officers and, in doing so, to assist both in complying with their respective Codes of Conduct. Taken together, the Codes and this Protocol have the aim of promoting high standards of conduct by the Council's members and officers.
3. The Protocol cannot provide a definitive statement on every situation that members and officers may find themselves in but offers guidance for a number of common situations. The Protocol does however set out the general principles which should govern the relationship between members and officers.

General Principles

4. The fundamental principles on which this Protocol is based are:
 - (a) the Council is a democratically elected local authority delivering a range of services to the people of Charnwood;
 - (b) the Council is a single entity, a statutory corporate body;
 - (c) the separate functions of the Council such as the Cabinet, scrutiny and regulatory areas are just aspects of the Council as a single statutory corporate body;
 - (d) in everything they do, the members and officers of the Council are obliged to act within the law and in compliance with relevant standards and codes of conduct;
 - (e) dealings between members and officers should be based on mutual trust and respect;
 - (f) relationships between members and officers must exist on a professional basis only so that the ability of an officer to deal impartially with members or political groups could not be questioned;
 - (g) officers should not approach members on matters to do with reorganisations, their terms and conditions of employment or other employment matters except through procedures laid down in the employee handbook or agreed by the Head of Paid Service.
 - (h) Members' conduct is formally governed by the Members' Code of Conduct and should be read in conjunction with this protocol.

5. Derived from these fundamental principles, the following working arrangements apply, within the political context of the Council and the Leader and Cabinet model, to the respective roles of members and officers.

6. The role of Members

- (a) Members provide the political direction and leadership of the Council and are ultimately accountable to the people of Charnwood through the ballot box for their actions as Councillors.
- (b) The administration is ultimately accountable to the electorate for the effectiveness and delivery of those of its policies and plans which have been approved by the Council and will, therefore, have an interest in ensuring that services are delivered by officers in accordance with those approved policies and plans.
- (c) Members recognise that officers have the duty and right to provide appropriate professional advice and the right to have that advice recorded, so that all members are fully aware of the implications of their decisions.
- (d) The provision of professional advice by officers is the principal means by which members can gain assurance that their decisions comply with the law and relevant standards or codes of conduct.
- (e) Members are able to ask questions about the Council's decisions and performance both at formal meetings and informally. Members will have regard for an officer's level of seniority and area of responsibility in determining what are reasonable comments and questions.

7. The role of Officers

- (a) Officers serve the whole Council as a single statutory corporate body but recognise the differences between the Council's functions and particularly the role of the Cabinet.
- (b) Officers will, wherever practicable, provide support to all members in their representational role and act to uphold the rights of councillors set out in law and this Constitution.
- (c) Officers are free to take decisions within their area of responsibility which have been delegated to them but recognise that, where functions have not been delegated to officers, it is the right of members to take the final decisions in the light of their advice.
- (d) The advice provided by officers should be factual, honest and objective. The advice provided by officers and the actions they take should be politically neutral and undertaken without fear of intimidation or restraint.
- (e) The advice provided, and actions taken by officers should be sensitive to the political aspirations and constraints of members but should not reflect, or be influenced by, those aspirations and constraints.
- (f) The advice given, and actions taken by officers will have the ultimate aim of serving the interests of the Council as a whole, irrespective of whether the current emphasis of an officer's role is the Cabinet, scrutiny or regulatory.

- 7.1 Whilst an officer may report the views of individual Members on an issue, if the Member wishes to express a contrary view, he/she should not seek to pressure the officer to make a recommendation contrary to the officer's professional view. Certain officers i.e. Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the Authority and to individual Members, and Members must respect these obligations, must not obstruct officers in the discharge of these responsibilities, and must not victimise officers for discharging these responsibilities

Expectations

8.1 What Members can expect from Officers:

- (a) A commitment to the authority, not to any political group;
- (b) A working partnership;
- (c) An understanding of and support for respective roles, workloads and pressures;
- (d) Timely responses to enquiries and complaints normally within 10 working days;
- (e) Professional advice, not influenced by political views or preference;
- (f) Regular up-to-date information on matters that can be reasonably considered appropriate and relevant to the Member's needs, having regard to any individual responsibilities that they have and positions that they hold;
- (g) Awareness and sensitivity to the political environment.
- (h) Respect and courtesy;
- (i) Training and development in order to carry out their roles effectively;
- (j) Not to have personal issues raised with them by Officers outside the agreed procedures;
- (k) Officers should not try to persuade individual Members to make a decision in their personal favour or raise things to do with their employment with individual Members. Nor should they approach individual Members with allegations about other Officers. They should use the Council's grievance, whistle blowing and disciplinary procedures instead; and
- (l) Compliance with the Employee Code of Conduct.

8.2 What Officers can expect from Members:

- (a) A working partnership;
- (b) An understanding of and support for respective roles, workloads and pressures;
- (c) Political policy direction and leadership;
- (d) Respect and courtesy;
- (e) Members should generally restrict their discussion on strategic or significant issues to more senior officers (that is **SMLT** or **CMLT**).

- (f) Members are encouraged to use regular briefings and/or normally make appointments before visiting Officers in order to try to avoid frequent unscheduled interruptions;
- (g) Members should not pressure Officers to work outside their normal hours or to do anything they are not allowed to do or that is not part of their normal work;
- (h) Not to be subject to bullying, harassment or intimidation. Members should have regard to the seniority and experience of Officers in determining what constitutes a reasonable request. Members with special responsibilities should be particularly aware of this;
- (i) Members should not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;
- (j) Members should not make detrimental remarks about individual Officers during meetings, in public or to the media; and
- (k) Members should at all times comply with the Member Code of Conduct

8.3 Politeness and respect

Members and Officers should show each other politeness and respect. Members have the right to challenge Officers' reports or actions, but they should avoid personal and/or public attacks; and ensure their criticism is fair and constructive.

Officers should not publicly criticise Council decisions even if they do not personally agree with those decisions.

8.4 Appointment of officers by members

Members must not take any part in the appointment of anyone to whom they are:

- (a) married;
- (b) a partner;
- (c) otherwise related;
- (d) a friend;
- (e) a business associate.

Members must ensure that Officers are appointed only on merit in line the Council's HR recruitment policies, with a view to appointing those who will best serve the whole Council.

8.5 During Meetings

Officers and Members should address each other formally at meetings of the Council and its committees and in particular meetings of regulatory or Appeals Committees. Officers should refer to Members by the office they hold, such as ~~Executive~~ Leader, Chair, Vice-Chair or Councillor.

Officers should respect an individual Member's preference for a particular form of address. Members should normally avoid informality at formal meetings and refer to officers either by their job title or by their surname and title.

Information and the political perspective

9. For the proper functioning of the Council as a whole, officers will normally be permitted to share information freely between themselves, irrespective of whether the current emphasis of an officer's role is connected with the Cabinet, scrutiny or regulatory functions of the Council. Where the information has been supplied/received subject to a request for party political confidentiality an officer will be permitted to share that information with other officers only where he/she believes that to be necessary - for example for the purpose of verifying the legality, financial probity or procedural regularity of any proposed course of action disclosed by that information. The request for party political confidentiality will be confirmed to, and honoured by, any officers with whom the information is shared.
10. Where information is supplied to officers on a party political confidential basis, the officers will respect that confidentiality unless the officers believe that the proposed course of action appears to be in conflict with the law, or any relevant standards or codes of conduct, or would amount to an abuse of the processes of the Council.
11. Where party political confidentiality would be maintained in accordance with the preceding paragraphs, the officers may, nonetheless, seek to persuade the councillors requesting the confidentiality to agree to that information being shared with the other political groups on the grounds that it would assist the more effective functioning of the Council; however, in the absence of any such agreement to waive the confidentiality, the officers will continue to respect it.
12. Where there is a change in political administration, officers will act in relation to the new administration and opposition party or parties in the same way as they did for the old; and will continue to respect any continuing party-political confidentiality.

Supporting members in their ward role

13. In order to fulfil their community leadership role, Members should be provided with support and appropriate access to information (subject to Data Protection Principles) and reports affecting matters in their wards. Members representing an area where a meeting is being organised on behalf of the Council in respect of a local issue should be made aware of it and invited to attend. They should also be given details of any consultation on a local matter.

Casework

14. Where a Member is making an enquiry of Officers as part of their ward casework, Officers will normally assume that they have gained the consent of an individual to disclose personal information about them to the Member but only where:
- (a) the Member represents the ward in which the individual lives;
 - (b) the Member makes it clear that they are representing the individual in any request for their personal information to the local authority; and
 - (c) the information is necessary to respond to the individual's complaint.

In all other cases Officers may need to seek the explicit consent of the individual before sharing their personal data with the Member in order to comply with the Data Protection legislation.

Personal information about third parties (i.e. individuals who have not sought the Member's assistance) may only be shared with a Member where the law permits this

The Cabinet and Scrutiny

15. Given the nature and purpose of the Council and the respective roles of members and officers it is accepted that officers, while remaining politically neutral, will inevitably give advice on a wider range of issues and on a more regular basis to the Cabinet. For its part, the Cabinet will continue to respect the political neutrality of officers and accept that officers are obliged to respond positively to any request from scrutiny for appropriate information and advice relevant to the issue being considered by scrutiny. When an officer requests it, the Cabinet will provide an appropriate Cabinet Lead Member or Members to attend a scrutiny meeting to explain a Cabinet decision and the reasons for it.

Decisions under delegated powers

16. The Scheme of Delegation in Part 3 of the Constitution sets out those functions which have been delegated to Officers to carry out. Members should not seek to improperly influence decisions taken by officers under delegated powers and should not ask them to exercise discretion which involves acting outside the Council's policies and procedures.
17. ~~No executive powers are delegated to individual members, either as the Leader or as a member of the Cabinet. Although neither the Leader nor individual members of the Cabinet have any personal delegated executive powers, they may, nevertheless, develop a personal involvement in specific areas of Council activity.~~ The term "Cabinet Lead Member" is used to describe councillors with any such involvement in a specific area or areas of Council activity. The Cabinet may decide that there should be more than one Lead Member for any particular area of involvement.

18. The role of a Cabinet Lead Member includes:
- (a) providing a point of reference for the Chief Executive, **Strategic** Directors or Heads of Service, as appropriate;
 - (b) providing a member perspective and opinion on any relevant proposals before (or likely to come before) the Cabinet;
 - (c) appearing, as appropriate, before any relevant scrutiny body on behalf of the Cabinet.
 - (d) sitting on the project boards of projects with significant financial, political and reputational risk.
 - (e) chairing Member Reference Groups which will be established in accordance with part 3.6 of the Constitution to guide and support the work of projects and other significant areas of work and provide a member view on matters referred to them.
19. Where an officer volunteers (rather than is required) to consult a Cabinet Lead Member before exercising his or her delegated powers, both will understand, and accept, that the final decision (and the responsibility which goes with it) remains with the officer. The same principles apply where authority to take a decision has been specifically delegated to an officer “in consultation with” one or more councillors, whether Cabinet Lead Member or otherwise. Although the process of consultation is required by the specific delegation of authority, this does not change the fact that the process is still one of consultation with, not specific approval by, the member(s) concerned.
20. Since consultation alone is involved, an officer can, theoretically, decide to proceed with his or her proposed course of action even in the face of some degree of objection from the member(s) consulted. However, an alternative course of action would be for the officer to decline to exercise the delegated authority and refer the decision back to the body, which conferred the authority on the officer.
21. In implementing any process of consultation, if the view of the Cabinet Lead Member does not agree with the professional view of the officer and the difference of view is material and cannot be reconciled, the officer should consider:
- (a) seeking advice from the Head of Paid Service, Monitoring Officer or Chief Financial Officer as appropriate; and
 - (b) referring the issue to a meeting of the Cabinet or the body which conferred the delegated power.

22. **Officers and Party Group Meetings**

Officers cannot be required to attend political party group meetings. They will only do so by invitation, with the express authority of the Chief Executive whose decision will be final. The Chief Executive will have the right to nominate alternative or additional officers to attend at his or her sole discretion.

If the Chief Executive agrees, the following principles will apply: -

- a) Only senior officers will give briefings (although they may be accompanied by junior officers with specialist knowledge);
- b) Briefings will cover Council business only and officers will not be asked or allow themselves to be involved in a political discussion or discussion of any other matter than the subject of the briefing;
- c) Briefings given to one group will be available to any political group, on request;
- d) Officers will respect the confidentiality of political group meetings;
- e) Officers may refuse to brief meetings attended by a non-member (except for other council officers), as they are not bound by the Code of Conduct's obligations of confidentiality and also, other than the above, officers must not attend political party meetings, as this may jeopardise their impartiality;
- f) Briefings are not a substitute for the provision of information and advice in formal Council meetings.

For clarity, briefings are restricted to the political groups within the Council and do not include any meeting arranged by a political party itself.

Where it is possible that persons other than elected members of the Borough Council will be present at a political party group meeting to which an officer has been invited, the Chief Executive will be informed beforehand, and he will take this into account in arriving at his decision(s).

23. **Visits to Premises and Land**

Members have the right to visit premises and land owned by the Council but should note that in the case of occupied Council houses and other leased or tenanted premises the permission of the lessee or tenant will be required. They should also make suitable arrangements with the Chief Financial Officer, Head of **FinanceAssets** and Property-**Services** or the appropriate Head of Service who will pay particular regard to health and safety issues and to the sensitivity and timing of the proposed visit.

It should be noted:

- (a) that this right is only available to the extent that a member needs to visit premises or land to enable him or her better to fulfil his or her duties as a member; and
- (b) that these arrangements are not intended to restrict a member's rights as a member of the public.

24. Press Releases

Where an officer makes a press release on behalf of the Council, quotations accompanying such releases will be made by the Leader or Deputy Leader(s) or by the relevant Cabinet Lead Member or by an appropriate officer. In respect of press releases relating to the work of scrutiny, or the Council's other committees, quotations accompanying such press releases will be made by Scrutiny Chairs or the Chairs of the relevant committees in that capacity only. Similar considerations will be given to other media releases. All press releases will be expected to comply with both legislative requirements and the Code of Recommended Practice on Local Authority Publicity.

25. Inspection of Documents

A member is entitled to see such documents as are reasonably necessary to enable him or her to carry out his or her duties. There is, however, no general right to examine all documents of the Council; a mere curiosity or wish to see them is not sufficient. Furthermore, disclosure will be refused if a member's intent is other than in his or her public position and has an indirect motive, for example, a desire to assist a person in litigation with the Council.

In addition to a member's common law rights and the provisions of the Freedom of Information Act 2000, the Local Government Act 1972 provides a statutory right of access to documents. Any document which is in the Council's possession and contains material relating to any business to be transacted at a meeting of the Council, the Cabinet, a Committee or Sub Committee is to be open to inspection by any member. However, there is no right of inspection where it appears to the Monitoring Officer that a document discloses certain classes of exempt information as set out in Access to Information Procedure Rule 21.

Complaints

26. If a member has cause to complain about the conduct of an officer, they should make their complaint, preferably in writing, to the relevant Head of Service. If the complaint is about a Head of Service, it should be made to the relevant ~~Strategic~~ Director; if it is about a ~~Strategic~~ Director, it should be made to the Chief Executive and if it is about the Chief Executive to the Monitoring Officer. The complaint will be investigated and dealt with in accordance with the Council's disciplinary and capability procedures if required.
27. If an officer had cause to complain about the conduct of a member they may make a complaint to the Monitoring Officer if they consider that the conduct involves a breach of the Members' Code of Conduct. If an Officer considers that the conduct does not involve a breach of the Code of Conduct but is in breach of this Protocol or other Council codes and protocols, they should make their complaint, preferably in writing, to the Monitoring Officer. The Monitoring Officer will deal with the complaint in accordance with the

procedure for non-Code of Conduct complaints in Part 4 of the Constitution. In both cases officers should seek the advice of the Monitoring Officer.

Monitoring and Review

28. The Protocol will be monitored and reviewed as part of the annual review of the Council's Constitution.

CHAPTER 23 MONITORING OFFICER PROTOCOL

1. The Monitoring Officer undertakes to discharge his or her responsibilities outlined in this protocol in a manner which will enhance the reputation of the Council. In general terms his or her ability to discharge these duties depends on excellent working relations with colleagues and Members but also the flow of information and access to debate particularly at early stages.
2. The following arrangements between the Monitoring Officer and colleagues and Members are designed to help ensure the effective discharge of their functions:
 - (a) If not a member of the Senior ~~Management~~Leadership Team, the Monitoring Officer will have advance notice of those meetings, agendas and reports and the right to attend and speak.
 - (b) Advance notice of meetings, whether formal or informal, between the Chief Executive, ~~Strategic~~ Directors or Heads of Service and members of the Cabinet or Committee Chairs will be given to the Monitoring Officer where any procedural, vires or other constitutional issues are likely to arise.
 - (c) The Chief Executive, ~~Strategic~~ Directors and Heads of Service will alert the Monitoring Officer to all emerging issues of concern including legality, probity, vires and constitutional issues.
 - (d) The Monitoring Officer or his or her staff will have copies of all Council, Cabinet and committee reports to Members.
 - (e) The Monitoring Officer is expected to develop good liaison and working relations with the External Auditor and the Local Government Ombudsman including the giving and receiving of relevant information whether confidential or otherwise.
 - (f) The Monitoring Officer will have a special relationship with the Mayor, the Chairs of the Member Conduct and Scrutiny Committees and will ensure the Head of Paid Service and Chief Financial Officer have up-to-date information regarding emerging issues.
 - (g) The Head of Paid Service, Chief Financial Officer and Monitoring Officer will meet regularly to consider and recommend action in connection with current governance issues and other matters of concern regarding probity.
 - (h) In carrying out any investigation, the Monitoring Officer will have unqualified access to any information held by the Council and any employee who can assist in the discharge of his or her functions.

- (i) The Monitoring Officer will have control of a budget sufficient to enable him or her to seek Counsel's opinion on any matter concerning his or her functions.
- (j) The Monitoring Officer will be responsible for preparing a training programme for Members on the ethical framework subject to the approval of the Member Conduct Committee.
- (k) The Monitoring Officer will 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 Chief Financial Officer.
- (l) In consultation with the Mayor, the Monitoring Officer may defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved.
- (m) The Monitoring Officer will make a report to the Council from time to time as necessary on the staff, accommodation and resources he or she requires to discharge his or her functions.
- (n) The Monitoring Officer will appoint a deputy and keep him or her briefed on emerging issues.
- (o) The Monitoring Officer will make arrangements to ensure good communication between his or her office and Clerks to Parish/Town Councils.

CHAPTER 24 MEMBERS' PLANNING CODE OF GOOD PRACTICE

1 **Introduction and purpose**

- 1.1 The aim of this Code of Good Practice is to ensure that planning decisions are made openly, impartially, with sound judgement and for justifiable reasons. Sections in bold type highlight those parts of the Code which require councillors to do or not do something. Other sections of the Code provide information or clarification.
- 1.2 The Planning Code of Good Practice clarifies the Code of Conduct and legal requirements as they apply to planning matters and supplements the Code by clarifying issues such as pre-determination and bias which are not features of the Code but are very relevant to planning matters.
- 1.3 Councillors are encouraged to speak to officers about planning matters and to suggest how development proposals could be improved. The Planning Code and the protocol on presentations to councillors provides a framework in which positive engagement by councillors in the planning process can take place.
- 1.4 The Planning Code includes a number of requirements to provide details of correspondence and contacts to the Head of Planning and **RegenerationGrowth**. These are necessary so that all the information in relation to a planning proposal are on the planning file and can be available to the public and the Plans Committee or other relevant decision-maker.
- 1.5 If you do not abide by this Code of Good Practice, you may put:
 - the Council at risk from complaints of maladministration or challenges about the legality of the planning decision; and
 - yourself at risk of a complaint to the Council's Monitoring Officer.
- 1.6 If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or Deputy Monitoring Officer and preferably well before any meeting takes place.

2. **When the Code applies**

- 2.1 This Code applies to all councillors and is relevant to all elements of the planning process. However, the Code contains specific elements which relate only to formal decision-making by the Plans Committee or by full Council when it is taking planning decisions.

2.2 Each section of the Code will include an indication of whether it applies to all councillors or only to those involved in taking decisions. For simplicity the latter will be referred to as matters affecting the Plans Committee, but it should be noted that they could include meetings of the Council when it is taking planning decisions. In addition, councillors should be aware that even if they are not appointed members of the Plans Committee they could be asked to act as a reserve for a particular Plans Committee meeting.

3. **Development Proposals and Interests under the Members' Code of Conduct**

(Application: All Councillors)

3.1 If you have an interest, as defined in the Members' Code of Conduct, in a planning matter disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Councillors. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.

3.2 In addition, if your interest is a disclosable pecuniary interest or an interest leading to bias, for example in cases where applications are made by you, your close associates or family or by a body of which you are a member, or on land which you own, notify the Monitoring Officer in writing as soon as you are aware of the matter and do not:

- participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority, except by using your rights to address the Plans Committee under paragraphs 4.3 and 4.14 of the Code of Conduct in respect of interests leading to bias only, and disclose the nature of your interest and leave the meeting after you have exercised any right under paragraphs 4.3 and 4.14 if you are present when the proposal is considered by the Plans Committee;
- sit in the public gallery when the matter is discussed by the Plans Committee;
- try to represent Ward views, get another Ward Member to do so instead;
- ask for an application to be considered by the Plans Committee rather than by officers under delegated powers, or ask another councillor to do so;
- seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include using your position to discuss that proposal

with officers or councillors in circumstances where other members of the public would not have the same opportunity to do so or seeking to unduly influence their decision on the matter.

3.3 In the case of your own development applications:

- the proposal will always be considered by the Plans Committee and not dealt with by officers under delegated powers;
- disclose a disclosable pecuniary interest and leave the meeting; and
- you may think it advisable to employ a spokesperson to act on your behalf on the proposal in dealing with officers and any public speaking at the Plans Committee.

3.4 You are not prevented from seeking to explain and justify a proposal in which you have a disclosable pecuniary interest or an interest leading to bias, including your own applications, to an appropriate officer, in person or in writing where the public is able to do the same. You can also exercise your rights to address the meeting considering it under paragraphs 4.3 and 4.14 of the Code, but you will then have to withdraw from the room or chamber whilst the meeting considers it. This means that you cannot observe the meeting's consideration of it from the public gallery.

3.5 Councillors should not act as the agents for the development proposals of other people.

4. Decision Making

(Application: All Councillors)

4.1 The Council's Constitution sets out those matters which can be determined by the Head of Planning and [RegenerationGrowth](#) under delegated powers and the processes by which councillors can request that a planning application be considered by the Plans Committee rather than be determined by officers. If you request that a planning application is considered by the Plans Committee, that fact and the reasons given will be recorded on the planning file.

(Application: Plans Committee)

4.2 When considering planning applications, you should:

- only make decisions in accordance with the Development Plan unless material considerations indicate otherwise;
- come to your decision only after due consideration of all of the information before you. If you feel there is insufficient time to

digest new information defer making a decision to a later meeting or if there is insufficient information before you, request the additional information;

- ensure that if you are moving, seconding or supporting a proposal contrary to officer recommendations or the Development Plan that you clearly justify the planning reasons for doing so before any vote is taken. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge;
- only vote or take part in the meeting's discussion on a proposal if you have been present to hear the entire debate, including the officers' introduction to the matter.

5. Pre-determination and bias in the Planning Process

(Application: Plans Committee)

- 5.1 Section 25 of the Localism Act 2011 states that a conclusion that a councillor had, or appeared to have, a closed mind when taking a decision should not be reached just because of anything he or she had previously done that directly or indirectly indicated what view they had or might have on the matter. The new position means that councillors are freer to speak about planning applications and other matters and express their views about them.
- 5.2 The effect of the new legislation is that there is effectively a clean slate at the start of a meeting and anything a councillor said or did before then is disregarded in terms of whether he or she has pre-determined the matter or not. As a result, more focus will be placed on the conduct of councillors at meetings when decisions are taken, and councillors should seek to show that they have considered all the relevant information presented to them.
- 5.3 Decisions will still be open to challenge if councillors do have a closed mind when they take them, the decisions are unfair as a result of bias or are unreasonable.
- 5.4 Councillors who are members of the Plans Committee should consider all of the information presented to them at the meeting and reach a decision based on the Development Plan and relevant material considerations. By doing so they will be able to demonstrate that they did not have a closed mind at the meeting and that the decision has been reached on a reasonable basis. The same principles apply to all councillors and their role in agreeing Development Plan documents at full Council.
- 5.5 Councillors who are directly or indirectly affected by a decision, whether or not this amounts to an interest under the Members' Code of

Conduct, must consider whether this results in a situation where there would be bias in the decision if they participated in it.

- 5.6 Councillors who do have a closed mind about an item and would not be able to change their view at the meeting should not take part in the consideration of that item.
- 5.7 Providing they follow the principles described in sections 5.4 to 5.6 above, the following provide examples of what councillors can do without being thought to have pre-determined the matter:
- parish and town councillors can fully take part in the consideration of planning applications at their parish/town council meetings and as members of the Plans Committee;
 - councillors are freer to raise any concerns they have about planning applications or Local Plan policies with officers and are encouraged to do so;
 - councillors can contribute to the debate on planning applications and the development of Local Plan policies and advocate for their views or the views of their constituents.

6 Parish/Town Councils and other consultee bodies

(Application: Plans Committee)

- 6.1 If you are a member of a parish/town council or other consultee body you are able to take part in both the debate on a proposal when acting as part of a consultee body and the determination of the matter by the Borough Council, provided:
- the proposal is not made by or does not substantially affect the financial position of the consultee body;
 - you make it clear to the consultee body that:
 - your views are expressed on the limited information before you only;
 - you must reserve judgement and the independence to make up your own mind on the proposal when it comes before the Plans Committee, based on your overriding duty to the whole community and not just to the people in that area, ward or parish.
- 6.2 You should disclose the personal interest arising from your membership or role in the consultee body whether or not you were part of the consideration by the consultee body.

7 The Role of Ward Members

(Application: Plans Committee)

- 7.1 When determining planning matters your duty is to the whole community not just to the people in your Ward area. You must ensure that decisions are impartial, and you should not improperly favour, or appear to improperly favour, any person, company, group or locality, including the residents of your Ward.

(Application: All Councillors)

- 7.2 Councillors who are not members of the Plans Committee may exercise their separate speaking rights as a Ward Member set out in Other Committee Procedure 12.12. However, if you have a disclosable pecuniary interest or an interest leading to bias you will not be able to do this even under paragraphs 4.3 and 4.14 of the Members' Code of Conduct. If you do exercise speaking rights:

- advise the Head of Planning and [RegenerationGrowth](#) that you wish to speak in this capacity at least 24 hours before the meeting;
- you will not be able to vote on the matter;
- you should seat yourself in the place allocated to those addressing the Plans Committee;
- at or immediately prior to the meeting you should not circulate written information to the Committee.

Where a ward councillor has called in an application to Plans Committee, they will attend the meeting to explain why it has been called in and their concerns. If they are unable to attend, they must nominate a substitute to stand in for them and express their views or submit a written statement which can be read out within five minutes.

8. Contact with Applicants, Developers and Objectors

(Application: All Councillors)

- 8.1 If you are contacted by applicants, developers or objectors:

- refer those who approach you for planning, procedural or technical advice to officers;

Councillors can involve themselves in discussions with developers, their constituents and others about planning matters. However,

difficulties can be avoided if Councillors inform officers about any approaches made and seek advice.

(Application: Plans Committee)

8.2 If a member of the Plans Committee is contacted by an applicant, objector or developer:

- they should refer any requests for planning, procedural or technical advice to officers;
- they should report in writing to the Head of Planning and RegenerationGrowth any contact with an applicant, objector or developer which could (or could reasonably be perceived by the public) to effect the determination of a planning application, requesting that it is recorded on the planning file.
- they should not agree to any formal, private meeting with applicants, developers or objectors if you can avoid it;
- if you feel that a meeting or site visit would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Head of Planning and RegenerationGrowth to organise it;
- comply with the Council's protocol relating to presentations in Chapter 25 of the Council's Constitution. Officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Plans Committee.
- be aware of the rules relating to pre-determination and bias in section 5 of this Code; and
- if you subsequently take part in the Plans Committee meeting considering this matter, disclose those contacts to the meeting.

(Application: All Councillors)

8.3 Councillors are able to attend public meetings and presentations by applicants/developers which are open to the public. If you choose to attend:

- do ask relevant questions for the purposes of clarifying your understanding of the proposals;

- remember that the presentation is not part of the formal process of debate and that determination of any subsequent application will be carried out by the Plans Committee;
- be aware of the rules relating to pre-determination and bias in section 5 of this Code.

9. Lobbying of Councillors

(Application: All Councillors)

- 9.1 Do not accept gifts from any person involved in or affected by a planning proposal.
- 9.2 If a degree of hospitality is entirely unavoidable:
- ensure it is of a minimum;
 - its acceptance is declared to the Monitoring Officer as soon as possible; and
 - if its value is over £50 it is registered in accordance with the Members' Code of Conduct.
- 9.3 Explain to those lobbying or attempting to lobby you that you must follow the rules relating to pre-determination and bias in section 5 of this Code.
- 9.4 If someone attempts to lobby you:
- copy or pass on any lobbying correspondence you receive to the Head of Planning and [RegenerationGrowth](#) at the earliest opportunity;
 - refer any offers made to you of planning gain or constraint of development, through a proposed Section 106 Planning Obligation or otherwise, promptly to the Head of Planning and [RegenerationGrowth](#);
 - inform the Monitoring Officer in writing if you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality); and
 - comply with the Council's protocol on presentations.

10. Lobbying by Councillors

(Application: Plans Committee)

- 10.1 If you are a member of an organisation which has lobbied to promote or oppose a particular planning proposal, you will have a personal interest in that matter. If you lead or represent such an organisation it is likely that you will have predetermined the matter.
- 10.2 If you are a member of a general interest group, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, disclose a personal interest if it has made representations on a particular proposal and make it clear to that organisation and the Plans Committee that you have reserved judgement and the independence to make up your own mind on that proposal.

(Application: All Councillors)

- 10.3 You must not lobby fellow councillors regarding your concerns or views in such a way as to attempt to persuade them how to vote in advance of the meeting at which any planning decision is to be taken.
- 10.4 Do not decide or discuss how to vote on any application at any sort of political group meeting or lobby any other Councillor to do so. Political group meetings should never dictate how councillors should vote on a planning issue and the party whip should never be used.

11. Site Visits

(Application: Plans Committee)

- 11.1 The purpose of site visits is to seek information and to observe the site and you should try to attend site visits organised by the Council where possible. Any information gained from the site visit should be reported back to the Plans Committee, so that all members of the committee have the same information.
- 11.2 Ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 11.3 Do not hear representations from any other party. If you are approached by the applicant or a third party, direct them to the officer present.
- 11.4 Do not express opinions or views on the merits of the proposal to anyone on site visits, including fellow councillors.
- 11.5 Do not enter a site which is subject to a proposal other than as part of an official site visit unless:
 - you feel it is necessary for you to visit the site on more than one occasion or you are unable to attend the official site visit;

- you seek advice from an officer and ask them to organise the visit;
- you have permission from the landowner or other relevant person to do so;
- you inform the Head of Planning and [RegenerationGrowth](#) in writing that you have done so and why (which will be recorded on the file);
- you ensure that you comply with the rules in respect of contacts in paragraph 8.1, and
- you disclose the fact of your visit at the Plans Committee meeting.

(Application: All Councillors)

11.6 If you visit a site for the purpose of considering any matters relating to a planning application and are subject to lobbying:

- report in writing the fact that you have done so to the Head of Planning and [RegenerationGrowth](#) and request that it is recorded on the planning file;
- ensure that you comply with the rules in respect of contacts and lobbying in this Code.

12. Public Speaking at Meetings

(Application: Plans Committee)

- 12.1 Do not allow members of the public or other councillors in the public gallery to communicate with you during the Plans Committee's proceedings (orally or in writing) other than through the scheme for public speaking, including during any break or temporary adjournment.
- 12.2 Do not respond inappropriately to comments made by members of the public and refer only to issues relevant to the planning matter.
- 12.3 Ensure that you comply with the Council's procedures in respect of public speaking contained in part 4 of the Constitution.

13. Officers

(Application: All Councillors)

13.1 Officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for

Employees and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence.

- 13.2 You may discuss applications with case officers, but do not put pressure on officers to put forward a particular recommendation or consider an application in a particular way. This does not prevent you from asking questions, seeking guidance or submitting views to the Head of Planning and RegenerationGrowth which may be incorporated into any committee report.

14. Training

(Application: Plans Committee)

- 14.1 You cannot participate in decision making at meetings dealing with planning applications if you have not attended the mandatory planning training prescribed by the Council.

Members of the Plans Committee must attend the mandatory planning training, or its equivalent, at the start of each Council term to maintain their eligibility. Members of the Plans Committee are advised to attend the planning training meetings that take place every quarter.

Other councillors are allowed to substitute for members of the Plans Committee who are absent using procedures set out in the Committee Procedures. In order to maintain your eligibility to participate in meetings you must comply with the training requirements above and also have attended either at least one of the quarterly planning training meetings or at least one Plans Committee meeting held in the previous 12 months. If you lose your eligibility you must attend the mandatory planning training, or its equivalent, to regain it.

(Application: All Councillors)

- 14.2 Councillors are advised to attend the planning training sessions provided by the Council, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plan beyond the minimum referred to in paragraph 14.1 and thus assist you in carrying out your role properly and effectively.

CHAPTER 25 PROTOCOL ON PRESENTATIONS TO COUNCILLORS

1. The Council recognises the need for Councillors to be well informed about issues affecting the Borough. It also recognises that third parties will have information about proposals that they wish to provide to councillors. However, there are circumstances where the provision of information, if handled inappropriately, can lead to problems. This is particularly the case where the Council is required to make decisions on an issue at some future date.

This protocol, therefore, regulates how information may be given to councillors in the form of a formal presentation in these circumstances. It is designed to complement the Members' Code of Conduct in Part 5 of the Constitution and the Members' Planning Code of Good Practice. In the event of any conflict between this protocol and those codes, the codes shall take precedence.

2. Any request by a third party (the definition of which shall include a councillor or an officer acting in another capacity) to make a formal presentation of information to councillors, other than in a meeting to which the Access to Information Rules in Point 4 of the Constitution apply shall be made either:
 - (i) to the Council's Monitoring Officer; or
 - (ii) to the relevant ~~Strategic~~ Director or Head of Service.

In the case of (ii) above, the relevant ~~Strategic~~ Director or Head of Service will refer the proposal to the Monitoring Officer for advice.

3. A request by a third party to make a formal presentation of information under 2. above shall be in writing, setting out the reason(s) for the proposed presentation, the subject matter, the councillors for whom the presentation is intended and any other relevant information.
4. The Monitoring Officer will consider each request and advise the relevant ~~Strategic~~ Director or Head of Service of the suitability of the proposed presentation having regard to this protocol, the information submitted, the available alternative methods of providing the information, the codes referred to in 1. above and any other material considerations.
5. The ~~Strategic~~ Director or Head of Service, taking account of the Monitoring Officer's advice, may agree or refuse the request or may agree to elements of the proposed presentation. Alternatively, he or she may refer the request to the Cabinet or a Committee (as appropriate to the proposal) together with the Monitoring Officer's advice, to agree or to refuse the request or to agree to elements of it.
6. Where a request is agreed, and the presentation proceeds, it shall do so strictly in accordance with the following rules:

- (i) A copy of this protocol will be supplied by the relevant **Strategic** Director or Head of Service to the third party concerned at least five days before the presentation.
- (ii) At least two officers shall be present at the presentation.
- (iii) A record of attendance at the presentation shall be made in accordance with the usual arrangements for Council, Cabinet and Committee meetings.
- (iv) Before the presentation starts, an officer will outline these rules, and thereafter will maintain compliance with them and will ensure that notes of what is said at the presentation are taken.
- (v) No Councillor shall be involved in making a presentation as a representative of the third party or otherwise.
- (vi) Before the presentation starts, all Councillors will be asked to disclose any interests in the matter, in accordance with the Members' Code of Conduct, and all disclosures made will be recorded as part of the notes referred to in (iv) above.
- (vii) The presentation is for information only and the third party must not seek to ascertain councillors' views on any issue nor lobby councillors for support.
- (viii) Councillors may ask questions for clarification purposes but must not offer any opinions on the merits or otherwise of any proposals.
- (ix) Councillors and all present must be aware that the presentation does not form part of the Council's decision-making process and that the process of debate and determination of any matter arising will be carried out in accordance with the Council's normal procedures.

7. Where a request is refused, the body or individual taking that decision must give reasons.