

## COUNCIL CONSTITUTION

The Constitution was adopted by East Lindsey District Council on 17 May 2017.

Last Updated 16 February 2023

# **COUNCIL CONSTITUTION AGENDA**

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## CONSTITUTION OF THE COUNCIL

### Part 1 - Summary and Explanation

#### The Council's Constitution

East Lindsey District Council ('the Council') has agreed a Constitution ('the Constitution') which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The law requires some of these processes, while others are a matter for the Council to choose.

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

#### What's in the Constitution?

Article 1 of the Constitution commits the Council to providing clear and accountable leadership to the community it serves within the District of East Lindsey and provides opportunities for citizens, businesses, partners, voluntary groups and other organisations to be fully involved in the business of the Council. Articles 2 to 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- The Constitution (Article 1)
- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- Shared Services Organisation (Article 4)
- The Full Council (Article 5)
- Chairing the Council (Article 6)
- Overview and Scrutiny (Article 7)
- The Executive Board (Article 8)
- Audit & Governance Committee and other Regulatory Committees (Article 9)
- Area Forums (Article 10)
- Joint Arrangements (Article 11)
- Officers (Article 12)
- Decision-Making (Article 13)
- Finance, Contracts and Legal Matters (Article 14)
- Review and Revision of the Constitution (Article 15)

- Suspension, Interpretation and Publication of the Constitution (Article 16)

#### How the Council operates

The Council is comprised of 55 Councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their electorate, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. Training on the Code of Conduct and ethical standards is a mandatory requirement of all Councillors.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies, set the budget each year and provide the main political debating forum for the Council. Every four years the Council will appoint a Leader and at every Annual Meeting the Leader will appoint a Deputy and up to eight Executive Councillors who comprise the Executive Board ('the Executive'). The Executive are given responsibilities for particular policy areas known as portfolios. The Council holds the Executive to account and also retains overall responsibility for regulatory functions such as planning, planning policy and licensing (although in practice these functions will be dealt with through committees).

#### How decisions are made

The Executive is the part of the Council that is responsible for most day-to-day decisions. The Executive is made up of the Leader of the Council, the Deputy Leader and up to 8 Councillors who take responsibility for particular aspects of the Council's functions. These Councillors are appointed to these roles by the Leader of the Council who will report such appointments to the Council at the Annual Meeting or the first available Council meeting (in the event of in-year changes). When major decisions are to be discussed or made by the Executive, these are published in the Executive's Forward Plan insofar as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Executive, this will generally be open for the public to attend except where personal (legally known as 'exempt') or confidential matters are being discussed. The Executive has to make decisions that are in line with the Council's overall policies and budget, known as the Budget and Policy Framework. If it wishes to make a decision which is outside the Budget and Policy Framework, this must be referred to the Council as a whole to decide.

Committees carry out a number of regulatory functions on behalf of the Council most notably in the areas of planning policy, planning, licensing and employment matters. In such cases the Council will make decisions based upon law, policy and evidence and shall provide a fair hearing to those impacted upon by the matter in accordance with the rules of natural justice.

Meetings of the Council's other Committees are open to the public except where personal (legally known as 'exempt') or confidential matters are being discussed.

#### The Overview and Scrutiny Function

There will also be appointed an Overview Committee which supports the work of the Executive and the Council as a whole. This committee must be politically balanced, will not include any members of the Executive and either the Overview Committee or the Audit & Governance Committee must be chaired by a councillor from a party which is not the governing party. All decisions of the Executive will be subject to scrutiny of the Overview Committee which monitors decisions of the Executive and can 'call in' any decision of the Executive which has been made and not yet implemented, subject to satisfying prescribed criteria under the Call in Procedure Rules set out in Part 4 of the Constitution. This enables it to consider whether the decision is in accordance with Council Policy. This Committee may also be consulted by the Executive or the Council on forthcoming decisions (pre-decision scrutiny) so that decisions by the Executive are made on the basis of best available information and research. The Council will also answer questions put forward by the Overview Committee. In addition to scrutinising the work of the Executive and the Council, the Overview Committee will also feed into policy development work by setting up Policy and Scrutiny Panels to carry out detailed policy review work in areas of importance to the Council and the wider community. This allows citizens to have a greater say in Council matters by holding meetings/inquiries in public on matters of local concern, leading to the publication of reports and recommendations which advise the Council as a whole on its policies, budget and service delivery.

#### Area Forums

There are three Area Forums which exist to facilitate communication, engagement, and greater collaboration between Lincolnshire County Council, East Lindsey District Council and Town/Parish Councils within the District. The Council will convene, facilitate, participate in and respond to actions arising from these Area Forums as part of its wider community leadership role. The three Area Forums are informal gatherings open to Councillors and Clerks from all three tiers of local government, which are intended to:

- Debate strategic issues affecting the District with a focus on major and/or contentious issues affecting large numbers of residents.
- Identify important issues affecting a number of Councils and/or those which are taking too long to resolve, where a single voice is not being heard and/or a collaborative approach is more likely to secure a remedy.
- Provide a mechanism for Councillors to develop relationships and share information between themselves and across all tiers of local government.

#### The Council's Staff

The Council has people working for it (called 'officers'). Officers are non political paid staff, employed to give advice, implement decisions and ensure the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council is properly managed, acts within the law and uses its resources wisely. A Protocol on Member/officer relations governs the relationships between officers and Councillors. There is an Officer Code of Conduct which officers are expected to follow.

#### Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3 of the Constitution. Some of these are legal rights, while others depend on the Council's own processes. The local Citizens' Advice Bureau, a solicitor or law centre, can advise on individuals' legal rights.

Members of the public may have other rights as users of Council services. These are not covered in this Constitution. Again, advice is available from the above sources.

Citizens have the right to:

- Vote at elections and referendums if they are registered;
- Contact their local Councillor about any matters of concern to them;
- Obtain a copy of the Council's Constitution (upon payment of a reasonable fee);
- Attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- Ask questions of the Council and contribute to investigations by the Overview Committee;
- Petition to request a referendum on a mayoral form of Executive
- Find out, from the Executive Forward Plan, what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when;
- Attend meetings of the Executive where key decisions are being discussed or decided;
- See reports and background papers, and any record of decisions made by the Council, the Executive and officers;
- Complain to the Council about any matter within the Council's control through its Corporate Complaints Procedure;
- Complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own Corporate Complaints Procedure;
- Complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor (including a Town/Parish Councillor) has not followed the Councillor Code of Conduct;
- Inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. All of the documents referred to in this Constitution are available for public inspection; most, including details of meetings, the Executive Forward Plan and various policies and procedures are available on the Council's website at [www.e-lindsey.gov.uk](http://www.e-lindsey.gov.uk). For further information on your rights as a citizen, please contact the Monitoring Officer at the Council's headquarters at Tedder Hall, Manby Park, Louth, Lincolnshire or by email at [monitoring.officer@e-lindsey.gov.uk](mailto:monitoring.officer@e-lindsey.gov.uk).

This Constitution includes a section describing the rights of citizens to inspect agendas and reports and to attend meetings (see Part 4 of the Constitution).

#### Shared Services Organisation

Acting in partnership with South Holland District Council, the Council has set up a separate Company called Public Sector Partnerships Services Ltd. that is wholly owned by both Councils to deliver a number of services which comprise:

- Human Resources (Including Health & Safety)
- Information and Communications Technology
- Financial Services
- Customer Services
- Revenues & Benefits

Public Sector Partnership Services Ltd. has a Board of Directors which comprises three representatives from each Council. From East Lindsey District Council, this comprises the Chief Executive and two Councillors who are appointed to the Board of Directors annually at the Council's Annual Meeting (or the first available Council meeting in the event of in-year changes). The two respective Councils are sole shareholders of the Company which is therefore legally defined as a Local Authority Controlled Company. The Articles of Association for the Company provide the regulations covering the relationships between the shareholders and the Directors of the Company. Together with the Shareholders Agreement they form part of the Constitution of the Company

#### Magna Vitae Leisure Trust

The Council has established an independent Leisure Trust which is both a registered charity and company limited by guarantee. The Leisure Trust delivers Leisure, Culture, Theatre and Arts activity on behalf of the Council including the direct management of the relevant facilities/assets.

Magna Vitae Leisure Trust has a board of trustees which includes two representatives from the Council (Councillors) who are appointed annually at the Council's Annual Meeting (or the first available meeting in the event of in-year changes).

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## Part 2 - Articles of the Constitution

### **Article 1 – The Constitution**

#### **1.1 Powers of the Council**

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

#### **1.2 The Constitution**

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

#### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

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

#### **1.4 Interpretation and Review of the Constitution**

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

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

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## Article 2 – Members of the Council

### 2.1 **Composition and eligibility**

#### (a) Composition

The Council will comprise 55 Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and laid before the Houses of Parliament.

#### (b) **Eligibility**

Only registered voters of the District or those living or working there will be eligible to hold the office of Councillor.

### 2.2 **Election and terms of Councillors**

The regular election of Councillors will be held on the first Thursday in May every four years. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### 2.3 **Role and functions of all Councillors**

#### (a) Key roles. All Councillors will:

(i) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions

(ii) Contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision-making

(iii) Represent their communities and bring their views into the Council's decision-making process i.e. become the advocate of and for their communities

(iv) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances

(v) Respond to constituents' enquiries and representations fairly and impartially

(vi) Balance different interests identified within the Ward and represent the Ward as a whole

(vii) Progress where appropriate local community issues received through the Councillor Call for Action Procedure

(viii) Be involved in decision-making

(viii) Be available to represent the Council on other bodies

(ix) Maintain the highest standards of conduct and ethics (in accordance with the Council's Code of Conduct detailed in Part 5.3 of the Constitution)

#### (b) Rights and duties

- (i) Councillors will have such rights of access to those documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public, information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it unless this is in accordance with the terms of their Code of Conduct (see Part 5.3).
- (iii) For these purposes, "confidential" and "exempt" information are defined in Part 4 of this Constitution.

#### 2.4 Conduct

Councillors will at all times observe the Councillor Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution. Councillors serving on the Planning Committee will observe the Planning Code of Good Practice also set out in Part 5.4 of this Constitution.

Councillors will at all times be cognisant of their obligations under data protection and information management legislation and are requested to seek advice from the Monitoring Officer in any cases of doubt.

#### 2.5 Allowances

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

#### 2.6 Training

There is an expectation that Councillors will attend appropriate training provided by the Council including mandatory training (outlined below) to enable them to properly discharge their functions and their responsibility to the public.

However Councillors appointed to the Planning, Planning Policy, Licensing and Audit and Governance Committees must have already received the most recent mandatory training provided by the Council prior to participation, such training to have been delivered within the previous 12 month period. Newly elected Councillors appointed to these Committees must attend mandatory training prior to participation and within one month of appointment.

Any councillor who attends any meeting of the Council or any Committee is expected to have attended the mandatory training on:-

- Councillor Code of Conduct and ethical standards
- Equalities & Diversity
- Safeguarding Training

Councillors' attendance at mandatory training sessions is to be recorded and published annually.

## 2.7 Ceasing to be a Councillor

A Councillor will cease to be a Councillor if:-

- a) he/she resigns by giving written notice, or
- b) he/she fails to attend meetings of the Council for a period of six months, or
- c) if he/she is stopped by law from holding office, or
- d) the period for which he/she was elected has come to an end and he/she has not been re-elected.

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## Article 3 – Citizens and the Council

### 3.1 Citizens' rights

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

#### (a) Voting and petitions

Citizens on the electoral roll for the District have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution and to sign and present a petition to the Council under Council Procedure Rule 31 of the Constitution

#### (b) Information

Citizens have the right to:

(i) Attend meetings of the Council and its committees except for those parts of the meeting where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private. At such points Citizens will be required to leave the meeting but will be able to return afterwards where normal business is resumed.

(ii) Attend meetings of the Executive when key decisions are being considered except for those parts of the meeting where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private. At such points Citizens will be required to leave the meeting but will be able to return afterwards when normal business is resumed

(iii) Find out from the Forward Plan what key decisions will be taken by the Executive and when

(iv) See reports and background papers, and any records of decisions made by the Council, the Executive and officers

(v) Inspect the Council's accounts and make their views known to the external auditor

(vi) Inspect a copy of the Constitution (for no charge) or obtain a copy (upon payment of a reasonable fee)

(vii) Contact a ward councillor

#### (c) Participation

Citizens have the right to:

(i) Contribute written representations to investigations carried out by the Overview Committee and may be invited to contribute to the work of the Committee by appearing before them

(ii) Ask questions at meetings of the Council in accordance with Rule 10 of the Council Procedure Rules outlined in Part 4 of this Constitution

(iii) Under certain circumstances make representations to meetings of the Planning and Licensing Committees in accordance with the Public Speaking Procedure Rules outlined in Part 4 of this Constitution

(d) Complaints

Citizens have the right to complain to the:

(i) Council itself under its Corporate Complaints Procedure

(ii) Local Government Ombudsman after using the Council's own Corporate Complaints Procedure

(iii) Monitoring Officer about a breach of the Councillor Code of Conduct

3.2 Citizens' responsibilities

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

## Article 4 – Shared Services Organisation

### 4.1 Purpose

A Shared Services Organisation, Public Sector Partnership Services Ltd., has been set up by East Lindsey and South Holland District Councils to deliver a number of services:

- Human Resources (including Health & Safety)
- Information and Communications Technology
- Financial Services
- Customer Services
- Revenues & Benefits

The Company was formally approved by both Councils on 28 July 2010 and came into being from 1 August 2010 under a ten year agreement.

### 4.2 Governance

Public Sector Partnership Services) Ltd is a separate Company wholly owned by the two Councils each of which owns a share of the notional value, which is calculated in proportion to its relative size and financial turnover and reflects the initial funding that each council contributed to development of the project. However, irrespective of notional value, each Council has an equal share and vote and moreover the Company is a 'deadlocked' organisation which means that both shareholders must agree on all issues to enable it to continue to function.

Because of this arrangement the Company is regarded legally as a Local Authority Controlled Company which means both councils can hand work to it without going through a tendering exercise under the so-called Teckal exemption.

The Company has its own Board of six Directors (three from each of the two Councils). From this Authority the Board Directors are the Chief Executive and two Councillors who are appointed annually at the Council's Annual Meeting. This Board will control the activities of the Company and whilst serving thereon the appointed Directors will represent the interests of the Company.

The Articles of Association for the Company provide the regulations covering the relationships between the shareholders and the Directors of the Company. Together with the Shareholders Agreement they form the Constitution of the Company. These documents define when important decisions in regard to the company must be made by the Councils themselves. At meetings of their respective Councils therefore when matters concerning the Company are discussed, the Councillor Directors must declare a personal interest, and must also consider whether it is appropriate to take part in any debate and vote on any matter connected with it. Advice should be sought from the Monitoring Officer as required.

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## Article 5 – The Full Council

### 5.1 Meanings

#### (a) Policy Framework

The policy framework means the following plans and strategies as shown below:

- Corporate Strategy
- Crime and Disorder Reduction Strategy (under sections 5 and 6 of the Crime and Disorder Act 1998)
- Plans and strategies which together comprise the Local Plan (under sections 15-17 Planning and Compulsory Purchase Act 2004)
- The plan and strategy which comprise the Housing Investment Programme
- Medium Term Financial Strategy
- Investment Policy & Strategy
- Asset Management Strategy
- Statement of Licensing Policy under section 5 of the Licensing Act 2003 and statement of Gambling Policy under section 349 of the Gambling Act 2005

#### (b) Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### 5.2 Functions of the Council

Only the Council will exercise the following functions:

- (a) Adopting and changing the Constitution except where the required change is to reflect a factual matter such as rectifying a clerical error, use of additional words to provide clarification, reflecting an update in legislation, or to make an addition or amendment to the Constitution which the Council is legally obliged to make, in which case it can be undertaken by the Monitoring Officer, reported to the Audit and Governance Committee and subsequently publicised to all members
- (b) Approving or adopting the policy framework, the budget (by recorded vote) and any disposal of land used for residential purposes where approval is required under Section 32 or 43 of the Housing Act 1985
- (c) Make Executive decisions where the Executive is minded to make it in a manner which would be contrary to the policy framework or contrary to the budget subject to the Urgency Procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution

- (d) Appointing the Leader at any Annual Meeting held on a day when the Leader's appointment or term of office comes to an end by virtue of Section 44E (3) of the Local Government Act 2000 (as amended) (i.e. the first Annual Meeting after the Leader's normal day of retirement as a councillor)
- (e) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them
- (f) Appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council
- (g) Adopting an allowances scheme under Article 2.5
- (h) Changing the name of the area
- (i) Confirming the appointment of the Head of Paid Service
- (j) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills
- (k) All local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive
- (l) Approving the Council's Budget to include the Capital Programme and the setting of the Council Tax. (This does not include the setting of the Council Tax base which has been delegated to the Chief Executive) . All voting in regard to budget decisions must be recorded in line with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014
- (m) Determining Council borrowing
- (n) The establishment of Standing Committees under Council Procedure Rule 37
- (o) The appointment of Councillors to serve on the Council's Committees under Council Procedure Rule 37
- (p) The appointment of Chief Officers (as defined in the Council's Scheme of Delegation) although this function may be exercised, if the Council so resolves, by the Executive or an appointment panel consisting of at least the minimum number of Councillors necessary to comply with the political balance requirements of the Local Government and Housing Act 1989 (unless the Council resolves otherwise without dissent)
- (q) Adding to, varying or revoking the Council's Standing Orders under Council Procedure Rule No 30
- (r) The adoption of any corporate policy or strategy in relation to the Policy Framework set out in Article 5.1(a) and any other policy or strategy that in the opinion of the Chief Executive and Monitoring Officer should be adopted by the Council having regard to the corporate impact thereof
- (s) The taking of any decision to:
  - (i) Cease to exercise any power of the Council

- (ii) Exercise any power not hitherto exercised by the Council
- (iii) Allow any person or body other than the Council, a Committee or an Officer of the Council to exercise any of the Council's powers
- (iv) Undertake the responsibilities of another body
- (t) The taking of any decision or expressing a view leading to the alteration of:
  - (i) Any local government boundary affecting the District
  - (ii) Any electoral division or area
  - (iii) The number of Councillors
- (u) The taking of decisions in respect of Public Sector Partnership Services Ltd., relating to:
  - Appointment of Directors
  - Amendment to the Articles of Association and Shareholders Agreement
  - Funding and investment (except for in-year operational variations addressed through contract Change Control Notices in line with financial procedure rules)
  - Contracts with Public Sector Partnership Services Ltd. under which it provides services to the Council
  - The Shareholders Agreement which sets out how the Company will be run
  - Allotment and issue of additional shares in the Company
  - Agreement of the annual Business Plan
- (aa) The alteration of the Scheme of Delegation (subject to the power to modify the scheme contained within it)
- (bb) Adoption of the Local Plan or modifications to it.
- (cc) Consideration of responses to reports by the Local Government Ombudsman on the advice of the Overview Committee
- (dd) Consideration of advisory reports of The Statutory Officers' Employment Advisory Panel and subsequent decision making in regard to disciplinary matters involving The Head of Paid Service, Section 151 Officer and Monitoring Officer as laid out in The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- (ee) All other matters which, by law, must be reserved to Council

Note: For the avoidance of doubt, it is confirmed that just as the Council retains ultimate responsibility for the actions of all its Committees, it also retains the ability to exercise any of its powers whether or not such power is also delegated to a Committee or Officer save where the law requires that only the Executive or some other body shall have sole responsibility

However the Council will not exercise a power delegated by these terms of reference without first certifying that such an exceptional step is required in the best interests of the Council.

The Council's ability to exercise its powers will not override or supersede any decision or action already taken by resolution of any Committee or Officer acting under properly delegated authority.

### 5.3 Council meetings

There are three types of Council meeting:

- (a) The Annual Meeting
- (b) Ordinary meetings
- (c) Extraordinary meetings

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

### 5.4 Responsibility for functions

The Council will maintain the information contained in the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive. Any changes will be referred as and when necessary to the Council for approval.

## Article 6 – Chairing the Council

### 6.1 Role and function of the Chairman

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

1. CEREMONIAL – See also Part 4 Council Procedure Rule 1
2. CHAIRING THE COUNCIL MEETING

The Council will elect the Chairman and Vice Chairman annually. The Chairman (or if absent, the Vice Chairman – or if both absent, the person presiding) will have the following responsibilities:

- a. To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary
- b. To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community
- c. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors that are not on the Executive are able to hold the Executive to account
- d. To promote public involvement in the Council's activities
- e. To attend such civic and ceremonial functions as the Council or he/she determines appropriate
- f. To use the Casting Vote as appropriate (whether or not the Chairman (Vice Chairman or person presiding) has exercised an original vote)

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## Article 7 – Overview and Scrutiny

### 7.1 Role

- a. The Council will appoint the Overview Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 or regulations under Section 32 of the Local Government Act 2000 in relation to the overview and scrutiny functions. This Committee will normally meet in public to discuss and make recommendations on the development of policies and to hold the Executive to account for their actions, via special 'call in' powers.
- b. Scrutiny and Policy Panels will be invited to carry out scrutiny reviews on behalf of the Overview Committee.
- c. Scrutiny and Policy Panels will present policy and scrutiny reviews to the Overview Committee for a quality check, before the Panel presents any report to the next available full Council meeting or, in the event of pre-decision scrutiny, the appropriate decision making body.
- d. Overview Committee may convene a Panel to investigate and report on issues referred through the Councillor Call for Action Procedure ('CCfA').
- e. Scrutiny and Policy Panel reports when considered by the Council can be accepted, rejected or referred back to the Overview Committee for further consideration. Policy and Scrutiny Panel reports and/or their recommendations should not be amended by a meeting of the Council.

### 7.2 Membership and scope of the Overview Committee

The Overview Committee consists of 11 members which must be politically balanced in accordance with sections 15-17 of the Local Government & Housing Act 1989 and either the Overview Committee or the Audit & Governance Committee must be chaired by a member of a different party to that of the ruling administration.

Within the detailed Terms of Reference, set out herein, the Overview Committee will:

- a. Make reports and/or recommendations to the Council and/or the Executive and/or any joint Committee in connection with the discharge of any functions
- b. Consider any matter covered in their terms of reference that may affect the area or its inhabitants
- c. Receive and review any valid Councillor Call for Action and make recommendations to the appropriate responsible authority

### 7.3 Terms of Reference

#### (a) Overview Committee

Directly responsible for:

- Setting and managing an annual forward programme of scrutiny topics ('the Scrutiny Plan') having regard to the Executive Forward Plan, statutory requirements, Corporate Strategy, budget decisions and the Council's Policy Framework
- Introducing in year scrutiny topics as and when necessary
- Scoping Scrutiny topics and setting timescales for investigations, and endeavour to complete any investigations within a reasonable timescale
- Considering any Executive Decisions that have been "called in" and which, in the view of the proper officer, meet the required criteria
- Receiving and considering any area of concern in relation to current or planned policy, organisational decisions/actions or district wide issues that any member puts to the Committee
- Receiving and dealing with a Councillor Call for Action
- Monitoring and scrutinising the achievement of the Council's Policy Framework
- Periodically reviewing the scrutiny function, and maintaining it in good health
- Reporting to Council annually on the scrutiny function and its work
- Developing and spreading good practice in scrutiny
- Inviting members to sit on Policy and Scrutiny Panels to carry out reviews of agreed scrutiny topics.
- Allocating scrutiny projects to Policy and Scrutiny Panels, setting the scope and timescales for the projects and ensuring the best utilisation of resources
- Ensuring that Policy and Scrutiny Panel reviews are quality checked and then presented to the next available Council meeting by the Chair of the Policy and Scrutiny Panel (or a nominated substitute from the panel) or, in the event of pre-decision scrutiny, the appropriate decision making body.
- To review and scrutinise decisions of Council relating to the discharge of any functions of Public Sector Partnership Services Ltd. and/or its performance and report its findings to Council
  - To scrutinise activities of Public Sector Partnership Services Ltd. and make the appropriate report to Council
- To provide the scrutiny function in relation to Community Safety

To make arrangement within the scrutiny function for:

- Ensuring that proactive policy or review work at the request of the Council and/or Executive, or arising from community concerns, is undertaken (Pre-decision) and that such review work is presented as an appendix to the substantive report to support informed decision making
- Monitoring the implementation of Executive and Council decisions (Post-decision)

- Ensuring that service performance is monitored systematically
- Ensuring that customer and citizen satisfaction is monitored systematically

(b) Scrutiny and Policy Panels

Scrutiny and Policy Panels will undertake work allocated by the Overview Committee on a task and finish basis. This work will include:

- Developing and/or commenting upon policy proposals for consideration by the Executive or Council
- Undertaking pre decision scrutiny as and when requested to support informed decision making.
- Scrutinising individual plans and priorities of the Council and other agencies, for example the health sector
- Examining the implementation of specific Executive decisions
- Examining aspects of the delivery of Council services
- Commenting on the results of local consultation and on the effectiveness of consultation mechanisms

It is envisaged that Scrutiny and Policy Panels will work in different ways, using informal meetings, hearing witnesses, making visits, using experts and co-opting members from beyond the Council.

All scrutiny tasks, whether at Overview or Scrutiny and Policy Panels, will be scoped properly, time-limited and project-managed by the Overview Committee.

(c) Finance

Overview Committee and Scrutiny and Policy Panels may have finances made available to them to enable the conduct of policy reviews and scrutiny of the Council's policies and Executive decisions.

(d) Annual report

The Overview Committee must report annually to the Council on the workings of the Overview Committee and make recommendations for amended working methods if appropriate.

(e) Work programme

An annual work programme to include details of monitoring and policy reviews will be agreed by the Overview Committee and in turn the Council to ensure work is undertaken to support the Council's overall aims and objectives as set out in the Corporate Strategy.

(f) Officers

The Overview Committee must exercise proper accountability and responsibility for the work programme of any officers employed or deployed to support their work. Overall responsibility for managing such officers however remains a matter for the Chief Executive.

#### 7.4 Proceedings of Overview Committee and Policy and Panels

Overview Committee and Policy and Scrutiny Panels will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## Article 8 – The Executive Board

The Executive Board ('the Executive') has responsibility for any function other than those specifically allocated as functions of the Council or local choice functions that are not the responsibility of the Executive.

The Executive has not at present delegated any of its functions to a sub-committee nor to an individual member of the Executive.

Executive functions delegated to officers of the Council and the extent of such delegations are set out in Part 3 of this Constitution.

### 8.1 Role

The Executive will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. All decisions of the Executive will be subject to scrutiny by Councillors who will be able to request a call in of any decision of the Executive, which will be considered against the stated criteria by the proper officer in consultation with the Monitoring Officer.

### 8.2 Form and composition

The Executive will consist of the Executive Leader who will appoint a Deputy Leader and up to 8 Councillors. The Leader will allocate to those Councillors on the Executive, responsibilities for promoting particular policies and functions of the Council.

### 8.3 Leader

(a) The Leader will be a Councillor elected to the position of Leader by the Council. The Leader's term of office will end on the day when the Council holds its first Annual Meeting after the Leader's normal day of retirement as a councillor, unless:

- (i) he/she resigns from the office of Leader; or
  - (ii) he/she is no longer a Councillor; or
  - (iii) he/she is removed from office by resolution of the Council
- (b) If before the expiry of the Leader's term of office, the Leader:
- (i) resigns the office of Leader; or
  - (ii) ceases to be a Councillor; or
  - (iii) is removed from office by resolution of the Council under Article 8.3 (a)(iii) above ,
- the Council will elect a new Leader as soon as reasonably practicable.

### 8.4 Deputy Leader

(a) The Leader will appoint one of the members of the Executive to act as Deputy Leader. The Leader must give written notice of such appointment to both the person who he/she is appointing as Deputy Leader and the Monitoring Officer. The appointment of the Deputy Leader will take effect on receipt of the Leader's written notice by both the person who the Leader is appointing as Deputy Leader and the Monitoring Officer. The Monitoring Officer will keep a written record of the appointment of the Deputy Leader and the Leader will report the appointment to Council and the Executive at the earliest opportunity.

(b) The Deputy Leader will hold office until the end of the Leader's term of office unless:-

(i) he/she resigns from the office of Deputy Leader; or

(ii) he/she is no longer a councillor; or

(iii) he/she is removed by the Leader who must give written notice of such removal to both the Deputy Leader and to the Monitoring Officer. The removal of the Deputy Leader will take effect on receipt of the Leader's written notice by both the Deputy Leader and the Monitoring Officer. The Monitoring Officer will keep a written record of any removal of the Deputy Leader and the Leader will report any such removal to Council and the Executive at the earliest opportunity.

(c) Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another person in his/her place in accordance with the procedure in Article 8.4 (a) above.

(d) If for any reason:

(i) the Leader is unable to act; or

(ii) the office of Leader is vacant

the Deputy Leader will act in his/her place

(e) If for any reason :

(i) the Leader is unable to act or the office of Leader is vacant; and

(ii) the Deputy Leader is unable to act or the office of Deputy leader is vacant

the Executive must act in the Leader's place, or arrange for an Executive member to act in his/her place.

#### 8.5 Other Executive Councillors

(a) In addition to the Deputy Leader, the Leader will appoint between one and eight further Executive members to hold such Portfolios as the Leader shall determine. In addition to the Deputy Leader and other Executive Councillors, the Leader may appoint non-voting Executive Support Councillors who can attend and speak at meetings and provide support to the Executive Councillor. When appointing an Executive member the Leader must give written notice of the appointment and of the Portfolio to both the person who he/she is appointing as an Executive Councillor and to the Monitoring Officer. The appointment of the Executive Councillor will take

effect on receipt of the Leader's written notice by both the person who the Leader is appointing as an Executive Councillor and the Monitoring Officer. The Monitoring Officer will keep a written record of the appointment of an Executive Councillor and the Leader will report the appointment of an Executive member and their Portfolio to Council and the Executive at the earliest opportunity.

(b) An Executive member will hold office until the end of the Leader's term of office unless:

(i) he/she resigns from office; or

(ii) he/she is no longer a Councillor; or

(iii) he/she is removed from office by the Leader who must give written notice of such removal to both the Executive member and to the Monitoring Officer. The removal of an Executive member will take effect on receipt of the Leader's written notice to both the Executive member and the Monitoring Officer. The Monitoring Officer will keep a written record of any removal of an executive member and the Leader will report any such removal to Council and the Executive at the earliest opportunity.

#### 8.6 Terms of Reference

- To provide leadership and direction for the Council. To keep the Council's policies and objectives under review and by initiating new policy proposals for submission to Council for consideration in relation to any of the Council's responsibilities and functions, taking into account the views of the Overview Committee and the advice of the Chief Executive, Section 151 Officer and the Monitoring Officer.
- To consider and recommend to the Council the amount of Council Tax to be levied based on a budget which has been approved by the Council, taking into account any views of the Overview Committee recommended for adoption by the Council. The setting of the Council Tax Base is delegated to the Chief Executive.
- To recommend a capital programme to the Council
- To consider and decide upon any request for a supplementary estimate from any Committee or Officer and on the advice of the Section 151 Officer to specify how any such request that is approved should be funded
- To deal with any matter not reserved to Council or another Committee of the Council provided the matter is not one that a Council's Executive is by law precluded from resolving
- To report, where appropriate, on any matter relating to the Council's responsibilities or area
- To deal with any review or alteration of Parliamentary or Local Government boundaries and areas or the representational naming of such areas – provided there shall be reserved to the Council any final decision or expression of views leading to the alteration of:

- a) any local government boundary affecting the District
- b) any electoral division or area
- c) the number of Councillors
- To submit to Council with the advice of the Chief Executive , recommendations on the structure, Constitution, membership and functions of all Committees of the Council
- To report to the Council on matters arising under Section 85 and 86 of the Local Government Act 1972 (failure to attend meetings and vacation of office)
- To exercise any powers of the Council under Section 138 of the Local Government Act 1972 (emergencies & disasters) or subsequent relevant Civil Contingencies legislation
- To consider and recommend to the Council policy concerning Members' Allowances taking into account the views of the Independent Remuneration Panel
- To authorise the commencement of proceedings or the entry of a defence to proceedings in the High Court subject to the provisions relating to emergencies contained in the Council's Scheme of Delegation
- To ensure the undertaking of those duties imposed upon the Council under the Representation of the People Acts
- To exercise such 'local choice functions' as may be allocated to it by Council under this Constitution - see Part 3 of this Constitution
- The Executive is responsible for recommending for the approval of Council, the Authority's Risk Management Strategy
- To recommend to Council relevant matters relating to Public Sector Partnership Services Ltd.

#### 8.7 Proceedings of the Executive

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

#### 8.8 Responsibility for functions

(a) The Leader of the Council may determine to exercise any of the executive functions of the Council personally, or may arrange for the exercise of any of the Council's executive functions by:-

- (i) the Executive
- (ii) by another member of the Executive

(iii) by a committee of the Executive

(iv) by an officer of the Council

(b) The Monitoring Officer will maintain a Register of the Delegation of Executive Functions and will record any alterations to the allocation of responsibility for the discharge of executive functions.

(c) At the earliest opportunity following the election of a Leader, the Leader will review the allocation of responsibilities for the discharge of executive functions recorded in Part 3 of the Constitution. Any alterations that the Leader wishes to make to the allocation of responsibility for the discharge of executive functions will be dealt with in accordance with Executive Procedure Rule 1.4 in Part 4.4 of this Constitution.

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## Article 9 – Audit & Governance Committee and other Regulatory Committees

The Council will appoint the Committees set out in the Responsibility for Functions in Part 3 of this Constitution to discharge the functions described in that table. The constitution and quorum of these committees is set out in Council Procedure Rule 37.

### 9.1 Audit & Governance Committee

The purpose of the Audit & Governance Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the Council's exposure to risk and the control environment and to oversee the financial reporting process. The Council has nominated the Audit & Governance Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies and for overseeing the Council's procedures for dealing with member code of conduct complaints and provision of the associated Hearing Panels to deal with functions set out in section 54 Local Government Act 2000 (as amended by Schedule 4 Localism Act 2011).

The Audit & Governance Committee consists of 9 members and must be politically balanced in accordance with sections 15-17 Local Government & Housing Act 1989 and either the Overview Committee or the Audit & Governance Committee must be chaired by a member of a different party to that of the ruling administration.

#### (a) Terms of Reference

- To consider the adequacy and effectiveness of the Council's risk management arrangements, the control environment, corporate governance and associated anti-fraud and corruption arrangements
- To monitor compliance with the Council's Treasury Management Strategy and Statement and to receive quarterly updates from the Section 151 Officer on investment performance
- To seek assurances that appropriate action is being taken on risk-related issues identified by auditors and inspectors
- To assess whether the Council's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it
  - To consider and if appropriate approve final accounts and financial statements of the Council
- To review the Internal Audit Strategy and Annual Plan and monitor performance, including benchmarking results
- To review summary Internal Audit reports and the main issues arising and seek assurances that action has been taken where necessary
- To consider the Council's arrangements for corporate governance and agree actions to ensure compliance with best practice

- To receive the annual report of the Head of Internal Audit or other appropriately qualified officer
- To consider the reports of external audit and inspection agencies and ensure they give value for money
- To suggest topics for review to internal and external audit
- To ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted. To review the financial statements, external auditors opinion and reports to Councillors and monitor management action in response to issues raised by external audit
- To provide assurance on the internal controls and procedures in place within Public Sector Partnership Services Ltd. to safeguard the Council's resources and interests and ensure proper standards of corporate governance
- Promoting and maintaining high standards of conduct by Councillors and co-opted Members in accordance with Section 27 Localism Act 2011.
- Assisting the Councillors and co-opted members to observe the Councillors' Code of Conduct
- Advising the Council on the adoption or revision of the Councillors' Code of Conduct
- Monitoring the operation of the Councillors Code of Conduct
- Granting exemptions for politically restricted posts
- Dealing with complaints about the conduct of District and Parish Councillors referred by the Monitoring Officer where a Local Hearing is required
- To monitor and review the operation of the Council's Constitution to ensure that the aims and principles are given full effect, taking account of advice from the Monitoring Officer.
- To establish a working party comprising three elected Members drawn from different political parties from the Audit & Governance Committee together with the Chief Executive and the Monitoring Officer to keep the Constitution under review to ensure that the constitution is fit for purpose and to meet as required and report any proposed changes to Audit & Governance Committee as (with a view to an appropriate report being made by the Audit & Governance Committee to the Council on any changes proposed).

(b) Referrals from Full Council, Committees, the Chief Executive and Monitoring Officer

- Full Council, any Committee and the Chief Executive, may refer any matter or issue to the Audit & Governance Committee requesting consideration. The Monitoring Officer may refer any issue concerning operation of the Constitution to the Audit & Governance Committee for consideration. The Audit & Governance Committee will have full discretion within its remit as to the action it takes on any such referrals.

(c) Reports

The Audit & Governance Committee will make reports and recommendations to Council as necessary. It may also refer any matter or issue that it thinks fit to the Executive Board or the Overview Committee as appropriate requiring their consideration.

(d) Independence

- The Audit & Governance Committee will be politically balanced and must exclude Members of the Executive
- Audit & Governance Committee members will be properly trained to fulfil their role and will periodically review and agree their training needs
- The Audit & Governance Committee is able to appoint up to two suitably qualified independent persons to support the Committee should they wish.

(e) Meetings of the Audit & Governance Committee

- The Audit & Governance Committee will meet at least five times a year
- Meetings will include as regular attendees the Section 151 Officer or Deputy, the Head of Internal Audit or other appropriately qualified officer, the Monitoring Officer and the District Auditor or his/her representative
- The Committee may invite any Councillor to attend a meeting of the Committee and that Councillor will use best endeavours to attend
- The Committee may invite any Senior Officer to attend a meeting of the Committee and that Officer will be required to attend
- The Committee as soon as reasonably practicable after the start of each year must consider and agree a schedule of work for that year. A copy of the work programme must be sent to Council for information. The Committee will have discretion to vary the work programme as necessary and appropriate
- The Committee may at its discretion meet privately and separately with the external auditor and the Head of Internal Audit or other appropriately qualified officer
- Sub-Committee meetings of the Committee will be initiated to act as Hearings Panels to deal with Member Code of Conduct complaints where necessary
- The Hearings Panel will comprise a minimum of three and a maximum of five members of the Audit & Governance Committee and be drawn from a least two different political parties. Subject to this, members will be selected by the Monitoring Officer in alphabetical order and on the basis that those who served on the last hearing will generally not be required to serve on the next one

9.2 The General Licensing Committee

The purpose of the General Licensing Committee is to carry out the Terms of Reference set out below.

The General Licensing Committee consists of 11 members which must be politically balanced in accordance with sections 15-17 Local Government & Housing Act 1989 although they will discharge their duties in a quasi-judicial manner.

#### Terms of Reference

- To make recommendations to the Executive or Council (as appropriate) on matters of licensing policy
- To determine all licensing applications and enforcement matters referred to it, within the jurisdiction of the Council, which do not have major implications for overall Council Policy and where these matters have not been delegated to the Licensing Act 2003 Committee, as set out in Part 3 'Responsibility for Functions' in this Constitution.
- To deal with any matters or functions delegated to it by Council
- To receive information and monitoring reports on items under the Committee's remit determined under delegated powers and on the status of, or decisions on, appeal
- To establish one or more sub-committees consisting of three members of Licensing Committee
- To delegate any functions exercisable by the Committee to a sub-committee established by it or to an Officer of the Council save where legislation or the Council's Constitution otherwise direct
- To determine the frequency, timing, publicity and access to its meetings and those of its sub-committees, except where prescribed by legislation or the Council

#### The Licensing Act 2003 Committee

The purpose of the Licensing Act 2003 Committee is to determine applications made under the Licensing Act 2003.

The Licensing Act 2003 Committee consists of 11 members which must be politically balanced in accordance with sections 15-17 of the Local Government & Housing Act 1989 although they will discharge their functions in a quasi-judicial manner.

The Licensing Act 2003 Committee shall be entitled to set up hearings panels drawn from members of the committee to determine ad hoc reviews/applications as required.

#### 9.3 Planning Committee

The purpose of the Planning Committee is to determine planning and associated applications within the context of the National Planning Policy Framework and the Local Plan and to serve enforcement and associated notices under the Town and Country Planning and associated legislation, in those

circumstances where these matters are not delegated to the Service Manager – Development Control (Head of Planning).

The Planning Committee consists of 13 members which must be politically balanced in accordance with sections 15-17 Local Government & Housing Act 1989 although they will discharge their functions in a quasi-judicial manner.

(a) Terms of Reference

- Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 ('the Functions Regulations') including the determination of planning and related applications
- The exercise of powers relating to the regulation of the use of highways as set out in Schedule 1 to the Functions Regulations
- The determination of any planning or related application contrary to the Development Plan where the officer recommendation is to approve the application
- The making and confirming of Tree Preservation Orders
- The making and confirmation of Footpath Diversion Orders deriving from planning permissions granted either by virtue of officers' delegated powers or the decisions of the Planning Committee
- The making of Agreements pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) deriving from conditions attached to planning permissions granted either by officers acting under delegated powers or decisions of the Planning Committee
- The consideration of planning applications and notifications referred to the Council by way of consultation by other statutory agencies
- To consider planning and associated applications submitted by Councillors and officers of the Council
- To serve Enforcement Notices, Planning Contravention Notices, Listed Building Repair, Urgent Works and Preservation Notices, Stop and Temporary Stop Notices, Dangerous Structures Notices, and Notices under Section 215 of the Town and Country Planning Act 1990 and any subsequent/amending legislation
- To apply for an injunction restraining a breach of planning control under the provisions of the Town and Country Planning Act 1990 and the Planning (Listed Building and Conservation Areas) Act 1990 and any subsequent/amending legislation
- To determine applications for hazardous substances consent, and related powers under the provisions of the Planning (Hazardous Substances) Act 1990 and any subsequent/amending legislation

9.4 Planning Policy Committee

The purpose of the Planning Policy Committee is to prepare, monitor and review the Local Plan for the area of East Lindsey District Council and any other planning policy.

The Planning Policy Committee shall consist of 11 members and shall be politically balanced in accordance with sections 15-17 Local Government & Housing Act 1989 although it shall discharge its duties in a quasi-judicial manner.

(a) Terms of reference

- The Committee will report to Council at each of the following stages of preparation of development plan documents and supplementary planning documents:
  - Issues and Options Report
  - Draft Document
  - Submission to the Secretary of State
  - Adoption
  
- To consider and respond to consultations on matters affecting planning policy matters and interim policy statements received from the following bodies:
  - Central Government
  - Lincolnshire County Council
  - Other Statutory Agencies
  - Other District Councils

9.5 The Statutory Officers' Employment Advisory Panel

The purpose of the Statutory Officers' Employment Advisory Panel is to consider and provide an advisory report to Full Council relating to any disciplinary matters covering the Council's statutory officers. The Monitoring Officer (or the Chief Executive in the event that the Monitoring Officer is subject of the relevant disciplinary action) has delegated authority to appoint the Panel and convene meetings.

(a) Terms of Reference

- To consist of at least two Designated Independent Persons ('DIP') to consider any disciplinary matters relating to the Council's Chief Executive, Section 151 Officer or Monitoring Officer. No Councillors to be members of the Advisory Panel.
  
- To be convened and in place at least 20 working days before any meeting of Council at which a decision in regard to the disciplinary matter will be considered.
  
- To present an advisory report to Council.
  
- The Statutory Officers' Employment Advisory Panel shall be provided with the appropriate human resource and administrative support to enable investigations to be carried out.

9.6 Grievance Committee

The purpose of the Grievance Committee is to receive and consider grievances raised by or against the Chief Executive. It will sit only when a grievance is raised.

The Grievance Committee shall be politically balanced and constituted on an ad hoc basis as and when required.

#### Terms of Reference

- To receive a grievance raised against the Chief Executive by an employee of the Council that cannot be resolved through the intervention of the Monitoring Officer and to resolve the matter
- To receive a grievance made by the Chief Executive, against a Councillor or a group of Councillors, and to either uphold or dismiss the grievance
- Where appropriate to seek guidance and/or intervention from the Society of Local Authority Chief Executives
- To refer any matters of Councillor conduct to the Monitoring Officer that may arise as a consequence of the above
- To follow the model grievance procedure as detailed in the JNC for Chief Executives of Local Authorities and shall take advice from the Society of Local Authority Chief Executives as appropriate

#### Employment Committee

The purpose of the Employment Committee is to consider appeals against dismissal or other disciplinary sanctions imposed upon Council staff.

The Employment Committee shall consist of 9 members and shall be politically balanced in accordance with the requirements of sections 15-17 of the Local Government & Housing Act 1989, although the Committee shall discharge its functions in a quasi-judicial manner.

#### **Lincolnshire Police and Crime Panel**

The Lincolnshire Police and Crime Panel was established under Police Reform and Social Responsibility Act 2011. The Panel is hosted by East Lindsey District Council at their offices and consists of

- 1 appointed member from each of the constituent authorities of City of Lincoln Council, Boston Borough Council, East Lindsey District Council, West Lindsey District Council, North Kesteven District Council, South Kesteven District Council, South Holland District Council
- 3 appointed members from the constituent authority of Lincolnshire County Council;
- 2 co-opted independent members as appointed by the Panel.

The purpose of the Panel is to hold to account the Lincolnshire Police and Crime Commissioner in respect of the delivery of policing services across the county. The functions of the Panel are detailed

in the Panel Arrangements document which was agreed by the constituent authorities. The Panel also has its own Rules of Procedure document. These documents and further information regarding the work of the Panel are publically available on the Panel's website at <http://www.e-lindsey.gov.uk/lpcp>

## Article 10 – Area Forums

### 10.1 Area Forums

The Council will create, facilitate and participate in Area Forums as part of its community leadership role.

The Council may convene Area Forums, if it is satisfied that to do so will ensure improved communication and engagement across all tiers of local government. The Council will consult with relevant Parish and Town councils when considering whether and how to establish Area Forums or any forms of community-based forums.

#### Form, composition and function

Area Forums may involve:

- All County Councillors with divisions in the East Lindsey District
- All East Lindsey District Councillors
- All Town and Parish Councillors
- All Town and Parish Council Clerks

Area Forums will be hosted by ELDC Executive Board Councillors to ensure senior District Councillor involvement, according to their availability and the relevance of the agenda to their portfolio. There is no paid allowance for the Chair or Vice Chair of an Area Forum.

To promote maximum involvement, Councillors and/or Clerks may attend the Area Forum which either covers the area where they are based or is most convenient, depending upon individual circumstances and availability.

The Area Forums have an advisory capacity. There is no requirement for political balance as the Area Forum has no decision making powers. As an advisory body there is no voting but the host can take a consensus view from those attending.

The views of all attendees are sought and carry equal weight. All attendees are therefore able to shape the future direction of the District.

On occasion, if appropriate, MPs representing constituencies within the district of East Lindsey and other relevant agencies involved in strategic issues may be invited to attend.

Each Area Forum is held twice per year usually in the March/April and September/October period.

Area Forum meetings will have a formal agenda issued at least fourteen days in advance of the meeting. The agenda for each Area Forum will be broadly the same but with scope to include issues specific to the locality as appropriate. Agenda items can be proposed by any Councillor from any tier of local government.

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## Article 11 – Joint Arrangements

### 11.1 Arrangements to promote well-being

The Council or the Executive, in order to promote the economic, social or environmental well being of the District, may:

- (a) Enter into arrangements or agreements with any person or body;
- (b) Co-operate with, or facilitate or co-ordinate the activities of, any person or body;
- (c) Exercise on behalf of that person or body any functions of that person or body;
- (d) Act in accordance with the general power of competence set out in Section 1 of the Localism Act 2011.

### 11.2 Joint arrangements

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

### 11.3 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a Joint Committee are Executive Councillors in each of the participating authorities then its access to information regime is the same as that applied to the Executive.

(c) If the Joint Committee contains members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### 11.4 Delegation to and from other local authorities

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

(b) The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.

(c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

#### 11.5 Contracting out

The Council – for functions which are not Executive functions, or the Executive – for Executive functions, may contract out to another body or organisation functions which may be exercised by an officer.

## Article 12 - Officers

### 12.1 Management structure

#### (a) General

The Council may engage such staff (referred to as Officers), as it considers necessary to carry out its functions.

#### (b) Chief Officers

The Council will engage persons for the following posts, who will be designated Chief Officers.

<b>Post</b>	<b>Functions and Areas of Responsibility</b>
Chief Executive (as Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers) Provision of professional advice to all parties in the decision-making process. Together with the Monitoring Officer, responsibility for maintaining a system of record keeping for all the Council's decisions. Representing the Council on partnership and external bodies. Director of Public Sector Partnership Services Ltd. Particular responsibility for Performance Management.
Deputy Chief Executive	To deputise for the Chief Executive in his/her absence.

#### (c) Head of Paid Service, Monitoring Officer and Section 151 Officer

The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Monitoring Officer	Monitoring Officer
Section 151 Officer	Section 151 Officer

Such posts will have the functions described in Article 12.2 – 12.4 below.

#### (d) Structure

The Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

### 12.2 Functions of the Chief Executive (as Head of Paid Service)

(a) Discharge of functions by the Council

The Chief Executive will report to the Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers in accordance with section 4 Local Government & Housing Act 1989.

(b) Restrictions on functions

The Chief Executive may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.

### 12.3 Functions of the Monitoring Officer

(a) Maintaining the Constitution

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Councillors, staff and the public. The Monitoring Officer shall keep the Constitution under review to ensure that the aims and principles enshrined within it are given full effect.

(b) Ensuring lawfulness and fairness of decision-making

After advising the Chief Executive and Section 151 Officer, the Monitoring Officer will report to the Council or to the Executive in relation to an Executive function if he or she considered that any proposal, decision or omission would give rise to unlawfulness or if any proposal, decision or omission has given rise to maladministration in accordance with section 5 Local Government & Housing Act 1989 (as amended by Schedule 5 Paragraph 24 Local Government Act 2000). Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Standards of Conduct

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through the provision of support to the Audit & Governance Committee.

(d) Conducting investigations

The Monitoring Officer will conduct investigations into matters referred to him/her and where such matters cannot be resolved on an informal basis shall make the appropriate report to the Audit & Governance Committee .

(e) Proper officer for access to information

The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

(f) Advising whether Executive decisions are within the Budget and Policy Framework

The Monitoring Officer (in consultation with the Chief Executive and Section 151 Officer, as appropriate) will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.

(g) Providing advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors.

(h) Restrictions on posts

The Monitoring Officer cannot be the Section 151 Officer or the Chief Executive.

(i) Discharge of Function

The Monitoring Officer will discharge the function in accordance with the Monitoring Officer Protocol set out in Part 5.6 of this Constitution.

(j) Lead officer to ensure the appropriate arrangements are in place and adhered to under the Regulation of Investigatory Powers Act (RIPA) including liaison with the Office of the Surveillance Commissioner.

(k) Dealing with Code of Conduct complaints arising from Town and Parish Councils within the District and provision of appropriate support to the Clerks of such Councils in order to improve the quality of governance.

#### 12.4 Functions of the Section 151 Officer

(a) Ensuring lawfulness and financial prudence of decision-making

After consulting with the Chief Executive and the Monitoring Officer, the Section 151 Officer will report to the Council or to the Executive in relation to an Executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) Administration of financial affairs

The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.

(c) Contributing to corporate management

The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) Providing advice

The Section 151 Officer, in consultation with the Chief Executive and Monitoring Officer, will provide advice on the scope of powers and authority to take decisions, maladministration, financial

impropriety; probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

(e) Give financial information

The Section 151 Officer will provide financial information to the media, members of the public and the community.

12.5 Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer

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

12.6 Conduct

Officers will comply with the Officers' Code of Conduct, and the Protocol on Councillor/Officer Relations set out in Part 5.1 of this Constitution.

12.7 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4.10 of this Constitution.

## Article 13 – Decision-Making

### 13.1 Responsibility for decision-making

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

### 13.2 Principles of decision-making

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

- (a) Proportionality (i.e. the action must be proportionate to the desired outcome)
- (b) Due consultation and the taking of professional advice from officers
- (c) Respect for human rights
- (d) A presumption in favour of openness
- (e) Clarity of aims and desired outcomes
- (f) Having due regard to alternative options
- (g) Having had regard to all relevant information reasonably available at the time
- (h) Having respect for equality and due regard to the principles within the Equality Act 2010
- (i) Having due regard to any consultation that has been carried out

### 13.3 Types of decision

- (a) Decisions reserved to the Council

Decisions relating to the functions listed in Article 5.2 will be made by the Council and not delegated. The broad scheme for Council and Executive Board decision making is that the Council is responsible for:-

\* Setting the overall the budget/policy framework

\* Deciding upon proposals from the Executive Board which would be contrary to the budget/policy framework.

The Executive Board is responsible for implementing the agreed budget/policy framework and within that framework taking in year decisions as necessary.

- (b) Key Decisions

(i) A Key Decision is a decision which is likely to result in the Council incurring expenditure or making savings which are significant having regard to the Council's Budget for the service or function to which the decision relates; or

To be significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the Council, impacts upon individuals/organisations outside the District, or is set to have long term impact upon the Council or the District

(ii) A decision-taker may only make a key decision in accordance with the requirements of the Executive Procedural Rules set out in Part 4 of this Constitution.

iii) The Council has decided that expenditure and savings of £100,000 for revenue budgets and £250,000 for capital budgets, or more, shall be regarded as significant for the purposes of paragraph (i) above, save where such expenditure or saving is specifically identified in the Council's Budget

#### 13.4 Decision-making by the Council

Subject to Article 13.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### 13.5 Decision-making by the Executive

Subject to Article 13.8, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### 13.6 Decision-making by Overview Committee

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

#### 13.7 Decision-making by other Committees and sub-Committees established by the Council

Subject to Article 13.8, other Council Committees and sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

#### 13.8 Decision making by Council bodies acting as tribunals

The Council, a Councillor, Committee or an officer acting as a tribunal or in a quasi-judicial manner in determining/considering the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair hearing as enshrined in Article 6 of the European Convention For the Protection of Human Rights and Fundamental Freedoms 1950 (and adopted into domestic law by the Human Rights Act 1998). Such a process shall include timely provision of appropriate information relevant to the matter and the opportunity for a person to obtain legal advice/representation as appropriate before any such hearing takes place.

## Article 14 – Finance, Contracts and Legal Matters

### 14.1 Financial management

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

### 14.2 Contracts

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

### 14.3 Legal proceedings

The Council Solicitor is Lincolnshire Legal Services. However the Chief Executive or Monitoring Officer may instruct any solicitor or counsel to conduct proceedings or provide other legal advice or assistance to the Council (on behalf of the Council Solicitor) such as in their opinion may be reasonably required, in order to protect the best interests of the Council.

The Council Solicitor is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or to protect the best interests of the Council.

### 14.4 Authentication of documents

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

Any contract shall be executed in accordance with Rule 17.6 of the Contract and Procurement Procedure Rules – namely that a contract with a value of £75,000 or under should be entered into by means of an authorised signatory and contracts with a value of £75,001 and above should bear the Common Seal of the Council.

### 14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Chief Executive. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents, which in the opinion of the Chief Executive, Monitoring Officer or Deputy Chief Executive should be sealed. The Chief Executive will attest the affixing of the Common Seal, or Monitoring Officer or Deputy Chief Executive (as appropriate) or in their absence the Common Seal may be affixed and attested to by some other person duly authorised by them in writing.

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## Article 15 – Review and Revision of the Constitution

### 15.1 Duty to monitor and review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect and report to the Audit & Governance Committee who in turn will make recommendations to the Council. Such monitoring and review to take place at least annually and then reported to the Council. The Monitoring Officer may make changes to the Constitution, to rectify clerical errors, provide additional wording to improve clarity and to reflect changes in the law or other amendments that the Council is legally obliged to adopt. In these instances the Monitoring Officer shall report such action to the Audit and Governance Committee, with such changes being subsequently publicised to all members.

### 15.2 Monitoring and Review of the Constitution by the Audit & Governance Committee

A key role for the Audit & Governance Committee is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1.

In discharging this duty and in assisting the Monitoring Officer to discharge their obligations under Article 15.1 above the Audit & Governance Committee shall set up a working party in accordance with Article 9 of this Constitution to keep the Constitution under review in order to ensure that it remains fit for purpose.

In undertaking this task the Audit & Governance Committee may:

- a. Observe meetings of different parts of the Councillor and officer structure
- b. Undertake an audit trail of a sample of decisions
- c. Record and analyse issues raised with it by Councillors, officers, the public and other relevant stakeholders
- d. Compare practices in this Authority with those in other comparable Authorities, or national examples of best practice.
- e. Take such steps as may be agreed with the Monitoring Officer to give effect to Article 15.1 above.

### 15.3 Changes to the Constitution

#### (a) Approval

Changes to the Constitution will only be approved by the Council after obtaining the advice of the Monitoring Officer. The Monitoring Officer may make changes to the Constitution in accordance with Article 15.1 above.

#### (b) Change from a Leader and Cabinet form of Executive to another form of Executive

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

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

### 16.1 Suspension of the Constitution

#### (a) Limit to suspension

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council to the extent permitted within those Rules and the law.

#### (b) Procedure to suspend

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

#### (c) Rules capable of suspension

The following Procedure Rules may be suspended in accordance with Article 16.1:

- Council
- Financial
- Contracts
- Budget and Policy Framework
- Executive
- Call-In

This Article does not provide for the suspension of any of these Rules that are a requirement of any Statute.

### 16.2 Interpretation

The ruling of the Chairman of the Council (the Vice Chairman if presiding or other person presiding in their absence) as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### 16.3 Publication

(a) The Monitoring Officer will provide a printed or electronic copy of this Constitution to each Councillor upon delivery to him/her of that individual's declaration of acceptance of office on the Councillor first being elected to the Council.

(b) The Monitoring Officer will ensure that a copy of the Council Constitution is placed on the Council website and is updated as necessary.

(c) The Monitoring Officer will ensure that copies are available for inspection at Council offices and can be purchased by members of the local press and the public on payment of a reasonable fee.

(d) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

(Part 2) Schedule 1: Description of Executive – Arrangements

The following parts of this Constitution constitute the Executive arrangements:

- a. Article 7 - Overview & Scrutiny Committee
- b. Article 8 - The Executive Board
- c. Article 11 - Joint Arrangements
- d. Article 13 - Decision-Making
- e. Part 3 - Responsibility for Functions
- f. Part 4 - Access to Information Procedure Rules

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## **Scheme of Delegations**

### **Principles of application:**

Decisions need to be taken as near to the point of service delivery as possible.

Officers need to be empowered but accountable and responsible

All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.

This scheme does not supersede or negate specific delegations that have previously been granted to officers under specific Council reports and/or policy where that delegation is not specifically included in this scheme.

Delegated powers must be exercised in accordance with the law, the Constitution, Council's Contract Procedure Rules, Financial Regulations, the Officer Code of Conduct and relevant Council policies and procedures.

Officers must have authority to act in line with their levels of responsibility within the organisation.

All newly appointed managers and staff must be advised in writing of their personal levels of delegated authority by their line manager within the relevant service area (this can be by provision of copies of the relevant documentation).

Where an officer is going to be absent for a period of time, the relevant line manager may re-allocate responsibility for that officer's functions as necessary to ensure the effective discharge of those functions during the officer's absence.

The Council's Management Team must ensure that this scheme is fully implemented, monitored and reviewed and any changes required are reported to the Deputy Chief Executive (Place (Monitoring Officer)), who shall be entitled to make appropriate changes to the scheme, placing a report of any such changes before (in so far as is reasonably practicable) the next meeting of the Audit & Governance Committee for noting purposes.

The Council's Management Team comprises: The Chief Executive, Deputy Chief Executives (one of whom is designated the Monitoring Officer), Section 151 Officer and Assistant Directors and is more particularly set out in the structure chart attached as Part 7 of the Constitution. The Chief Executive shall keep the structure chart updated in the event of any changes to the Management Team.

Any reference in this constitution, and in any separate record of specific delegations, to delegation to an officer at Chief Officer or Deputy Chief Officer level (regardless of post title) includes any Chief Officer or Deputy Chief Officer (as the case may be) who for the time being has responsibility for the department, service area or function in question, whether that officer

is employed by the Council or placed at the disposal of the Council by another council pursuant to an agreement under s113 of the Local Government Act 1972.

Any reference in this constitution, and in any separate record of specific delegations, to delegations to Chief Officers or Deputy Chief Officers as a class (regardless of post titles) includes Chief Officers or Deputy Chief Officers (as the case may be) whether those officers are employed by the Council or are placed at the disposal of the Council by another council pursuant to an agreement under s113 of the Local Government Act 1972.

## Functions of Chief Officers

<b>Post</b>	<b>Functions &amp; Areas of Responsibility</b>
Chief Executive	<ul style="list-style-type: none"> <li>• Undertake the statutory functions of the Head of Paid Service set out in Section 4 Local Government &amp; Housing Act 1989.</li> <li>• Overall Corporate Management</li> <li>• Overall operational responsibility</li> <li>• Returning Officer for the Election of the District and Parish Councillors</li> <li>• Acting Returning Officer for the conduct of other elections as required</li> <li>• Electoral Registration Officer</li> <li>• Counting Officer for Referendums</li> <li>• In cases of urgency to take such actions and steps as may be considered necessary to protect the best interests of the Council</li> </ul>
Deputy Chief Executive (Place (Monitoring Officer))	<ul style="list-style-type: none"> <li>• In the absence of the Chief Executive, to undertake the role of the Chief Executive.</li> <li>• To undertake functions of the Monitoring Officer</li> </ul>
Section 151 Officer	<ul style="list-style-type: none"> <li>• To undertake functions of the Section 151 Officer</li> </ul>
Deputy Chief Executive (Strategy)	<ul style="list-style-type: none"> <li>• To act in all matters within their area of responsibility and to ensure the proper management and leadership of functions administered by the Council</li> </ul>
Deputy Chief Executive (People)	<ul style="list-style-type: none"> <li>• To act in all matters within their area of responsibility and to ensure the proper management and leadership of functions administered by the Council</li> </ul>

## SPECIFIC FUNCTIONS AND DELEGATIONS - PROPER OFFICER

1.1 The Local Government Act 1972 and other legislation require Local Authorities to make specific statutory appointments which carry specific responsibilities. The proper officers for various statutory Council functions are set out below.

1.2 In the event of any officers mentioned being for any reason unable to act or of any of their posts being vacant, the Chief Executive or in his/her absence, their nominated Deputy, will appoint an Officer to act in their place.

1.3 The specific delegations set out are without prejudice to the general hierarchy of delegations in Part 3.

1.4 Every appointment hereby made in relation to a provision that is replaced or re-enacted shall be effective as an appointment of the same officer in relation to the corresponding new provision.

1.5 Until the Council decides otherwise, the Chief Executive is appointed the Proper Officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express Proper Officer appointment has, for the time being, been made.

## List of Proper Officers

<b>Statute</b>	<b>Function</b>	<b>Proper Officer</b>
Section 13 Local Government Act 1972 ('LGA 1972')	To act as parish trustee	Chief Executive
Section 83 Local Government Act 1972	Witness and receipt of declarations of acceptance of office for Chairman, Vice Chairman and Councillors	Chief Executive
Section 84 LGA 1972	Receipt of written notice of resignation of office of Chairman, Vice Chairman and Councillors	Chief Executive
Section 86 LGA 1972	To declare any vacancy in office	Chief Executive
Section 88 LGA 1972	Convene a council meeting for the election to the vacant office of Chairman of the Council	Chief Executive
Section 89 LGA 1972	Receipt of notice in writing of a casual vacancy occurring in the office of Councillor given by two local government electors for the electoral area	Chief Executive
Section 96(1) and (2) LGA 1972	Receipt of notice of Pecuniary Interest	Chief Executive
Section 99 LGA 1972 Schedule 12 (paras 4(2)(b) 4(3)) LGA 1972	To provide notice and Signature on summons to attend Council meetings and to accept receipt of notices regarding the address to which a summons to a meeting is to be sent	Chief Executive
Section 100B(2) LGA 1972	Exclusion from the Council agenda any information which is likely to be dealt with in the absence of the press and public	Chief Executive
Section 100B(7)(c) LGA 1972	Supply of papers to the press	Chief Executive
Section 100C(2) LGA 1972	Preparation of a written summary of proceedings of Committees and sub Committees of the Council	Chief Executive
Section 100D(1)(a) LGA 1972	Preparation of a list of background documents for reports considered by Committees and sub Committees of the Council	Chief Executive
Section 100(D)(5) LGA 1972	To determine which documents constitute background papers	Chief Executive
Section 100F(2) LGA 1972	To determine whether documents are not required to be open to public inspection on account of containing exempt information	Chief Executive

<b>Statute</b>	<b>Function</b>	<b>Proper Officer</b>
Section 100G LGA 1982	To maintain a register of names and addresses of Councillors and any Committees on which they are members	Chief Executive
Section 100H LGA 1972	To determine whether to levy a charge for the provision of background papers	Chief Executive
Section 115 LGA 1972	Receipt of monies from accountable officers	Section 151 Officer
Section 145(1) LGA 1972	Declarations and Certificates with regard to Securities	Chief Executive
Section 146 LGA 1972	Certificates as to Securities on alteration of Local Authority area or name	Chief Executive
Section 151 LGA 1972 (and Section 114 Local Government and Finance Act 1988)	Responsibility for the proper administration of the Council's financial affairs	Section 151 Officer
Sections 210(6)(7) LGA 1972	Charity functions of holders of office	Chief Executive
Section 225 LGA 1972	To receive and retain any documents pursuant to any enactment, instrument or Parliamentary standing orders	Chief Executive
Section 229 LGA 1972	Certification of any electronic or photographic copy of a document in the custody of the Council or of any document destroyed while in which custody, or any part of such document	Chief Executive
Section 231 LGA 1972	Receive documents required to be served on the Council	Chief Executive
Section 234 LGA 1972	Signature or authentication of any notice or other document which the Local Authority is authorised or required to give or make or issue	Chief Executive
Sections 236 and 238 LGA 1972	Copies of by-laws for Parish and County Council records	Chief Executive
Section 238 LGA 1972	Certification of printed copies of by-laws	Chief Executive
Section 248 LGA 1972	Keeping the Roll of Freeman	Chief Executive
Schedule 14 (para 25(7)) LGA 1972	Responsibility for true copies of resolutions	Chief Executive

<b>Statute</b>	<b>Function</b>	<b>Proper Officer</b>
Sections 3 and 19 Local Land Charges Act 1975	Act as the Local Land Charges Registrar	Chief Executive
Section 41 Local Government (Miscellaneous Provisions) Act 1976	Certification of minutes, resolution, orders and reports as evidence of resolutions and proceedings	Chief Executive
Section 28 Representation of the People Act 1983 ('RPA 1983')	Acting Returning Officer for a Parliamentary election	Chief Executive
Section 35 RPA 1983	Returning Officer for local government elections	Chief Executive
Section 8 RPA 1983	Electoral Registration Officer including authority to designate Deputy Electoral Registration Officers – who must be serving ELDC employees	Chief Executive
Local Authorities (Conduct of Referendums) (England) Regulations 2001	All references to the proper officer	Chief Executive
Local Authorities (Referendums) (petitions & Directions) Regulations 2000	Functions relating to verification and publicity of petitions	Chief Executive
Section 2 Local Government and Housing Act 1989 ('LG&HA 1989')	Hold on deposit the list of politically restricted posts	Chief Executive
Section 3 LG&HA 1989 as amended by Section 202 Local Government and Public Involvement in Health Act 2007	Issue employer's certificate for exemption from politically restricted posts	Chief Executive
Section 4 LG&HA 1989	Role of Head of the Paid Service	Chief Executive
Section 15 LG&HA 1989 & Local Government (Committees & Political Groups) Regulations 1990	Receipt of notices relating to the membership of political groups	Chief Executive
Section 5 Local Government & Housing Act 1989 (as amended by Schedule 5 para 24 Local Government Act 2000)	Role of Monitoring Officer	Deputy Chief Executive (Place (Monitoring Officer))
Section 81 Local Government Act 2000 & Localism Act 2011	Maintain Register of Members Interests	Deputy Chief Executive (Place (Monitoring Officer))
Section 36 Freedom of Information Act 2000	Act as "the qualified person"	Deputy Chief Executive (Place (Monitoring Officer)) (in the absence of the Deputy Chief Executive People)
Section 100A-K Local Government Act 1972	To ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and	Deputy Chief Executive (Place (Monitoring Officer))

<b>Statute</b>	<b>Function</b>	<b>Proper Officer</b>
	background papers (subject to provisions on confidential and exempt information) are made publicly available as soon as possible	
Local Authorities (Standing Orders) Regulations 2001	Notices regarding proposed appointments of staff	Chief Executive
Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012	To act as the proper officer in respect of any declared conflict of interest and grant dispensations	Deputy Chief Executive (Place ( Monitoring Officer))
Data Protection Act 2018, General Data Protection Regulation 2018, Freedom of Information Act 2000, The Environmental Information Regulations 2004.	To act as the Senior Information Risk Owner (SIRO)	Deputy Chief Executive (People)
Sections 84 and 85 Public Health Act 1936	Cleansing of filthy or verminous articles, persons or clothing	Service Manager – Environmental Health
Section 7 Public Health Act 1961	Disinfestation of verminous articles offered for sale	Service Manager – Environmental Health
Sections 11, 18, 20,21, 22, 24, 29, 31, 36, 40, 42, 43 and 48 – Public Health (Control of Disease) Act 1984; Regulations 6, 8, 9, 10 and schedules 3 and 4 – Public Health (Infectious Diseases) Regulations 1988	Notification and control powers for communicable diseases	Service Manager – Environmental Health
Regulation 4 (1) and (2) of the Health Protection (Coronavirus, Business Closure) (England) Regulations 2020	Authority is delegated to act under and in accordance with the Coronavirus Act 2020.	Service Manager - Environmental Health
Local Government Act 1972	To be the Proper Officer in respect of Ordnance Survey functions	Assistant Director - Planning
All functions of a Clerk of the Council or Town Clerk referred to in any enactment or instrument made before 26 October 1972		Chief Executive
Any other statutory authorisation as Proper Officer where there is not otherwise an authorised officer		Chief Executive
The Director of Public Health, his/her Consultants in Public Health Medicine, and the Communicable Disease Control Consultants of Public Health England who cover day-to-day and on-call in the East Lindsey District are duly authorised to act as 'Proper Officers' of the Council.		

## Delegated Powers to Officers [Responsibility for Functions]

Reference Number	Post	Function
<b>General Matters</b>		
	<ul style="list-style-type: none"> <li>• Chief Executive</li> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Deputy Chief Executives (Strategy and People)</li> <li>• Section 151 Officer</li> <li>• Assistant Directors</li> </ul>	To act in all matters within their area of responsibility and to ensure the proper management and leadership of functions administered by the Council
	<ul style="list-style-type: none"> <li>• Service Managers</li> </ul>	To act in all matters within their area of responsibility and to undertake the proper day to day management and control of their service and the functions administered by their service, ensuring compliance with the relevant statutory provisions, and including the development and implementation of the Council's policies in their service area.
<b>Constitution Matters</b>		
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> </ul>	Making amendments to the Constitution to reflect legislative changes or those which are a matter of fact or record (in such cases the Monitoring Officer shall in so far as reasonably practicable report any amendments to next meeting of the Audit & Governance Committee for noting)
	<ul style="list-style-type: none"> <li>• Chief Executive</li> </ul>	Receiving petitions relating to any of the functions and responsibilities of the Council in accordance with the Council's Petitions Scheme.
	<ul style="list-style-type: none"> <li>• Chief Executive</li> </ul>	<p><b>Urgent Decisions:</b> Authorised to take decisions on matters:</p> <p>(i) That are unable to be brought before the appropriate Committee of the Council, after consultation with (for Executive matters) the Leader or Deputy Leader(s) of the Council and any responsible officer concerned or for planning or licensing matters, the Chairman or Vice Chairman of the Committee and any responsible officer concerned</p> <p>(ii) Where the appropriate officer is unavailable or the post is vacant except where a particular qualification is required of the decision maker or where the function is one of statute designated only to be made by the Section 151 or Monitoring Officer.</p>

Reference Number	Post	Function
	<ul style="list-style-type: none"> <li>Deputy Chief Executive (Place (Monitoring Officer))</li> </ul>	Undertake the recruitment process of the Independent Persons and to make recommendations to Council with regard to the appointments.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	Making minor amendments to the Council's Contract and Procurement Procedure Rules with an appropriate report being made in so far as practicable to the next meeting of the Audit & Governance Committee for noting
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	Undertaking the recruitment process of co-optees on the Members' Independent Remuneration Panel, including appointment. To include authority to remove a co-optee from the Members' Independent Remuneration Panel.
	<ul style="list-style-type: none"> <li>Deputy Chief Executive (Place (Monitoring Officer))</li> </ul>	<p>To grant dispensations to Members, enabling them to speak and/or vote (notwithstanding that they have a Disclosable Pecuniary Interest) on any of the following grounds:</p> <ol style="list-style-type: none"> <li>1. That without the dispensation the number of persons prohibited from participating in that particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business</li> <li>2. That without the dispensation the representation of different political groups would be so upset as to alter the likely outcome of any vote; and/or;</li> <li>3. The dispensation is in the interests of persons living in the Authority's area</li> <li>4. Without the dispensation each Member of the Executive would be prohibited from participating;</li> </ol> <p>That it is otherwise appropriate to grant a dispensation</p>
	<ul style="list-style-type: none"> <li>Deputy Chief Executive (Place (Monitoring Officer))</li> </ul>	To make a report to the Audit & Governance Committee on staffing and resources needed to discharge the function of Monitoring Officer.
	<ul style="list-style-type: none"> <li>Deputy Chief Executive (Place (Monitoring Officer))</li> </ul>	To investigate complaints into breaches of the Councillor Code of Conduct
	<ul style="list-style-type: none"> <li>Deputy Chief Executive (Place (Monitoring Officer))</li> </ul>	To investigate complaints into breaches of the Councillor Code of Conduct in respect of Parish and Town Councils within the District
	<ul style="list-style-type: none"> <li>Chief Executive</li> </ul>	To appoint temporary Parish/Town Councillors in the event the Parish/Town Council is not quorate and thereby unable to enact its business (action to be reported to next available meeting of the Full Council) under Section 91 of the Local

Reference Number	Post	Function
		Government Act 1972.
	<ul style="list-style-type: none"> <li>Chief Executive</li> </ul>	To deal with alleged breaches and all other matters under the Officer Code of Conduct
<b>Financial Matters</b>		
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To act generally as the Council's Chief Finance Officer under the Local Government Act 1988 and to make necessary arrangements for the proper administration of the Council's financial affairs for the purposes of Section 151 of the Local Government Act 1972 and associated statutory provisions and not reserved to the Council.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To act generally as the Council's Chief Finance Officer under the Local Government Act 1988 and to make the necessary arrangements for the proper administration of the Council's financial affairs for the purposes of Section 151 of the Local Government Act 1972 and associated statutory provisions and not reserved to the Council.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To exercise appropriate delegations as necessary within the Council's Financial Procedure Rules, the Budgetary and Policy Framework Procedure Rules, Contract Procedures Rules, Council's Fraud Strategy, Corporate Governance Framework and the Council's Treasury Management Policy.
	<ul style="list-style-type: none"> <li>Deputy Chief Executive (People)</li> </ul>	To determine and issue to officers policies, procedures and general guidelines for the management of human resources in the areas of recruitment and planning; training and development; employee relations; health, safety and welfare (including occupational health); pay and performance, equality of opportunity and other staff related matters.
	<ul style="list-style-type: none"> <li>Chief Executive</li> </ul>	To discharge all functions relating to Parliamentary (including European) Elections, Police and Crime Commissioner Elections, Local Elections and National/Local Referendums, and all other prevailing legislation relating to elections.
	<ul style="list-style-type: none"> <li>Chief Executive</li> </ul>	As Head of Paid Service, derives the following directly from Statute: <ul style="list-style-type: none"> <li>The manner in which the discharge by the Council of its different functions is coordinated;</li> <li>The number of grades of staff required by the authority for the discharge of its functions;</li> </ul>

Reference Number	Post	Function
		<ul style="list-style-type: none"> <li>The reorganisation of the Authority's staff and;</li> <li>The appointment, dismissal and proper management of the Authority's staff, other than in relation to Statutory Officers.</li> </ul>
	<ul style="list-style-type: none"> <li>Chief Executive</li> </ul>	To determine approved duties in respect of the Members' Allowances scheme.
	<ul style="list-style-type: none"> <li>Chief Executive</li> </ul>	To make appointments to Committees in accordance with sections 15 to 17 of the Local Government and Housing Act 1989.
	<ul style="list-style-type: none"> <li>Chief Executive</li> </ul>	To exercise any delegated function in the absence of the named designated officer or nominate another.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To make arrangements for the provision and operation of any treasury management, banking and insurance services including the authorisation of any transaction, signing of cheques or other financial instrument, provision of indemnities, agreement of terms for the raising, repayment or cancellation of loans, investments and leases.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To make arrangements for the collection of Business Rates and Council Tax including any prosecution and enforcement and the determination of any discretionary reliefs.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To administer the Council Tax Support Scheme, including the determination of any discretionary elements within approved policy.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To make arrangements for the collection of Business Rates and Council Tax including any prosecution and enforcement and the determination of any discretionary reliefs.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To undertake accounting and other associated work on a chargeable basis where appropriate, for other public bodies as defined in the Local Authority (Goods and Services) Act 1970 or pursuant to arrangements under the Local Government Act 1972.
	<ul style="list-style-type: none"> <li>Deputy Chief Executive (Place (Monitoring Officer))</li> </ul>	To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To provide financial information to the media, members of the public and the community subject to the provisions in respect of confidentiality.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

Reference Number	Post	Function
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To approve and allocate funds to individual schemes under the DCLG's 'Community Led Housing' Programme in consultation with the Portfolio Holder for Communities.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To be the nominated Officer for the Council under the Money Laundering Regulations 2003.
	<ul style="list-style-type: none"> <li>Chief Executive</li> </ul>	To determine and approve the Council Tax base.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	If necessary to make reports to Council under s114 of the Local Government Finance Act 1988.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To sign a contract under hand which is in excess of £10,000 but less than £100,000 in value.
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	To take any action to recover debts due to the Council and to write-off any outstanding sums owed to the Council in respect of each debt, in line with the delegation for write off within the Table at page 214 of the Constitution.
	<ul style="list-style-type: none"> <li>Chief Executive</li> </ul>	Precautionary suspension of staff.
	<ul style="list-style-type: none"> <li>Deputy Chief Executive (Place (Monitoring Officer))</li> </ul>	To act as the Chief Executive's designated deputy where the Chief Executive is absent or incapacitated.
	<ul style="list-style-type: none"> <li>Chief Executive</li> <li>Deputy Chief Executive (Place (Monitoring Officer))</li> <li>Deputy Chief Executives (Strategy and People)</li> </ul>	<p>Members Allowances:</p> <p>(a) to nominate district Councillors to attend meetings with the Chairman and/or Members of other Authorities to discuss matters affecting this Authority and to determine whether a meeting with another Authority is an approved duty, such power only to be exercised after consultation with the relevant Portfolio Holder</p> <p>(b) To approve attendance by Councillors at official meetings, seminars and conferences as an approved duty for the payment of expenses.</p>
	<ul style="list-style-type: none"> <li>Section 151 Officer</li> </ul>	<p>Debt Recovery:</p> <p>(a) To take action by way of Court proceedings or otherwise to establish and enforce payment of any debt owing to the Council.</p> <p>(b) In appropriate cases and where satisfied that it is in the best interests of the Council, to accept any composition or compromise and to enter into any deed of arrangement in respect of sums owing to the Council.</p> <p>(c) To write off individual debts which remain outstanding after all reasonable recovery action has proved unsuccessful, in line with the</p>

Reference Number	Post	Function
		<p>delegation for write off within the Table at page 214 of the Constitution.</p> <p>(d) To write off legal costs where a Court has determined they shall not be awarded or they are otherwise deemed irrecoverable in line with the delegation for write off contained within the Council's Financial Procedure Rules.</p>
	<ul style="list-style-type: none"> <li>• Chief Executive</li> <li>• Section 151 Officer</li> </ul>	To exercise relevant functions under the Business Improvement Districts (England) Regulations 2004
	<ul style="list-style-type: none"> <li>• Deputy Section 151 Officer</li> </ul>	To discharge any delegations from the Section 151 Officer as necessary within the Council's Financial Procedure Rules, the Budget and Policy Framework Procedure Rules, Contract Procedure Rules, Council's Fraud Strategy, Corporate Governance Framework and the Council's Treasury Management Policy.
	<ul style="list-style-type: none"> <li>• Section 151 Officer</li> </ul>	The maintenance, on behalf of the Council, of an adequate and effective system of internal audit of accounting records and system of internal control. [Accounts and Audit Regulations 2003]
	<ul style="list-style-type: none"> <li>• Data Protection Officer</li> </ul>	To undertake the role of the Data Protection Officer (UK General Data Protection Regulation)
<b>Legal matters</b>		
	<ul style="list-style-type: none"> <li>• Chief Executive</li> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Deputy Chief Executives (Strategy and People)</li> <li>• Section 151 Officer</li> <li>• Assistant Directors</li> <li>• Service Managers</li> </ul>	<p>Authority to engage lawyers employed by Lincolnshire County Council as Legal Services Lincolnshire for the purposes of:</p> <p>(i) Instituting, defending, withdrawing from or compromising any claims or legal proceedings; (ii) any non-contentious matters; and (iii) signing and/or serving any documents, notices, agreements and court papers associated with those non contentious matters or contentious proceedings.</p>
	<ul style="list-style-type: none"> <li>• Chief Executive</li> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Deputy Chief Executives (Strategy and People)</li> <li>• Section 151 Officer</li> <li>• Assistant Directors</li> </ul>	In cases of conflict between the Council and the County Council, and on occasion where appropriate (e.g. to secure particular expertise, or to secure advice within required timescales) authority to engage any other lawyers as the officer sees fit.
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> </ul>	To secure external legal advice as in their opinion may be required in order to discharge their statutory/proper officer functions

Reference Number	Post	Function
	<ul style="list-style-type: none"> <li>• Chief Executive</li> </ul>	<p>Signing on behalf of the Council any deed or document authorised by the Council or which it is necessary or desirable to give effect to any decision of the Council, unless any enactment or otherwise requires or authorises or the Council has authorised some other person for some specific purpose</p>
	<ul style="list-style-type: none"> <li>• Chief Executive</li> </ul>	<p>Dealing with arrangements for Councillors to be substituted at Council Committees in accordance with the Council's procedures</p>
	<ul style="list-style-type: none"> <li>• Chief Executive</li> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Deputy Chief Executives (Strategy and People)</li> </ul>	<p>Affixing the common seal of the Council which in the opinion of the Chief Executive or the Deputy Chief Executives should be sealed and attestation of the common seal of the Council</p>
	<ul style="list-style-type: none"> <li>• Chief Executive</li> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Deputy Chief Executives (Strategy and People)</li> <li>• Assistant Director – Regulation</li> <li>• Service Manager – Enforcement</li> <li>• Service Manager Building and Property Services</li> <li>• Service Manager – Safer Communities</li> <li>• Service Manager – Environmental Health</li> </ul>	<p>Authorising surveillance operations under the Regulation of Investigatory Powers Act 2000 subject to statutory requirements in regard to the Magistrates Court</p>
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> </ul>	<p>Responsibility for monitoring authorisations under the Regulation of Investigatory Powers Act 2000</p>
	<ul style="list-style-type: none"> <li>• Chief Executive</li> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Deputy Chief Executives (Strategy and People)</li> <li>• Section 151 Officer</li> <li>• Assistant Directors</li> <li>• Service Managers</li> </ul>	<p>Exercising the Council's statutory powers within their service area to enter land and premises for the purposes of inspection, survey, carrying out of any works, investigation of any matter, the taking of samples or for any other purpose for which the Council is so authorised and to give such notices as may be required.</p>

Reference Number	Post	Function
	<ul style="list-style-type: none"> <li>• Chief Executive</li> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Deputy Chief Executives (Strategy and People)</li> <li>• Section 151 Officer</li> <li>• Assistant Directors</li> <li>• Service Managers</li> </ul>	<p>Making any determination under statutory provisions, issue and withdraw any statutory notices or make any order relating to matters that fall within their functions and responsibilities (after seeking advice from the Monitoring Officer as appropriate). To carry out works in default of compliance with statutory notices and orders and recover costs as appropriate.</p>
	<ul style="list-style-type: none"> <li>• Chief Executive</li> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Deputy Chief Executives (Strategy and People)</li> <li>• Section 151 Officer</li> <li>• Assistant Directors</li> <li>• Service Managers</li> </ul>	<p>Taking any enforcement action, including prosecution, in relation to matters that fall within their functions and responsibilities</p>
	<ul style="list-style-type: none"> <li>• Chief Executive</li> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Deputy Chief Executives (Strategy and People)</li> <li>• Section 151 Officer</li> <li>• Assistant Directors</li> <li>• Service Managers</li> </ul>	<p>Authorising particular officers in accordance with Section 233 of the Local Government Act 1972 and Section 60(2) of the County Courts Act 1984 (conduct of court proceedings by officers who are not solicitors)</p>
	<ul style="list-style-type: none"> <li>• Section 151 Officer</li> </ul>	<p>Street Collection Regulations To decide, when scrutinising statements of account, whether the person certifying such statement is acceptable for the purposes of Regulation 16(1) (a). (Made under Section 5 Police, Factories etc. (Miscellaneous Provisions) Act 1916 as amended by Section 251 and Schedule 29 Local Government Act 1972)</p>
<b>Property Matters</b>		
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Strategy)</li> <li>• Assistant Director – Assets</li> </ul>	<p>Property Management To manage the Council’s land and buildings having regard to all prevailing legislative requirements. Leases – to agree terms and enter into leases of land and property at Market Rent and to negotiate and agree terms relating to lease terms including rent, rent reviews and lease renewals. Authorising the surrender or forfeiture of all leases and licences for Council owned land and property where the Market Rent of the land or property is up</p>

Reference Number	Post	Function
		to £10,000 per annum, following consultation with the Section 151 Officer and Portfolio Holder. Approving the acquisition and disposal of freehold or leasehold land and property assets with a value up to £50,000 after consultation with the Section 151 Officer and Portfolio Holder.
	<ul style="list-style-type: none"> <li>• Service Manager – Buildings &amp; Property</li> </ul>	To consider and determine applications nominating a property as an asset of community value.
	<ul style="list-style-type: none"> <li>• Assistant Director - Assets</li> </ul>	To consider and determine a request for a review of a decision to nominate, or to refuse to nominate, a property as an asset of community value
<b>Building Control</b>		
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> <li>• Service Manager – Building Control</li> </ul>	To determine applications (including the passing, rejection or rescinding of any plans deposited with the Council) under the Building Regulations 2010 (or any statutory amendment or re-enactment thereof [made under the Building Act 1984 or any statutory amendment or re-enactment thereof])
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> <li>• Service Manager – Building Control</li> </ul>	To determine that the deposit of plans with the Council is of no effect (due to lapse of time in the event works are not implemented)[Section 32 Building Act 1984]
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> <li>• Service Manager – Building Control</li> </ul>	To enforce the Building Regulations (within the relevant statutory time periods) [Sections 35, 35A and 36, Building Act 1984] in consultation with the Solicitor to the Council
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> <li>• Service Manager – Building Control</li> </ul>	To issue notices in relation to dangerous, buildings and demolition of buildings [Sections 77 to 81 Building Act 1984] and to carry out works (in default of the owner) to a building/ structure that is considered as an immediate danger under Section 78 Building Act 1984.
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director</li> </ul>	To maintain a register of Initial Notices and associated certificates given to and accepted/rejected by the Local Authority [Sections 47 to 56, Building Act 1984]

Reference Number	Post	Function
	<ul style="list-style-type: none"> <li>Regulation</li> <li>• Service Manager – Building Control</li> </ul>	
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> <li>• Service Manager – Building Control</li> </ul>	<p>Enforcement Action – In consultation with the Solicitor to the Council initiate action, either by application to the Magistrates court within six months for contraventions of building regulations and/or service of a notice within twelve months requiring the rectification of defective work.</p>
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> <li>• Service Manager – Building Control</li> </ul>	<p>To deal with regularisation (retrospective application) of unauthorised work. To issue Regularisation Certificates in relation to unauthorised building works as defined under Regulation 18 Building Regulations 2010 (Unauthorised building work)</p>
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> <li>• Service Manager – Building Control</li> </ul>	<p>Administration of Statutory Building Control – engagement of a consultant structural engineer or appropriate specialist if and when this is considered necessary.</p>
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> <li>• Service Manager – Building Control</li> </ul>	<p>To determine applications involving buildings constructed of short-lived materials and to remove such buildings on the failure of the owner to do at the expiry of a temporary period granted. Also the power to recover expenses reasonably incurred in doing so. [Section 19 Building Act 1984]</p>
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> <li>• Service Manager – Building Control</li> </ul>	<p>To determine applications for Relaxation of Building Regulations and deal with any such appeal following refusal [Sections 8, 9,10 &amp; 39 Building Act 1984]</p>
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> </ul>	<p>Determining requests for house and street naming and numbering except in any circumstances where the Council has agreed to delegate this function to a Parish or Town Council</p>

Reference Number	Post	Function
	Service Manager – Building Control	
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> <li>• Service Manager – Building Control</li> </ul>	The setting of charges in relation to Building Regulations chargeable activities in consultation with the Section 151 officer [The Building (Local Authority Charges) Regulations 2010].
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> <li>• Service Manager – Building Control</li> </ul>	To progress any prosecution or make any application to any court or tribunal under the Building Act 1984 in consultation with the Council Solicitor
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> <li>• Service Manager – Building Control</li> </ul>	To enter into agreements under Section 97 Building Act 1984 for the execution of works
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Place (Monitoring Officer))</li> <li>• Assistant Director Regulation</li> <li>• Service Manager – Building Control</li> </ul>	To exercise powers of entry under Sections 95 & 96 Building Act 1984.
<b>Enforcement</b>		
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Strategy)</li> <li>• Assistant Director Planning</li> <li>• Service Manager – Enforcement</li> </ul>	<b>General :</b> <ul style="list-style-type: none"> <li>• Regulation of Investigatory Powers Act 2000 (Investigations) subject to the securing of relevant consents as required under legislation</li> <li>• Police and Criminal Evidence Act 1984 (Evidence Gathering)</li> <li>• Human Rights Act 1998 (Notice Serving)</li> <li>• Data Protection Act 1998 (Data Storage, Data Subject Access Requests &amp; FOIs)</li> <li>• Freedom of Information Act 2000 (Data</li> </ul>

Reference Number	Post	Function
		Storage, Data Subject Access Requests & FOIs) Local Government (Miscellaneous Provisions) Act 1976 (Requests for Information) and Local Government (Miscellaneous Provisions) Act 1982 (Injunctions)
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Strategy)</li> <li>• Assistant Director Planning</li> <li>• Service Manager – Enforcement</li> </ul>	<p><b>Planning Enforcement:</b></p> <ul style="list-style-type: none"> <li>• Town &amp; Country Planning Act 1990 (Planning Enforcement)</li> <li>• Town and Country (General Permitted Development) Order 1995 (Planning Enforcement – Permitted Development rights)</li> <li>• Town &amp; Country Planning (Control of Advertisements) (England) Regulations 2007 (Planning Enforcement - Adverts)</li> <li>• Planning and Compensation Act 1991 (Planning Enforcement)</li> <li>• Planning (Listed Building and Conservation Areas) Act 1990 (Listed Buildings)</li> <li>• Planning (Hazardous Substances) Act 1990 (Hazardous Substances)</li> <li>• Planning and Compulsory Purchase Act 2004 (Enforced Sales/ Compulsory Purchase)</li> <li>• Part 8 of the Anti-Social Behaviour Act 2003 (High Hedges)</li> <li>• Wildlife and Countryside Act 1981 (Birds – High Hedges)</li> <li>• Localism Act 2011 (Planning Enforcement)</li> <li>• Town and Country Planning (General Permitted Development) 2015 (Planning Enforcement – Permitted Development rights)</li> <li>• Public Health Act 1936 (Licensing of tents and Planning Enforcement - untidy buildings)</li> <li>• Anti-Social Behaviour, Crime and Policing Act 2014 (Community Protection Warnings/Notices)</li> </ul> <p><b>Planning Enforcement: -</b></p> <p>a) The Authorising Officer(s) can serve the following notices:</p> <ul style="list-style-type: none"> <li>• Notice authorising entry onto land,</li> <li>• Requisition for Information Notice,</li> <li>• Planning Contravention Notice and</li> <li>• Section 215 Notice</li> </ul> <p>b) Where there is a breach of planning control which, in the opinion of the Service Manager – Enforcement requires urgent action to protect the public interest, authority to take the following actions:</p> <p>i) To serve:</p> <ul style="list-style-type: none"> <li>• Stop Notices,</li> <li>• Temporary Stop Notices</li> </ul>

Reference Number	Post	Function
		<ul style="list-style-type: none"> <li>• Enforcement Notices (including Listed Building Enforcement Notices),</li> <li>• Breach of Condition Notices and</li> <li>• Building Preservation Notices</li> <li>• Community Protection Warnings and Notices</li> </ul> <p>To take necessary legal proceedings including seeking an injunction.</p> <p><b>Enforced sale:</b></p> <ul style="list-style-type: none"> <li>• Local Government Act 2003 (Enforced Sales)</li> <li>• Housing Acts 1985 and 2004 (Enforced Sales)</li> <li>• Local Government and Housing Act 1989 (Enforced Sales)</li> <li>• Building Act 1984 (Enforced Sales)</li> <li>• Prevention of Damage by Pests Act 1949 (Enforced Sales)</li> <li>• Land Charges Act 1975 (Enforced Sales)</li> <li>• Law &amp; Property Act 1925 (Enforced Sales)</li> </ul> <p><b>High Hedges</b></p> <ul style="list-style-type: none"> <li>• To determine high hedges disputes in accordance with the Anti-Social Behaviour Act 2003.</li> <li>• Anti-social Behaviour, Crime and Policing Act 2014 (Community Protection Warnings/Notices)</li> </ul>
	<ul style="list-style-type: none"> <li>• Assistant Director – Regulation</li> <li>• Service Manager – Safer Communities</li> </ul>	<p><b>Hackney Carriages and Private Hire Vehicles and Drivers:</b></p> <p><b>Licences</b></p> <p>To grant applications and renewals for Private Hire Vehicle Operators' licences; Private Hire Vehicle licences, Private Hire Drivers licences, Hackney Carriage Vehicle licences and Hackney Carriage Drivers licences; those cases where it is felt that applications should be refused (or there is doubt in the officer's mind as to whether an application should be granted) to be referred to the General Licensing Committee.</p> <p>Hackney Carriages and Private Hire Vehicles, Operators and Drivers –</p> <p>(a) <b>General Provisions</b></p> <p>(i) Authorised to specify the information to be sought from license applicants and the conditions to be attached to licences.</p> <p>To report to the General Licensing Committee where it is felt that any licence should be refused, suspended or revoked to enable a decision to be taken unless provision is made within this scheme of delegation for suspension or revocation.</p>

Reference Number	Post	Function
		<p>(iii) To issue all licences under signature and not under seal.</p> <p>(iv) To arrange for tests and checks to be made on both hackney carriage and private hire vehicles, and any taximeters fitted thereto, and to require the production of any records and documents, including drivers' licences.</p> <p>(v) The issue of certificates exempting licensed drivers from the requirement to carry a guide or assistance dog. Those cases where it is felt the application should be refused (or there is doubt in the officer's mind as to whether the application should be granted) to be referred to the General Licensing Committee.</p> <p>(vi) The issue of hackney carriage and private hire vehicle suspension notices and deferred notices under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976.</p> <p>(vii) The issue of notices under Section 58 of the Local Government (Miscellaneous Provisions) Act 1976 requiring the return of a hackney carriage or private hire vehicle plate or notices under Section 61 requiring the return of a driver's badge.</p> <p>(viii) Notices exempting a private hire vehicle from the requirement to display a private hire vehicle plate under section 75(3) Local Government (Miscellaneous Provisions) Act 1976. Cases where it is felt that a request be refused to be referred to the General Licensing Committee.</p> <p>(ix) Notices under Section 50 of the Local Government (Miscellaneous Provisions) Act 1976 requiring the presentation of a hackney carriage or private hire vehicle for testing or requiring the production of vehicle insurance in respect of a hackney carriage or private hire vehicle.</p> <p>(x) The suspension or revocation of a hackney carriage or private hire vehicle driver's license where in the reasonable opinion of the officer immediate action is required due to serious public safety and/or safeguarding concerns.</p> <p>(xi) The power to revoke a hackney carriage and private hire vehicle driver's licences with immediate effect under the terms of Section 52 of the Road Safety Act 2006 (and Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976).</p> <p>(xi) Any other function or decision regarding hackney carriage or private hire licensing not specified in the list of delegations (and which is not under the Council's Licensing Policy specifically delegated to the General Licensing Committee).</p> <p><b>(b) Hackney Carriage and Private Hire Licence Fees</b></p>

Reference Number	Post	Function
		<p>To collect any fees due as appropriate and to refund the fee payable if a new or renewal application is refused, depending upon the amount of administrative etc. work carried out and any court costs awarded to the Council.</p> <p>(c) <b>Hackney Carriage and Private Hire Drivers</b> In addition to the Council's policy requirement for licensed drivers to submit a medical certificate every six years and annually once over the age of 65 years, where deemed advisable in the reasonable opinion of the officer, to require any existing holder of a drivers' licence to submit to examination by a registered medical practitioner, at the applicant's expense.</p> <p><b>(d) Hackney Carriage and Private Hire Drivers Licences</b></p> <p>(ii) To interview applicants in cases where it is necessary for clarification to be sought on applications for hackney carriage or private hire drivers licences.</p>

Reference Number	Post	Function
	<ul style="list-style-type: none"> <li>• Assistant Director - Regulation</li> <li>• Service Manager – Safer Communities</li> </ul>	<p><b>Miscellaneous Licences</b></p> <p>(a) Charitable house-to-house and Charitable street collections</p> <p>Issue licences and permits. Cases where it is felt that an application be refused (or there is doubt in the officer’s mind as to whether an application should be granted) to be referred to the General Licensing Committee.</p> <p><b>(b) Control of Sex Establishments and Sex Entertainment Venues (SEVs)</b></p> <p>To issue licence renewals for Sex Establishments and SEVs if no valid objections are received. Cases where valid objections are received or where it is felt that a renewal application be refused (or where there is doubt in the officer’s mind as to whether an application should be granted) to be referred to the General Licensing Committee for consideration. All applications for the grant of a first license transfer of a license or variation to an existing license to be referred to the General Licensing Committee.</p> <p>c) <b>Street Trading Consents</b></p> <p>To issue the renewal of Street Trading consents in line with the Council’s policy and in consultation with the Council Solicitor to prosecute offenders under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. All applicants for the grant of a first license or variation of an existing consent to be referred to the General Licensing Committee.</p> <p>d) <b>Omnibus Licensing</b></p> <p>i) To grant license applications and renewals for:</p> <ul style="list-style-type: none"> <li>• Omnibus Vehicle Licenses</li> <li>• Omnibus Driver Licenses</li> </ul> <p>Those cases where it is felt that applications should be refused (or there is doubt in the officer’s mind as to whether an application should be granted) to be referred to the General Licensing Committee.</p> <p>ii) To specify the information to be sought from license applicants and the conditions to be attached to licenses.</p> <p>To determine other functions or decisions within the omnibus licensing functions not specified in the list of delegations.</p>
	<ul style="list-style-type: none"> <li>• Assistant Director - Regulation</li> <li>• Service Manager – Safer Communities</li> </ul>	<p><b>Licensing Act 2003</b></p> <p>(a) Personal Licences :-</p> <p>To determine applications if no objections are made by the Police.</p> <p>(b) Premises Licenses and Club Premises Certificates -</p> <p>i) To determine applications and variations if no</p>

Reference Number	Post	Function
		<p>relevant representation is made.</p> <p>ii) To determine applications for transfer of premises licence subject to no objections being made by the Police.</p> <p>iii) Authority to serve closure notices and apply for closure orders under Sections 19 and 20 of the Criminal Justice and Police Act 2001.</p> <p>(c) Provisional Statement - To determine applications if no relevant representation is made.</p> <p>(d) Designated Premises Supervisor (DPS): -</p> <p>i) To determine applications to vary the Designated Premises Supervisor for a premises subject to no objections being made by the Police.</p> <p>ii) To determine requests to be removed as a Designated Premises Supervisor.</p> <p>(e) Interim Authorities - To determine applications for interim authorities subject to no objections being made by the Police.</p> <p>(f) To consider/process Complaints/Representations regarding an application or premises licence or club premises certificate. To determine in consultation with the Council Solicitor whether a complaint or representation is irrelevant, frivolous or vexatious.</p> <p>(g) Application for the review of a premises license or club premises certificate – to determine in consultation with the Council Solicitor whether the application for review is irrelevant, frivolous, repetitive or vexatious.</p> <p>h) Application for minor variation of a premises license – Determination of application, following consultation with relevant Responsible Authority or Authorities.</p> <p>i) Community Premises – Determination of application to vary premises licence at community premises to remove the requirement for a DPS and include the alternative mandatory licence condition.</p> <p>j) Suspension of premises licence or club premises certificate for non-payment of annual fee.</p> <p>k) Acknowledgement of an application for a Temporary Event Notice (TEN).</p> <p>l) Determination of a Police or Environmental Health officer objection to a TEN where all parties agree that conditions can be attached to the TEN and a hearing is not required – in all other cases the matter to be referred to a Licensing Act 2003 Sub Committee hearing.</p> <p>m) Plans - To agree alternative plan scales in respect of premises license applications and club premises certificate applications submitted.</p> <p>n) Sub Committee Membership - To select any 3 members and a substitute member of the Licensing Act Committee 2003 to form a Sub-Committee in</p>

Reference Number	Post	Function
		<p>respect of individual licensing hearings.</p> <p>o) To authorise officers to act for the purposes of the Licensing Act 2003.</p> <p>p) To determine other functions or decisions within the Licensing Act 2003 and associated regulations not specified in the list of delegations (and which are not under the Council's Licensing Policy specifically delegated to the Licensing Act 2003 Committee).</p>
	<ul style="list-style-type: none"> <li>• Assistant Director - Regulation</li> <li>• Service Manager – Safer Communities</li> </ul>	<p><b>Licensing Act 2003</b></p> <p>a) Decisions to make representation relating to a premises licence application or club premises certificate application – when the Licensing Authority exercises its role as a Responsible Authority.</p> <p>b) Decisions to lodge a premises licence review application or club premises certificate review application – when the Licensing Authority exercises its role as a Responsible Body.</p>
	<ul style="list-style-type: none"> <li>• Assistant Director - Regulation</li> <li>• Service Manager – Safer Communities</li> </ul>	<p><b>Gambling Act 2005</b></p> <p>(a) Premises Licences (with the exception of a Casino Premises Licence) -</p> <p>i) To determine applications and variations if no relevant representation is made.</p> <p>ii) To determine applications for transfer of premises licence subject to no valid objections being made.</p> <p>(b) Provisional Statement - To determine applications if no relevant representation is made.</p> <p>(c) Club Gaming and Club Machine Permits - To determine applications if no relevant representation is made.</p> <p>(d) Acknowledgement of Intention to use two gaming machines in an alcohol licensed premises.</p> <p>(e) Alcohol Licensed Premises Gaming Machine Permits - To determine applications if no relevant representation is made and/or there is no doubt in the Officer's mind as to whether an application should be granted)</p> <p>(f) Family Entertainment Centre (FEC) Gaming Machine Permit - To determine applications if no relevant representation is made and/or there is no doubt in the Officer's mind as to whether an application should be granted)</p> <p>(g) To grant the registration of small society lotteries - those cases where it is felt that applications should be refused (or there is doubt in the Officer's mind as to whether an application should be granted) to be referred to the Licensing Act 2003 Committee.</p> <p>(h) To grant applications for other gambling permits/ authorisations - those cases where it is felt that</p>

Reference Number	Post	Function
		<p>applications should be refused (or there is doubt in the Officer's mind as to whether an application should be granted) to be referred to the Licensing Act 2003 Committee.</p> <p>(i) Revocation of a premises licence or permit due to non-payment of the annual fee.</p> <p>(j) Consideration of a Temporary Use Notice (TUN).</p> <p>(k) Registration of an Occasional Use Notice (OUN).</p> <p>(l) Representation regarding an application for a premises licence - To determine whether a complaint or representation is irrelevant, frivolous or vexatious.</p> <p>(m) Application for the review of a premises licence - To determine whether the application for review is irrelevant, frivolous, repetitive or vexatious.</p> <p>(n) Serve notification of lapse of a Family Entertainment Centre Gaming Machine Permit</p> <p>(o) Sub Committee Membership - To select any 3 members of the Licensing Act 2003 Committee to form a Sub-Committee in respect of individual licensing hearings.</p> <p>(p) - To authorise officers for the purposes of the Gambling Act 2005.</p> <p>(q) To determine other functions or decisions within the Gambling Act 2005 and associated regulations not specified in the list of delegations (and which are not under the Council's Licensing Policy specifically delegated to the Licensing Act 2003 Committee).</p>
	<ul style="list-style-type: none"> <li>• Assistant Director - Regulation</li> <li>• Service Manager – Safer Communities</li> </ul>	<p><b>Animal Welfare Licensing (with the exception of Zoo Licensing)</b></p> <p>a) To grant licence applications, registrations and renewals for:</p> <ul style="list-style-type: none"> <li>• Animal Boarding Establishments</li> <li>• Dangerous Wild Animals</li> <li>• Dog Breeding Establishments</li> <li>• Pet Shops</li> <li>• Riding Establishments;</li> <li>• Registration of Animal Trainers and Exhibitors (s1 Performing Animals (Regulation) Act 1925</li> </ul> <p>Those cases where it is felt that applications should be refused (or there is doubt in the Officer's mind as to whether an application should be granted) to be referred to the General Licensing Committee.</p> <p>b) To specify the information to be sought from licence applicants and the conditions to be attached to licences.</p> <p>c) To determine other functions or decisions within the above animal welfare licensing functions not</p>

Reference Number	Post	Function
		specified in the list of delegations.
	<ul style="list-style-type: none"> <li>Assistant Director - Regulation</li> <li>Service Manager – Safer Communities</li> </ul>	<p><b>Competitive Bidding</b> To determine competitive bidding applications and issue the relevant registration under the Local Government (Miscellaneous Provisions) Act 1982. Cases where it is felt that an application be refused (or there is doubt in the Officer’s mind as to whether an application should be granted) to be referred to the General Licensing Committee.</p>
	<ul style="list-style-type: none"> <li>Service Manager – Buildings and Property</li> </ul>	To arrange for the enforcement, under the Road Traffic Act 1991 (as amended by Part 6 of the Traffic Management Act 2004), of parking restrictions including imposing and waiving of parking penalty charge notices. This includes the appointment of civil enforcement officers to discharge this function.
	<ul style="list-style-type: none"> <li>Service Manager – Buildings and Property</li> </ul>	To establish, implement and review procedures and processes for dealing with the issues of penalty charge notices by civil enforcement officers in respect of off street parking contraventions.
	<ul style="list-style-type: none"> <li>Service Manager – Buildings and Property</li> </ul>	Authority to issue or delegate waivers to authorise parking in off- street parking places and car parks.
	<ul style="list-style-type: none"> <li>Service Manager – Buildings and Property</li> </ul>	Authority to close all or part(s) of off-street car parks for special events and circumstances and to suspend parking charges.
	<ul style="list-style-type: none"> <li>Service Manager – Buildings and Property</li> </ul>	Authority to take all necessary action to maintain and protect the Council’s interests in relation to proposals for local events and activities to be held on Council owned car parks, including the determination of applications to utilise Council owned car parks for events (in consultation with the appropriate Portfolio Holder).
	<ul style="list-style-type: none"> <li>Service Manager – Buildings and Property</li> </ul>	To advertise and approve Off Street Parking Places Orders and notices of Variation of Fees and Charges notices under the Road Traffic Regulation Act 1984 or any statutory amendment or re-enactment thereof.
	<ul style="list-style-type: none"> <li>Service Manager – Buildings and Property</li> </ul>	To arrange for collection of penalty charges including the issue of other appropriate notices as provided for by legislation, the consideration of challenges and representations and appeals and dealing with adjudications and for organising the subsequent recovery of debts by authorised debt recovery agents.
	<ul style="list-style-type: none"> <li>Service Manager – Buildings and Property</li> </ul>	To initiate civil or criminal possession proceedings where Council land is unlawfully occupied by trespassers.
	<ul style="list-style-type: none"> <li>Service Manager - Environmental</li> </ul>	To exercise powers under the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016.

Reference Number	Post	Function
	Health	
<b>Planning Policy and Conservation</b>		
	<ul style="list-style-type: none"> <li>• Assistant Director - Planning</li> <li>• Planning Policy and Research Service Manager</li> </ul>	To review and if appropriate authorise the formation of a Neighbourhood Area so that a Town or Parish Council can proceed with the formation of a Neighbourhood Plan. [Regulation 5 of the Neighbourhood Planning (General) Regulations 2012 (as amended)]
	<ul style="list-style-type: none"> <li>• Assistant Director - Planning</li> <li>• Planning Policy and Research Service Manager</li> </ul>	To take steps to secure publicity for Neighbourhood Development Orders that are approved [Regulation 27 of the Neighbourhood Planning (General) Regulations 2012](as amended)]
	<ul style="list-style-type: none"> <li>• Assistant Director - Planning</li> <li>• Planning Policy and Research Service Manager</li> </ul>	To authorise that the draft Neighbourhood Plan or Order submitted to the Council meets the requirements in legislation and to arrange for the publication of the Neighbourhood Plan or Order for a minimum of six weeks and then forward the draft Neighbourhood Plan or Order to independent examination after agreeing the examiner details with the relevant Town or Parish Council. [Regulation 16, 17, 23 and 24 of the Neighbourhood Planning (General) Regulations 2012 (as amended)]
	<ul style="list-style-type: none"> <li>• Assistant Director - Planning</li> <li>• Planning Policy and Research Service Manager</li> </ul>	To authorise the serving of Preservation Notices and Urgent Works Notices. To serve full Urgent Works or Dangerous Structures Notices as appropriate [Section 54 of the Planning (Listed Buildings and Conservation Areas) Act, 1990] in consultation with the Council's Solicitor.
	<ul style="list-style-type: none"> <li>• Deputy Chief Executive (Strategy)</li> <li>• Assistant Director – Planning</li> </ul>	To authorise the remittance of S106 payments paid to the Council for the discharge of agreements
	<ul style="list-style-type: none"> <li>• Assistant Director – Planning</li> <li>• Planning Policy and Research Service Manager</li> </ul>	To authorise minor consultation exercises on planning policy matters outside those set down for the creation of the Local Plan elsewhere in this Constitution.

Reference Number	Post	Function
<b>Planning</b>		
	<ul style="list-style-type: none"> <li>Deputy Chief Executive (Strategy)</li> <li>Assistant Director - Planning</li> <li>Service Manager – Development Management</li> </ul>	To issue decision notices in respect of the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004 and also the Planning (Listed Buildings and Conservation Areas) Act, 1990, the Planning and Compensation Act 1991, the Town and Country Planning (Brownfield Register) Regulations 2017 and the Planning (Hazardous Substances) Act, 1990 (or any statutory amendments codifications or re-enactments thereof).
	<ul style="list-style-type: none"> <li>Assistant Director - Planning</li> <li>Service Manager – Development Management</li> </ul>	<p>Footpaths</p> <p>(a) To approve the making and serving of Public Right of Way Orders under the Town and Country Planning Act and the Highways Act.</p> <p>(b) To authorise the confirmation of orders where there are no outstanding objections.</p> <p>(c) To waive the charges in respect of the above where this is considered appropriate.</p> <p>(d) To periodically review charges for applications for Public Right of Way Orders.</p>
	<ul style="list-style-type: none"> <li>Assistant Director - Planning</li> <li>Service Manager – Development Management</li> </ul>	To be an authorising officer with regard to enforcement matters
	<ul style="list-style-type: none"> <li>Assistant Director - Planning</li> <li>Service Manager – Development Management</li> </ul>	<p><b>Culverting</b></p> <p>a. Public Health Act, 1936 - Section 263 - Culverting of Watercourses To approve applications for the culverting of watercourses in accordance with the above legislation.</p> <p>b. Culverting – Public Health Act, 1936 – Section 262 To service Notices under the above Act, in appropriate cases, requiring culverting when planning applications are submitted for new development.</p>
	<ul style="list-style-type: none"> <li>Assistant Director - Planning</li> <li>Service Manager – Development Management</li> </ul>	Rights of Entry onto Land - To issue written authorisations under the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004, and also the Planning (Listed Buildings and Conservation areas) Act 1990 and the Planning (Hazardous Substances) Act 1990 (or any statutory amendments codifications or re-enactments thereof).
<b>Waste Service</b>		
	<ul style="list-style-type: none"> <li>Service Manager – Waste Services</li> </ul>	To hold the Goods Operator’s License in respect of the Council fleet.

Reference Number	Post	Function
	<ul style="list-style-type: none"> <li>• Assistant Director – Operations</li> <li>• Service Manager – Waste Services</li> <li>• Service Manager – Environmental Health</li> </ul>	<p>The power to serve notice on residents under Section 46 of the Environmental Protection Act 1990 in regard to a requirement to place waste in a receptacle of the Council's choosing and the power to instruct a householder where to place their waste bin for collection.</p> <p>Power to enforce (under S46 of the EPA 1990) where a householder fails to follow the arrangements set out in the Section 46 Notice.</p> <p>Power to enforce under Section 47 of the EPA 1990 in regard to receptacles and the arrangements for the collection of commercial waste.</p>
<b>Environment</b>		
	<ul style="list-style-type: none"> <li>• Assistant Director – Operations</li> <li>• Service Manager – Neighbourhoods</li> </ul>	<p><b>Tree Protection</b></p> <p>(a) Making Tree Preservation Orders To authorise the making of Provisional Tree Preservation Orders (TPO) which will take immediate effect (under Section 4 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 subject to this action being reported to the next appropriate meeting of the Planning Committee for confirmation.</p> <p>(b) Protection of Trees in Conservation Area In response to Section 211 Notices (under the Town and Country Planning Act 1990), to confirm that a TPO is not appropriate and that the tree works can go ahead.</p> <p>(c) Works to Trees Protected by a TPO</p> <p>i) To determine applications for works to trees giving a maximum extent of 50% reduction having considered any objections received, subject to the request of any Councillor to refer the application to the appropriate Planning Committee in accordance with paragraph (ii) of the Planning Scheme of Delegation below.</p> <p>ii) To approve felling or other works to trees where a subject tree fails to score 3 or above on the Council's adopted amenity scoring system, subject to the request of any Councillor to refer the application to the appropriate Planning Committee.</p> <p>iii) To refuse applications to fell or carry out other works in excess of 50% reduction where a subject tree scores 3 or above on the Council's adopted amenity scoring system, subject to the request of any Councillor to refer the application to an appropriate meeting of the Planning Committee in accordance with paragraph (ii) of the Planning Scheme of Delegation below.</p> <p>(d) Structural Damage Caused by Trees Protected by a TPO or located in a Conservation Area To approve felling or remedial tree works such as</p>

Reference Number	Post	Function
		<p>lopping or root barrier, where there is sufficient evidence that tree roots are responsible for settlement damage to buildings – subject to the request of any Councillor to refer the application to an appropriate meeting of the Planning Committee.</p> <p>(e) Replanting or Replacing of TPO Trees and Trees in Conservation Areas</p> <p>Authority to approve details of replanting, to serve Tree Replacement Notices (under section 207 of the Town and Country Planning Act 1990) where necessary and to dispense with the requirement to replant where appropriate.</p>
	<ul style="list-style-type: none"> <li>• Assistant Director – Operations</li> <li>• Service Manager – Neighbourhoods</li> </ul>	<p>Consultations over Forestry Proposals</p> <p>To make observations on forestry proposals where this is necessary to enable those observations to be made within 28 days, with the officer in so far as reasonably practicable making a report to the next Planning Committee on the matter for noting.</p>
	<ul style="list-style-type: none"> <li>• Assistant Director - Operations</li> <li>• Service Manager – Neighbourhoods</li> </ul>	<p>The Hedgerow Regulations 1997</p> <p>To authorise:-</p> <p>(a) a written notice stating that the hedgerow may be removed - under Regulation 5(1)(b)(i); and</p> <p>(b) Issue a Hedgerow Retention Notice - under Regulation 5(2) where appropriate</p>
	<ul style="list-style-type: none"> <li>• Assistant Director – Operations</li> <li>• Service Manager – Neighbourhoods</li> </ul>	<p>Dangerous Trees on Private Property</p> <p>To authorise:</p> <p>(a) Serving of a notice and exercising rights of entry under Sections 23 and 24 of the Local Government (Miscellaneous Provisions) Act 1976 requiring that an owner or occupier carries out certain works to make dangerous trees safe.</p> <p>(b) Carrying out of necessary tree works and reclaiming of all reasonable costs where appropriate under section 23(7) of the Local Government (Miscellaneous Provisions) Act 1976</p>
	<ul style="list-style-type: none"> <li>• Assistant Director – Operations</li> <li>• Service Manager – Neighbourhoods</li> </ul>	<p>Rights of entry onto land:</p> <p>To issue written authorisations under the Town and country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning and Compensation Act 1991, the Local Government (Miscellaneous Provisions) Act 1976 and the Hedgerow Regulations 1997.</p>
<b>Housing</b>		
	<ul style="list-style-type: none"> <li>• Assistant Director - Housing and Wellbeing</li> <li>• Service Manager – Homelessness, Housing &amp;</li> </ul>	<p>Housing Advice</p> <p>To ensure housing advice is freely available across the district</p>

Reference Number	Post	Function
	Wellbeing	
	<ul style="list-style-type: none"> <li>• Assistant Director - Housing and Wellbeing</li> <li>• Service Manager – Homelessness, Housing &amp; Wellbeing</li> </ul>	<p>Housing Register</p> <ul style="list-style-type: none"> <li>• To approve the registration and management of housing register applications in line with the Councils Housing Allocation Scheme (Function currently contracted out) to ensure the Councils nomination rights are achieved</li> <li>• To amend the Housing Allocation Scheme where legislation would not require a consultation exercise to take place.</li> <li>• To nominate applicants for low cost home ownership schemes</li> <li>• To approve local lettings policies in consultation with the Portfolio Holder</li> </ul>
	<ul style="list-style-type: none"> <li>• Assistant Director - Housing and Wellbeing</li> <li>• Service Manager – Homelessness, Housing &amp; Wellbeing</li> </ul>	<p>Homelessness Prevention</p> <ul style="list-style-type: none"> <li>• To authorise financial assistance in the form of loans or grants from the Rent Assist Scheme including damage bond agreements and bond payments in line with Council procedures</li> <li>• To authorise financial assistance in the form of loans or grant funding from the homelessness prevention/repossession funds in line with Council procedures</li> <li>• To advise the Council upon debt recovery where required in relation to the collection of housing related debts (taking advice from the Section 151 Officer where appropriate)</li> <li>• To authorise grant funding from the Safe at Home scheme</li> <li>• To authorise funding to aid the prevention of homelessness within budget limits</li> </ul>
	<ul style="list-style-type: none"> <li>• Assistant Director - Housing and Wellbeing</li> <li>• Service Manager – Homelessness, Housing &amp; Wellbeing</li> </ul>	<p>Homelessness</p> <ul style="list-style-type: none"> <li>• To determine homeless applications under Part 7 of the Housing Act 1996 (as amended by Homelessness Act 2002 and Homelessness Reduction Act 2017)</li> <li>• To provide and manage temporary homelessness accommodation</li> <li>• To set rent charges on an annual basis and manage the rent accounts maximising income in consultation with the Section 151 Officer</li> <li>• To purchase equipment and services below procurement thresholds to enable the effective management of temporary accommodation</li> <li>• To negotiate rental/lease payments for homelessness accommodation</li> <li>• To serve notice to quit and (in consultation with the Council Solicitor) take appropriate legal action where required to regain possession of a</li> </ul>

Reference Number	Post	Function
		temporary homelessness unit <ul style="list-style-type: none"> <li>• To instruct the Council’s Solicitor to conduct homelessness reviews and appeals where required</li> <li>• To assist other statutory agencies with the provision of temporary accommodation</li> </ul>
	<ul style="list-style-type: none"> <li>• Assistant Director – Housing and Wellbeing</li> <li>• Service Manager – Wellbeing Lincs</li> </ul>	Wellbeing Service <ul style="list-style-type: none"> <li>• To authorise the purchase of Telecare equipment, Small Aids for Daily Living and Minor Adaptations</li> <li>• To authorise the purchase of training and services required to enable the key measurable targets to be achieved</li> <li>• To negotiate and approve contract variations (in consultation with the Council Solicitor)</li> </ul>
	<ul style="list-style-type: none"> <li>• Assistant Director - Housing and Wellbeing</li> <li>• Service Manager – Homelessness, Housing &amp; Wellbeing</li> </ul>	Housing Enabling <ul style="list-style-type: none"> <li>• To approve a budget to enable the development of affordable social housing</li> <li>• To approve applications for funding from Social Housing Providers [in consultation with the Section 151 Officer and Portfolio Holder]</li> <li>• To apply for funding opportunities to help increase the supply of social housing</li> <li>• To provide social housing providers with approval to dispose of properties in line with Homes England (formerly Homes and Communities Agency) guidelines [in consultation with the appropriate Ward Member]</li> <li>• To negotiate affordable housing requirements or commuted sums to be secured under Section 106 Town and Country Planning Act 1990 (as amended) for new developments</li> <li>• Supporting bids from Social Housing Providers to the Homes England Creating local connection cascades for new social housing developments</li> </ul>
	<ul style="list-style-type: none"> <li>• Assistant Director - Housing and Wellbeing</li> <li>• Service Manager – Homelessness, Housing &amp; Wellbeing</li> </ul>	<ul style="list-style-type: none"> <li>• To provide a range of schemes to assist owners to return empty properties back into use</li> </ul>
Private Sector Housing		
	<ul style="list-style-type: none"> <li>• Assistant Director - Housing and Wellbeing</li> <li>• Service Manager – Homelessness, Housing and Wellbeing</li> </ul>	Housing Grants <ul style="list-style-type: none"> <li>To determine applications for Disabled Facilities Grants in accordance with</li> <li>• The Housing Grants, Construction and Regeneration Act 1996 – Legislation applicable to Disabled Facilities Grants and previous Renovation grants</li> </ul>

Reference Number	Post	Function
		<ul style="list-style-type: none"> <li>The Regulatory Reform (Housing Assistance)(England and Wales) Order 2002 Legislation applicable to the award of discretionary funding</li> </ul>
	<ul style="list-style-type: none"> <li>Assistant Director - Housing and Wellbeing</li> <li>Service Manager – Safer Communities</li> </ul>	<p>Housing Standards</p> <p>Authorisation to act in accordance with and to sign all Notices/Orders to ensure that all properties within the private rented sector meet the minimum standards detailed within the following legislation:</p> <ul style="list-style-type: none"> <li>Housing Acts 1985 and 2004 and (as amended) to enable use of enforcement powers and duties; appeal provisions and (in consultation with the Council Solicitor) the prosecution of offences</li> <li>The Housing &amp; Planning Act 2016</li> <li>The Smoke and Carbon Monoxide Alarm (England) Regulations 2015</li> <li>Building Act 1984 [drainage (sections 59-63) and defective premises (section 76) ]</li> <li>Environmental Protection Act 1990 [statutory nuisance provisions (sections 79-82)]</li> <li>The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015</li> <li>The Enterprise and Regulatory Reform Act 2013</li> <li>Authorisation to sign Proposed HMO Licenses (Housing Act 2004, Part 2)</li> <li>Authorisation to sign House in Multiple Occupation Licenses (Housing Act 2004, Part 2)</li> <li>Authorisation to sign Fixed Penalty Notices (Housing Act 2004/Housing and Planning Act 2016)</li> <li>Authorisation to sign notices and applications in respect of Rent Repayment Orders (Housing Act 2004/Housing and Planning Act 2016)</li> <li>Authorisation to apply for a Banning Order in respect of The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2017</li> <li>The Housing and Planning Act 2016 (Database of Rogue Landlords and Property Agents) Regulations 2018</li> <li>The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018</li> <li>The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) 2018</li> <li>Authorisation to sign Monetary Penalties (The</li> </ul>

Reference Number	Post	Function
		<p>Enterprise and Regulatory Reform Act 2013)</p> <ul style="list-style-type: none"> <li>• Immigration Acts</li> <li>• Local Government (Miscellaneous Provisions) Act 1976 [requisitions for information (section 16), Local Government (Miscellaneous Provisions) Act 1982 power to board up empty property (section 29)]</li> <li>• Public Health Acts 1936 &amp; 1961 [defective/blocked drainage powers – power to make connections to public sewers (section 36 Public Health Act 1936), power to alter drainage systems to premises (section 42 Public Health Act 1936, power to examine/test drains (section 48 Public Health Act 1936), power to repair drains and remedy stopped up drains (section 17 Public Health Act 1961), power to cleanse and repair drains (section 22 Public Health Act 1961) ]</li> <li>• Police &amp; Criminal Evidence Act</li> <li>• Regulation of Investigatory Powers Act 2000</li> </ul>
	<ul style="list-style-type: none"> <li>• Assistant Director - Regulation</li> <li>• Service Manager – Safer Communities</li> </ul>	<p>Community Safety</p> <p>To ensure that the Council meets its duties in terms of crime prevention/reduction under the section 17 of the Crime and Disorder Act 1998, and all relevant powers on behalf of the Council set out in the following statutes:-</p> <ul style="list-style-type: none"> <li>• Crime and Disorder Act 1998</li> <li>• Anti-Social, Behaviour, Crime and Policing Act 2014</li> <li>• Anti-Social Behaviour Act 2003</li> <li>• Regulation of Investigatory Powers Act 2000</li> <li>• Clean Neighbourhoods and Environment Act 2005</li> <li>• Police and Criminal Evidence Act 1984</li> </ul>
<b>Environmental Health</b>		
	<ul style="list-style-type: none"> <li>• Assistant Director – Regulation</li> <li>• Service Manager – Environmental Health</li> </ul>	<ul style="list-style-type: none"> <li>• Animal Boarding Establishments Act 1963</li> <li>• Animal Health Act 1981</li> <li>• Animal Welfare Act 2006</li> <li>• Anti-Social Behaviour, Crime and Policing Act 2014</li> <li>• Breeding of Dogs Acts 1973 and 1991</li> <li>• Breeding and Sale of Dogs (Welfare) Act 1999</li> <li>• Building Act 1984</li> <li>• Burials Act 1857</li> <li>• Caravan Sites and Control of Development Act 1960</li> <li>• Caravan Sites Act 1968</li> <li>• Chemicals (Hazard Information and Packaging) Regulations 2009</li> <li>• Clean Air Act 1993</li> <li>• Clean Neighbourhoods and Environment Act</li> </ul>

Reference Number	Post	Function
		<p>2005</p> <ul style="list-style-type: none"> <li>• Control of Noise and Work Regulations 2005</li> <li>• Control of Pollution Act 1974</li> <li>• Control of Pollution (Amendment) Act 1989</li> <li>• Control of Substances Hazardous to Health Regulations 2002</li> <li>• <a href="#">Coronavirus Act 2020</a></li> <li>• Criminal Justice and Public Order Act 1994</li> <li>• Crop Residues (Burning) (England and Wales) Regulations 1993</li> <li>• Dangerous Dogs Act 1991</li> <li>• Dangerous Dogs (Amendment) Act 1997</li> <li>• Dangerous Wild Animals Act 1976</li> <li>• Dark Smoke (Permitted Period) Regulations 1958</li> <li>• Dogs Act 1871</li> <li>• Electricity at Work Regulations 1989</li> <li>• Environmental Permitting (England &amp; Wales) Regulations 2016 (As Amended)</li> <li>• Environmental Protection Act 1990</li> <li>• Environment Act 1995</li> <li>• Factories Act 1961</li> <li>• Fire Safety and Safety of Places of Sport Act 1987</li> <li>• Food and Environment Protection Act 1985</li> <li>• Food Hygiene (England) Regulations 2013</li> <li>• Food Labelling Regulations 1996</li> <li>• Food Premises (Registration) Regulations 1991</li> <li>• Food Safety Act 1990 and any orders or regulations made there under</li> <li>• Fresh Meat (Beef Controls) (No.2) Regulations 1996</li> <li>• Gambling Act 2005</li> <li>• General Food Regulations 2004</li> <li>• Health Act 2006</li> <li>• Health and Safety at Work etc. Act 1974 and associated legislation</li> <li>• Health and Safety (Enforcing Authority) Regulations 1998</li> <li>• Health and Safety (First Aid) Regulations 1981</li> <li>• Health and Safety Information for Employees Regulations 1989</li> <li>• Health Protection (Part 2A Orders) Regulations 2010</li> <li>• Hypnotism Act 1952</li> <li>• Land Compensation Act 1973</li> <li>• Land Drainage Act 1991</li> <li>• Licensing Act 2003</li> <li>• Licensing and Management of Houses in Multiple Occupation and other houses (Miscellaneous Provision) (England) Regulations 2006</li> <li>• Lifting Operations and Lifting Equipment</li> </ul>

Reference Number	Post	Function
		<ul style="list-style-type: none"> <li>Regulations 1998</li> <li>• Local Government Act 1972 (Byelaw, Section 235)</li> <li>• Local Government and Housing Act 1989</li> <li>• Local Government (Miscellaneous Provisions) Acts 1976 and 1982</li> <li>• Local Government Act 2000</li> <li>• Local Government and Public Involvement in Health Act 2007</li> <li>• Localism Act 2011</li> <li>• National Assistance Act 1948 and National Assistance (Amendment) Act 1951</li> <li>• Noise and Statutory Nuisance Act 1993</li> <li>• Offices, Shops and Railway Premises Act 1963</li> <li>• Pesticides Act 1998</li> <li>• Pet Animals Act 1951</li> <li>• Police and Criminal Evidence Act 1984</li> <li>• Pollution Prevention and Control Act 1999</li> <li>• Poultry Meat, Farmed Game Bird Meat and Rabbit Meat (Hygiene and Inspection) Regulations 1995</li> <li>• Prevention of Damages by Pests Act 1949</li> <li>• Pressure Systems and Transportable Gas Containers Regulations 1989</li> <li>• Private Water Supplies Regulations 2009</li> <li>• Private Water Supplies (England) Regulations 2016 (As Amended)</li> <li>• Public Health Act 1936</li> <li>• Public Health Act 1961</li> <li>• Public Health (Control of Disease) Act 1984</li> <li>• Public Health (Infectious Diseases) Regulations 1988</li> <li>• Radioactive Substances Act 1993</li> <li>• Refuse Disposal (Amenity) Act 1978</li> <li>• Regulation of Investigatory Powers Act 2000</li> <li>• Riding Establishments Act 1964</li> <li>• Riding Establishments Act 1970</li> <li>• Road Traffic (Regulations) Act 1984</li> <li>• Scrap Metal Dealers Act 2013</li> <li>• Sunday Trading Act 1994</li> <li>• Slaughter of Poultry Act 1967</li> <li>• Slaughterhouses Act 1974</li> <li>• The Contaminates in Food (England) Regulations 2003, 2005, 2007 and 2013</li> <li>• The Dangerous Substances (Notification and Marking of Sites) Regulations 1990</li> <li>• The European Communities Act 1972</li> <li>• The European Communities Retained Regulation No 178/2002</li> <li>• The European Communities Retained</li> </ul>

Reference Number	Post	Function
		<p>Regulation No 852/2004</p> <ul style="list-style-type: none"> <li>• The European Communities Retained Regulation No 853/2004</li> <li>• The European Communities Retained Regulation No 2073/2005</li> <li>• The European Communities Retained Regulation No 882/2004</li> <li>• The Game Act 1831</li> <li>• The Health and Safety (Display Screen Equipment Regulations 1992</li> <li>• The Imported Food Regulations 1997</li> <li>• The Management of Health and Safety at Work Regulations 1992</li> <li>• The Manual Handling Operations Regulations 1992</li> <li>• The Meat (Enhanced Enforcement Powers) England Regulations 2000</li> <li>• The Notification of Cooling Towers and Evaporative Condensers Regulations 1992</li> <li>• The Noise Act 1996</li> <li>• The Official Feed and Food Controls (England) Regulations 2009</li> <li>• The Personal Protection Equipment at Work Regulations 1992</li> <li>• The Police, Factories etc. (Miscellaneous Provisions) Act 1916, S.5 as amended by S.251 and Schedule 29 to the Local Government Act 1972</li> <li>• The Provision and Use of Work Equipment Regulations 1998</li> <li>• The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013</li> <li>• The Transmissible Spongiform Encephalopathy (England) Regulations 2010</li> <li>• The Working Times Regulations 1998</li> <li>• The Workplace (Health, Safety and Welfare) Regulations 1992</li> <li>• Town &amp; Country Planning Act 1990</li> <li>• Town Police Clauses Act 1847</li> <li>• Trade in Animals and Related Products Regulations 2011</li> <li>• Vehicles (Crime) Act 2001</li> <li>• Water Industry Act 1991 and 1999</li> <li>• Water Resources Act 1991</li> <li>• Water Supply (Water Quality) Regulations 1989 and 2000</li> <li>• Zoo Licensing Act 1981</li> </ul> <p><b>Control of Dogs</b></p> <ul style="list-style-type: none"> <li>• Micro-Chipping of Dogs Act 2014 (Dog Micro-chipping)</li> <li>• Micro-Chipping of Dogs (England) Regulations 2015 (Dog Micro-chipping)</li> </ul>

Reference Number	Post	Function
		<ul style="list-style-type: none"> <li>• Anti-social Behaviour, Crime and Policing Act 2014 (Dog Control under Community Protection Warnings/Notices)</li> </ul> <p><b>Public Space Protection Order</b></p> <ul style="list-style-type: none"> <li>• To enforce regulations under the East Lindsey Public Space Protection Order including the power to designate Authorised Persons.</li> </ul> <p><b>Environmental Crime Enforcement</b></p> <ul style="list-style-type: none"> <li>• Environment Act 1995 (Fly Tipping):</li> <li>• Anti-social Behaviour, Crime and Policing Act 2014 (Public Space Protection Orders)</li> <li>• Environmental Protection Act 1991 (Duty of Care Commercial Waste, Littering, unlawful deposit of waste)</li> <li>• Clean Neighbourhoods and Environment Act 2005 (Abandoned Vehicles, Littering FPNs, Litter Clearing Notices)</li> <li>• Refuse Disposal (Amenity) Act 1978 (abandoned vehicles)</li> <li>• Criminal Procedure and Investigations Act 1996 (Criminal Investigations &amp; IUCs)</li> <li>• Control of Pollution (Amendment) Act 1989 (Commercial Waste &amp; Fly tipping)</li> <li>• The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016</li> <li>• Anti-Social Behaviour Act 2003 (Used for graffiti &amp; fly-posting FPNs)</li> <li>• The Environmental Offences (Fixed Penalties) (England) Regulations 2017 (Used for FPNs)</li> <li>• The Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 (Used for Littering PCNs)</li> <li>• Crime &amp; Disorder Act 1998 (Used for Information Requests)</li> </ul> <p><b>Scrap Metal Licensing:</b></p> <ul style="list-style-type: none"> <li>• Scrap Metal Dealers Act 2013 (Scrap Metal Licensing)</li> <li>• Scrap Metal Dealers Act 1964 (Scrap Metal Licensing)</li> </ul>

## **Planning Scheme of Delegation**

### **Authorised Officers**

In relation to this scheme of Delegation the authorised officer shall be the Assistant Director for Planning and any officer duly authorised in writing by the Assistant Director for Planning to act on their behalf.

The Chief Executive in the exercise of his urgency powers granted to him under the Council's Scheme of Delegation has determined in light of the unprecedented circumstances facing the Council, and wider society, with the outbreak of the Coronavirus that has led to the cancellation of the Council's Planning Committee, to make the following changes to the Council's Scheme of Delegation within the Constitution of the Council, until such time as the Council's Planning Committee can be reconvened:

Authority is delegated to the Assistant Director for Planning and the Deputy Chief Executive for Strategy to make planning decisions in those cases that would otherwise be a Planning Committee item subject to consultation with Chairman, or in his absence, the Vice Chairman of the Planning Committee. This will be subject to the usual levels of political engagement on matters of sensitivity.

### **The Scheme: -**

All decisions, responses or determinations arising in relation to applications, approval of reserved matters, prior approvals, consents and consultations, submitted to or received by the Council in accordance with all Town and Country Planning, Listed Building and related or associated legislation (including subordinate legislation and any consolidation, re-enactment or amendment thereto) shall be delegated to the Authorised Officer(s) as specified above. In light of the delegation set out above the following provisions set out paragraphs i) to v) are deferred pending the reconvening of the Council's Planning Committee.

i) Any application which is a departure from the Local Plan and the NPPF must be taken to the Planning Committee where it is the officer's recommendation to approve the application. Where the Local Plan is silent on matters, but a proposal is in conformity to the NPPF, then an application can be determined through the Scheme of Delegation.

ii) In respect of any particular ward, any application for planning permission, approval of reserved matters, conservation area consent, tree works approval or listed building consent where a Councillor from that ward (or in the event of a conflict of interest the Portfolio Holder for Planning) has requested, in writing within four weeks of the date of validation of the application, that the application be considered by Committee, such a request shall be accompanied by a statement demonstrating significant community concern (either for or against the proposal) related to sustainable planning reasons as to why the proposals need to be considered by Committee. A list of related Local Plan policies, shall accompany such requests for consideration by the Assistant Director for Planning, who shall assess and determine the matter in consultation with the Council Leader, Chair of Planning Committee, and the Deputy Chief Executive (Place (Monitoring Officer)) (or their nominated deputies). Any such requests shall be acknowledged in writing and any decisions shall be recorded in writing and shall include a statement of the reasons for the decision reached.

- i) Any application of any type where the intended recommendation is to approve and where there are significant local objections, unless in the view of the Authorised Officer(s), the points raised by the objectors are withdrawn or dealt with by amendments to the application, or by the imposition of planning conditions or obligations, or are not planning matters.
- ii) Any application or consultation or like matter where the Authorised Officer(s) considers a decision should be taken by Committee.
- iii) In those cases where strict, statutory time limits are involved for making decisions or taking action, for example in cases of agricultural buildings, demolitions, telecommunications determinations and notifications of works to trees in Conservation Areas, where non-determination within a set period automatically gives consent, any objections(s) received will be addressed by the Authorised Officer and at his discretion efforts will be made to resolve the objection(s) before the expiry period, but the existence of the objection(s) will not alter his authority in those instances to make a decision. In such cases the officer as far as reasonably practicable shall report the matter to the next Planning Committee for noting;
- iv) In respect of applications that have been determined by Planning Committee, the Assistant Director for Planning has delegated authority to make amendments post Committee to conditions or reasons for refusal in order to effect conditions that meet the tests for the imposition of conditions or provide precise and robust reason(s) for refusal, in order to protect the interests of the Council.

The term significant local objections is defined where a development impact is greater than upon immediate neighbours and is of community-wide interest.

Delegation of Planning Decision Making to Parish/Town Councils. A Parish or Town Council can assume a function delegated by the District Council under Section 101 of the Local Government Act 1972. Any such delegation must be subject to the consent of Full Council. East Lindsey District Council has agreed the delegation of some Planning decision making powers to Horncastle Town Council under the terms as defined within the bespoke Delegation Agreement.

## Enforcement

5) The Authorising Officer(s) can serve the following notices notices:

Notice authorising entry onto land,

Requisition for Information

Notice, Planning

Contravention Notice and

Section 215 Notice

6) Where there is a breach of planning control which, in the opinion of the Assistant Director – Planning or Service Manager – Enforcement requires urgent action to protect the public interest, authority to take the following actions in consultation with the Council Solicitor: .

A) To serve

Stop Notices, Enforcement Notices (including Listed Building Enforcement Notices), Breach of Condition Notices and Building Preservation Notices

B) To take necessary legal proceedings including the seeking of an injunction(s)

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### Part 3 - Responsibility for Functions

Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 the functions of the Council have been separated, into those that are not the responsibility of the Executive Board and those that must be carried out by the Executive Board.

There are also a number of functions, referred to as 'local choice functions' which must be allocated either to the Executive Board or the Council.

One key principle of the separation of functions is that a function (which is regulatory in nature), which imposes conditions, limitations, restrictions or other terms on any approval, consent, licence, permission or registration granted by the Council should not be carried out by the Executive Board. These matters typically involve decisions on individual rights and must be handled in a way that respects due process. This principle has been observed in determining the allocation of local choice functions.

Set out in the following schedules are the allocation of functions. Most of the Council functions have been delegated by the Council to the regulatory committees. These committees are constituted to reflect the political composition of the Council and the Council will determine their membership from time to time. Details of these Committees and their membership are set out in the table contained within Council Procedure Rule 37.1. There is further delegation of both Council and Executive functions to both Portfolio Holders and the Council's Officers. Details of the delegation to officers are set out in Section 4 of this Part. Although at present there is no delegation to individual Executive members, provisions dealing with future delegation to Portfolio Holders are set out in Section 5 of this Part.

Officers holding delegated powers under this Scheme may exercise them personally, or by way of a named delegate (duly documented) or via any other company, trust or public body including (but not exclusive to) Public Sector Partnership Services Limited and Magna Vitae Leisure Trust.

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## Section 1 – Responsibility for 'Local Choice' Functions

NB: In practice and acting in accordance with the powers granted in these Standing Orders many of the following matters are actually delegated to Officers.

	FUNCTION	RESPONSIBLE BODY
a	East Lindsey District Council Act 1982	General Licensing Committee
b	Determination of an appeal against any decision made by or on behalf of the Council (not employment matters)	Executive Board
c	Conducting service reviews	Executive Board
d	Contaminated Land functions under section 78 of the Environmental Protection Act 1990	Executive Board
e	Control of pollution and management of air quality	Executive Board
f	Investigation of complaints in respect of statutory nuisances.	Executive Board
g	Inspection of area for statutory nuisances under section 79 of the Environmental Protection Act 1990	Executive Board
h	Service of Abatement Notices in respect of a statutory nuisance under section 80 of the Environmental Protection Act 1990	Executive Board
i	Resolving that Schedule 2 of the Noise and Statutory Nuisance Act 1993 (Consent to operation of loudspeakers in streets or roads) should apply in the Authority's area	Council
j	Obtaining information under Section 330 of the Town and Country Planning Act 1990 as to interest in land: a) in connection with functions which are the responsibility of the Executive Board	Executive Board
	b) in connection with functions which are not the responsibility of the Executive Board	Planning Committee
k	Obtaining particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Executive Board
l	Implementation of a scheme for the licensing of scrap metal dealers, including the setting of fees (The Scrap	Executive Board

	Metal Dealers Act 2013)	
m	Making and revocation of appointments to outside bodies: a) in connection with functions which are the responsibility of the Executive Board	Executive Board
	b) in connection with functions which are not the responsibility of the Executive Board	Council
n	Public Sector Partnership Services Ltd. To receive and consider the annual Business Plan	Council
o	Making any arrangements to put staff at the disposal of other local authorities or public bodies	Executive Board

## Section 2 – Responsibility for Council Functions

The Council shall be responsible for setting the Budget and Policy Framework.

The following Council Functions shall be exercised by the Council and the Responsible Body indicated below (subject to any officer delegations set out in the Scheme of Delegation).

	FUNCTION	RESPONSIBLE BODY
a	<p>Planning and conservation</p> <p>Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ('the Functions Regulations')</p>	Planning Committee
b	<p>Highways use and regulation</p> <p>The exercise of powers relating to the regulation of the use of highways as set out in Schedule 1 to the Functions Regulations</p>	Planning Committee
c	<p>Development contrary to the National Planning Policy Framework and adopted Local Plan</p> <p>The determination of any planning application contrary to the National Planning Policy Framework and adopted Local Plan and officer recommendation which has been recommended by the officer for approval by the Planning Committee</p>	Planning Committee
d	<p>Taxi, gaming, food and miscellaneous licensing</p> <p>Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations</p>	General Licensing Committee
e	Health and safety	General Licensing Committee

	Functions relating to health and safety under any "relevant statutory provision" within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer	
f	<p>The promotion and maintenance of high standards of conduct within the Council</p> <p>To advise the Council on the adoption or revision of its Councillor Code of Conduct.</p> <p>To monitor and advise the Council about the operation of its Code of Conduct in the light of best practice or changes in the law, taking account of advice from the Monitoring Officer</p>	Audit & Governance Committee
g	<p>Assistance to Councillors and co-opted members of the Authority</p> <p>To ensure that all Councillors have access to training in all aspects of the Councillor Code of Conduct, that this training is actively promoted, and that Councillors are aware of the standards expected from them under the Code</p>	Audit & Governance Committee
h	<p>Employee Appeals</p> <p>To consider appeals against dismissal and grievances by employees of the Council</p>	Employment Committee
i	<p>Licensing Act 2003</p> <p>To exercise all the functions of the Authority under the Licensing Act 2003 (with the power to set up 3 Member sub committees under the Licensing Act 2003 to deal with individual hearings)</p>	Licensing Act 2003 Committee

j	To oversee the Council's audit, risk management and governance arrangements	Audit & Governance Committee
k	Scrutiny and review of decisions or actions in accordance with Section 21 of the Local Government Act 2000 and Regulations under Section 32 of the Local Government Act 2000	Overview Committee
l	Functions relating to Chief Officer appointment and disciplinary matters in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) Regulations 2015	Joint Chief Officer Employment Panel (with Boston Borough Council)
m	Functions relating to determining appeals relating to the appointment of Deputy Chief Executives in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 and the Memorandum of Agreement	Joint Appointment Appeals Committee (with Boston Borough Council)

Where any agreed function is undertaken by Public Sector Partnership Services Ltd, authority to undertake that function shall be delegated to the PSPS Chief Executive who may arrange for it to be carried out as he/she decides in line with the internal governance arrangements of the company.

Where any agreed function is undertaken by Magna Vitae Leisure Trust, authority to undertake that function shall be delegated to the Executive Director of the Leisure Trust who may arrange for it to be carried out as he/she decides in line with the internal governance arrangements of the Trust.

The Monitoring Officer in conjunction with the Chief Executive may make the necessary amendments to the Schedule of Delegations to officers and shall report any such changes in so far as is reasonably practicable to the next meeting of the Audit & Governance Committee.

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### Section 3 - Responsibility for Executive Functions

The Executive Board has responsibility for any function of the Council other than those allocated as functions of the Council or local choice functions not the responsibility of the Executive Board.

The Executive Board has not at present delegated any of its functions to a sub-committee, nor to an individual Councillor (portfolio holder) of the Executive Board. In the event that any such delegations to individual portfolio holders are made (see Section 5 below), they shall be in accordance with the Scheme of Delegation to Portfolio Councillors Protocol.

Executive functions delegated to officers of the Council and the extent of such delegations is set out in Section 4 below (See **Appendix B**).

### Section 5 - Delegation to Executive Portfolio Holders

The Leader of the Council may determine to exercise any of the Executive functions of the Council personally, or may arrange for the exercise of any of the Council's Executive functions by

- (i) the Executive; or
- (ii) (ii) by another member of the Executive; or
- (iii) (iii) by a committee of the Executive; or
- (iv) (iv) by an officer of the Council

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## Part 4 - Rules of Procedure

### Part 4.1 Council Procedure Rules

#### 1. Chairman of the Council

(a) The Council shall at every Annual Meeting appoint a Chairman who shall, unless he or she resigns or becomes disqualified, continue in office until his or her successor becomes entitled to act as Chairman.

(b) All Councillors, except members of the Executive Board, shall be eligible to stand for election as Chairman irrespective of their membership or non-membership of any political group and the Council shall seek to appoint a person who shall best promote the Council, the District and the interests of its inhabitants.

(c) In the event of the Chairman resigning or becoming disqualified during his or her term of office, a successor shall be appointed at the next ordinary meeting of the Council or at an extraordinary meeting convened for that purpose and shall continue in office for the remainder of his or her predecessor's term of office. This period in office shall not preclude the successor from standing for election at the next following Annual Meeting.

(d) The Chairman shall have precedence in the District, but not so as to prejudicially affect Her Majesty's Royal Prerogative. The Chairman shall, unless the Council has decided otherwise, represent or arrange the representation of the Council on all state, civic or formal occasions.

#### 2. Vice-Chairman of the Council

(a) The Council shall at the Annual Meeting appoint a Vice-Chairman who shall, unless he or she resigns or becomes disqualified, continue in office until his or her successor becomes entitled to act as Vice-Chairman.

(b) All Councillors, except members of the Executive Board, shall be eligible to stand for election as Vice-Chairman irrespective of their membership or non-membership of any political group and the Council shall seek to appoint a person who shall best assist the Chairman in promoting the Council, the District and the interests of its inhabitants.

(c) In the event of the Vice-Chairman resigning or becoming disqualified during his or her term of office a successor shall be appointed at the next ordinary meeting of the Council or at an extraordinary meeting convened for that purpose and shall continue in office for the remainder of his or her predecessor's term of office. The period in office shall not preclude the successor from standing for election at the next following Annual Meeting.

(d) The Vice-Chairman shall assist the Chairman as requested and shall if necessary assist the Chairman in representing the Council on state, civic or formal occasions.

#### 3. Annual Meeting of the Council

##### 3.1 Timing and business

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.

The Annual Meeting will:

- (a) Elect a person to preside if the Chairman /Vice Chairman of Council is not present
- (b) Receive apologies for absence and Receive any Declarations of Interest
- (c) Elect the Chairman of Council who shall, unless he or she resigns or becomes disqualified, continue in office until his or her successor becomes entitled to act as Chairman.
- (d) Elect the Vice-Chairman of Council; who shall, unless he or she resigns or becomes disqualified, continue in office until his or her successor becomes entitled to act as Vice-Chairman
- (e) Confirm as a correct record the minutes of the last meeting
- (f) Receive any announcements from the Chairman and/or Chief Executive
- (g) Deal with any actions from the last Council meeting
- (h) Elect the Leader of the Council for a 4 year term at the first Annual meeting following an election to East Lindsey District Council.
- (i) Appoint one Overview Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions ( in accordance with Council Procedure Rule 37.1)
- (j) Agree the Scheme of Delegation or such part of it as the Constitution determines. It is for the Council to agree Part 3 of this Constitution
- (k) Receive the statement from the Leader setting out the appointments to the position of Deputy Leader and Portfolio Holders in the Executive Board.
- (l) Receive the annual report from the Overview Committee
- (m) Approve the Programme of Ordinary Meetings
- (k) Consider any business set out in the notice convening the meeting

### 3.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- (a) Decide which committees to establish for the municipal year
- (b) Decide the size and terms of reference for those committees

- (c) Decide the allocation of seats to political groups in accordance with the political balance rules
- (d) Receive nominations of Councillors to serve on each Committee and outside body, appoint to those Committees and outside bodies (on the basis that any Councillor serving on outside bodies shall abide by the `Protocol for Councillor Representation on Outside Bodies' set out in Part 5.8 of this Constitution) except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive
- (e) Appoint two Councillors to act as Directors of Public Services Partnership Services Ltd
- (f) Appoint two Councillors to act as Trustees on the Board of Magna Vitae Leisure Trust.

#### 4. Ordinary Meetings

4.1 Ordinary meetings of the Council will take place in accordance with a programme decided by the Council at the Annual Meeting. Ordinary meetings will:

- (a) Elect a person to preside if the Chairman and Vice-Chairman are not present
- (b) Receive apologies for absence
- (c) Receive any Declarations of Interest
- (d) Approve as a correct record the minutes of the last meeting
- (e) Deal with any actions or business from the last Council meeting
- (f) Receive any announcements from the Chairman
- (g) Receive statements from the Leader (or his appointed nominee) and/or the Chief Executive.
- (h) Receive questions from Councillors on the statement from the Leader.
- (i) Consider questions raised by the public under Council Procedure Rule 10
- (j) Receive reports, minutes and recommendations from the Executive and the Council's Committees and receive questions and answers on any of those reports
  - (i) Receive reports about and receive questions and answers on the business of joint arrangements and external organisations
  - (ii) Receive reports on appointments to Outside Bodies and take questions thereupon
  - (iii) Receive reports/feedback from Councillors upon request, following attendance at national or local policy briefings, training events, or work on Outside Bodies and take questions thereupon

(iv) Receive reports from the Chair of the Audit & Governance Committee and/or Monitoring Officer on Constitutional amendments and take questions thereupon, to make the appropriate report to Full Council and publicise to Councillors as appropriate

(k) Consider any other business specified in the summons to the meeting – including consideration of proposals from the Executive in relation to the Council's Budget and Policy Framework and reports of the Overview Committee for debate

(l) Panel Discussion: Portfolio Holders and/or Chairs of Committees to be invited as part of an annual rolling programme, to present a short briefing (notified in advance) on key policies, plans, strategies and activities that are of interest or relevant to the district, followed by open discussion and debate. To be no longer than 45 minutes, and not to take place at the annual Budget Setting meeting. The Chairman has the discretion to amend the programme in the light of any significant issues of importance.

(m) Consider motions

(n) Consider questions raised by Councillors under Council Procedure Rule 11

(o) Receive petitions in accordance with Council Procedure Rule 31.

4.2 The Chairman of the meeting may, at the commencement of the meeting, particularly if members of the public are present, open the meeting with any necessary introductions and explanations. The above order of business, other than as regards (a) above being taken first, may be varied by the Chairman at his or her discretion or a resolution passed on a motion, which, after being moved and seconded, shall be put to the vote without discussion.

## 5. Extraordinary Meetings

### 5.1 Calling extraordinary meetings

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

(a) The Council by resolution

(b) The Chairman of the Council

(c) The Monitoring Officer

(d) Any five Councillors may call an extraordinary meeting of the Council if a requisition for such a meeting signed by the said five Councillors has been presented to the Chairman of the Council, and either he/she has refused to call a meeting, or without him/her so refusing, no extraordinary meeting has been called within seven days of the presentation of the requisition.

### 5.2 Business

The business to be transacted at an extraordinary meeting of the Council will be restricted to that which is set out in the summons to the meeting.

## 6. Time and Place of Meetings

The time and place of meetings will be determined by the Chief Executive and notified in the summons.

### 6.1 Cancellation of Meetings

The Chief Executive (or Deputy Chief Executive in his/her absence) is authorised to cancel any meeting where a summons and agenda has already been issued if it is considered expedient to do so. Before exercising this power the Chief Executive (or Deputy Chief Executive as appropriate) shall consult with the Leader (in the case of a Full Council meeting) or the Chairman or Vice Chairman of a Committee in the case of a Committee meeting. Any outstanding business will be carried over to the next scheduled meeting or a meeting to be held on a date to be fixed.

## 7. Notice of and Summons to Meetings

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting the Chief Executive will send a summons signed by him or her to every Councillor or leave it at his or her usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available. A copy of the summons will also be placed on the Council's website.

## 8. Chairman of Meeting

In the absence of the Chairman and Vice-Chairman from a meeting of the Council, a Committee or Working Party, a person to preside for that meeting shall be elected by the meeting. The person presiding at the meeting may exercise any power or duty of the Chairman.

## 9. Quorum

The quorum of the Council meeting is 28 Councillors. During any meeting if the Chairman counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

### 9.1 Declarations of Interest

Where a Councillor has a Disclosable Pecuniary Interest (as defined in the Councillor Code of Conduct) he/she must make an oral declaration to that effect at the item 'Disclosure of Interest' of the meeting of the Council, or just before the item is to be discussed, and provide any necessary details with regard to the same. In addition to the position on Disclosable Pecuniary Interests, Councillors shall declare and deal with any other interests in accordance with the Councillor Code of Conduct and are required to consider the importance of perceptions and urged to take advice from the Monitoring Officer in cases of doubt.

## 10. Questions by the Public

## 10.1 General

Members of the public may ask questions of the Leader, any member of the Executive or the Chair of any Committee at Ordinary meetings of the Council.

## 10.2 Notice of Questions

A question may only be asked if 4 working days' notice has been given by delivering it in writing or by electronic mail (via Questions2Council@e-lindsey.gov.uk) to the Chief Executive no later than 18.30hrs on the Thursday prior to the Wednesday Council meeting\*. Each question must give the name and address of the questioner and must identify the office-holder to whom it is to be put.

\* NB: This date may be subject to change due to Bank Holidays.

Questions must be written as succinctly as possible.

## 10.3. Number of Questions

No person may submit more than one question at any one meeting. No more than one question on any single topic will be submitted to any one meeting of the Council.

## 10.4. Scope of Questions

The Chief Executive may reject a question if it:-

- (a) Does not relate to a matter of general interest; or
- (b) Does not relate to a matter for which the Council has responsibility or which affects the interests of the District; or
- (c) Relates exclusively to an individual grievance or personal issue and/or relates to a matter that is the subject of an ongoing investigation or complaint ; or
- (d) Is defamatory, offensive, or frivolous; or
- (e) Is substantially the same as a question which has been put at a meeting of the Council within the previous six months; or
- (f) Requires the disclosure of exempt or confidential information.

## 10.5 Record of Questions

The Chief Executive will maintain a register of questions received which will be available to public inspection. A copy of the question shall be sent to the office-holder to whom it is to be put.

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

## 10.6 Rejection of Questions

Any person whose question is rejected in accordance with 10.4 above will be informed in writing including the reason for rejection.

## 10.7 Asking the Question at the Meeting

Questions will be asked in the order in which notice of them was received, except that any person who has asked a question at the preceding meeting of the Council will only be entitled to put his or her question after questions from persons who have not asked questions at the preceding meeting have been dealt with. The Chairman will invite the questioner to put the question to the office-holder named in the notice. The question must be read out by the person who submitted it (or his/her nominated representative who shall not be a District Councillor). The question must be put strictly in the form in which it was submitted. Answers will be given by the office-holder to whom the question is directed or their nominated substitute, unless it properly falls within the remit of another office-holder, in which case the question will be directed as appropriate.

## 10.8 Supplementary Question

A questioner or his/her representative who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to his/her original question. A supplementary question must arise directly out of the original question or reply. Where the original question is answered by a nominated substitute (or has been referred to another office holder in accordance with Council Procedure Rule 10.7) any supplementary question will be answered in a written response from the relevant Portfolio Holder. The Chairman may reject a supplementary question on any of the grounds specified in Council Procedure Rule 10.4. No supplementary question may be put if the questioner (or nominated substitute) is not in attendance.

## 10.9 Written Answers

Any question submitted to the Council under Council Procedure Rule No. 10 will be dealt with by a written answer, in addition to the answer to the question being given verbally by the relevant office-holder or his/her nominated substitute at the Council Meeting.

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the questioner (or nominated substitute) or Councillor to whom it was to be put, will be dealt with by a written answer (the relevant office-holder may nominate a substitute to reply on their behalf). All written answers will be appended to the formal minutes of the meeting.

If the person raising the Question to Council does not attend the Council meeting (and there is no nominated substitute) the question and response will be circulated to all Members present but will not be read out at the meeting. The question and response will be incorporated into the minutes of the meeting.

## 10.10 Length of Question Time

Question time will be limited to 15 minutes.

## 11. Questions by Councillors

### 11.1 On reports of the Executive or Committees

A Councillor may ask the Leader, Executive Portfolio Holder, or the Chairman of a Committee any question without notice upon an item of the report of the Executive or a Committee when that item is being received or under consideration by the Council at that Meeting.

#### 11.2 Questions on notice at a Council Meeting

Subject to Rule 11.3, a Councillor may ask:

- the Chairman;
- an Executive Councillor;
- the Leader; or
- the Chairman of any Committee or sub-Committee

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

#### 11.3 Questions on notice at committees and sub-committees

Subject to rule 11.4, a member of a Committee or sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the District and which falls within the terms of reference of that Committee or sub-Committee.

#### 11.4 Notice of questions

A Councillor may only ask a question under Rule 11.2 if they have given notice in writing or by electronic mail (via [Questions2Council@e-lindsey.gov.uk](mailto:Questions2Council@e-lindsey.gov.uk)) to the Proper Officer no later than 18.30hrs on the 4th working day prior to the Council meeting. For example questions for a Wednesday Council Meeting must be received by 18.30hrs the previous Thursday\*.

\* NB: This date may be subject to change due to Bank Holidays.

#### 11.5 Response

Details of all questions received under Rule 11.2 will be circulated to those Councillors present on the morning of the day of the meeting.

An answer may take the form of:

- (a) A direct written answer circulated with the details of the questions
- (b) Where the desired information is in a publication of the Council or other published work, a reference to that publication
- (c) Where the reply cannot conveniently be given at the meeting, a written answer circulated later to the questioner.

#### 11.6 Supplementary question

A Councillor asking a question under Rule 11.2 may ask one supplementary question without notice of the Councillor to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

#### 11.7 Deemed Withdrawal of Question

If the Councillor who lodged the question is not present at the meeting, there shall be no supplementary question allowed.

### 12. Motions on Notice

#### 12.1 Notice

Except for motions which can be moved without notice under Rule 13, notice must be given by delivering it in writing or by electronic mail to the Chief Executive not later than on the 9th working day before the date of the meeting. These will be entered in a book open to public inspection. This must be supported by at least one other Councillor who will act as seconder.

#### 12.2 Motion set out in agenda

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

#### 12.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the District. A motion must not concern a specific planning or licensing matter nor relate to a particular complaint being considered by the Council (in any form) nor must it relate to a particular officer of the Council.

#### 12.4 Attendance at Meetings

If at a meeting of the Council during which the motion is to be considered:-

- (a) Both the proposer and seconder are absent for the item, then unless the Chairman decides to move it until later on in the agenda when both are present, the motion shall be deemed to have been withdrawn.
- (b) If the proposer is absent, the seconder may propose the motion, subject to it being seconded by another Councillor, and then it may be open to debate in the usual way.
- (c) If the seconder is absent, then subject to the motion being seconded by another Councillor it may be open to debate in the usual way.

### 13. Motions without Notice

The following motions may be moved without notice:

- (a) To appoint a Chairman of the meeting at which the motion is moved
- (b) In relation to the accuracy of the minutes

- (c) To change the order of business in the agenda
- (d) To refer a matter under consideration to an appropriate body or individual - a matter referred to the Overview Committee for detailed consideration requires a majority of two thirds of the Councillors present and voting to determine that a matter be not referred for scrutiny - the Council will determine the scope of the matters to be scrutinised and the terms of reference for the review, at the time of agreeing to refer such a matter
- (e) To appoint a Committee or Councillor arising from an item on the summons for the meeting
- (f) To receive reports or adoption of recommendations of Committees or officers and any resolutions following from them
- (g) To withdraw a motion
- (h) To amend a motion
- (i) To proceed to the next business
- (j) That the question be now put
- (k) To adjourn a debate
- (l) To adjourn a meeting
- (m) That a meeting be allowed to continue beyond 4 hours in duration
- (n) To suspend a particular Council Procedure Rule save that rules 16.6, 17.2,18.6 and 19.2 cannot be suspended.
- (o) To exclude the public and press in accordance with the Access to Information Rules
- (p) To not hear further a Councillor named under Rule 22.3 or to exclude them from the meeting under Rule 22.4
- (q) To give the consent of the Council where its consent is required by this Constitution

#### 14. Motions affecting persons employed by the Council

If any question arises at a meeting of the Council or of a Committee or working group as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council or Committee as the case may be, has decided whether or not the power of exclusion of the public under section 100A of the Local Government Act 1972 shall be exercised.

#### 15. Mover of Motion may attend Committee

A Councillor who has moved a motion, which has been referred to any Committee, shall have notice of the meeting of the Committee at which it is proposed to consider the motion. He/she shall have the right to attend the meeting and if he or she attends shall have an opportunity of explaining the motion.

## 16 Rules of Debate

The following paragraphs set out the formal rules of debate. However, it shall be open to the Chairman of any meeting governed by these Council Procedure Rules to adopt less formal procedures, if in his or her view, this will allow all Councillors to express their views properly and is appropriate to the subject matter under debate. If the Chairman permits departure from these rules it shall be open to any Councillor who is a member of the Committee in question to request that 'the formal rules of debate be followed' in which case the remainder of the debate on the matter under discussion shall be in accordance with the Rules below.

### 16.1 No speeches until motion seconded

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

### 16.2 Right to require motion in writing

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

### 16.3 Secunder's speech

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

### 16.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chairman of the Council.

### 16.5 When a Councillor may speak again

A Councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) To speak once on an amendment moved by another Councillor
- (b) To move a further amendment if the motion has been amended since he/she last spoke
- (c) If his/her first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which he/she spoke was carried)
- (d) In exercise of a right of reply, as mover of a proposal or an amendment immediately before such proposal or amendment is put to the vote
- (e) On a point of order (this is to raise an issue as either a breach of law or a breach of a rule under the Constitution)
- (f) By way of personal explanation.

### 16.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be to:
  - (i) Refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) Leave out words;
  - (iii) Leave out words and insert or add others; or
  - (iv) Insert or add words.

As long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 16.7 Alteration of motion

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

#### 16.8 Withdrawal of motion

A Councillor may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### 16.9 Right of reply

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

#### 16.10 Motions which may be moved during debate

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

- (a) To withdraw a motion;
- (b) To amend a motion;
- (c) To proceed to the next business;
- (d) That the question be now put;
- (e) To adjourn a debate;
- (f) To adjourn a meeting;
- (g) That a meeting be allowed to continue beyond 4 hours in duration
- (h) To exclude the public and press in accordance with the Access to Information Rules; and
- (i) To not hear further a Councillor named under Rule 22.3 or to exclude them from the meeting under Rule 22.4.

#### 16.11 Closure motions

(a) A Councillor may move, without comment, the following motions at the end of a speech of another Councillor.

- (i) To proceed to the next business
- (ii) That the question be now put
- (iii) To adjourn a debate
- (iv) To adjourn a meeting

(b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

(c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

(d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 16.12 Point of order

A Councillor may raise a point of order at any time, which will relate to a breach of law or a breach of a rule under the Constitution. The Chairman will hear them immediately. A point of order may only

relate to an alleged breach of these Council Procedure Rules or the law. The Councillor must indicate the Rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

#### 16.13 Personal explanation

A Councillor may make a personal explanation at any time, the purpose of which must be to provide clarification. A personal explanation may only relate to some material part of an earlier speech by the Councillor, which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

### 17. Previous Decisions and Motions

#### 17.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of the Council within the past six months cannot be moved unless written notice of motion is delivered to the Chief Executive at least 14 days in advance signed by at least one third of the membership of the Council (19 Councillors).

#### 17.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 10 Councillors. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### 18. Voting

#### 18.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Councillors voting and present in the room at the time the question was put. In the case of matters which the Chairman judges to be non-controversial by silent assent, that is by the Chairman asking 'is that agreed' and in the event of no dissent being made the vote being recorded as carried.

#### 18.2 Chairman's casting vote

If there are equal numbers of votes for and against, the Chairman will have a casting vote in addition to his/her first vote regardless of whether the first vote has been exercised or not. There will be no restriction on how the Chairman chooses to exercise a casting vote.

#### 18.3 Means of Voting: Show of hands

Unless a ballot or recorded vote is demanded under rules 18.4 and 18.5, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

#### 18.4 Means of Voting: Paper Ballots

The vote will take place by paper ballot if 10 Councillors present at the meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

#### 18.5 Means of Voting: Recorded vote

If 10 Councillors present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot. The exception to this is in regard to the annual budget consideration where a recorded vote is mandatory in line with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014.

#### 18.6 Right to require individual vote to be recorded

Where any Councillor requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting. (This is mandatory in line with the Local Authorities (Standing Orders) Regulations 1993 and may not be suspended).

#### 18.7 Voting on appointments

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

### 19. Minutes

#### 19.1 Signing the minutes

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

#### 19.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes. (This is mandatory in line with the Local Authorities (Standing Orders) Regulations 1993 and may not be suspended).

#### 19.3 Form of minutes

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

### 20. Record of Attendance

The Chief Executive shall record the attendance of every Councillor attending a meeting of the Council and every Councillor so attending shall sign his/her name on the Attendance Sheet provided for that purpose.

## 21 Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 23 (Disturbance by Public).

## 22. Councillors' Conduct

### 22.1 Standing to speak

When Councillors speak at the Council meeting they must stand (unless unable to do so) and address the meeting through the Chairman. If more than one Councillor stands, the Chairman will ask one to speak and the others must sit. Other Councillors must remain seated whilst a Councillor is speaking unless they wish to make a point of order or a point of personal explanation.

### 22.2 Chairman standing

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

### 22.3 Councillor not to be heard further

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

### 22.4 Councillor to leave the meeting

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

### 22.5 General disturbance

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

## 23. Disturbance by Public

### 23.1 Removal of member of the public

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

### 23.2 Clearance of part of meeting room

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

## 24. Exercise of Powers and Functions

No individual Councillor or Officer or group of Councillors or Officers (or both) shall be entitled to exercise any power or function of the Council save as delegated to them by the Council or by a

Committee exercising a power or fulfilling a function on behalf of the Council or as detailed in these Procedure Rules

Whilst the Chairman and Vice-Chairman of the Council and Committees of the Council and Portfolio Holders can expect to be consulted on matters affecting their area of responsibility they shall not save as above have power to act on behalf of or bind the Council.

Groupings of Councillors such as the Committee Chairmen or of officers such as the Corporate Management Team shall act only in accordance with powers delegated to them or instructions given to them by Council or by a Committee.

#### 25. Inspection of Documents

A Councillor may, for the purposes of his or her duty as a Councillor but not otherwise, on application to the Chief Executive, inspect any document which is in the possession of the Council, and if copies can be made shall on request be supplied with a copy of such a document. This shall not preclude the Chief Executive from declining to allow inspection of any document, which is, or in the event of legal proceedings, would be protected by privileges arising from the relationship of solicitor and client. There are specific exclusions under the Data Protection Act 1998 and Freedom of Information Act 2000 under which the Chief Executive may rule that Councillors and/or the public may not be entitled to view specific documents or be unable to see specific parts of documents such as personal data.

A Councillor shall not knowingly inspect or request a copy of any document relating to a matter in which he or she is professionally interested or in which he or she has a Disclosable Pecuniary Interest or other interest within the meaning of the Councillors' Code of Conduct and this Council Procedure Rule.

All reports made or minutes kept by the Council or any Committee or working party shall, as soon as that body has concluded action on the matter to which such reports or minutes relate, be open for the inspection of any Councillor.

#### 26 Inspection of Lands, Premises etc

Unless specifically authorised to do so by the Council or a Committee or working party, a Councillor shall not issue any order respecting any works being carried out by or on behalf of the Council or claim by virtue of his or her membership of the Council any right to inspect or to enter upon any lands or premises which the Council has the power or duty to inspect or enter.

#### 27 Interest of Officers in Contracts

The Chief Executive shall record in a register for that purpose, notice given by an Officer of the Council of a pecuniary interest in a contract and the book shall be open during office hours for inspection by any Councillor.

#### 28 Staff Establishment, Recruitment, Disciplinary and Dismissal

No new office shall be created nor any person be employed in addition to the existing establishment, except in accordance with the Council's Scheme of Delegation or by resolution of the Council or a Committee of the Council.

All vacancies to be filled other than those paid by weekly wage, unless they are to be filled by promotion or transfer, shall be publicly advertised except where the Council otherwise determines, provided that where, within six months of the filling of a vacancy which has been publicly advertised a similar vacancy occurs, a Chief Officer may appoint one of the former applicants.

All recruitment, including the recruitment of the Chief Executive and Chief Officers, together with disciplinary and dismissal procedures will be in accordance with the Officer Employment Procedure Rules contained in Part 4 of this Constitution.

29. This rule has been removed.

30. Suspension and Amendment of Council Procedure Rules

30.1 Suspension

All of these Council Rules of Procedure except Rule 16.6, 17.2, 18.6 and 19.2 may only be suspended by motion on notice or without notice if the meeting is quorate. Suspension can only be for the duration of the meeting.

30.2 Amendment

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

31 Petitions at East Lindsey District Council

1) East Lindsey District Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt.

That 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.

Paper petitions can be sent to:

The Chief Executive,

East Lindsey District Council,

Tedder Hall,

Manby Park,

Louth,

Lincs,

LN11 8UP

Petitions can also be created, signed and submitted online at [www.e-lindsey.gov.uk](http://www.e-lindsey.gov.uk)

Any petition submitted by those who live or work within the District will be accepted by the Council and we shall respond in accordance with Council Procedure Rules 31.2 and 31.3 save that any petition shall be inadmissible on account of it being vexatious, defamatory, or concerning a live licensing/planning matter, or if it concerns a complaint that has been or is being processed by the Council or the Local Government Ombudsman, or a matter that relates to an officer of the Council.

Petitions can be presented to a meeting of the Council if they contain validated signatures from 1% of the district population. The Council meetings take place periodically, the dates and times can be found on the Council website. If your petition qualifies to be presented to Council and you would like to present it, or would like your Councillor or someone else to present it on your behalf, please contact Democratic Services at least 10 working days before the meeting and they will talk you through the process. In order for a petition to be presented to a meeting of the Full Council it must have been submitted and received at least 10 working days before the date of the meeting.

#### 31.1 What are the guidelines for submitting a petition?

Petitions submitted to the Council must include:

- A clear and concise statement covering the subject of the petition. It must clearly state what action the petitioners wish the Council to take
- The name, address, postcode and signature of any person supporting the petition. Without this information the petition cannot be validated

Petitions must be accompanied by contact details, including the name, address and postcode, for the petition organiser.

This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, the first signatory will be assumed as being such. Petitions that are considered to be vexatious, abusive or otherwise inappropriate will not be accepted, the Chief Executive in consultation with the Chairman/Vice Chairman of Overview Committee will have authority to refuse petitions on these grounds. In the period immediately before an election or referendum we may need to deal with your petition differently—if this is the case we will explain the reasons and discuss the revised timescale that will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

#### 31.2 After receiving a petition, the Council will:-

Acknowledge receipt to the organiser within 10 working days of receiving the petition. It will advise what it plans to do with the petition and when the organiser can expect a further response. The petition will also be published on our website.

If it is within the Council's gift to do what the petition asks for, the acknowledgement may confirm that action has been taken and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or to be forwarded for consideration by Overview Committee, and has been submitted at least 10 days prior to the date of the respective meeting 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.

If the petition relates to a planning or licensing application, is a statutory petition (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. Further information on all these procedures and how you can express your views may be obtained from Democratic Services.

We will not take action on any petition that we consider vexatious, abusive or otherwise inappropriate, and will explain the reasons for this in our acknowledgement of the petition.

To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you can elect to receive this information by email. We will not send you anything that is not relevant to the e-petition you have signed, unless you choose to receive other emails from us.

### 31.3 How will the Council respond to petitions?

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 Overview Committee\*
- Calling a referendum
- Writing to the petition organiser setting out our views about the request in the petition

The Overview Committee is a Committee of Councillors who are responsible for scrutinising the work of the Council—in other words, the Overview Committee has the power to hold the Council's

decision makers to account. In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

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 relevant Council, but could involve other steps. In any event we will always notify you of the action we have taken.

#### 31.4 Full Council debates

If a petition contains 1,400 (1% of the district population) validated signatures it will be debated by the full Council, this means that the issue(s) raised in the petition will be discussed at a meeting that 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. In order for this to occur, the petition must have been submitted at least 10 working days before the date of the 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 (up to) a maximum of 30 minutes, or longer at the discretion of the Chairman of the Council. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant Committee. Where the issue is one on which the Council's Executive Board is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

#### 31.5 Consideration by Overview Committee

If your petition contains at least 700 validated signatures (0.5% of the District population), it will be considered at a public meeting of the Overview Committee. In order for this to occur, the petition must have been submitted at least 10 working days before the date of the meeting. The Committee may decide to call relevant Councillor(s) and officer(s) to attend the meeting. The petitioner shall be allowed to address the Committee for a maximum of five minutes. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the Committee by contacting Democratic Services up to three working days before the meeting.

#### 31.6 E-petitions

The Council welcomes e-petitions which are created and submitted through our website :-

<https://democracy.e-lindsey.gov.uk/mgEPetitionListDisplay.aspx?bcr=1&>

E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide us with their name, postal address, including their postcode and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the “rejected petitions” section of the website.

When an e-petition has closed for signature, it will automatically be submitted to the Chief Executive, in the same way as a paper petition and you will receive an acknowledgement within 10 working days. If you would like to present your e-petition to a meeting of the Council provided it meets the qualifying criteria, please contact Democratic Services within 10 working days of receipt of the acknowledgement.

A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.

#### 31.7 How do I ‘sign’ an e-petition

You can see all the e-petitions currently available for signature by following the petitions link on the website:-

<https://democracy.e-lindsey.gov.uk/mgEPetitionListDisplay.aspx?bcr=1&>

When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link that you must click on in order to confirm the email address is valid. Once this step is complete your ‘signature’ will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

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

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Overview Committee review the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council’s response is not considered to be adequate.

The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting.

Should the Committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include requesting further information from the petitioner and from officers, making recommendations to the Executive Board and arranging for the matter to be considered at a meeting of the Full Council. For the avoidance of doubt the

Overview Committee shall have no powers in respect of staff or disciplinary matters, which shall remain a matter for the Chief Executive.

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.

### 32. Substitutions at Committees and Sub-Committees

(a) Substitute Councillors will have all the powers and duties of any ordinary member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

(b) Substitute Councillors may attend meetings in that capacity only:

(i) To take the place of the ordinary Councillor for whom they are the designated substitute;

(ii) Where the ordinary Councillor will be absent for the whole of the meeting; and

(iii) After the Group Leader/Deputy Leader and/or party whip has notified the Chief Executive, by electronic mail or in writing, at least 4 hours before the commencement of the meeting

(c) Substitutions will not be permitted at Meetings of the Executive Board or the Licensing Act 2003 Committee.

(d) Any Councillor substituting at a Meeting of the Planning, Planning Policy, General Licensing and Audit and Governance Committees must have received the most recent mandatory training which must have been within the twelve-month period prior to the Meeting.

(e) Executive Board Councillors will not be permitted to substitute at Meetings of the Planning Committee, the General Licensing Committee, the Licensing Act 2003 Committee or Meetings of the Overview or Scrutiny Committees.

### 33. Application to Committees and Sub Committees

All of the Council Rules of Procedure apply to meetings of the Council. Only Rules 4 to 21 but not Rules 10, 11, , 18.4, 18.5 and 22.1) apply to meetings of committees and sub-committees. For the avoidance of doubt Rule 16.4 (length of speech) will apply to all formal meetings.

### 34 Interpretation of Council Procedure Rules

The ruling of the Chairman as to the construction or application of any of these Council Procedure Rules or as to any proceedings of the Council, Committees or working parties shall be final.

### 35 Council and Committee Agendas

Subject to the requirements of the Local Government Act 1972 and any other legislation relating to the contents of or other requirements for agendas, agendas for meetings shall be set by the Chairman, Vice-Chairman and relevant Portfolio Holder and on the advice of the Chief Executive, Chief Officers and other appropriate officers of the Council. In the event of both Chairman and Vice-

Chairman being unavailable, the agenda shall be set by the Chief Executive or such officer as he/she shall designate for the purpose.

36 Complaints against Councillors (Planning or other Protocols)

36.1 Where the complaint against a Councillor is made:

(a) by another Councillor or Councillors in writing to the Chief Executive alleging that there has been a breach of the Planning or other Protocol of the Council

or

(b) by a member of the public (other than an employee) and the Chief Executive is satisfied that the complaint raises an allegation that the Planning Protocol or other Protocol has been breached then the Chief Executive shall pass the complaint to the Council's Monitoring Officer who will determine whether the complaint involves the conduct of a Councillor.

36.2 Complaints involving Councillor conduct will be considered by the Monitoring Officer, in consultation with the Independent Person and where necessary referred to a Hearing Panel via the Audit and Governance Committee.

37. Constitution of Committees and Working Parties

37.1 The following shall be Standing Committees of the Council:

Name	Number of Councillors	Quorum
Executive Board	9	4
Overview Committee	11	5
Planning Committee	13	6
Planning Policy Committee	11	5
General Licensing Committee	11	5
Licensing Act 2003 Committee	11	5
Employment Committee	9	4
Audit & Governance Committee	9	4

37.2 The Executive shall have responsibilities allocated to Executive Board members (known as Portfolio Holders) by the Leader .

37.3 The Council may at any time appoint working parties for such purposes as it shall specify. Standing committees of the Council may appoint working parties as specified in their terms of reference and additional working parties with the agreement of the Executive.

37.4 The membership of each working party appointed by the Council or a Committee shall unless the Council agree otherwise be the smallest number that complies with the political balance requirements of the Local Government and Housing Act 1989. The terms of reference of working parties shall be specified by the body appointing them as shall their duration or the event on which they shall cease to meet. The continuation of working parties shall be reviewed at least annually by the body appointing them and in the case of those appointed by Committees, the agreement of the Executive shall be required for their continuation for more than a year.

37.5 A Councillor may attend as an observer any meeting of a Committee or working party of which he or she is not a member. He or she should not engage in debate or discussion or vote, but may speak by way of explanation on any matter by leave of the Chairman.

37.6 The Chairman of the Council shall not be eligible for appointment as chairman or vice-chairman of any Committee

38. Appointment of Committees and Leader of the Council

38.1 The Council shall at the Annual meeting:

(a) Appoint the members of such Committees as they require to appoint by or under any statute or under Standing Order 36.1 (Constitution of Committees) but shall not appoint any member of a Committee so as to hold office later than the next Annual Meeting of the Council

(b) Elect a Leader of the Council who shall also be Chairman of the Executive at the beginning of a new Council (every 4 years).

(c) The Leader of the Council may determine to exercise any of the Executive functions of the Council personally, or may arrange for the exercise of any of the Council's Executive functions by:-

(i) the Executive

(ii) by another member of the Executive

(iii) by a Committee of the Executive

(iv) by an officer of the Council

38.2 The Leader of the Council shall have responsibility for promoting with the community, outside bodies and other statutory agencies the policies and functions of the Council as a whole.

38.3 The Chief Executive and senior officers shall meet regularly with the Portfolio Holders to discuss policy, budgetary or other matters.

38.4 The Council may dissolve any Committee or alter its membership at any time.

38.5 The Council may also at any time appoint named substitutes for all Committees of the Council (other than the Executive Board), each political group and non-grouped Councillors being entitled to nominate as many substitutes as they have Councillors on the Committee, save in the case of the General Licensing, Planning, Planning Policy and Audit and Governance Committees the named substitute must have the requisite training but not be a member of the Executive.

38.6. Councillors shall not be eligible to hold certain positions if they already hold certain other positions as follows:

a) The Chairman of the Council shall not be eligible to hold the position as chairman of a Committee or working party nor as a Portfolio Holder.

b) Portfolio Holders shall not be eligible to be elected as chairmen of Committees or of working parties, other than the Executive and its working parties save in the case of the Planning Policy Committee where the Portfolio Holder for Planning will be the Chairman.

c) Portfolio Councillors shall not normally be members of Council Committees other than the Executive unless it is not otherwise possible to achieve the political balance required by the Local Government and Housing Act 1989 except in the case of Planning Policy Committee which may be chaired by a Portfolio Holder.

d) Executive Councillors shall not be eligible to serve as members of the General Licensing, Planning and Overview Committee (including substitutes).

e) Where the Council has specified that training shall be mandatory for members of a Committee, no Councillor or substitute shall be eligible for appointment to that Committee unless they have undertaken the most recent specified training provided by the Council which must have been within the previous twelve months. Training in the Code of Conduct and ethical standards is mandatory for all Councillors.

## 39 Matters Common to all Committees

### 39.1 General Clauses

(a) There shall be delegated to every Committee of the Council full power to act in all matters covered by their terms of reference subject to compliance with the Council's Standing Orders, Financial and Contracts Procedure Rules.

(b) For the purpose of exercising any of its delegated powers, any Committee may authorise an Officer of the Council to act on its behalf under Section 223 of the Local Government Act 1972, in respect of legal proceedings in Court of summary jurisdiction and Section 60 of the County Courts Act 1984.

(c) Any mention in the Terms of Reference of any Act of Parliament shall be deemed to extend to any Act amending or replacing the same and to any Rules, Regulations or Orders made under it.

(d) No general reference of a power, duty or function to a Committee shall include any power, duty or function specifically referred to another Committee.

### 39.2 Powers

Every Committee:

(a) May delegate any power, duty or function referred to it under their terms of reference to another Committee or an officer of the Council save where prohibited by law or by resolution of the Council.

(b) Shall have power to recommend to the Executive the appointment of a working party, which shall report to the recommending Committee.

(c) Shall have power to appoint delegates to attend conferences and meetings concerned with matters which come within the Terms of Reference of that committee, subject to liaison with the

appropriate Group Leader and there being a requirement that the delegate provides a written report back to the committee.

(d) May recommend the making of bylaws relevant to any function of that committee.

(e) Shall have power to recommend to the Executive changes in its (the committee's) structure, constitution, membership or function.

(f) Shall have power to liaise with and make submissions to Government Departments and regional and national bodies including the Local Government Association in connection with matters within its terms of reference.

### 39.3 Meetings

Committees shall meet in accordance with the timetable of meetings published prior to the Annual Meeting of the Council each year. A decision not to hold a meeting of a Committee in accordance with the timetable shall be taken in accordance with the provisions in the Council's Scheme of Delegation (Part 3). The holding of additional meetings (other than extraordinary meetings under Standing Order) shall also be dealt with in accordance with those provisions.

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## Part 4.2 Access to Information Procedure Rules

### Introduction

The Council is committed to striking the proper balance between openness and individual legal rights to privacy and will :-

- promote transparency in its work
- be proactive in making available information which is public in nature or interest
- be open and accountable
- maintain individual privacy and confidentiality in accordance with the law

#### 1. Scope

These Rules apply to all meetings of the Council, Overview and Regulatory Committees and public meetings of the Executive (together called 'meetings').

#### 2. Additional Rights to Information

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

#### 3. Rights to Attend Meetings

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

#### 4. Notice of Meeting

The Council will give at least five clear days notice of any meeting by posting details of the meeting on the Council's Website and at the Council's main office.

#### 5. Access to Agenda and Reports before the Meeting

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

#### 6. Supply of Copies

The Council will supply copies of:

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

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

#### 7. Access to Minutes etc. after the Meeting

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

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

#### 8. Background Papers

##### 8.1 List of background papers

The Chief Executive will ensure that every report includes a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion disclose any facts or matters on which the report or an important part of the report is based and which have been relied on to a material extent in preparing the report. This will not include published works or those which disclose exempt or confidential information (as defined in Rule 10 below).

##### 8.2 Public inspection of background papers

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

#### 9. Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept and available to the public at the Council Offices, Tedder Hall, Manby Park, Louth LN11 8UP.

#### 10. Exclusion of Access by the Public to Meetings

##### 10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information (as defined by Access to Information Procedure Rule 10.3) would be disclosed.

##### 10.2 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information (as defined by Access to Procedure Rule 10.4) would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (as set out in domestic law in the Human Rights Act 1998) establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one or more of the reasons specified in Article 6 of the Convention.

### 10.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed due to a Court Order.

### 10.4 Meaning of exempt information

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

#### Category

1. Information relating to any individual.
2. Information, which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under the –

- (a) Companies Act 1985[3]
- (b) Friendly Societies Act 1974[4]
- (c) Friendly Societies Act 1992[5];
- (d) Industrial and Provident Societies Acts 1965 to 1978[6]
- (e) Building Societies Act 1986 [7]
- (f) Charities Act 1993 [8]

4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office holders under, the Authority.

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

6. Information, which reveals that the Authority proposes –

- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

(b) to make an order or direction under any enactment.

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

Information which –

falls within any of categories 1 to 7 above is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Information is not exempt information if it relates to proposed development for which the Local Planning Authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992[9].

10.5 In relation to any scrutiny of health services, exempt information shall be that defined in Schedule 17 of the National Health Service Act 2006. Advice from the Monitoring Officer should be sought, as appropriate.

#### 11. Exclusion of Access by the Public to Reports

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

#### 12. Application of Rules to the Executive

The following Rules 13 to 24 apply to the Executive and its Committees. If the Executive or its Committees meet to take a **key decision** then it must also comply with Rules 1 to 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply.

#### 13. Key Decisions

A Key Decision is an Executive decision which is likely:

(a) to result in the Council incurring expenditure 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

(b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the Council, impacts upon individuals/organisations outside the District, or is set to have long term impact upon the Council or the District

The authority must have regard to any guidance issued by the Secretary of State in accordance with section 9Q of the Local Government Act 2000.

A decision-taker may only make a key decision in accordance with the requirements of the Executive Procedural Rules set out in Part 4 of this Constitution.

The Council has decided that expenditure and savings of £100,000 for revenue budgets and £250,000 for capital budgets, or more, shall be regarded as significant for the purposes of paragraph (a) above, save where such expenditure or saving is specifically identified in the Council's Budget.

#### 14. Procedure before taking Key Decisions

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

##### 14.1 Publication of Forward Plan

A notice called a Forward Plan has been made available for the public to inspect at the offices of the Council and published on the Council's website at least 28 clear days before the start of the period covered.

##### 14.2. Content of the Forward Plan

The Forward Plan includes the following information in respect of each key decision:

- (a) the matter in respect of which a decision is to be made;
- (b) the person or body by whom the decision is to be made;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the steps any person might take who wishes to make representations to the decision-taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken, and
- (e) A list of the documents (which are available to the public) submitted to the decision-taker for consideration in relation to the matter.

#### 15. General Exception

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

- (a) the decision must be taken by such a date that it is impracticable to defer the decision to ensure that notice has been published within 28 clear days of the meeting;
- (b) the Proper Officer (Chief Executive) has informed the Chairman of the Overview Committee or if there is no such person, each member of the Overview Committee by notice in writing, of the matter about which the decision is to be made;
- (c) the Proper Officer (Chief Executive) has made copies of that notice available to the public at the offices of the Council and on the Council's website;
- (d) at least 5 clear days have elapsed since the proper officer (Chief Executive) complied with (b) and (c).

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

#### 16. Special Urgency

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the Chair of the body making the decision obtains the agreement of the Chair of the Overview Committee that the decision cannot be reasonably deferred and that the decision is genuinely urgent.

If there is no Chair of the Overview Committee, or if the Chair of Overview Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence, the Vice-Chairman of the Council will suffice.

If the relevant person does not agree that the decision may be reasonably regarded as urgent in the circumstances then the decision cannot be taken other than in accordance with these Rules.

As soon as practicable after agreement has been obtained, a notice must be made available at the Council's Offices setting out the reasons that the making of the decision is urgent and cannot be reasonably be deferred.

This notice must also be published on the Council's website.

#### 17. Period of the Forward Plan

The Leader will prepare a Forward Plan which will list all key decisions which the Executive anticipates that they will take during the next four months. The most recent Forward Plan will be taken to supersede any other plan.

#### 18. Record of Decisions

After any meeting of the Executive or any of its Committees, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

#### 19. Executive Meetings relating to matters which are not key decisions

The Executive will decide whether meetings relating to matters which are not Key Decisions, will be held in public or private.

#### 20. Notice of Private Meeting of the Executive

Members of the Executive or its Committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency. Notice of such a meeting will also be circulated to all other Councillors of the Council at the same time.

#### 21. Attendance at Private Meetings of the Executive

Executive Members

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

#### Non-Executive Members

Notice of private meetings of the Executive and its Committees will be served on the other Councillors, at the same time as notice is served on Executive Councillors.

#### Officers

- a) The Chief Executive, the Section 151 Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and its Committees. The Executive may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.
- b) A private Executive meeting may only take place in the presence of the Chief Executive or his/her nominee with responsibility for recording and publicising the decisions.

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

#### Decisions by Individual members of the Executive

The Council has resolved that individual members of the Executive may take decisions or exercise those functions as detailed in Part 3 Section 5. At present no executive function may be exercised by an individual Executive member.

## 22. Overview and Scrutiny Access to Documents

### 22.1. Rights to copies

Subject to Rule 22.2 below, the Overview Committee and Scrutiny and Policy Panels, will be entitled to copies of any document which is in the possession or control of the Executive or its Committees and which contains material relating to any business transacted at a public or private meeting of the Executive or its Committees.

### 22.2. Limit on rights

An Overview Committee or Scrutiny and Policy Panel will not be entitled to:

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

## 23. Additional Rights of Access for Councillors

### 23.1. Material relating to previous business

All Councillors will be entitled to inspect any document which is in the possession or under the control of the Executive or its Committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

(a) it contains exempt information within the meaning of the Freedom of Information Act or Data Protection Act; or

(b) it contains the advice of a political adviser.

### 23.2. Material relating to key decisions

All Councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its Committees which relates to any key decision unless paragraph (a) or (b) above applies.

### 23.3. Nature of rights

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

## Part 4.3 Budget and Policy Framework Procedure Rules

### 1. The Framework for Executive decisions

The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 5. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.

### 2. Process for developing the framework

The process by which the Budget and Policy Framework shall be developed is:

(a) The Executive will publicise by notice posted at the Council's offices a timetable in accordance with which it will make proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework.

Within this timetable the Overview Committee will be consulted and it may undertake consultation with stakeholders and conduct such investigations as are necessary to enable it to make representations on the Budget and Policy Framework for the forthcoming year.

(b) The Overview Committee will present its representations on the Budget and Policy Framework to the Executive. The Executive will finalise its proposals for the Council to consider having taken into account the proposals from the Overview Committee. The Executive's report to Council will show its response to those proposals.

(c) The Council will consider the proposals of the Executive and may adopt them, amend them, refer them back to the Executive for further consideration, or substitute its own proposals in their place.

(d) The Council's decision will be publicised within 5 working days and a copy of that decision shall be given to the Leader of the Council. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Executive's proposal without amendment) or (if the Executive's proposal is not accepted without amendment), that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader formally objects to it in that period.

(e) If the Leader objects to the decision of the Council, then the Leader shall give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.

(f) The Council meeting must take place within 10 working days of the receipt of the Leader's written objection. At that Council meeting, the previous decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

(g) The Council's decision, if not in accordance with the recommendation of the Executive, shall require a simple majority of those voting at the meeting. Any decision on the budget shall be by way of a Recorded Vote.

(h) The decision shall then be made public in accordance with Article 5, and shall be implemented immediately.

(i) In approving the Policy and Budget Framework the Council will also specify the extent of virement within the budget and degree of in-year changes to the Policy Framework which may be undertaken by the Executive in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the Budget and Policy Framework are reserved to the Council.

### 3. Decisions outside the Budget or Policy Framework

(a) Subject to the provisions of paragraph 5 (virement) the Executive, and any officers or joint arrangements discharging Executive functions may only take decisions that are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by the Council, then that decision may only be taken by the Council, subject to rule 4 below.

(b) If the Executive, and any officers or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of either of those officers is that the decision must be referred by that body or person to the Council for decision then such a reference shall be made accordingly, unless the decision is a matter of urgency, in which case the provisions in rule 4 (urgent decisions outside the Budget or Policy Framework) shall apply.

### 4. Urgent decisions outside the Budget or Policy Framework

(a) The Executive, officers or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by the Council if the decision is a matter of urgency. However, the decision may only be taken:

- i) if it is not practical to convene a quorate meeting of the Council; and
- ii) if the Chairman of the Overview Committee, or in his or her absence the Chairman of the Council, agrees that the decision is a matter of urgency.

The reasons as to why it is not practical to convene a quorate meeting of the Council and the Chairman's consent to the decision being taken as a matter of urgency must be noted on the record of the decision in each particular case. In the absence of the Chairman of the Overview Committee the consent of the Chairman of the Council, and in the absence of both the Vice-Chairman, will be sufficient.

(b) Following the decision, the decision-taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## 5. Virement

Steps taken by the Executive, a committee of the Executive, an individual Executive Councillor or officers or joint arrangements discharging Executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads up to the amounts specified within the Financial Procedure Rules. Beyond that limit, approval to any virement across budget heads shall require the approval of the Council.

## 6. In-Year changes to Policy Framework

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Executive, a Committee of the Executive an individual member of the Executive or officers or joint arrangements discharging Executive functions must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

(a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint

(b) necessary to ensure compliance with the law, court order, ministerial direction or government guidance

(c) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## 7. Call-in of decisions

(a) Where any Councillor is of the opinion that an Executive decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, or where relevant information reasonably available at the time was not disclosed then they shall seek advice from the Chief Executive and/or Monitoring Officer and/or Section 151 Officer.

(b) If the decision has yet to be made, or has been made but not yet implemented, the matter shall be referred to the Overview Committee. The Overview Committee shall meet within 5 working days of the request for call- in. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. The Overview Committee may either:

i) endorse a decision or proposal of the Executive decision-taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Overview Committee be minuted and circulated to all Councillors in the normal way

or

ii) refer the matter back to the Executive decision-taker for reconsideration either with or without a recommended alternative. Any further decision of the Executive decision-taker will be subject to call-in in the same manner as the original decision.

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#### Part 4.4 - Executive Procedure Rules

1. How does the Executive operate?

1.1. Who may make Executive decisions?

The Leader may discharge the Executive functions of the Council or he/she may provide for any Executive functions of the Council to be discharged by:-

- (a) a Committee of the Executive;
- (b) an individual member of the Executive;
- (c) an officer;
- (d) joint arrangements;
- (e) another Local Authority;
- (f) the Executive as a whole.

1.2. Delegation by the Leader

(a) At the Annual Meeting of the Council, the Leader will present to the Council the names of the Councillors appointed to the Executive by the Leader (including the Executive member who is appointed as Deputy Leader) and their portfolios.

(b) Either at the Annual Meeting of the Council or as soon as practicable thereafter, the Leader will present to the Monitoring Officer a written record of

(i) the detailed remits of the portfolios of the Executive Members ;

(ii) any delegations made by the Leader in respect of the discharge of Executive functions. The document presented by the Leader to the Monitoring Officer will contain the following information about the discharge of the Council's Executive functions in relation to the coming year

- The extent of authority of the Executive as a whole;
- The extent of any authority delegated to individual Executive Members, including details of any limitation on their authority;
- The terms of reference and constitution of such Committees of the Executive as the Leader appoints and the names of Executive Members appointed to them;
- The nature and extent of any delegation of Executive functions to any other Authority or any joint arrangements and the names of those Executive Members appointed to any Joint Committee for the coming year; and
- The nature and extent of any delegation to Council officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of Executive functions

(a) Where the Leader delegates an Executive function to the Executive then unless the Leader directs otherwise, the Executive may delegate further to a Committee of the Executive or to an officer.

(b) Where the Leader delegates an Executive function to a Committee of the Executive or an individual Member of the Executive then unless the Leader directs otherwise, a Committee of the Executive or an individual member of the Executive may delegate further to an officer.

(c) Even where Executive functions have been delegated under (a) or (b) above, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation.

(d) Where the Leader seeks to withdraw delegation from a Committee of the Executive, notice will be deemed to be served on that Committee when he/she has served it on its chair.

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

The Leader may amend the Scheme of Delegation containing the details required in Article 8 and set out in Part 3 of this Constitution insofar as it relates to Executive functions at any time during the year in accordance with the procedure set out below:-

(a) Where the Leader wishes to delegate the discharge of an Executive function that has not previously been delegated

- to an officer; or
- to the Executive; or
- to a Committee of the Executive; or
- to a Member of the Executive

The Leader must give written notice of the new delegation to both the person or body to whom the Executive function is to be delegated and the Monitoring Officer.

The delegation of the Executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

The Monitoring Officer will ensure that a record of the delegation of the Executive function is entered into the Register of the Delegation of the Executive Functions and will report the new delegation to Council at the earliest opportunity.

(b) Where the Leader wishes to transfer the discharge of an Executive function that has been previously delegated:-

- from one officer to another officer; or
- from one officer to the Executive, a Committee of the Executive, or a Councillor of the Executive; or
- from the Executive to an officer, a Committee of the Executive or a Councillor of the Executive; or

- from a Committee of the Executive to an officer , the Executive or a Member of the Executive; or
- from a Member of the Executive, to an officer, the Executive, or a Committee of the Executive

then in each case the Leader must give written notice to the person or body from whom the exercise of the Executive function is to be transferred, the person or body to whom the exercise of the Executive function is to be transferred and the Monitoring Officer.

The transfer of the delegation of the Executive function will take effect on receipt of the Leader's written notice by each of the parties listed above.

The Monitoring Officer will ensure that a record of the transfer of the Executive function is entered into the Register of the Delegation of Executive Functions.

(c) Where the Leader wishes to withdraw the delegation of an Executive function that has been delegated to either

- an officer; or
- the Executive; or
- a Committee of the Executive; or
- a Member of the Executive

and to discharge the Executive function personally, the Leader must give written notice to the person or body from whom the exercise of the Executive function is to be withdrawn and to the Monitoring Officer.

The withdrawal of the delegation of an Executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

The Monitoring Officer will ensure that a record of the withdrawal of the Executive function is entered into the Register of the Delegation of Executive Functions.

#### 1.5 Conflicts of interest

(a) Where the Leader or any Member of the Executive has a conflict of interest this should be dealt with as set out in the Councillors' Code of Conduct for in Part 5 of this Constitution.

(b) If every Executive Councillor has a conflict of interest this should be dealt with as set out in the Councillors' Code of Conduct in Part 5 of this Constitution.

(c) If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Councillor or an officer, and there is a conflict of interest, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Councillors' Code of Conduct in Part 5 of this Constitution.

#### 1.6 Executive meetings – when and where?

The Executive will meet at least 6 times per year at times to be agreed by the Leader. The Executive shall meet at the Council's main offices or another location to be agreed by the Leader.

#### 1.7 Public or private meetings of the Executive?

All meetings of the Executive shall be open to the public except for that part of any meeting where business to be transacted is exempt as defined in the Access to Information Procedure Rules of this Constitution.

#### 1.8 Quorum

The quorum for a meeting of the Executive shall be 4 and the quorum for a meeting of any Committee of the Executive shall be 3.

#### 1.9 How are decisions to be taken by the Executive?

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

(b) Where Executive decisions are delegated to a Committee of the Executive, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

(c) Where Executive decisions are delegated to an individual Executive member under Article 8 such shall be in accordance with The Scheme of Delegation to Portfolio Councillors Protocol set out at Part 5.7 of the Constitution. No such powers have been delegated at present.

### 2. How are Executive Meetings conducted?

#### 2.1 Who presides?

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

#### 2.2 Who may attend?

All meetings of the Executive Board will be open to the public unless excluded in accordance with paragraph 1.7 above. Any Councillor may attend meetings of the Executive Board and, if the matter under consideration affects only that Councillor's ward (or in the case of a multi-Councillor ward, those Councillors) will have a right to speak; on any other matter a Councillor may with the prior consent of the Leader speak on the matter.

#### 2.3 What business?

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

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest;
- (c) apologies for absence;

(d) matters referred to the Executive (whether by the Overview Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;

(e) consideration of reports from the Overview Committee and/or Council; including consideration of scrutiny reports;

(f) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

#### 2.4 Consultation

All reports to the Executive from any Executive Member or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration. Where a matter for consideration affects only one ward any report will include the comments of the Ward Councillor(s).

#### 2.5 Who can put items on the Executive agenda?

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

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

The proper officer will make sure that an item is placed on the agenda of the next available meeting of the Executive where the Overview Committee or the Council have resolved that an item be considered by the Executive.

Any Councillor may ask the Leader in writing to put an item on the agenda of an Executive meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting. If the Leader does not accept such an item a written explanation shall be given.

The Monitoring Officer and/or the Section 151 Officer may include an item for consideration on the agenda of an Executive meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Section 151 Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include

an item on the agenda of an Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## Part 4.5 - Overview and Scrutiny Procedure Rules

### 1. What will be the arrangements for Overview Committee and Scrutiny and Policy Panels?

The Council will establish the Overview Committee set out in Article 7 and will appoint to it as it considers appropriate from time to time. The Overview Committee will invite members to join Scrutiny and Policy Panels to carry out scrutiny and policy reviews to contribute to policy making and inform the business of the Council.

### 2. Who may sit on Overview Committee and Scrutiny and Policy Panels

All Councillors except Members of the Executive may be Members of the Overview Committee and Scrutiny and Policy Panels but no Councillor may be involved in scrutinising a decision in which he/she has been directly involved.

### 3. Co-optees

The Overview Committee shall be entitled to appoint a number of people as non-voting co-optees, as they shall require from time to time, according to the skills and expertise that it may need to enable it to conduct its work.

### 4. Meetings of the Overview Committee

There shall be at least 6 ordinary meetings of the Overview Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chair of the Overview Committee, by any 6 members of the Committee or by the proper officer if he/she considers it necessary or appropriate.

### 5. Quorum

The quorum for the Overview Committee shall be as set out in Council Procedure Rule 37.1 of the Council Procedure Rules in Part 4 of this Constitution.

### 6. Who chairs Overview Committee meetings?

If the Chairman is present he/she will preside. In his/her absence the Vice-Chairman or in his/her absence then a person appointed to do so by those present shall preside.

The Chairman of Overview Committee or the Vice Chair of Overview Committee or the Audit & Governance Committee will be a Councillor of a party other than the controlling administration. The Chairman shall preside in his/her absence the Vice Chairman shall preside. If both are absent the Committee shall choose a member from their number to preside.

### 7. Work programme

The Overview Committee will be responsible for setting its work programme and in so doing shall take into account wishes of Councillors who are not members of the largest political group on the Council. All sections of the community can, through any Councillor, put forward a Topic Suggestion Form for consideration by Overview Committee.

## 8. Support for the Overview Committee

The Council will provide the Overview Committee with adequate resources, both financial and officer support, to carry out the work programme. The Overview Committee shall be entitled to request advice from Council officers including the Chief Executive, the Section 151 Officer and the Monitoring Officer to assist with the work of the Committee.

## 9. Agenda items

Any Councillor shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Council, to be included on the agenda for the next available meeting of the Overview Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda for the Committee to decide if further consideration is warranted.

The Overview Committee shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate, the Executive to review particular areas of Council activity. Where they do so, the Overview Committee in most cases will allocate the work to Scrutiny and Policy Panels who shall report their findings and any recommendations back to the Council following a quality check by the Overview Committee. The Council shall consider the scrutiny report at the earliest opportunity.

## 10. Policy review and development

(a) The role of the Overview Committee in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.

(b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Overview Committee may make proposals to the Executive and/or the Council for developments in so far as they relate to matters within their terms of reference.

(c) The Overview Committee and Scrutiny and Policy Panels may make enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may undertake site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so. They may also call upon officers for advice and assistance in this process.

## 11. Scrutiny and Policy Panels

(a) Overview may set up two Scrutiny and Policy Panels at any one time, with a third allowed in exceptional circumstances.

(b) Any member of the Council can volunteer to be a member of a Panel following invitation from the Overview Committee, except for Executive Board members which are not eligible for membership.

- (c) Scrutiny and Policy Panels must accept the scrutiny scope prepared by the Overview Committee and any proposed changes must be referred back to the Overview Chair for approval.
- (d) A Panel shall be made up of 7 Councillors with a quorum of 3, and every effort shall be made to achieve political balance. Any number of observers are allowed.
- (e) A Chair shall be nominated at the first meeting.
- (f) Named substitutes are allowed where notified 4 hours in advance to Democratic Services.
- (g) Panel meetings shall not be public meetings and shall not be minuted, except where witnesses are invited to provide evidence, in which case the meeting shall be held in public and be minuted.
- (h) Reports shall be authored by the Chair and/or members of the Panel and on completion submitted to the Overview Committee to be quality checked against the original review scope, the report shall then be reported directly to Council by the Panel.

#### 12. Reports from Overview Committee and Scrutiny and Policy Panels

- (a) Once it has formed recommendations on proposals for development, the Overview Committee or Scrutiny and Policy Panel will prepare a formal report and submit it to the Council.
- (b) If an Overview Committee or Scrutiny and Policy Panel cannot agree on all the recommendations in a scrutiny review then a brief note making reference to this should be included in the report to Council.
- (c) The Council shall consider the report of the Overview Committee or Scrutiny and Policy Panel at the earliest opportunity after being submitted to the Proper Officer. Scrutiny and Policy Panel reports when considered by the Council can be endorsed, rejected or referred back to the Overview Committee. Scrutiny and Policy Panel reports and/or their recommendations cannot be amended by a meeting of the Council.

#### 13. Making sure that Scrutiny reports are considered by the Council

Once a Scrutiny report on any matter has been completed, it shall be included on the agenda of the next available meeting of the Council.

Overview Committee will have access to the Executive Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.

#### 14. Rights of Overview Committee and Scrutiny and Policy Panel members to access documents

- (a) In addition to their rights as Councillors, members of the Overview Committee and Scrutiny and Policy Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution, so that they are aware of business being transacted by the Council, the Executive and its Committees.

(b) Nothing in this paragraph prevents more detailed liaison between the Executive and Overview Committee as appropriate depending on the particular matter under consideration.

#### 15. Councillors and officers giving account

(a) Any Overview Committee or Scrutiny and Policy Panel may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Head of Paid Service and/or any member of the Senior Management Team to attend and explain in relation to matters within their remit:

- i) any particular decision or series of decisions;
- ii) the extent to which the actions taken implement Council policy; and/or
- iii) their performance.

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

(b) Where any Councillor or officer is required to attend a meeting under this provision, the Chair of that meeting will inform the proper officer. The proper officer shall inform the Councillor or officer in writing giving at least 5 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the meeting. Where the account to be given to the meeting will require the production of a report, then the Councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation.

(c) Where, in exceptional circumstances, the Councillor or officer is unable to attend on the required date, the Committee shall in consultation with the Councillor or officer arrange an alternative date for attendance to take place within a maximum of 10 days from the date of the original request.

#### 16. Attendance by others

An Overview Committee or Scrutiny and Policy Panels may invite people other than those people referred to in paragraph 15 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders, Councillors and officers in other parts of the public sector and shall invite such people in advance of the Meeting to attend.

The Overview Committee and Scrutiny and Policy Panels can require the attendance of the Operations Manager of Public Sector Partnership Services Ltd and any other of the Board of Directors where matters relating to the Company are under review, or where the Chair of the Overview Committee considers that such attendance may assist the Committee in discharging its business.

#### 17. The party whip

When considering any matter in respect of which a member of Overview Committee is subject to a party whip, the Councillor must declare the existence of the whip and the nature of it before the

commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangement, shall be recorded in the minutes of the meeting.

18. Procedure at Overview Committee meetings

(a) Overview Committee shall consider the following business:

- i) minutes of the last meeting;
- ii) apologies for absence
- iii) declarations of interest (including whipping declarations);
- iv) responses of the Executive to reports of the Committee; and
- v) the business otherwise set out on the agenda for the meeting.

(b) Where the Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:

- i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- ii) that those assisting the Panel, by giving evidence, be treated with respect and courtesy; and
- iii) that the investigation be conducted so as to maximise the efficiency and effectiveness of the investigation, research or analysis being carried out.

(c) Following any investigation or review, the Committee shall prepare a report, for submission to the Council as appropriate and shall make its report and findings public.

19. Scrutiny & Policy Panels

(a) Where no witnesses are in attendance, Scrutiny and Policy Panels shall:

- (i) not be public meetings;
- (ii) shall have action notes taken.

(b) Where witnesses are invited to give evidence, Scrutiny and Policy Panels shall:

- (i) be public meetings;
- (ii) shall be minuted;
- (iii) shall be conducted in accordance with the following principles:

1) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

2) that those assisting the Committee by giving evidence be treated with respect and courtesy; and

3) that the investigation be conducted so as to maximise the efficiency and effectiveness of the investigation, research or analysis being carried out.

(c) Following any investigation or review, the Panel shall prepare a report to Overview for a quality check, and then for submission to the Council and shall make its report and findings public.

#### 20. Matters within the remit of more than one Committee

Where a Committee or Panel conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Committee, then the Committee or Panel conducting the review shall invite the Chairman of the other Committee (or his/her nominee) to attend its meeting when the matter is being reviewed, and when invited to do so by the Chairman, he may address the meeting.

#### 21. Invitation of Portfolio Holders

When an Overview Committee or Panel conducts a review or scrutinises a matter within the remit of a particular Portfolio Holder, then that Portfolio Holder will have the right to attend and when invited to do so by the Chairman, speak at the Meeting.

#### 22. General Terms of Reference for Overview and Scrutiny

##### (a) Overview Committee

Directly responsible for:

- Setting and managing an annual forward programme of scrutiny topics ('the Scrutiny Plan') having regard to the Executive Forward Plan, statutory requirements, Corporate Strategy, budget decisions and the Council's Policy Framework
- \* Introducing in year Scrutiny topics as and when necessary
- \* Scoping Scrutiny topics and setting timescales for investigations, and endeavour to complete any investigations within a reasonable timescale
- Considering any Executive Decisions that have been "called in" and which, in the view of the Proper Officer, meet the required criteria
- Receiving and considering any area of concern in relation to current or planned policy, organisational decisions/actions or district wide issues, that any Councillor puts to the Committee
- Receiving and dealing with Councillor Call for Action
- Monitoring and scrutinising the achievement of the Council's Policy Framework
- Periodically reviewing the Scrutiny function, and maintaining it in good health
- Reporting to Council annually on the Scrutiny function and its work
- Developing and spreading good practice in Scrutiny

- Inviting Members to sit on Scrutiny and Policy Panels to carry out reviews of agreed Scrutiny topics.
- Allocating scrutiny projects to Scrutiny and Policy Panels, setting the scope and timescales for the projects and ensuring the best utilisation of resources
- Ensuring that Scrutiny and Policy Panel reviews are quality checked and then presented to the next available Council meeting by the Chairman of the Scrutiny and Policy Panel (or a nominated substitute from the panel) or, in the event of pre-decision Scrutiny, the appropriate decision making body.
- To review and scrutinise decisions of Council relating to the discharge of any functions of Public Sector Partnership Services Ltd and/or its performance and report its findings to Council
- To scrutinise activities of Public Sector Partnership Services Ltd and make the appropriate report to Council
- To provide the Scrutiny function in relation to Community Safety

To make arrangement within the Scrutiny function for:

- Ensuring that proactive policy or review work at the request of the Council and/or Executive, or arising from community concerns, is undertaken (Pre-decision) and that such review work is presented as an appendix to the substantive report to support informed decision making
- Monitoring the implementation of Executive and Council decisions (Post-decision)
- Ensuring that service performance is monitored systematically
- Ensuring that customer and citizen satisfaction is monitored systematically

(b) Scrutiny and Policy Panels

Scrutiny and Policy Panels will undertake work allocated by the Overview Committee on a task and finish basis. This work will include:

- Developing and/or commenting upon policy proposals for consideration by the Executive or Council
- Undertaking pre decision Scrutiny as and when requested to support informed decision making.
- Scrutinising individual plans and priorities of the Council and other agencies, for example the health sector
- Examining the implementation of specific Executive decisions
- Examining aspects of the delivery of Council services
- Commenting on the results of local consultation and on the effectiveness of consultation mechanisms

It is envisaged that Scrutiny and Policy Panels will work in different ways, using informal meetings, hearing witnesses, making visits, using experts and co-opting members from beyond the Council.

All Scrutiny tasks, whether at Overview or Scrutiny and Policy Panels, will be scoped properly, time-limited and project-managed by the Overview Committee.

(c) Finance

Overview Committee and Scrutiny and Policy Panels may have finances made available to them to enable the conduct of policy reviews and Scrutiny of the Council's policies and Executive decisions.

(d) Annual report

The Overview Committee must report annually to the Council on the workings of the Overview Committee and make recommendations for amended working methods if appropriate.

(e) Work programme

An annual work programme to include details of monitoring and policy reviews will be agreed by the Overview Committee and in turn the Council to ensure work is undertaken to support the Council's overall aims and objectives as set out in the Corporate Strategy.

(f) Officers

The Overview Committee must exercise proper accountability and responsibility for the work programme of any officers employed or deployed to support their work. Overall responsibility for managing such officers however remains a matter for the Chief Executive as Chief Executive.

## Part 4.6 - Call-in Procedure Rules

### Introduction

The Call-In Procedure is part of the overall checks and balances which have been built into the Council's political management arrangements. It is complementary to and not independent of the wider aspects of the Scrutiny function which operate through the Overview Committee and the Scrutiny and Policy Panels set up by them.

Call-in should only be sought in circumstances where Councillors have evidence which suggest that the Executive did not take the decision in accordance with the budget and policy framework under Article 5 or observe the principles of decision making set out in Article 13 (Decision Making).

(a) When a decision is made by the Executive, an individual Executive Councillor or a Committee of the Executive, or a Key Decision is made by an officer with delegated authority from the Executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. All Councillors will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

(b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 6 working days after the publication of the decision, unless the required number of Councillors object to it and call it in. For the purpose of call-in a Key Decision will require 4 non-Executive Councillors to refer the matter to the Overview Committee; for non-key decisions an individual Councillor can refer the matter.

(c) During that period, the Proper Officer shall review the validity of any request to call-in a decision for consideration by the Overview Committee against the above criteria. If satisfied there is evidence that the Executive did not take the decision in accordance with the budget and policy framework set out in Article 5 or in accordance with the principles of decision making set out in Article 13 (Decision-Making) (s)he shall accept the request for call in and refer the matter to the next scheduled meeting of the Overview Committee. The Proper Officer shall then notify the decision-taker of the call-in. The Proper Officer has the authority not to confirm a call-in request if (s)he is of the view that the call in request does not satisfy the appropriate criteria, such a view to be considered in consultation with the Monitoring Officer.

(d) If, having considered the decision the Overview Committee is concerned about it, it may refer it back to the decision-making person or body for re-consideration, setting out in writing the nature of its concerns. If referred to the decision-maker they shall then reconsider, amending the decision or not, before adopting a final decision. If the final decision is not an amendment to the original decision it shall be referred to the Council.

(e) If following an objection to the decision, the Overview Committee does not refer the matter back to the decision-making person or body the decision shall take effect on the date of the Overview Committee meeting.

(f) If the matter was referred to the Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance

with the provision below. However, if the Council does object, it has no power to make decisions in respect of an Executive decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's view on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a Committee of it a meeting will be convened to reconsider within 10 working days of the Council request.

(g) If the Council does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting.

#### Call-In and Urgency

The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Chief Executive's or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

#### Monitoring

The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## Part 4.7 - Public Speaking Procedure Rules (Planning Committee)

### **Who can speak at the meeting?**

People who wish to object to, or support an application.

### **What items can I speak on?**

Applications for planning permission, and similar applications, e.g. those for listed building consent, which form the Schedule of Applications for Determination. The Council does not permit the public to speak on enforcement matters or other items not on the schedule of applications. Speaking can only take place at the Council's Planning Committee.

### **Can I use photographs or other materials to illustrate my points?**

No, as this will tend to disrupt proceedings, and you will not be allowed to circulate materials at the same time as you speak.

### **How do I arrange to speak at the meeting?**

All speakers must give notice of their intention to speak by 12 Noon at least two working days before the meeting .

Before the meeting starts the Committee clerk will speak to the members of the public present and ask them which applications they are interested in.

We advise you, if several people are interested, that you should agree, before the meeting, that one person will speak for everyone. If this does not happen (or you cannot agree) then we will have to decide who should speak. In deciding who should speak in favour of the application, the applicant will be given precedence over supporters. We will ask you for permission to share your contact details with other people who wish to speak, but this is not a requirement.

### **What will happen when my item is considered?**

1. The Planning Officer makes his or her report, adding to, updating and illustrating the written report already circulated to Committee Members.

The following order will usually apply:

2. An objector is allowed to speak – please note we can only allow one person to speak - for up to 3 minutes.

3. The Town/Parish Council is allowed to speak for up to 3 minutes. If more than one Town/Parish Council wish to speak, they each have up to 3 minutes and will present in alphabetical order, but are encouraged to put their points as one.

4. The applicant (or representative) or supporter can speak - also for up to 3 minutes.

5. The Ward Councillor or other interested District Councillors in addition to those on the Planning Committee be allowed to speak usually for a maximum of 5 minutes, but longer at the Chairman's discretion.

6. Members of the Planning Committee then be given 10 minutes to ask questions to the speakers.

7. The Councillors who make up the Committee debate the matter (and may request further information of the Planning Officer) before reaching a decision.

Please Note:

- You will be asked to say who you represent.
- You will be required to stop speaking if you exceed the time allowed.
- Speakers will not be permitted to ask questions, however Committee members will be permitted to ask questions of those speaking.
- The consideration of an application will not be delayed simply because someone who wishes to speak is unable to attend the meeting.

What can I say at the meeting?

You can say whatever you like provided it is a statement of fact or opinion, but your words are likely to have the greatest impact if you:

- Are brief and to the point
- Limit your views to the planning application
- Confine yourself to relevant planning issues.

Planning Issues

Examples of relevant planning issues:

- Planning policy, e.g. the Local Plan, other local planning policy, Government guidance, case law, previous decisions of the Council.
- Design, appearance and layout.
- Impact on visual or residential amenity, including possible loss of light or over-shadowing, loss of privacy, noise disturbance, or smell or nuisance.
- Impact on trees, listed buildings or a conservation area.
- Highway safety and traffic.

Examples of issues which cannot be taken into account:

- Private property rights - boundary or access disputes, restrictive covenants, rights of way, ancient rights to light.

- Effect on property values.
- Personalities or an individual's motives.
- Matters covered by other legislation for example Environmental Health or Licensing laws.
- You should not make derogatory or defamatory statements as there is no legal protection for comments made by the public.

**Will a decision be made at the meeting?**

Most applications considered by the Planning Committee are decided at the first Committee meeting.

However, some could be:

- Deferred to a future meeting for more information to be obtained or for negotiations to take Place.
- Deferred to a future meeting for decision if the application is contrary to the Council's planning policies but is supported by the Committee.

In both cases, you will be entitled to speak at the second or subsequent Planning Committee Meeting, but you must give notice of your intention to do so in line with these Speaking Procedure Rules.

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#### Part 4.8 - Licensing Act 2003 Committee Procedures (including public speaking rules)

The Licensing Act 2003 Committee has responsibility for deciding upon the issue of various Licences, Certificates and Notices under the Licensing Act 2003.

If no representations are received to the granting or variation of a licence or certificate or the granting of a notice, then Officers have delegated authority to issue the licence, certificate or notice. However, where representations are received by a responsible authority or interested party to a proposed application or variation and provided that they are not irrelevant, frivolous or vexatious, it will be necessary to hold a hearing in order to decide whether or not to grant the application or variation.

A hearing will also be required in respect of an application made by an interested party or responsible authority for the review of a licence.

Hearings will normally be undertaken by a Sub-Committee of the Licensing Act 2003 Committee, also known as a Hearings Panel.

When members of the Sub-Committee sit in this kind of decision-making role, they are acting in a quasi-judicial capacity. It is therefore important that certain guidelines are observed to ensure that the rules of natural justice are followed.

The Sub-Committee will hear both sides of the argument and each party will have a full and fair hearing. The hearing is informal to the extent that the strict rules of evidence do not apply, which means hearsay evidence is allowed. It is then for members of the Sub-Committee to decide what weight to give to such evidence.

It cannot be stressed enough that this is a procedure designed to ascertain relevant factors. The hearing will take the form of a discussion led by the Chairman and the Sub-Committee can ask questions of all parties. Members of the Sub-Committee will ask relevant questions if they do not feel they have heard sufficient information about any point they consider essential to reaching a decision. There is no limit to the questions that may be asked by Councillors, as they will wish to satisfy themselves that they fully understand the arguments presented before they make a determination on any particular application before them.

An officer of the Council will be present and will advise on procedure and law where necessary. Members of the Sub-Committee can ask the Officer for guidance at any time during the proceedings.

Where a large number of interested parties are involved in a particular hearing, they will be encouraged to appoint a spokesperson or spokespersons so as to avoid duplication of evidence. It will be necessary in some cases for the Chairman to consider a time limit on presentations. All parties will be given the same time limit within which to present their case.

The Chairman will only allow cross-examination by the applicant, responsible authorities or interested parties, where (s)he considers it necessary.

A general assumption will be made that all parties have read and understood the relevant paperwork and background documents before attending the meeting. There should be no need for

parties to duplicate word for word the contents of their written submissions, although they may wish to draw from and expand upon them.

Unless indicated otherwise the hearing will take place in public. If the public are to be excluded then full reasons for doing so will be given by the Chairman or officer of the Council.

The following procedure will normally be followed at the Sub-Committee to ensure a fair and orderly hearing:-

- The Chairman will introduce himself/herself, other Councillors and relevant officers. (S)He will ask all parties present to identify themselves and ascertain whether any party wishes another person to appear at the meeting. The Chairman or officer of the Council will then outline the procedure to be followed in considering the application.
- An officer of the Council will introduce the report and outline the matter under debate.
- The applicant will be asked to present his/her case (via a representative if he/she wishes) and call any witnesses. Both the applicant and any supporting witnesses will be open to questioning by the Committee.
- The Committee will then invite representations from responsible authorities (via a representative if they wish). The Councillors will have the opportunity of asking questions of any responsible authorities that have submitted representations.
- The Committee will then hear any representations from any interested parties (via a representative if they wish). The Councillors will have the opportunity of asking questions of such interested parties.
- The interested parties, responsible authorities and then finally the applicant will be given an opportunity to sum up their case (via a representative if they wish). The time limit for summing up will normally be 5 minutes unless varied by the Chairman. All parties will be given the same time limit within which to sum up their case.
- The Committee will then adjourn, to deliberate upon the application in private. If it is necessary to ask any party to clarify points in issue, all parties will be present to hear any clarification provided.
- The decision will normally be announced in public. The Chairman will announce the decision. The Chairman (or the officer of the Council) will then explain the decision in detail, including conditions, the reason for the decision and any rights of appeal if applicable. Furthermore, the decision will be notified in writing (in line with the legal timescales) after the Committee hearing, together with notification of any rights of appeal.

The Council must ensure that a record is taken of the meeting. To this end the hearing may be recorded and all parties will be advised accordingly.

In determining applications and representations the Sub-Committee will give appropriate weight to:

- a. The argument and evidence presented by all parties.

- b. The four licensing objectives under the Licensing Act 2003
  - the prevention of crime and disorder
  - the prevention of public nuisance
  - public safety
  - the protection of children from harm
- c. The Council's Statement of Licensing Policy.
- d. National guidance issued by the Secretary of State.
- e. Steps that are necessary to promote the licensing objectives and information contained in the applicant's operating schedule.

After considering all the relevant issues in respect of a Premises Licence application, it will be open to the Sub-Committee to refuse or to grant the application either in the terms sought, or subject to conditions attached to the Licence. Any conditions so imposed must be necessary for the promotion of the licensing objectives. The Sub-Committee will not attach conditions to a premises licence other than those proffered by applicants in their operating schedules, unless it is necessary to do so in order to promote the licensing objectives.

The Sub-Committee will give reasons for their decision if they decide to refuse an application. If the Sub-Committee decide to grant a licence, subject to conditions, they must be satisfied that a condition is reasonable and relevant to the facts presented and the licensing objectives.

The general principles under which the Sub-Committee will deal with all licensing applications are:-

- A fair and unbiased mind
- Pre-conceived opinions and resolutions will be put aside
- It will act without any prejudice or partiality
- It will consider both the interests of the public and the rights of the applicants
- It will treat all applicants fairly and alike.
- \* It will explain/identify aspects of the process as required.
- \* It will provide reasons for decisions taken.

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## 1. BASIC PRINCIPLES

### 1.1 All procurement procedures must:

- 1.1.1 realise value for money by awarding contracts that have the most economically advantageous contribution to delivering the Council's objectives,
- 1.1.2 be consistent with the highest standards of integrity,
- 1.1.3 operate in a transparent manner,
- 1.1.4 ensure fairness in allocating public contracts including managing conflicts of interest,
- 1.1.5 comply with all legal requirements including but not limited to the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016 or successor legislation,
- 1.1.6 support all relevant Council priorities and policies, including the Medium-Term Financial Plan.

NB: These Rules shall be applied to the contracting activities of any partnership for which the Council is the accountable body unless the Council expressly agrees otherwise (*see the Delegations to Officers for details of Officers who may action this rule*).

- 1.2 "written" or "in writing" means any expression consisting of words or figures which can be read, reproduced, and subsequently communicated, including information transmitted and stored by electronic means.

## 2. OFFICER RESPONSIBILITIES

### 2.1 Officers

#### 2.1.1 Officers will make sure that:

- (a) they comply with these Contract Procedure Rules (CPR),
- (b) they comply with the Council's Constitution,
- (c) they comply with the Delegations to Officers;
- (d) the requirement to declare prior to the commencement of the procurement process any personal interest they may have in that process;
- (e) all tenders/quotations are kept confidential;
- (f) a written contract is issued and signed by both parties, or a purchase order is issued before the supply of goods, services or carrying out of works begin;
- (g) Where appropriate identify a Contract Manager with responsibility for ensuring the contract delivers as intended;
- (h) a review of each contract is carried out at an appropriate stage; and
- (i) they comply with all legal requirements.

Officers must ensure that any agents, consultants, and contractual partners acting on their behalf also comply.

#### 2.1.2 Officers will:

- (a) keep any necessary records required by these Contract Procedure Rules,
- (b) take all necessary procurement, legal, financial, and professional advice, taking into account the requirements of these Contract Procedure Rules,
- (c) prior to letting a contract on behalf of the Council, check whether:
  - (i) the Contracts Register lists an appropriate contract in place for the Council, or:

- (ii) an appropriate national, regional, or other collaborative contract is already in place.

Where the Council already has an appropriate contract in place, then this must be used unless it can be established that the contract does not fully meet the Council's specific requirements in this particular case, and this is agreed following consultation with a Contracts and Procurement Service.

Where an appropriate national, regional, or collaborative contract is available, consideration should be given to using this, provided the contract offers value for money.

- (d) ensure that when any employee, either of the Council or of a service provider, may be affected by any transfer arrangement, then any Transfer of Undertaking (Protection of Employment) issues are considered and legal and HR advice from within the Council is obtained prior to proceeding with the procurement exercise.

2.1.3 Failure to comply with any of the provisions of these Contract Procedure Rules, the Council's Constitution or any legal requirements may be brought to the attention of the Monitoring Officer, Head of Internal Audit, or relevant Officer as appropriate. Depending on the nature of the non-compliance this may result in disciplinary action being taken.

2.1.4 A contract may be let through any framework agreement to which the Council has access. Where the contract to be let is subject to the Public Contracts Regulations 2015 or the Concession Contracts 2016, use of such framework agreement shall be subject to compliance with those regulations (*see the Delegations to Officers for details of Officers who may action this rule*).

## 2.2 Chief Officer/Deputy Chief Officers

2.2.1 Chief Officer/Deputy Chief Officers will:

- (a) ensure their Services complies fully and are familiar with the requirements of these Contract Procedure Rules;
- (b) ensure contracts with a value over £5,000 are recorded on the Contracts Register as held and maintained by the Contracts and Procurement Service;
- (c) ensure compliance with English Law and U.K. legislation and Council policy.
- (d) ensure value for money and optimise risk allocation in all procurement matters;
- (e) ensure compliance with any guidelines issued in respect of these Contract Procedure Rules
- (f) take immediate action in the event of a breach of the Contract Procedure Rules or any Code of Practice within their directorate or service area;
- (g) ensure that all existing and new contracts anticipated during the forthcoming financial year are clearly itemised in the Budget supporting documentation;
- (h) make appropriate arrangements for the opening of tenders and their secure retention using secure electronic means;
- (i) ensure original contract documents with a total value over £5,000 are forwarded to a Contracts and Procurement Service for safekeeping;
- (j) ensure effective contract management, contract reviews and monitoring during the lifetime of all contracts in their areas;

- (k) seek and act upon advice from a Contracts and Procurement Service and Performance team where necessary to ensure compliance with these responsibilities; and
- (l) keep records of variations and exemptions of any provision of these Contract Procedure Rules.

2.2.2 Chief Officer/Deputy Chief Officers must keep a register of

- (a) contracts entered into by or on behalf of the Council, and
- (b) exemptions recorded under Rule 3 and satisfy themselves that the use of exemptions has been monitored and a record kept by a Contracts and Procurement Service.

### 3. EXEMPTIONS

- 3.1 Except where the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016 apply, the Executive has the power to waive any requirements within these Contract Procedure Rules for specific projects. An exemption under this Rule 3 allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with Rule 9.
- 3.2 These Contract Procedure Rules may be exempted where the circumstances meet any of the following criteria within 3.3. An exemption form must be completed and sent to the Head of Procurement & Contracts in the first instance to allow comments which will assist with the approval or rejection of the exemption.
- 3.3 The Head of Procurement & Contracts will then pass this through to the Section 151 Officer and Monitoring Officer for approval prior to consideration by the Chief Executive and the Portfolio Holder for the relevant area, as well as the Portfolio Holder for Finance. This process must be followed in advance of the award of contract, and in compliance with the criteria set out in the Delegations to Officers:
  - 3.3.1 for works, supplies, or services which are either patented or of such special character that it is not possible to obtain competitive prices;
  - 3.3.2 for supplies purchased or sold in a public market or auction;
  - 3.3.3 with an organisation already engaged by the Council for a similar and related procurement and where there is significant benefit to extending the contract to cover this additional requirement that does not breach legal requirements such as the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016;
  - 3.3.4 involving such urgency that it is not possible to comply with the Contract Procedure Rules and there is a significant risk to the council of not acting with urgency;
  - 3.3.5 for the purchase of a work of art or museum specimen, or to meet the specific requirements of an arts or cultural event which cannot be procured competitively due to the nature of the requirement;
  - 3.3.6 in relation to time-limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this;
  - 3.3.7 where relevant legislation not otherwise referred to in these Contract Procedure Rules prevents the usual procurement process from being followed;
  - 3.3.8 goods, works or services contracts may be awarded directly to a legal person where that legal person meets the criteria as set out in Regulation 12 of the Public Contracts Regulations 2015 or Regulation 17 of the Concession Contracts Regulations 2016 (formerly known as "Teckal" companies);

- 3.3.9 where building development opportunities are available to the Council, and have been proven to be financially viable, and the value is under the FTS Thresholds for Works (as per Appendix 2 – Above Public Contracts Regulations 2015 / Concessions Contracts Regulations 2016 thresholds.).
- 3.4 In addition to approval by a Contracts and Procurement Service:
- 3.4.1 the Monitoring Officer must be consulted where purchases are to be made using standing arrangements with another local authority, government department, health authority, primary care trust or statutory undertaker.
- 3.4.2 The Monitoring Officer must be consulted where the contract is an extension to an existing contract and a change of supplier would cause:
- (a) Disproportionate technical difficulties
  - (b) Diseconomies
  - (c) Significant disruption to the delivery of Council services.
- 3.5 Every variation/exemption must be recorded on the Council's Procurement Exemption Form at Appendix 1 to these Contract Procedure Rules and the form will be recorded on a master register to be maintained by a Contracts and Procurement Service.
- 3.6 Where a variation/exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services, Chief Officer/Deputy Chief Officer may approve the exemption but must prepare a report for the next meeting of the Executive to support the action taken.
- 3.7 Where grant conditions require expenditure to be incurred within a financial year, and notification of grant is received so late as to prevent compliance with Rule 9, an exemption may be approved by the Chief Executive on receipt of a report from the relevant service where the Section 151 Officer and Monitoring Officer have been consulted.
- 3.8 A Contracts and Procurement Service must monitor the use of all exemptions.

#### **4. RELEVANT CONTRACTS**

- 4.1 All Relevant Contracts must comply with these Contract Procedure Rules. A Relevant Contract is any arrangement made by, or on behalf of, the Council for the carrying out of works, supplies, goods, materials, or services. These include arrangements for:
- 4.1.1 the supply or disposal of goods or materials,
  - 4.1.2 the hire, rental or lease of goods or equipment,
  - 4.1.3 execution of works,
  - 4.1.4 the delivery of services, including (but not limited to) those related to:
    - (a) the recruitment of staff
    - (b) land and property transactions
    - (c) financial and consultancy services
    - (d) the supply of staff by employment agents, consultants, or any other companies
- 4.2 Relevant Contracts do not include:
- 4.2.1 contracts of employment which make an individual a direct employee of the authority,
  - 4.2.2 agreements regarding the acquisition, disposal, or transfer of land (to which the Financial Procedure Rules apply),

- 4.2.3 the payment of grants to third parties
- 4.2.4 The lending or borrowing of money by the Council.
- 4.2.5 Contracts between Local Authorities as defined by Clause 12 of the Public Contracts Regulations 2015.
- 4.2.6 Contracts between Local Authorities as defined by Clause 17 of the Concession Contracts Regulations 2016
- 4.2.7 Contracts between Local Authorities as defined by Clause 1 of the Local Authorities (Goods and Services) Act 1970.
- 4.2.8 Section 75 NHS Act 2006 arrangements (although details must be recorded on the Council's Contract Register).

**NB: While grants are not covered by these Contract Procedure Rules, there are rules on the awarding of grants which do need to be observed. The Council cannot simply choose to treat procurement as a grant in order to avoid conducting a competitive process.**

## 5. RECORDS

- 5.1 The Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016 require contracting authorities to maintain the following comprehensive records of procurement activities:
  - 5.1.1 contract details including value
  - 5.1.2 selection decision
  - 5.1.3 justification for use of the selected procedure
  - 5.1.4 names of bidding organisations, both successful and unsuccessful
  - 5.1.5 reasons for selection
  - 5.1.6 reasons for abandoning a procedure
- 5.1A Most contracts and extensions to contracts will be awarded by Officers making a decision under delegated authority (see Delegations to Officers). All such Officer decisions must be published unless the decision is administrative, minor, or not closely connected to the discharge of an executive function. Some decisions will be subject to Call-in. Where Call-in applies, the winning contractor must be advised that the award of contract is subject to Call-in and will not be confirmed until the Call-in period has expired.
- 5.2 For contracts up to £40,000 the following records must be kept:
  - 5.2.1 invitations to quote (where applicable)
  - 5.2.2 all quotes returned
  - 5.2.3 all tenders/quotes returned;
  - 5.2.4 notification to the successful, and unsuccessful (where applicable) bidders of the outcome of the quotation exercise
  - 5.2.5 the contract;
  - 5.2.6 a written record of:
    - (a) any exemptions and reasons for it; and
    - (b) the reasons if the lowest price is not accepted

- 5.3 A Contracts and Procurement Service should be made aware of any procurement requirements at the earliest opportunity to assist with this process. Where advertising is required by these rules, competitive procurement processes must be advertised on the Council's e-Tendering portal. Where the total value is greater than £40,000.00 but less than £85,000.00 for works, supplies of goods materials or services, the following records must be kept:
- 5.3.1 invitations to quote/tender;
  - 5.3.2 all communication with suppliers;
  - 5.3.3 all tenders/quotes returned;
  - 5.3.4 a completed evaluation sheet with scores and comments justifying the score awarded;
  - 5.3.5 feedback letters to the unsuccessful bidders;
  - 5.3.6 all communications with the successful contractor;
  - 5.3.7 the contract;
  - 5.3.8 a written record of:
    - (a) any exemptions and reasons for it; and
    - (b) the reasons if the lowest price is not accepted
  - 5.3.9 written records of communications with the successful contractor.
- 5.4 For contracts up to £40,000 records should be kept following the principles as above but the actual record kept should be proportionate to the value of the contract.
- 5.5 Where the total value exceeds £85,000.00 for works, supplies of goods, materials or services, the Officer must record the same details as in Rule 5.2 above and any further records as advised by a Contracts and Procurement Service.
- 5.6 Written records required by this Rule 5 must be kept for six years (twelve years if the contract is under seal) after the final settlement of the contract. All documents which relate to unsuccessful candidates (tender responses, feedback letters etc.) must be kept for 12 months from award of contract provided there is no dispute about the award or where there is a dispute, once the dispute is resolved, 12 months from resolution of the dispute.
- 5.7 Prospective candidates must be notified simultaneously in writing and as soon as possible of any contracting decision. If a candidate requests in writing the reasons for a contracting decision, the officer must give the reasons in writing within 15 days of the request.
- 5.8 The Freedom of Information Act 2000 gives a general right of public access to all types of 'recorded' information held by public authorities, sets out exemptions from that general right, and places a number of obligations on public authorities with regard to the disclosures of information. The Council will, as a general rule, allow public access to recorded information where possible and the contractor shall agree to the Council making any disclosures in accordance with the Act.

## 6. RISK ASSESSMENT

- 6.1 Officers must consider any risks in the procurement process including the skills and capacity within the Council to manage the procurement process. Where any risk assessment identifies a need for further specialist advice that specialist advice must be procured in accordance with these rules.

## 7. ADVERTISING

The Contracts and Procurement Service will ensure that the minimum advertising requirements in the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016 and as outlined in Rule 9 are met.

## 8. FRAMEWORK AGREEMENTS

8.1 **Framework Agreements** (see the *Delegations to Officers* for details of Officers who may action this rule):

8.1.1 Framework Agreement has the same meaning as in the Public Contracts Regulations 2015 - "Framework Agreement means an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

8.1.2 The term of a Framework Agreement must not exceed four years.

8.1.3 Contracts based on Framework Agreements may be awarded in one of two ways, as follows:

- (a) where the terms of the agreement are sufficiently precise to cover the particular call-off, by applying the terms laid down in the Framework Agreement without re-opening competition, or
- (b) where the terms laid down in the Framework Agreement are not precise or complete enough for the particular call-off, by holding a further competition in accordance with the following procedure:
  - (i) inviting the organisations within the Framework Agreement, that are capable of executing the subject of the contract, to submit bids, with an appropriate time limit for responses, taking into account factors such as the complexity of the subject of the contract,
  - (ii) awarding each contract to the bidding organisation who has submitted the most economically advantageous tender on the basis of the relevant Award Criteria set out in the Framework Agreement.

Where a Framework Agreement is used and the arrangements under that Agreement include further competition, the *Delegations to Officers* details which Officers may seek, receive, and evaluate quotations/tenders.

8.1.4 Most contracts will then be awarded by Officers making a decision under delegated authority. All such Officer decisions must be published unless the decision is administrative, minor, or not closely connected to the discharge of an executive function. Some decisions will be subject to Call-in. Where Call-in applies the winning contractor must be advised that the award of contract will not be confirmed until the Call-in period has expired.

## 9. COMPETITION REQUIREMENTS / ASSETS FOR DISPOSAL

### 9.1 Competition Requirements

9.1.1 Chief Officers/Deputy Chief Officers must establish the total value of the procurement including whole life costs and incorporating any potential extension periods which may be awarded. Where the Public Contracts Regulations 2015 or the Concession Contracts Regulations 2016 rules apply, Chief Officers/Deputy

Chief Officers must also ascertain the value of a contract in accordance with those rules.

9.1.2 Contracts must not be artificially under or over-estimated or divided into two or more separate contracts where the effect is to avoid the application of Contract Procedure Rules, the Public Contracts Regulations 2015, or the Concession Contracts Regulations 2016.

9.1.3 Where the estimated total value for a purchase or concession is within the values in the first and second columns of the table below, the tendering procedure in the third column must be followed (*see the Delegations to Officers for details of Officers who may action this rule*).

<b>Works and Concessions</b>	<b>Supply of Goods, Materials and Services</b>	<b>Tendering Procedure</b>
£0 to £5,000	£0 to £5,000	<b>One quote - this should be a local provider wherever possible. A purchase order must be raised.</b>
£5,001 - £10,000	£5,001 - £10,000	<b>Two written quotes – one should be a local provider wherever possible. A purchase order must be raised.</b>
£10,001 to £40,000	£10,001 to £40,000	<b>At least three written quotes shall be sought and two must be received. Local providers must be given an opportunity to provide a quote, wherever possible. A purchase order must be raised</b>
£40,001 to £85,000	£40,001 to £85,000	<b>At least five written quotations shall be sought via a Request for Quotation via e-Tendering Portal. Local providers must be given an opportunity to provide a quote, wherever possible. A purchase order must be raised.</b>
£85,001 up to Public Contracts Regulations 2015/Concessions Contracts Regulations 2016 threshold*)	£85,001 up to Public Contracts Regulations 2015/Concessions Contracts Regulations 2016 threshold*)	<b>Open tender via E-Tendering Portal including Contracts Finder. A social value clause must be built into the specification and contract. (Public Service (Social Value) Act 2012). A purchase order must be raised</b>
Above Public Contracts Regulations 2015/Concessions Contracts Regulations 2016 threshold*)	Above Public Contracts Regulations 2015/Concessions Contracts Regulations 2016 threshold*)	<b>UK Public Procurement Procedure – via E-Tendering Portal &amp; Find a Tender notice. Local social value clause must be built into the specification of the contract. (Public Service (Social Value) Act 2012). A purchase order must be raised</b>

\* As per Appendix 2 – Above Public Contracts Regulations 2015 / Concessions Contracts Regulations 2016 thresholds.

9.1.4 Where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirements, all suitably qualified candidates must be invited (*see the Delegations to Officers for details of Officers who may action this rule*).

9.1.5 Where services are currently purchased internally, i.e., from within the Council, for internal provision, the requirement to obtain other quotations or tenders does not

apply. However, the purchaser may choose to seek alternative quotations/tenders for the purpose of market testing.

- 9.1.6 Where the Public Contracts Regulations 2015 or the Concession Contracts 2016 apply, the procuring Officer shall consult a Contracts and Procurement Service to determine the procedure for conducting the procurement exercise.

**9.2 Assets for Disposal** (see the Delegations to Officers for details of Officers who may action this rule):

9.2.1 Assets for disposal must be dealt with in accordance with the Council's Financial Procedure Rules.

9.2.2 Assets for disposal must be sent to Public Sale except where better value for money is likely to be obtained by inviting quotations and tenders. In the latter event, the method for disposal of surplus or obsolete stocks/stores or assets other than land must be determined as follows:

<b>Total Value</b>	<b>Procedure</b>
<b>Where the cost of disposal is likely to outweigh the value of the asset for disposal</b>	<b>By (in order of preference)</b> <ol style="list-style-type: none"> <li><b>1. gifting to a local organisation if they can make use of the asset;</b></li> <li><b>2. disposal for recycling; or</b></li> <li><b>3. disposal by the most environmentally friendly option possible.</b></li> </ol>
<b>Up to £10,000</b>	<b>Two written quotations or public sale</b>
<b>£10,000.01 and above</b>	<b>At least three written quotations or public sale, or an invitation to tender</b>

**10. PRE-TENDER MARKET TESTING AND CONSULTATION**

10.1 The Council may consult potential suppliers, prior to the issue of the Invitation to Tender or Request for Quotation, in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential organisation (see the Delegations to Officers for details of Officers who may action this rule).

10.2 When engaging with potential suppliers, the Council may use any advice in the planning and conduct of the procurement procedure, provided that it does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.

10.3 The council shall take appropriate measures to ensure that competition is not distorted by the participation of a candidate or tenderer who has provided any advice by ensuring all other candidates and tenderers are provided with all of the information the advising candidate or tenderer has received or given and that all candidates or tenderers are given sufficient time to respond to the tender or quote.

10.4 In undertaking any market testing activities, the Officer responsible must seek advice from a Contracts and Procurement Service.

11. **EVALUATION CRITERIA AND STANDARDS** (see the *Delegations to Officers for details of Officers who may action this rule*):

11.1 **Evaluation Criteria**

11.1.1 In any procurement exercise the successful bid should be the one which:

- (a) offers the lowest price where payment is to be made by the Council, or offers the highest price if payment is to be received, or:
- (b) offers the most economically advantageous balance between quality and price. In the latter case, the Council will use criteria such as qualitative, environmental and/or social aspects, linked to the subject matter of the contract to determine that an offer is the most economically advantageous. Such criteria may include:
  - (i) quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental, and innovative characteristics and trading and its conditions;
  - (ii) organisation, qualification, and experience of staff assigned to performing the contract, where the quality of the staff assigned can have a significant impact on the level of performance of the contract; or
  - (iii) after-sales service and technical assistance, delivery conditions such as delivery date, delivery process and delivery period or period of completion.

11.1.2 Issues that are important to the Council in terms of meeting its corporate objectives can be used to evaluate bids. The criteria can include, for example sustainability considerations, support for the local economy, or the use of sub-contractors. The bidding organisations' approaches to continuous improvement and setting targets for service improvement or future savings could also be included. All criteria must relate to the subject matter of the contract, be in line with the Council's corporate objectives and must be objectively quantifiable and non-discriminatory.

11.1.3 The procurement documentation should clearly explain the basis of the decision to bidding organisations, making clear how the evaluation criteria specified in the process will be applied, the overall weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.

11.1.4 The evaluation criteria must not include:

- (a) Non-commercial considerations
- (b) Matters which discriminate against suppliers who are signatories to the *Government Procurement Agreement*.

11.2 **Standards**

11.2.1 Relevant British and International standards which apply to the subject matter of the contract, and which are necessary to properly describe the required quality must be included within the contract.

11.2.2 Officers should refer to the Procurement and Contracts Service if they have any queries or require further guidance.

12. **INVITATION TO TENDER / REQUEST FOR QUOTATION** (see the *Delegations to Officers for details of Officers who may action this rule*)

12.1 Invitations to Tender/Requests for Quotation must be issued in accordance with the requirements of these Contract Procedure Rules.

12.2 The Invitation to Tender shall state that no tender will be considered unless it is received by the date and time stipulated in the Invitation to Tender, subject to 15.5.3. No tender delivered in contravention of this Rule 12 shall be considered.

12.3 All Invitations to Tender shall include the following:

12.3.1 A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers, together with the terms and conditions of contract that will apply.

12.3.2 A requirement for candidates to declare that the tender content, price or any other figure or particulars concerning the tender submitted by the candidate has not been disclosed by the candidate to any other party (except where such disclosure is made in confidence for a necessary purpose).

12.3.3 A requirement for candidates to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion.

12.3.4 Notification that tenders are submitted to the Council on the basis that they are compiled at the candidate's expense.

12.3.5 A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and the percentage weighting of each criterion in the evaluation.

12.3.6 The method by which arithmetical errors discovered in the submitted tenders are to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice versa.

12.4 The Invitation to Tender or Requests for Quotation must state that the Council is not bound to accept any tender or quotation.

12.5 All candidates invited to tender, or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis. Where a candidate asks a clarification question regarding the tender or quote, the question and the answer will be provided to all candidates.

12.6 Under the Public Contract Regulations 2015, the Council is required to request an explanation of the price or costs proposed in a tender where that price or those costs appear to be **abnormally low** in relation to the requirement.

12.7 Advice should be sought from the Contracts & Procurement Service during this investigation process to ensure that the requirements of the Public Contract Regulations 2015 are complied with.

### 13. **SHORTLISTING**

Any shortlisting (i.e., supplier selection or pre-qualification) must have regard to the economic and financial standing and the technical and professional ability of the candidates to deliver the required goods, services or works.

### 14. **SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS** (see the *Delegations to Officers for details of Officers who may action this rule*):

#### 14.1 **Tenders**

14.1.1 Bidding organisations must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirements.

#### 14.1.2 Tender Contents:

Each tender must contain, where relevant:

- (a) An undertaking signed by the tenderer that to the best of their knowledge and belief they have complied with all the relevant provisions of the Health and Safety at Work Act 1974 and regulations made under it or where they have not complied, an explanation of the remedial action they have taken to ensure compliance;
- (b) A statement that the tenderer will comply with all current relevant British Standard Specification or Code of Practice or equivalent international standards offering guarantees of safety, reliability, and fitness for purpose;
- (c) A statement by the tenderer that they will not try to obtain or receive by whatever means any information which gives or is intended to give the tenderer or another party any unfair advantage over any other tenderer (including the Council's own workforce) in relation to the tendering for and award of any contract;
- (d) A statement that the Council shall not be liable for expenses incurred in the preparation of tenders; nor shall the Council be bound to accept the lowest or any tenders submitted; and shall have reserved to them the right to invite fresh tenders should they consider that course desirable.

#### 14.2 Electronic Arrangements

- 14.2.1 Tenders, Quotations, Further Competition bids and Selection Questionnaires will be received electronically and will be opened by a Contracts and Procurement Service. The system will not allow any quotations to be opened until the allocated return date / time has passed. *(See the Delegations to Officers for details of Officers who may action this rule.*

#### 14.3 Hard Copy Arrangements

- 14.3.1 In the limited circumstances where a Quotation, Further Competition bid or Tender cannot be received electronically, a Contracts and Procurement Service will consult with the Monitoring Officer to agree a suitable way to receive the Quotation, Further Competition bid or Tender.

### 15. CLARIFICATION PROCEDURES AND POST TENDER NEGOTIATIONS

- 15.1 Seeking clarification of a tender received whether in writing or by way of a meeting is permitted. However, any such clarification must not involve changes to the basic features of the bidding organisation's submission and all tenderers must be treated equally *(see the Delegations to Officers for details of Officers who may action this rule).*
- 15.2 Post tender negotiation means negotiations with any tenderer after submission of a tender and before the award of the contract with a view to obtaining an adjustment in price, delivery, or content. *Where the value of the Tender is above the threshold in the Public Contracts Regulations 2015, or the Concession Contracts Regulations 2016 advice must be sought from a Contracts and Procurement Service. Where post tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered (see the Delegations to Officers for details of Officers who may action this rule).*
- 15.3 If post tender negotiations are necessary after a single stage tender or after the second stage of a two-stage tender, then such negotiations shall only be undertaken with the tenderer who has previously been identified as submitting the best tender. Tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the tender documents. Officers appointed by the Chief

Officer/Deputy Chief Officer to carry out post tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.

- 15.4 Post tender negotiation must only be conducted in accordance with guidance given by the Monitoring Officer and a Contracts and Procurement Service.
- 15.5 The Monitoring Officer and a Contracts and Procurement Service must be consulted and agree:
  - 15.5.1 Wherever it is proposed to enter into post tender negotiation;
  - 15.5.2 About whether negotiation is with all tenderers;
  - 15.5.3 To either accept or reject late submissions before opening any of the responses. Late submissions must only be accepted in exceptional circumstances.
- 15.6 Negotiations must be conducted by a team of at least two officers, one of whom must be from a section independent to those leading negotiations (*see the Delegations to Officers for details of Officers who may action this rule*).

## 16. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING OF ORGANISATIONS

- 16.1 **Evaluation** (*see the Delegations to Officers for details of Officers who may action this rule*):
  - 16.1.1 The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the procurement documents provided to bidding organisations, and in line with any guidance given by a Contracts and Procurement Service.
  - 16.1.2 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the Invitation to Tender as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.
  - 16.1.3 Deputy Chief Officers must ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.
- 16.2 **Award of Contract and Contract Extensions** (*see the Delegations to Officers for details of Officers who may action this rule*):
  - 16.2.1 The Council is required to notify successful and unsuccessful bidders of the outcome of a procurement process, in writing, in as timely a fashion as possible.
  - 16.2.2 Where a contract was advertised with an extension option and that extension option forms part of the contract, the decision to extend the contract may be made after ensuring that taking up the extension option delivers value for money.
  - 16.2.3 Decisions on award of contract and contract extensions must be made in accordance with the Delegations to Officers.
- 16.3 **Debriefing**
  - 16.3.1 The debriefing of organisations will be sent by a Contracts and Procurement Service, in line with the relevant Officer's evaluation comments.

## 17. CONTRACT DOCUMENTS

### 17.1 Format of Contract Documents

17.1.1 Every Relevant Contract/must be in writing and must state clearly:

- (a) what is to be supplied (description and quality)
- (b) payment provisions (amount and timing and seeking electronic invoices)
- (c) when the Council will have the right to terminate the contract
- (d) that the contract is subject to the law as to prevention of corruption

The Council's standard terms and conditions must be used where possible.

17.1.2 In addition, every Relevant Contract for purchases over £25,000.00 for works, supplies of goods, materials or services must also as a minimum state clearly:

- (a) that the contractor may not assign or sub-contract without prior written consent
- (b) any insurance and liability requirements
- (c) health and safety requirements
- (d) ombudsman requirements
- (e) data protection requirements if relevant
- (f) that charter standards are to be met if relevant
- (g) requirements under the Equalities Act 2010
- (h) obligations under the Care Act 2014 in safeguarding adults and children
- (i) a right of access to relevant documentation and records of the contractor for monitoring and audit purposes, including obligations under the FOI Act 2000 and 2015 Transparency Code
- (j) requirements under the Counter-Terrorism and Security Act 2015 and Prevent Strategy where applicable
- (k) obligations under the Public Interest Disclosure Act 1998 including employee whistleblowing.
- (l) Statement requirements under the Modern Slavery Act 2015.

17.1.3 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Monitoring Officer. An award letter is insufficient.

17.1.4 All contracts must include the following paragraph:

'The Contractor recognises that the Council is under a duty to act in a manner which is compatible with the Convention rights as defined by Section 1(1) of the Human Rights Act 1998 ('Convention Rights'). This duty includes a positive obligation on the Council to ensure that contractors providing services on the Council's behalf act in a way which is compatible with the Convention Rights. The Contractor therefore agrees to provide the Services and comply with its other obligations under this contract in a manner which is compatible with the Convention Rights.'

17.1.5 The Officer responsible for securing the signature of the contractor must ensure that the person signing for the contracting party has authority to bind it.

17.2 **Contract Signature** (*see the Delegations to Officers for details of Officers who may action this rule*):

17.2.1 A contract entered into by or on behalf of the Council must:

- (a) Where the contract is in the form of a deed (see below), be made under the Council's seal and attested as required by the Constitution, or:
- (b) Where the contract is in the form of an agreement, either:
  - (i) be signed by at least two officers of the Council authorised as required by the Constitution, or:

- (ii) be formalised by the sending of an award letter and the subsequent issuing of a purchase order.
- 17.2.2 A contract must be in the form of a deed (see below) and sealed where;
- (a) The Council wishes to enforce the contract for more than six years after it ends;  
or
  - (b) The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services; or
  - (c) Where there is any doubt about the authority of the person signing for the contracting party.

A contract in the form of a deed must state in the signature pages that the Contractor and the Council are executing the contract as a deed. Where an Officer is unsure whether a Contract should be signed under hand, or sealed, they must contact the Procurement & Contracts service to seek advice.

### **17.3 Legal Services Review of Tenders and Contracts**

17.3.1 To ensure the integrity of the procurement process:

- (a) All proposed Invitations to Tender, where they are not in compliance with the Council's harmonised contract documentation or standard terms and conditions issued by a relevant professional body, will be reviewed by the Deputy Chief Officer.
- (a) Any proposed Invitations to Tender which are subject to the Public Contracts Regulations 2015 or the Concession Contracts Regulations 2016, or which are deemed to be of high risk, must be reviewed by the Deputy Chief Officer.
- (b) Any proposed contract where there is any deviation from the contract terms included in the invitation to tender must be reviewed by the Deputy Chief Officer

## **18. LIQUIDATED DAMAGES, BONDS AND PARENT COMPANY GUARANTEES**

18.1 Every formal written contract which exceeds £85,000.00 in value or amount and is for the execution of works shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed.

18.2 The Officer must consult the Deputy Chief Officer when a tenderer is a subsidiary of a parent company and the officer does not think that a parent company guarantor is necessary, and:

18.2.1 The total value exceeds £85,000.00.

18.2.2 Award is based on evaluation of the parent company, or

18.2.3 There is some concern about the stability of the tenderer.

18.3 The officer must consult the Deputy Chief Officer about whether a bond is needed:

18.3.1 Where the total value exceeds £85,000.00.

18.3.2 Where it is proposed to make stage payments or other payments in advance of receiving the whole of the subject matter of the contract.

## **19. PREVENTION OF CORRUPTION**

19.1 Rules and regulations pertaining to the prevention of corruption are outlined in the Council's Financial Procedure Rules and must be adhered to.

19.2 The following clauses must be put in every written Council contract:

'The Council may terminate this contract and recover all its loss if the Contractor, its employees, or anyone acting on the Contractor's behalf do any of the following things:

- 19.2.1 Offer, give, or agree to give anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or
- 19.2.2 Commit an offence under the Bribery Act 2010 or Section 117(2) of the 1972 Act; or
- 19.2.3 Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors, or employees.

Any clause limiting the Contractor's liability shall not apply to this cause.'

- 19.3 Any suspected irregularity shall be referred to the Audit Manager who shall notify the Monitoring Officer where necessary. Any examination of contractors' or tenderers' books and records as a result of any such suspected irregularity shall be conducted by the Audit Manager. If, in the investigation of any irregularity, the Monitoring Officer considers that disciplinary procedures may need to be invoked, the appropriate Chief Officer/Deputy Chief Officer shall also be notified.

## **20. DECLARATION OF INTERESTS**

Rules and regulations pertaining to the Declaration of Interests are outlined in the Code of Conduct for Employees within the Constitution and must be adhered to.

## **21. CONTRACT MANAGEMENT / MONITORING**

- 21.1 All contracts must have an appointed Contract Manager for the entirety of the contract. The responsible Deputy Chief Officer must ensure a Contract Manager is designated prior to award.

## **22. POST CONTRACT MONITORING AND EVALUATION**

- 22.1 During the life of the contract the Contract Manager must monitor in respect of:

- 22.1.1 performance
- 22.1.2 compliance with specification and contract
- 22.1.3 cost
- 22.1.4 any Best Value requirements
- 22.1.5 user satisfaction and risk management
- 22.1.6 social value or any other contractual obligations to deliver additional value arising from the contract

- 22.2 Where the Total Value of the contract exceeds £85,000.00 the Officer must make a written report evaluating the extent to which the purchasing need and contract objectives were met by the contract. This should be done normally when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

- 22.3 For contracts awarded under £85,000, if, at any point during the delivery of the contract, the cost looks likely to exceed £85,000 the Contract Manager must notify a Contracts and Procurement Service. A Contracts and Procurement Service and the Contract Manager will consider the following options:

Where the amount by which the total contract value exceeds £85,000 is not significant, allow the contract to run to its natural conclusion;

Where the amount by which the total contract value exceeds £85,000 is significant and the contract allows termination, terminate the existing contract, and retender.

Where the amount by which the total contract value exceeds £85,000 is significant and the contract does not allow termination, or continuing with the contract represents value for money, allow the contract to run to its natural conclusion

## **23. INTERNAL PROVIDERS**

Where an in-house Service is bidding in competition for the provision of goods, works or services, care must be taken to ensure a fair process between the in-house provider Service and external bidding organisations.

## **24. EXTERNAL BODY GRANT FUNDING**

24.1 Where a procurement process is funded, in whole or part, by grant funding which has been awarded to the Council by an external funding body, a Contracts and Procurement Service must ensure that any rules or conditions imposed by the funding body are adhered to, in addition to the requirements of these Contract Procedure Rules.

24.2 Where there is any conflict between these Contract Procedure Rules and the rules or conditions imposed by the funding body, the stricter requirement should be followed.

## **25. APPOINTMENT OF CONSULTANTS**

25.1 The engagement of consultant architects, engineers and surveyors or other professional consultants including Counsel shall be subject to completion of a formal letter, contract of appointment or brief.

25.2 Consultants shall be required to provide evidence of and maintain professional indemnity policies to the satisfaction of the relevant Deputy Chief Officer for the periods specified in the respective agreement.

25.3 Consultants shall be selected, and commissions awarded in accordance with the values and procedures recorded in the table in Rule 9.1.3 above for services.

25.4 Records of consultancy appointments shall be maintained in accordance with Rule 5.

## **26. REVIEW AND AMENDMENT OF CPR**

These Contract Procedure Rules shall be reviewed and updated, as necessary.

## **27. TERMINATION OF CONTRACTS** *(see the Delegations to Officers for details of Officers who may action this rule)*

The Delegations to Officers details which Officers may terminate a contract. Any termination must be strictly in accordance with the terms of the contract and subject to consultation with the Monitoring Officer and Section 151 Officer and in some cases with the relevant Portfolio Holder.



## REQUEST FOR EXEMPTION FROM CONTRACT AND PROCUREMENT PROCEDURE RULES

You must use existing corporate contracts set up by the Council where possible. If there is no existing contract you should check if a “framework” contract exists for that service.

Contract Procedure Rules may be waived or varied where the circumstances meet any of the following criteria, subject to approval by the Chief Executive, Section 151 Officer, and the Portfolio Holder for Finance in advance of the award of contract, and in compliance with the criteria set out in the Log of Delegations to Officers.

**NOTE:** If the total value of the contract is over the Procurement Threshold, then an exemption cannot be granted.

<b>Describe your requirements</b>			
<b>Supplier name</b>		<b>Market Testing undertaken?</b>	
<b>If no, why?</b>			
<b>Total contract value</b>			
<b>Contract Start Date</b>		<b>Contract End Date</b>	

Exemption as at paragraph 3 at page <b>XXX</b> of the Council's Constitution.	Tick below as appropriate
3.3.1 for works, supplies, or services which are either patented or of such special character that it is not possible to obtain competitive prices;	
3.3.2 for supplies purchased or sold in a public market or auction;	
3.3.3 with an organisation already engaged by the Council for a similar and related procurement and where there is significant benefit to extending the contract to cover this additional requirement that does not breach legal requirements such as the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016;	
3.3.4 involving such urgency that it is not possible to comply with the Contract Procedure Rules and there is a significant risk to the council of not acting with urgency	
3.3.5 for the purchase of a work of art or museum specimen, or to meet the specific requirements of an arts or cultural event which cannot be procured competitively due to the nature of the requirement	
3.3.6 in relation to time-limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this	
3.3.7 where relevant legislation not otherwise referred to in these Contract Procedure Rules prevents the usual procurement process from being followed;	

3.3.8 goods, works or services contracts may be awarded directly to a legal person where that legal person meets the criteria as set out in Regulation 12 of the Public Contracts Regulations 2015 or Regulation 17 of the Concession Contracts Regulations 2016 (formerly known as "Teckal" companies);	
3.3.9 where building development opportunities are available to the Council, and have been proven to be financially viable, and the value is under the FTS Thresholds for Works (as per Appendix 2 – Above Public Contracts Regulations 2015 / Concessions Contracts Regulations 2016 thresholds.).	
<b>In addition to approval by the Contracts and Procurement Service:</b>	
3.3.1 the Monitoring Officer must be consulted where purchases are to be made using standing arrangements with another local authority, government department, health authority, primary care trust or statutory undertaker.	
3.3.2 The Monitoring Officer must be consulted where the contract is an extension to an existing contract and a change of supplier would cause: (a) Disproportionate technical difficulties (b) Diseconomies (c) Significant disruption to the delivery of Council services.	
<b>Explain the justification for the exemption and attach any relevant documents</b>	
<p>We Confirm the supplier has quoted against the Councils Standard terms and conditions <input type="checkbox"/></p> <p>If you are using the supplier's terms and conditions, please supply a copy as part of this exemption.</p>	
Tick box if you require assistance to finalise agreement or negotiate further	
<p>Name of Officer requesting approval: .....</p> <p>Department: .....</p> <p>Signature: ..... Date: .....</p>	
<p>Expenditure approved by Authorised Officer (see Delegations to Officers)</p> <p>Name: ..... Position: .....</p> <p>Signature: ..... Date: .....</p>	
<b>Completed Forms should be sent to Head of Procurement &amp; Contracts</b>	
<a href="mailto:martin.gibbs@pspsl.co.uk">martin.gibbs@pspsl.co.uk</a>	
<p>For Procurement &amp; Contracts Service</p> <p><b>Comments:</b></p>	<p>Date</p>

Approved by Chief Executive: Signature: ..... Date: .....
Approved by Section 151 Officer: Signature: ..... Date: .....
Approved by Portfolio Holder for <b>XXXX</b> : Signature: ..... Date: .....
Approved by Portfolio Holder for Finance: Signature: ..... Date: .....

We confirm that the Leader of the Council has been notified of this exemption

APPENDIX 2 TO THE CONTRACT PROCEDURE RULES – ABOVE PUBLIC CONTRACTS  
REGULATIONS 2015 / UTILITIES CONTRACT REGULATIONS 2016 / CONCESSION  
CONTRACTS REGULATIONS 2016 THRESHOLDS

**Summary of Threshold Levels from 1<sup>st</sup> January 2024 (all values are inclusive of VAT)**

**The Public Contracts Regulations 2015**

Supplies & Services: £214,904

Works: £5,372,609

Light Touch Regime for Services: £663,540

**The Utilities Contracts Regulations**

Supplies & Services: £429,809

Works: £5,372,609

**Concessions Contracts Regulations 2016**

Concessions Contracts: £5,372,609

### Amended Delegations to Officers in relation to Contracts

(Amended delegations approved by Cabinet/Executive.

Amended CPR approved by full Council)

Abbreviation	Meaning
CX	Chief Executive
DCX	Deputy Chief Executive
AD	Assistant Director
SM	Service Manager
MO	Monitoring Officer

Officer(s)	Subject	Delegation From	Power
CX, DCXs and ADs following consultation with the MO or S151 Officer	Contracts - contracting activities of any partnership for which the Council is the accountable body	<b>Cabinet/Executive</b>	(Note to Contract Procedure Rule 1) Authority to agree that Contract Procedure Rules do not apply to contracting activities of any partnership for which the Council is the accountable body
CX, DCXs, ADs and SMs subject to consultation with the appropriate portfolio holder (consultation is not required for (i) routine contracts (e.g. routine ongoing or annual maintenance contracts, routine purchasing of goods and equipment; routine servicing of vehicles etc); (ii) contracts for 1-off schemes where the scheme has been formally approved and where sufficient money has been allocated within the budget for the contract; and (iii) indirect services such as legal services or consultants for schemes which have been formally approved and where sufficient money has been allocated within the budget	Contracts – letting (awarding) of contracts through framework agreement	<b>Cabinet/Executive</b>	(Contract Procedure Rules 2.1.4 and 8) Authority to let (award) a contract through any framework agreement to which the Council has access where considered expedient by a CO or a DCO subject to the scheme falling within the approved budget which includes the approved 5-year capital programme. (A decision notice must be published for each award of contract unless administrative or minor or not closely connected to discharge of function.) (The signing of contracts is dealt with separately below.)

for the contract as such contracts are not closely connected to the discharge of the function.)			
Approval by the CX, S151 Officer and the Portfolio Holder for finance in advance of the award of contract	Contracts - variation or waiver (exemption) of Contract Procedure Rules	<b>Cabinet/Executive</b>	(Contract Procedure Rule 3.3) Authority to vary or waive any Contract Procedure Rules subject to complying with all relevant requirements of Rule 9, and subject to the scheme falling within the approved budget which includes the approved 5-year capital programme.
CX, DCXs, ADs and SMs	Contracts - assets for disposal	<b>Cabinet/Executive</b>	(Contract Procedure Rule 9.2) Authority to dispose of obsolete stocks, stores, or assets, other than land, subject to complying with Contract Procedure Rule 9.2.
CX, DCXs, ADs, SMs and any other officer with the written approval of the CX/DCXs/ADs/SM (any sub-delegations lasting more than 6 months must be reported to the MO)	Contracts - pre tender market testing and consultation	<b>Cabinet/Executive</b>	(Contract Procedure Rule 10.1) Authority to consult potential suppliers prior to issue of the Invitation to Tender or Request for Quotation subject to the scheme falling within the approved budget which includes the approved 5-year capital programme
CX, DCXs, ADs, SMs and any other officer with the written approval of the CX/DCXs/ADs/SM (any sub-delegations lasting more than 6 months must be reported to the MO)	Contracts – all values – seeking, receiving, and evaluating quotations/tenders for contracts for works, goods materials, and services, and hiring of consultants	<b>Cabinet/Executive</b>	(Contract Procedure Rules 7 (where a competition is required), 9.1.3 and 9.1.4, 11.0, 12.0, 14.0, 14.3, 16.1). Authority to request and receive tenders and quotations, and to evaluate tenders and quotations subject to compliance with the Contract Procedure Rules (as amended by any authorised variation or waiver) and subject to the scheme falling within the

			approved budget which includes the approved 5-year capital programme. (The awarding and the signing of contracts are dealt with separately.)
CX, DCXs, ADs and SMs following consultation with the relevant portfolio holder (consultation is not required for (i) routine contracts (e.g. routine ongoing or annual maintenance contracts, routine purchasing of goods and equipment; routine servicing of vehicles etc); (ii) contracts for 1-off schemes where the scheme has been formally approved and where sufficient money has been allocated within the budget for the contract; and (iii) indirect services such as legal services or consultants for schemes which have been formally approved and where sufficient money has been allocated within the budget for the contract as such contracts are not closely connected to the discharge of the function.)	Contracts - awarding of contracts	<b>Cabinet/Executive</b>	(Contract Procedure Rules 5.1A,16.2) Authority to award contracts subject to compliance with the Contract Procedure Rules (as amended by any authorised variation) and subject to the scheme falling within the approved budget which includes the approved 5-year capital programme  (Decision notices must be published for each award of contract unless administrative or minor or not closely connected with discharge of function.) (The signing of contracts is dealt with separately.)
CX, DCXs and ADs  SMs – up to £85,000	Contracts – signing of contracts which are <b><u>not under seal</u></b>	<b>Cabinet/Executive</b>	(Contract Procedure Rule 17.2) Authority to sign contracts which are not under seal, and which come within the jurisdiction of the officer concerned.  (Contracts under seal must be signed only by officers who have specific authority to do so – set out in the Council's Constitution
Officers of the Contracts team	Contracts - Authorised Officer of relevant team	<b>Cabinet/Executive</b>	(Contract Procedure Rules 14.2) Officers appointed as "Authorised Officer of relevant team"

CX, DCXs, ADs, SMs and any other officer with the written approval of the CX/DCXs/ADs/SM (Any sub-delegations lasting more than 6 months must be reported to the MO)	Clarification of an invitation to tender	<b>Cabinet/Executive</b>	(Contract Procedure Rule 15.1) Authority to provide clarification of an Invitation to tender
CX, DCXs, ADs, and SMs	Post tender negotiations	<b>Cabinet/Executive</b>	(Contract Procedure Rules 15.2 to 15.6) (at least 2 officers are required – see rule 15.6) Authority to undertake post tender negotiations
CX, DCXs, ADs and SMs In consultation with the relevant portfolio holder (consultation is not required for termination of low value or minor contracts (£15,000 or less))	Authority to terminate contracts	<b>Cabinet/Executive</b>	(Contract Procedure Rule 27) Authority to terminate contracts subject to consultation with the MO and S151 Officer

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## **EAST LINDSEY DISTRICT COUNCIL**

### **FINANCIAL PROCEDURES**

- 1. Introduction**
- 2. Financial Limits/Controls and Delegations**
- 3. Financial Management and Planning**
- 4. Accounting Policies**
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- 16. Maintenance of Reserves**
- 17. Internal Controls**
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- 20. Internal Audit**
- 21. External Audit**
- 22. Preventing Fraud and Corruption**
- 23. Security of Assets**
- 24. Inventories**
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- 26. Imprest Accounts (Petty Cash)**
- 27. Intellectual Property**
- 28. Asset Disposal**

- 29. Valuation for Rating**
- 30. Council Tax**
- 31. Treasury Management**
- 32. Staffing**
- 33. Financial Systems and Procedures**
- 34. Income**
- 35. Banking Arrangements and Cheques**
- 36. Ordering and Paying for Work, Goods and Services**
- 37. Contracts**
- 38. Payments to Employees and Members**
- 39. Taxation**
- 40. Trading Accounts**
- 41. External Partnerships**
- 42. External Funding**
- 43. Work for Third Parties (including other Local Councils)**

## **EAST LINDSEY DISTRICT COUNCIL FINANCIAL PROCEDURES**

### **1. Introduction**

East Lindsey District Council is committed to providing good quality services to the residents of its area.

To conduct its business efficiently and effectively East Lindsey District Council needs to ensure that it has a sound financial management framework in place.

These Financial Procedures provide the framework for managing East Lindsey District Council's financial affairs. They apply to every Councillor, officer of the Council and anyone acting on its behalf.

These procedures identify the financial responsibilities of the Council, Executive Board, Overview and Scrutiny Committee, Audit and Governance Committee, Management Team, and Managers.

All Councillors and staff have a general responsibility to ensure that they provide for the security of the assets under their control, for ensuring that the use of those assets is legal and properly authorised and demonstrates efficient and effective use, resulting in the achievement of value for money and best value.

#### **Why Are Financial Procedures Important?**

Financial Procedures form part of the Council's overall approach to corporate governance and provide a control framework through which the Chief Executive, Monitoring Officer and Section 151 Officer/Deputy Section 151 Officer carry out their statutory duty on behalf of East Lindsey District Council.

Section 151 of the Local Government Act 1972, states "... every Local Authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs". The Council has designated the Section 151 Officer/Deputy Section 151 Officer to be the officer so responsible.

Section 114 of the Local Government Finance Act 1988 requires the Section 151 Officer/ Deputy Section 151 Officer to report on unlawful or potentially unlawful expenditure or a course of action likely to cause loss or deficiency.

In these Procedures: -

- "Appropriate officer" means a member of the Management Team of the Council.
- "Council" means the Board which implements the Policy Framework and the Budget of the Council under the Terms of the Constitution.
- Any reference in these Procedures to the masculine gender shall be read as equally applicable to the female gender.
- Any reference in these Procedures to the Management Team shall be to the Chief Executive

and such Officers as the Chief Executive deems to be part of the Management Team

- Any reference in these Procedures to “Member Forum” shall include the Council, the Executive Board, Regulatory Committees, Overview and Scrutiny Committees, and all Sub-Committees.
- Any reference to Budget Manager refers to an officer of the Council with responsibility for managing a budget.

## 2. Financial Limits/Controls and Delegations

### Why is it important?

Applying limits to financial decisions allows for an appropriate balance of risk management and operational empowerment.

### Key Controls

The key controls for financial limits / controls and delegations are:

Function	Limit	Decision Maker
Annual Budget (MTFS)	All	Full Council
In Year Budget Movements	Up to £50,000 £50,001 - £300,000 Over £300,000	S151, Budget Manager Executive Board Full Council
Supplementary Budget	Up to £50,000 £50,001 - £300,000 Over £300,000	S151, Finance PFH, Budget PFH Executive Board Full Council
Reserve Movements	Up to £50,000 £50,001 - £300,000 Over £300,000	S151, Finance PFH, Budget PFH Executive Board Full Council
Fees & Charges	Up to £50,000 £50,001 - £300,000 Over £300,000	S151, Finance PFH, Budget PFH Executive Board Full Council
Asset Disposals	Up to £50,000 £50,001 - £300,000 Over £300,000	S151, Assistant Director – Property Business & Growth & Asset PFH, Executive Board Full Council
Write Offs	Up to £50,000 £50,001 - £300,000 Over £300,000	S151, Finance PFH, Budget PFH Executive Board Full Council
Orders and Contracts	All	As per Contract Procedure Rules
Staff Recruitment	All	Corporate Management Team
Purchase Cards	All – subject to scheme limits	Card Holder
Urgent Action	All	Chief Executive, S151, Finance PFH, Leader of the Council – retrospective reporting to Executive Board

Payments	Up to £100,000 In excess of £100,000	Budget Manager Budget Manager, Chief Executive, S151 Officer
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\*PFH – Portfolio Holder

### **Responsibility of the S151 Officer / Deputy S151 Officer**

- To ensure the organisation has clear awareness of functional responsibilities
- To ensure the organisation has clear awareness of delegated limits
- To ensure the organisation has clear awareness of who the appointed decision makers are and that where necessary these decisions include an adequate separation of duties.

### **3. Financial Management & Planning.**

#### **Why is it important?**

All staff and members have a responsibility to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring that everyone is clear about the standards to which they are working and the controls which are in place to ensure that those standards are met.

#### **Key controls**

The key controls and control objectives for financial management standards are:

- their promotion throughout the Council; and
- a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Executive Board and Full Council.

#### **Responsibility of the Section 151 Officer/Deputy Section 151 Officer**

To ensure the proper administration of the financial affairs of the Council.

To determine the financial management standards and financial policies and to monitor their compliance.

To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance, and development of finance staff throughout the Council.

To advise on the key strategic controls necessary to secure sound financial management.

To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

To ensure that all grants and subsidies to which the Council is entitled are claimed and received.

To ensure the compilation and certification of all statistical and other information of a financial nature required by any Government Department or other agency;

To ensure the Council's Annual Accounts are prepared and signed, and shall, by the statutory deadline each year, prepare a Statement of Accounts to be reviewed by the Audit and Governance Committee in accordance with best practice.

To ensure the preparation of the Council's Revenue Budgets, Capital Programme and Treasury Management Strategy.

To ensure that there is an effective budgetary control system implemented and adhered to.

To approve the appropriate Council Tax base and recommend to Executive Board and Council the level of Council Tax for each year.

To ensure quarterly reports are submitted to the Executive Board regarding Revenue and Capital Expenditure and Income.

To ensure Contract Procedure Rules, and these Financial Procedures, together set out the requirements which must be followed in all financial matters.

### **Treasury**

To make arrangements to be informed by each appropriate officer of any matters which may adversely affect the financial affairs of the Council before any commitment is incurred and before reporting the matter to the appropriate Councillor Forum.

To ensure all accounting procedures and financial records are maintained to support the above requirements and determine and approve such procedures and records.

To report quarterly to the Executive Board any instance of non-compliance with these Procedures as may be considered necessary.

### **Responsibility of Officers of the Council**

To promote the financial management standards set by the Section 151 Officer/ Deputy Section 151 Officer in their service units, and to monitor adherence to the standards and practices within their own areas, liaising as necessary with the Section 151 Officer/ Deputy Section 151 Officer.

To promote sound financial practices in relation to the standards, performance, and development of staff in their service units.

### **Responsibility of Executive Board**

All of the Council's finances shall be regulated, coordinated, and controlled by the Executive Board of the Council, subject to ratification by the Council, where appropriate.

#### **4. Accounting Policies**

##### **Why is this important?**

The Section 151 Officer/ Deputy Section 151 Officer is responsible for the preparation of the Council's statement of accounts, in accordance with proper practices as set out in the format required by the relevant CIPFA Accounting Code of Practice.

##### **Key Controls**

The key controls for accounting policies are:

- systems of internal control are in place that ensure that financial transactions are lawful;
- suitable accounting policies are selected and applied consistently;
- proper accounting records are maintained; and
- financial statements are prepared which present fairly the financial position of the Council and its expenditure and income.

##### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts which is prepared at 31 March each year.

##### **Responsibility of Budget Managers**

To adhere to the accounting policies and guidelines approved by the Section 151 Officer/ Deputy Section 151 Officer.

#### **5. Accounting Records and Returns**

##### **Why is this important?**

Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual Accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the Accounts are prepared properly and that proper accounting practices have been followed, and that quality arrangements have been made for securing economy, efficiency, and effectiveness in the use of the Council's resources.

##### **Key Controls**

The key controls for accounting records and returns are:

- all Executive Board Members, finance staff and budget managers operate within the required accounting standards and timetables;
- all the Council's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis;

- procedures are in place to enable accounting records to be reconstituted in the event of a systems failure;
- reconciliation procedures are carried out to ensure transactions are correctly recorded; and
- prime documents are retained in accordance with legislative and other requirements.

### **Responsibility of the Section 151 Officer/Deputy Section 151 Officer**

To determine the accounting procedures and records for the Council.

To arrange for the compilation of all accounts and accounting records under his direction.

To comply with the following principles when allocating accounting duties:

- separating the duties of providing information about sums due to or from the Council and calculating, checking, and recording these sums, from the duty of collecting or disbursing them; and
- employees with the duty of examining or checking the accounts of cash transactions shall not themselves be engaged in these transactions.

To make proper arrangements for the audit of the Council's Accounts in accordance with the Accounts and Audit Regulations 2011 (and any subsequent amendments).

To prepare, obtain approvals, and publish the audited Accounts of the Council for each financial year, in accordance with the statutory timetable.

To ensure the proper retention of financial documents in accordance with the requirements set out in the document retention schedule.

To ensure that all claims for funds including grants are made by the due date.

### **Responsibility of Budget Managers**

To consult and obtain the approval of the Section 151 Officer/Deputy Section 151 Officer before making any changes to accounting records and procedures.

To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.

To carry out regular reconciliations to ensure the integrity of embedded financial systems and to ensure transactions are correctly recorded.

To supply all information required to enable the Section 151 Officer/ Deputy Section 151 Officer to authorise grant claims (any return with financial information must be completed in conjunction with Financial Services).

To supply information required to enable the Statement of Accounts to be completed in accordance with guidelines issued by the Section 151 Officer/ Deputy Section 151 Officer.

## **6. Annual Statement of Accounts**

### **Why is this important?**

The Council has a statutory responsibility to produce an annual Statement of Accounts.

### **Key Controls**

The key controls for the annual Statement of Accounts are that:

- the Council is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this Council, that officer is the Section 151 Officer/ Deputy Section 151 Officer;
- the Council's Statement of Accounts must be prepared in accordance with proper practices as set out in the relevant CIPFA Code of Practice on Local Authority Accounting in the United Kingdom; and
- the Audit and Governance Committee is responsible for approving the statutory audited annual Statement of Accounts.

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To select suitable accounting policies and apply them consistently.

To make judgments and estimates that are reasonable and prudent.

To comply with the code of practice.

To sign and date the Statement of Accounts, stating that it presents fairly the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March.

To draw up the timetable for Final Accounts preparation, and to advise staff and external auditors accordingly.

### **Responsibility of Budget Managers**

To comply with accounting guidance provided by the Section 151 Officer/Deputy Section 151 Officer and to supply the Section 151 Officer/ Deputy Section 151 Officer with information when required.

## **7. Performance Plans**

### **Why is this important?**

It is good practice for the Council to prepare and publish performance plans. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement.

## **Key controls**

The key controls for performance plans are to:

- ensure that all relevant plans are produced and that they are consistent with each other;
- produce plans in accordance with statutory requirements;
- meet the timetables set;
- ensure that all performance information is accurate, complete, and up to date; and
- provide improvement targets which are meaningful, realistic, and challenging.

## **Responsibility of the Chief Executive**

To ensure the development of corporate and service targets, objectives, and performance information.

To ensure that systems are in place to measure activity and collect accurate information for use as performance measures.

To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

## **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.

## **Responsibility of Budget Managers**

To contribute to the development of performance plans in line with statutory requirements.

To contribute to the development of corporate and service targets and objectives and performance information.

To develop service targets, objectives, and performance information.

## **8. Budgeting – Format of Budget**

### **Why is this important?**

The format of the budget determines the level of detail to which financial control and management will be exercised. The format of the budget shapes how the rules around Budget Movements and cash limits operate and sets the level at which funds may be re-allocated within budgets.

## **Key controls**

The key controls for the budget format are:

- complies with all legal requirements;
- complies with the relevant CIPFA Accounting Code of Practice; and
- reflects the accountability of service delivery.

## **Responsibility of the Section 151 Officer/Deputy Section 151 Officer**

To advise the Executive Board on the format of the budget that is approved by Full Council.

## **Responsibility of Budget Managers**

To comply with accounting guidance provided by the Section 151 Officer/ Deputy Section 151 Officer.

## **9. Budget Bids and Savings Targets**

### **Why is it important?**

Budget bids are the process by which funding is granted to develop and enhance existing Services, or introduce new services or projects. Savings targets are the process by which the Council will seek to balance its budget, in line with statutory requirements.

## **Key controls**

The key controls:

- Council approved budget bid form
- Approval is ultimately given by the Council
- In accordance with the delegated limits

## **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer Delegation Limits**

To ensure that Officers have the appropriate documentation and guidance to allow them to submit a bid for additional funding.

To ensure that the budget bids are appropriately evaluated by the Management Team and Executive Board.

To include successful budget bids in the revenue budget and/or capital programme as appropriate.

To ensure that savings targets are set, and communicated, to enable officers to prepare plans to deliver reductions in resources and are approved by the appropriate Councillor forum.

## **Responsibility of Management Team**

To consider the budget bids and savings projects provided by Officers following the work of the appropriate officers as specified below.

### **Responsibility of Budget Managers**

To prepare submissions for consideration in accordance with the agreed format.

### **Responsibility of Overview & Scrutiny and Audit and Governance Committees**

To scrutinise the proposed additional/reduced expenditure, including review of the priority categorisation allocated, where appropriate.

### **Responsibility of Executive Board**

To select the budget bids and savings projects to be included in the Council's overall revenue and capital programme.

## **10. Revenue Budgets and Medium-Term Planning**

### **Why is it important?**

The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable resources to be allocated in accordance with the Council's main aims and corporate priorities. The budget is the financial expression of the Council's plans and policies.

The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Council. Budgets (spending plans), are needed so that the Council can plan, authorise, monitor, and control the way money is allocated and spent. It is illegal for the Council to budget for a deficit on its General Fund Revenue Account.

Medium term planning involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the Council is always preparing for events in advance. The Council's process of service delivery planning should be prepared in accordance with the advice of the Section 151 Officer/ Deputy Section 151 Officer on the financial activities of the Council.

### **Key controls**

The key controls are:

- specific budget approval for all expenditure;
- budget managers prepare in liaison with Finance staff, the base budget position for which they will be held responsible and accept accountability within delegations set by the Executive Board for their budgets and the level of service to be delivered; and
- a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To prepare and submit reports on budget prospects for the Executive Board, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.

To determine the detailed form of revenue estimates and the methods for their preparation, after consultation with the Executive Board, Management Team, and Officers.

To prepare and submit reports to the Executive Board on the aggregate spending plans of units and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council Tax to be levied.

To advise on the medium-term implications of spending decisions (five years).

To encourage best use of resources and value for money by working with the Management Team and Budget Managers to identify opportunities to improve economy, efficiency, and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

To advise the Full Council on Executive Board proposals in accordance with his/her responsibilities under Section 151 of the Local Government Act 1972.

### **Responsibility of Management Team**

To consider the detailed revenue estimates provided by the Section 151 Officer/ Deputy Section 151 Officer following the work of the appropriate officers as specified below.

### **Responsibility of Budget Managers**

To prepare estimates of income and expenditure, in consultation with the Section 151 Officer/ Deputy Section 151 Officer, to be submitted to the Executive Board.

In consultation with the Section 151 Officer/ Deputy Section 151 Officer and in accordance with the laid down procedures and timetable to prepare detailed draft revenue and capital budgets for consideration.

To prepare budgets that are consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by the Executive Board. The format should be prescribed by the Section 151 Officer/ Deputy Section 151 Officer in accordance with Full Council's general directions.

To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.

To have regard to:

- spending patterns and pressures revealed through the budget monitoring process;
- legal requirements;
- policy requirements as defined by Full Council in the approved policy framework; and
- initiatives already underway when drawing up draft budget requirements.

### **Responsibility of Overview & Scrutiny Committee and Audit and Governance Committee**

To scrutinise the proposed budgets.

### **Responsibility of Executive Board**

To recommend to Council the overall revenue and capital programmes.

## **11. Budget Monitoring and Control**

### **Why is this important?**

Budget management ensures that once the budget has been approved by Full Council, resources allocated are used for their intended purposes and that these resources are properly accounted for. Budgetary control is a continuous process enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual cash limit approved when setting the overall budget.

To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the cash limited budget allocated to it.

For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or 'cost' centre, additional budgetary control may take place at a more detailed level if this is required.

### **Key controls**

The key controls for managing and controlling the revenue budget are: -

- budget managers should be responsible only for income and expenditure which they can influence;
- there is a nominated budget manager for each cost centre heading;
- budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
- budget managers follow an approved certification process for all expenditure;

- income and expenditure is properly recorded and accounted for;
- performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget; and
- all officers responsible for committing expenditure comply with relevant guidance and financial regulations.

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To establish an appropriate framework of budgetary management and control which ensures that:

- budget management is exercised within annual cash limits unless the Full Council agrees otherwise;
- each officer has available timely information on receipts and payments on each budget that is sufficiently detailed to enable managers to fulfill their budgetary responsibilities;
- expenditure is committed only against an approved budget head; and
- significant variances from approved budgets are investigated monthly and reported quarterly to the Executive Board.

To administer the Council's scheme of Budget Movements.

To submit reports to the Executive Board and to Full Council, in consultation with the relevant service Budget Manager, where an officer is unable to balance expenditure and income within existing approved budgets under his/her control.

To prepare and submit reports on the Council's projected income and expenditure compared with the budget on a regular basis.

### **Responsibility of Budget Managers**

To maintain budgetary control within their service, in adherence with the key controls stated above and to ensure that all income and expenditure is properly recorded and accounted for.

To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Budget Manager. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making which commits expenditure.

To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.

To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.

To ensure compliance with the scheme of Budget Movements.

## **Responsibility of Management Team**

In consultation with the Section 151 Officer/ Deputy Section 151 Officer, to ensure prior approval by the full Council or Executive Board (as appropriate) for new proposals of whatever amount, which:

- create financial commitments in future years;
- change existing policies, initiate new policies, or cease existing policies; or
- materially extend or reduce the Council's services.

To agree with the relevant Budget Manager where it appears that a budget proposal, including a Budget Movements proposal, may impact materially on another Budget Manager's level of service activity.

## **12. Resource Allocation**

### **Why is this important?**

A disparity often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfill needs/desires. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfill all legal responsibilities. Resources may include staff, money, equipment, goods, and materials.

### **Key controls**

The key controls for resource allocation are that resources are:

- acquired in accordance with the law and using an approved authorisation process;
- used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;
- securely held for use when required; and
- used with the minimum level of waste, inefficiency, or loss for other reasons.

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.

To assist in the allocation of resources to budget managers.

### **Responsibility of Budget Managers**

To work within budget limits and to utilise resources allocated and further allocate resources in the most efficient, effective, and economic way, demonstrating value for money.

To identify opportunities to minimise or eliminate resource requirement or consumption without a detrimental effect on service delivery.

### **13. Supplementary Estimates**

#### **Why is this important?**

There are occasions when additional requests for funding are made by Budget Managers which cannot be contained within the resources allocated.

#### **Key Controls**

- specific approval by the Section 151 Officer, Chief Executive, and the Management Team up to £50,000
- specific approval by Executive Board for amounts up to £300,000
- specific approval by Full Council, following Executive Board consideration, for all amounts over £300,000.

#### **Responsibility of Section 151 Officer/ Deputy Section 151 Officer**

To review requests from Management Team and seek explanations for the unexpected expenditure requirement.

To prepare reports to the Executive Board and Full Council on the supplementary estimate required. These should include references to the mechanism by which the supplementary expenditure will be funded.

#### **Responsibility of Budget Managers**

To explore all avenues open to the Council to avoid unnecessary expenditure.

To consult with the Section 151 Officer/ Deputy Section 151 Officer on the matters behind the reason for requesting a supplementary estimate.

### **14. Capital Programme**

#### **Why Is This Important?**

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings and major items of plant and equipment or vehicles. Capital assets shape the way services are delivered for the long-term and create financial commitments for the future in the form of revenue running costs and, in some instances, financing costs.

The Government introduced the Prudential control regime, releasing its previously more strict control on the financing capacity of the Council. However, capital expenditure should still form part of the Council's investment strategy and should be carefully prioritised in order to maximise the benefit of the available resources.

## **Key controls**

The key controls for capital programs are: -

- De minimus level for capital expenditure of £10,000 for land and buildings and £5,000 for plant, vehicles, and equipment.
- specific approval by Full Council of the annual programme for capital expenditure;
- a scheme and estimate, including capital bid form, progress targets and associated revenue expenditure are prepared for each capital project, for approval by the Executive Board via the Capital Programme Working Group (CPWG);
- approval by the Executive Board where capital schemes are to be financed up to £300,000, and subject to the approval of Full Council where the expenditure exceeds this amount;
- the development and implementation of the Asset Management Plan;
- accountability for each element of the capital programme is accepted by a named manager; and
- monitoring of progress in conjunction with expenditure and comparison with approved budget.

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To prepare and submit reports to the Executive Board on the projected expenditure, income and other resources compared with the approved estimate.

To issue guidance concerning capital projects and controls. The definition of 'capital' will be determined by the Section 151 Officer/ Deputy Section 151 Officer, having regard to Government regulations and accounting requirements.

### **Responsibility of Budget Managers**

To comply with guidance for capital projects and controls issued by the Section 151 Officer/ Deputy Section 151 Officer.

To ensure that all capital proposals have undergone a project appraisal and are submitted to the Capital Programme Working Group.

To undertake an assessment of the capital bids following priority scoring before submission to Executive Board and Overview and Scrutiny Committee.

To prepare regular reports reviewing the capital programme provisions for their services, including preparation of a monthly return of the estimated final cost of projects in the approved capital programme in conjunction with Finance staff.

To ensure that adequate records are maintained in respect of all capital contracts.

To proceed with projects only when there is adequate provision in the capital programme.

## **15. Scheme of Budget Movements**

### **Why is it important?**

The scheme of Budget Movements is intended to enable the Executive Board and budget managers to manage budgets with a degree of flexibility within the overall policy framework determined by Full Council. Budget Movement is the switching of resources (budget) between approved estimates of expenditure. For the purposes of this scheme, a 'budget' is considered to be a line in the Council's approved budget book.

### **Key Controls**

Key controls in relation to the scheme of Budget Movements are:

- it is administered by the Section 151 Officer/ Deputy Section 151 Officer within guidelines set by Full Council.
- the overall budget is agreed by the Executive Board and approved by Full Council, allowing budget managers authorisation to incur expenditure in accordance with the estimates that make up the budget.
- Budget Movement does not create additional budget capacity. Budget Managers are expected to exercise their discretion in managing their budgets responsibly and prudently.

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To retrospectively approve amounts of £10,000 to £50,000.

To retrospectively prepare jointly with the budget manager a report to the Executive Board where Budget Movements in excess of £50,000 are proposed.

### **Responsibility of Budget Managers**

A Budget Manager may exercise Budget Movements on budgets under his/her control for amounts up to £10,000 on any one budget head during the year, following approval by the Management Team.

Amounts up to £50,000 require the approval of the Section 151 Officer or Deputy Section 151 Officer. Amounts greater than £50,000 and below £300,000 require the approval of the Executive Board, following a joint report by the Section 151 Officer/ Deputy Section 151 Officer and the Management Team which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year. Above this value it is a decision for Council.

It is the responsibility of each appropriate officer to expend his budget allocation economically, efficiently, and effectively.

Budget managers should avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources.

Budget managers must plan to fund such commitments from within their own budgets. A Budget Movement that is likely to impact on the level of service activity of another Budget Manager should be implemented only after agreement with the relevant Budget Manager.

No Budget Movements relating to a specific financial year should be made after 31 March in that year. Where an approved budget is a 'lump sum' budget or reserve intended for allocation during the year, its allocation will not be treated as a Budget Movement for reporting purposes, provided that the amount is used in accordance with the purposes for which it has been established.

### **Responsibility of Executive Board**

To approve all Budget Movements above £50,000 in accordance with Section 2 of the Financial Procedure Rules.

## **16. Maintenance of Reserves**

### **Why is this important?**

The Council must decide the level of general reserves it wishes to maintain before it can decide the level of Council Tax. A general reserve (or working balance) is maintained as a matter of prudence. It enables the Council to provide for unexpected events and thereby protect it from overspending should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

### **Key Controls**

#### **Key controls for the maintenance of reserves:**

- Maintaining reserves in accordance with the relevant CIPFA Accounting Code of Practice
- For each reserve established, the purpose, usage and the basis of transactions should be clearly identified
- specific approval by Management Team in consultation with the Section 151 Officer/ Deputy Section 151 Officer for all use of reserves up to £50,000
- specific approval by Executive Board for amounts up to £300,000
- use of reserves above this amount will require Full Council approval

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To advise the Executive Board and/or full Council on prudent levels of reserves for the Council to hold, and to take account of advice from the external auditor in this matter.

## **17. Internal Controls**

### **Why is this important?**

The Council requires internal controls to manage and monitor progress towards the main aims and corporate priorities.

Internal controls are also there to deter and prevent fraud.

The Council has statutory obligations to meet, and therefore, requires internal controls to identify, meet and monitor compliance with these obligations.

The Council faces a wide range of financial, administrative, and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

The system of internal controls is established in order to provide measurable achievement of:

- efficient and effective operations;
- reliable financial information and reporting;
- compliance with laws and regulations; and
- risk management.

### **Key controls**

Key controls and control objectives for internal control systems are:

- key controls should be reviewed on a regular basis;
- managerial control systems including defining policies, setting objectives and plans, monitoring financial and other performance, and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities;
- financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems; and
- an effective Internal Audit function which is properly resourced. It should operate in accordance with current best practice (including guidance from the Financial Reporting Council's Audit and Assurance team, and CIPFA) and with any other statutory obligations and regulations.

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

## **Responsibility of Budget Managers**

To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

To review existing controls in the light of changes affecting the Council and establish and implement new ones in line with guidance from the Section 151 Officer/ Deputy Section 151 Officer/Internal Audit.

To ensure staff have a clear understanding of the consequences of a lack of control.

## **18. Risk Management**

### **Why is this important?**

Risk is the effect of uncertainty on the Council delivering its objectives; the effect can be either positive or negative. The Council needs to manage its risks to minimise their threat and maximise their potential. Risk management is the coordination of activities to direct and control the Council with regard to risk. In essence, it is therefore an integral part of good business practice.

Risk management is concerned with evaluating the measures an organisation has in place already to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

### **Key controls**

The key controls for risk management are:

- the Executive Board and the Audit and Governance Committee receive quarterly updates on the strategic risks to the Council;
- procedures are in place to identify, assess, prioritise, and manage risks, and these procedures are operating effectively throughout the Council;
- a dynamic monitoring process is in place to regularly review the effectiveness of risk reduction strategies and the operation of these controls;
- managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;
- provision is made for losses that might result from the risks that remain;
- acceptable levels of risk are determined and insured against where appropriate; and
- the Council has prepared a Business Continuity Plan for implementation in the event of disaster which results in significant loss or damage to its resources.

## **Responsibility of the Executive Board**

To recommend the Council's Risk Management Strategy to Council, and to promote a culture of risk management awareness throughout the Council.

To consider and challenge the risks involved in making any 'Key Decisions'.

### **Responsibility of the Audit and Governance Committee**

To oversee the effectiveness of the Council's risk management arrangements.

### **Responsibility of Management Team**

To work with the Executive Board to develop the Council's Risk Management Strategy, risk policies and risk appetite.

To consider and challenge the risks involved in making any 'Key Decisions'.

To maintain a register and manage the strategic risks to the Authority.

To designate a Chief Risk Officer to have overall responsibility for ensuring the Council has an effective Risk Management Framework.

### **Responsibility of Managers**

To take responsibility for risk management, having regard to advice from the Performance Team and other specialist officers of the Council (e.g., Health and Safety), as well as external organisations (e.g., Crime Prevention, Fire Prevention).

To ensure that there are regular reviews of risk within their services.

## **19. Insurances**

### **Why is this important?**

Insurance is one of the processes that can be put in place to minimise the loss of the Council following a process of risk management.

### **Key controls**

The Section 151 Officer shall effect all insurance cover and negotiate all claims in consultation with other officers, where necessary.

Named individuals of the Council shall be included in a suitable fidelity guarantee insurance.

### **Responsibility of the Section 151 Officer**

The Section 151 Officer/Deputy Section 151 Officer shall, at such period as is considered necessary, review all insurances in consultation with the appropriate officers.

## **Responsibility of Budget Managers**

Appropriate officers shall give prompt notification to the Finance Section of all new risks, properties or vehicles which require to be insured and of any alterations affecting existing insurances.

Appropriate officers shall forthwith notify the Finance Section, in writing, of any loss, liability or damage, or any event likely to lead to a claim.

Appropriate officers shall consult the Section 151 Officer with respect to the terms of any indemnity which the Council is requested to give.

### **20. Internal Audit**

#### **Why is this important?**

The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations require that a "relevant body shall maintain an adequate and effective system of internal audit of the accounting records and of its systems of internal control".

Internal audit is an independent and objective appraisal function established by the Council for reviewing the 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.

#### **Key controls**

The key controls for internal audit are:

- that it is independent in its planning and operation;
- the auditors have direct access to the Chief Executive, all levels of management and directly to Councillors;
- the internal auditors comply with relevant guidance issued by the Financial Reporting Council's Audit and Assurance team, and CIPFA;
- enter the Council premises or land at any reasonable time;
- access all assets, records, documents, correspondence, and control systems relating to the financial transactions of the Council;
- require and receive any information and explanation considered necessary concerning any matter under consideration;
- require any employee of the Council to produce and account for cash, stores, or any other Council asset under his/her control;
- access records belonging to third parties, such as contractors when required;
- the approval of the strategic and annual audit plans which have been prepared by the Service Manager – Audit and Information Governance (Head of Internal Audit) and which take into account the characteristics and relative risks of the activities involved; and
- ensuring that effective procedures are in place to investigate promptly any fraud or irregularity.

## **Responsibility for Budget Managers**

To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents, and assets which the auditors consider necessary for the purposes of their work.

To ensure that auditors are provided with any information and explanations which they seek in the course of their work.

To consider and respond promptly to recommendations in audit reports. The expectations are that managers will respond in ten working days.

To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient manner, and within the self-imposed timescales agreed in the action plan following any review.

To notify the Section 151 Officer/ Deputy Section 151 Officer, Chief Executive and Service Manager – Audit and Information Governance (Head of Internal Audit) immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Budget Manager should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Service Manager – Audit and Information Governance (Head of Internal Audit), prior to implementation.

## **Responsibility of the Audit and Governance Committee**

To undertake the functions specified in the Committee's Terms of Reference, as set out in the Council's Constitution.

### **21. External Audit**

#### **Why is this important?**

As part of ensuring that public monies are properly accounted for and managed, an external audit regime is in place where the external auditor has rights of access to all documents and information which are necessary for audit purposes.

The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. The Code of Audit Practice (to be produced and maintained by the National Audit Office from 1 April 2015, who will also provide supporting guidance to auditors) sets out the auditor's objectives to review and report upon:

- the audited body's financial statements; and
- whether the audited body has made proper arrangements for securing economy, efficiency, and effectiveness in its use of resources.

The Council's annual Statement of Accounts is examined by external auditors, who must be satisfied that the Statement of Accounts presents a true and fair view of the financial position of the Council and its income and expenditure for the year in question and complies with the legal requirements.

### **Key Controls**

External auditors are now appointed following a tender process, normally for a minimum period of five years. The Code of Audit Practice sets out the framework which external auditors follow when carrying out their audits.

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To ensure there is effective liaison between external and internal audit.

To work with the external auditor and advise the Audit and Governance Committee, Executive Board, Management Team, and Budget Managers on their responsibilities in relation to external audit.

### **Responsibility of Budget Managers**

To ensure that external auditors are given access at all reasonable times to premises, personnel, documents, and assets which the external auditors consider necessary for the purposes of their work.

To ensure that all records and systems are up to date and available for inspection.

## **22. Preventing Fraud and Corruption**

### **Why is this important?**

The Council will not accept fraud and corruption in the administration of its responsibilities whether from inside or outside the Council.

The Council's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures, and practices.

The Council also expects that individuals and organisations (e.g., suppliers, contractors, service providers) that it comes into contact with, will act towards the Council with integrity and without thought or actions involving fraud or corruption.

## Key Controls

Key controls regarding the prevention of financial irregularities are that:

- the Council has an effective anti-fraud corruption policy and maintains a culture which will not accept fraud or corruption;
- all members and staff act with integrity and lead by example;
- senior managers are required to deal promptly and in accordance with disciplinary policies with those who defraud or attempt to defraud the Council or who are corrupt;
- high standards of conduct are promoted amongst Councillors by the Monitoring Officer;
- the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded;
- whistle blowing procedures are in place and operate effectively; and
- legislation including the Public Interest Disclosure Act 1998 is adhered to.

### Responsibility of the Section 151 Officer/ Deputy Section 151 Officer

To maintain adequate and effective internal control arrangements.

To ensure that all suspected irregularities are reported to the Service Manager – Audit and Information Governance (Head of Internal Audit), the Chief Executive, and the Executive Board.

### Responsibility of Management Team and Budget Managers

To ensure that all suspected irregularities are reported to the Service Manager – Audit and Information Governance (Head of Internal Audit).

To instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

To ensure that where financial impropriety is discovered, the Section 151 Officer/ Deputy Section 151 Officer is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.

### The Bribery Act 2010

Bribery is defined as the promising, requesting, offering, giving, or accepting, directly or indirectly, of an inducement or reward that distorts the proper performance of any duty or behaviour required of the recipient of the offer or bribe, for example: -

- The taking or giving of a bribe to secure favourable treatment in the granting of a Council service or contract
- The undue use of influence to procure a Council service or contract. Under the Bribery Act 2010 bribery is a criminal offence for an employee to request, receive, agree to receive, promise, offer 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.

## **23. Security of Assets**

### **Why is this important?**

The Council holds assets in the form of property, vehicles, equipment, furniture, and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in the delivery of services, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date Asset Register is a prerequisite for proper fixed asset accounting and sound asset management.

### **Key controls**

The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software, and information are that:

- resources are used only for the purposes of the Council and properly accounted for;
- resources are available for use when required;
- resources no longer required are disposed of in accordance with the law and the regulations of the Council so as to maximise benefits;
- an Asset Register is maintained for the Council and assets are recorded when they are acquired by the Council and this record is updated as changes occur with respect to the location and condition of the asset;
- all staff are aware of their responsibilities with regard to safeguarding the security of the Council's computer systems, including maintaining restricted access to the information held on them and compliance with the Council's computer and internet security policies.
- all staff are aware of their responsibilities with regard to safeguarding the Council's assets and information, including the requirements of the Data Protection Act 1998 and software copyright legislation.
- appropriate officers shall be responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc., under their control. They shall consult the Section 151 Officer/ Deputy Section 151 Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- Keys to office premises, safes, and similar receptacles, shall be securely kept in a place or manner approved by the appropriate officer.
- Each appropriate officer shall maintain a register of current key holders.
- Each appropriate officer shall be responsible for agreeing limits for cash holding with the S151 Officer.
- Appropriate officers shall be responsible for ensuring that any office keys, identity cards, core keys etc., are obtained from any employee leaving the employment of his/her department at or before the time of leaving.
- The Section 151 Officer/ Deputy Section 151 Officer shall be responsible for the security of the Council's Information and Communication Technology (ICT) facilities in accordance with Data Protection Regulations and shall be consulted by any appropriate officer wishing to use any data thereon.

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

Ensure that an Asset Register is maintained in accordance with good practice for land and property assets with a value in excess of £10,000 and plant, vehicles, and equipment with a value in excess of £5,000.

The function of the Asset Register is to provide the Council with information about fixed assets so that they are:

- safeguarded;
- used efficiently and effectively; and
- adequately maintained.

To receive information from each Budget Manager required for accounting, costing and financial records.

To ensure that assets are valued in accordance with the CIPFA Accounting Code of Practice.

### **Responsibility of Budget Managers**

To maintain a property database, for all properties, plant and machinery and moveable assets currently owned or used by the Council. Any use of property by a unit or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities, and duration of the use.

To ensure that lessees and other prospective occupiers of council land and/or buildings are not allowed to take possession or enter the land and/or buildings until a lease or agreement has been established, as appropriate.

To ensure the proper security of all buildings and other assets under their control.

To ensure that where land or buildings are surplus to requirements, a recommendation for the sale of land is the subject of a joint report by the Director and Section 151 Officer/ Deputy Section 151 Officer.

To ensure that no Council asset is subject to personal use by an employee without proper authority.

To ensure the safe custody of vehicles, equipment, furniture, stock, stores, and other property belonging to the Council.

To ensure assets are identified, their location recorded and that they are appropriately marked and insured.

To ensure cash holdings on premises are kept to a minimum and agreed with the Section 151 Officer/ Deputy Section 151 Officer.

To ensure that keys to property, safes and similar receptacles are carried on the person of those responsible at all times and that there is a register of current key holders maintained.

To record all disposal or part exchange of assets, which should normally be by competitive tender or public auction, unless following consultation with the Section 151 Officer/ Deputy Section 151 Officer, the Executive Board agrees otherwise.

To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Section 151 Officer/ Deputy Section 151 Officer.

To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged or may possess some intrinsic value and its disclosure or loss could result in a cost to the Council in some way.

## **24. Inventories**

### **Why is this important?**

This is important to help safeguard the Council's assets. It is an extension to the Security of Assets part of these procedures.

### **Key controls**

A complete physical check shall be carried out by the appropriate officer at least once a year.

A physical check against the inventory may be carried out by the Section 151 Officer/ Deputy Section 151 Officer or his representative at all reasonable times.

The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the appropriate officer concerned. Council property provided to individual officers or Councillors (e.g., Laptops and PCs for home use) must be controlled in a manner approved by the Section 151 Officer/Deputy Section 151 Officer and inventories noted accordingly.

Movement of inventory items between offices and, more especially, between employees must be recorded in the appropriate inventories.

Any material differences disclosed in an inventory shall be reported to the Section 151 Officer/ Deputy Section 151 Officer by the appropriate officer.

Property belonging to the Council which has been lost, stolen, damaged or destroyed and where the loss is not recoverable from insurance or other sources will require to be formally written off in accordance with the delegation set out in the Table at page 214 of the Constitution.

### **Responsibility of Budget Managers**

Each appropriate officer shall:

Prepare and keep up to date an inventory in a form agreed by the Section 151 Officer for all departmental offices, depots, etc., of the Council, wherein shall be recorded an adequate description of moveable furniture, fittings and equipment, office machinery, plant and machinery and similar property belonging to the Council.

Maintain inventories and record an adequate description of furniture, fittings and equipment, plant, and machinery.

Carry out an annual check of all items on the inventory in order to verify location, review, condition, and take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council.

Make sure that property is only used in the course of the Council's business unless the Service Manager concerned has given permission otherwise.

Prepare reports, in conjunction with the Section 151 Officer/ Deputy Section 151 Officer on write-offs above £5,000 to the Executive Board.

## **25. Stocks and Stores**

### **Why is this important?**

This is important to help safeguard the Council's assets. It is an extension to the Security of Assets part of these procedures.

### **Key controls**

Each appropriate officer shall be responsible for the care and custody of the stocks and stores in his department. Stocks and stores shall not be in excess of normal requirements, except in special circumstances, with the approval of the Executive Board.

The Section 151 Officer/ Deputy Section 151 Officer shall be entitled to receive from each appropriate officer such information as he requires in relation to stocks and stores for accounting, costing and financial records.

Where the value of any stock holding is deemed material, appropriate officers shall arrange for a continuous stock-taking to occur throughout the year, and a complete stock-take carried out at least once in every financial year, by someone other than the stock-keeper. As soon as possible after 31 March in each year, the appropriate officer shall submit to the Section 151 Officer/ Deputy Section 151 Officer a certificate as to the value of stock held at the end of that financial year. The appropriate officer shall maintain a record of all stock deficiencies and surpluses in a manner agreed with the Section 151 Officer/ Deputy Section 151 Officer. Any differences on this account may be the subject of a report to the Executive Board by the Section 151 Officer/ Deputy Section 151 Officer.

The appropriate officer, with the approval of the Section 151 Officer/ Deputy Section 151 Officer is authorised to dispose of by competitive tender or public auction or write-off obsolete stores and equipment or surplus scrap up to a value of £5,000. Disposals or write-offs in excess of this amount are subject to the approval of the Executive Board.

## **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

The Section 151 Officer/ Deputy Section 151 Officer shall arrange for a register of all assets owned by the Council (including dwellings provided under the Housing Acts) to be maintained, recording the appropriate Service Area, purpose for which held, location, extent and plan reference, purchase details (e.g., Vendor, price, date), particulars of nature of interest and rents payable, particulars of tenancies granted and rents receivable.

## **Responsibility of Budget Managers**

To make arrangements for the care and custody of stocks and stores in the unit.

To ensure stocks are maintained at reasonable levels and subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.

To authorise or write-off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction unless, following consultation with the Section 151 Officer/ Deputy Section 151 Officer, the Executive Board decides otherwise in a particular case.

## **26. Imprest Accounts (Petty Cash)**

### **Why is this important?**

Imprest Accounts are used for the purposes of defraying petty cash and other expenses.

### **Key controls**

Imprest Accounts shall be maintained on a full reimbursement basis.

The level of the Imprest Account shall be determined by the Section 151 Officer/ Deputy Section 151 Officer after consultation with the appropriate officer.

No single payment shall exceed £50.00 without the prior consent of the Section 151 Officer/ Deputy Section 151 Officer. No income received on behalf of the Council may be paid into the Imprest Account.

Payments from the Imprest Account shall be limited to items of a minor nature. Generally, payments that are petty cash in nature, will be made using the Council's procurement card.

All payments must, wherever possible, be supported by VAT receipts and certified by the appropriate officer.

## **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To provide employees of the Council with cash imprest accounts to meet minor expenditure on behalf of the Council and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.

To approve the petty cash limit and to maintain a record of all transactions and petty cash advances made,

and periodically review the arrangements for the safe custody and control of these advances.

To reimburse imprest holders as often as necessary to restore the imprest but normally not more than monthly.

### **Responsibility of Budget Managers**

To ensure that employees operating an imprest account:

- obtain and retain vouchers to support each payment from the imprest account, and where appropriate an official receipted VAT invoice must be obtained;
- make adequate arrangements for the safe custody of the account;
- produce upon demand by the Section 151 Officer/ Deputy Section 151 Officer, cash, and **ALL** vouchers to the total value of the imprest amount;
- record transactions promptly;
- reconcile and balance the account at least monthly and ensure that reconciliation sheets are signed and retained by the imprest holder;
- provide the Section 151 Officer/ Deputy Section 151 Officer with a certificate of the value of the account held at 31 March each year;
- ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made; and
- on leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Section 151 Officer/ Deputy Section 151 Officer for the amount advanced to him/her.

## **27. Intellectual Property**

### **Why is this important?**

Intellectual property is a generic term that includes inventions and writings. If these are created by the employee during the course of employment, then as a general rule they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.

Certain activities undertaken within the Council may give rise to items that may be patentable, for example the development of software. These are collectively known as intellectual property.

### **Key controls**

Income received from the sale of intellectual property should be banked in accordance with the Council's banking procedures.

### **Responsibility of Section 151 Officer/ Deputy Section 151 Officer**

To ensure that staff are aware of an employer's rights with regard to intellectual property.

### **Responsibility of Monitoring Officer**

To provide a guidance sheet for the Council on the production of intellectual property.

## **28. Asset Disposal**

### **Why is this important?**

It would be uneconomic and inefficient for the cost of assets to outweigh their benefits.

Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and regulations of the Council.

### **Key controls**

Assets for disposal are identified and disposed of at the most appropriate time, and only when it is in the best interests of the Council, and that the best price is obtained (with the duty to obtain best consideration, subject to the rules governing disposals at an undervalue), bearing in mind other factors such as economic and environmental issues. The Assistant Director – Property, Business & Growth will recommend the most appropriate method by which surplus property should be disposed of. This method should require the open invitation of competitive bids (either by auction, tender or advertisement) unless an alternative method of disposal would be appropriate (with the decision on the preferred route noted and retained). Examples include:

- Sale to a sitting tenant
- Sale of an access which would enable a purchaser to release development value
- Sale to an adjoining owner or sale of part interest in the property where amalgamation of interests could enable substantial “marriage value” to be realised.
- Sale at “less than best consideration” where justified by either a community asset transfer or other benefits offered to the Council.
- Transfer to the relevant Town or Parish Council.

The Localism Act 2011 contains provisions that create potential controls on disposal, through the Community Right to Bid.

All assets disposed of over £10,000 must be treated as a Capital Receipt. Procedures protect staff involved in the disposal from accusations of personal gain.

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To issue guidelines representing best practice for disposal of assets.

To ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records, and to include the sale proceeds if appropriate.

## **Responsibility of Budget Managers**

To seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores, or equipment, and to document decisions arising from that advice.

To ensure that income received for disposal of an asset is properly banked and returned to central resources.

## **29. Valuation for Rating**

### **Why is this important?**

Non-domestic rates (often called business rates) are the way in which businesses and other occupiers of non-domestic property contribute towards the costs of Local Authority services.

The Council's role is to be responsible for ensuring that the rateable list maintained by the Valuation Office Agency is complete and up to date, working out the business rates bill, giving any reliefs that may be due, and for collecting the money.

### **Key controls**

Department of Communities and Local Government - responsible for setting the overall government policy on local taxation.

Valuation Office Agency (VOA)- assesses rateable values that are the basis for working out rates bills.

Valuation Tribunals - independent, judicial bodies that have power to deal with appeals relating to non-domestic rating (and Council tax)

## **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

The Section 151 Officer/ Deputy Section 151 Officer shall be responsible to the Council for ensuring all rateable properties are included in the current Valuation List. The Section 151 Officer/ Deputy Section 151 Officer shall be authorised to sign agreements on behalf of the Council affecting the values of rateable properties.

The Section 151 Officer/ Deputy Section 151 Officer shall be responsible for managing the Collection Fund in an efficient and effective manner.

## **30. Council Tax**

### **Why is this Important?**

Council Tax is the income received from residents to contribute towards the provision of services in the District. Council Tax came into effect on 1 April 1993. However, the process of valuing every domestic property in England and Wales for banding purposes started some time before this, and properties are banded according to what the VOA considers their value would have been on 1 April 1991. This means that recent sale prices are not necessarily a good guide to the correct band for a property for Council Tax purposes.

## **Key controls**

The local Valuation Office of the Valuation Office Agency keeps a valuation list showing the valuation band of all properties in their area.

## **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer and Head of Revenues and Benefits**

The Section 151 Officer has delegated responsibility for setting the Council Tax base annually.

The Section 151 Officer/ Deputy Section 151 Officer shall be responsible to the Council for keeping and maintaining the Council Tax Valuation List and raising appropriate accounts to Council Taxpayers.

The Section 151 Officer/ Deputy Section 151 Officer shall be responsible for managing the Collection Fund in an efficient and effective manner.

## **31. Treasury Management**

### **Why is this important?**

Millions of pounds pass through the Council's books each year. This has led to the establishment of Treasury Management codes of practice. These aim to provide assurances that the Council's money is properly managed and controlled in a way which balances risk with return, but with the overriding consideration being given to the security of the Council's investments.

### **Key controls**

The Council shall adopt the key recommendations of CIPFA's *Treasury Management in the Public Services: Code of Practice* as follows:

The Council shall put in place formal and comprehensive objectives, policies and practices, strategies and reporting arrangements for the effective management and control of its treasury management activities.

The Council's policies and practices shall make clear that the effective management of risk, having regard to return, is a prime objective of its treasury management activities.

The Council shall acknowledge that the pursuit of best value in treasury management and the use of suitable performance measures are valid and important tools for it as a responsible organisation to employ in support of its business and service objectives; and that within the context of effective risk management, its treasury management policies and practices will reflect this.

In order to achieve the above, the Council will:

- adopt a treasury management policy statement, as recommended in Section 6 of the Code,
- follow the recommendations in Section 7 of the Code concerning the creation of Treasury Management Practices (TMPs).

- create and maintain, as the cornerstones for effective treasury management:
  - a treasury management policy statement, stating the policies and objectives of its treasury management activities
  - suitable TMPs, setting out the manner in which it will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
  - prudential and treasury indicators and a treasury strategy outlining capital plans, minimum revenue provision policy, treasury management strategy and an investment strategy

The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the Council materially deviating from the Code's key recommendations.

The Council's Audit and Governance Committee shall receive reports on its treasury management policies, practices, and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year report and an annual report after its close, in the form prescribed in its TMPs. These documents will then need formal approval by Full Council.

The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Executive Board, and for the execution and administration of treasury management decisions to the Section 151 Officer/ Deputy Section 151 Officer, who will act in accordance with the organisation's policy statement and TMP's and, as a CIPFA member, CIPFA's *Standard of Professional Practice on Treasury Management*."

**Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To arrange borrowing and investments of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Council's treasury management policy statement and strategy.

To report on treasury management activities quarterly to the Executive Board.

To operate bank accounts as are considered necessary. Opening or closing any bank account shall require the approval of the Section 151 Officer/ Deputy Section 151 Officer.

To ensure that all investments of money are made in the name of the Council or in the name of nominees approved by full Council.

To effect all borrowings in the name of the Council.

To act as the Council's registrar of stocks, bonds, and mortgages, and to maintain records of all borrowing of money by the Council.

## **Responsibility of Budget Managers**

To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures, or other enterprises without the approval of Full Council or Executive Board, following consultation with the Section 151 Officer/ Deputy Section 151 Officer in accordance with delegated limits.

## **Responsibility of Members**

- Full Council – approve the Treasury Management and Investment Strategy Report, the Mid Term Treasury report and finally the Annual Treasury report
- Audit and Governance Committee – To make recommendation to Full Council on all matters of Treasury Management

## **32. Staffing**

### **Why is this important?**

In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

### **Key controls**

Key controls for staffing are that:

- an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched;
- procedures are in place for forecasting staffing requirements and cost;
- controls are implemented that ensure that staff time is used efficiently and to the benefit the Council; and
- checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced, and trustworthy.

### **Human Resources (PSPS)**

To ensure that the Section 151 Officer/ Deputy Section 151 Officer receives the latest staffing structure, on an ongoing basis.

### **Responsibility of Section 151 Officer/ Deputy Section 151 Officer and Management Team**

To act as an advisor to Budget Managers on areas such as National Insurance and pension contributions as appropriate.

To ensure that all payments are correctly made to employees.

To ensure all deductions made are correctly allocated and accounted for and forwarded to appropriate bodies.

### **Responsibility of Budget Managers**

To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training, and temporary staff.

To ensure that the staffing budget is correctly calculated in conjunction with the Finance staff within PSPS.

To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

To ensure that Management Team are immediately informed if the staffing budget is likely to be materially over or under spent.

To ensure Vacancy Management business cases are submitted to Management Team for consideration.

### **33. Financial Systems and Procedures**

#### **Why is this important?**

Budget Managers have many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. Budget Managers are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered.

They should contain controls to ensure that transactions are properly processed, and errors detected promptly.

The Section 151 Officer/ Deputy Section 151 Officer has a professional responsibility to ensure that the Council's financial systems are sound and should therefore be notified of any new developments or changes.

#### **Key controls**

The key controls for systems and procedures are:

- basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated;
- performance is communicated to the appropriate managers on an accurate, complete, and timely basis;
- early warning is provided of deviations from target, plans and budgets that require management attention; and
- operating systems and procedures are secure.

#### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To make arrangements for the proper administration of the Council's financial affairs, including to:

- issue advice, guidance and procedures for officers and others acting on the Council's behalf;
- determine the accounting systems, form of accounts and supporting financial records;
- establish arrangements for the audit of the Council's financial affairs;
- approve any new financial systems to be introduced; and
- approve any changes to be made to existing financial systems.

### **Managers with Responsibility for Finance and IT**

To ensure that adequate back-up of financial systems and recovery procedures are in place.

### **Responsibility of Budget Managers**

To ensure that accounting records are properly maintained and held securely.

To ensure that vouchers and documents with financial implications are not destroyed except in accordance with arrangements approved by the Section 151 Officer/ Deputy Section 151 Officer.

To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.

To incorporate appropriate controls to ensure that, where relevant:

- all input is genuine, complete, accurate, timely and not previously processed;
- all processing is carried out in an accurate, complete, and timely manner; and
- output from the system is complete, accurate and timely.

To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and minimise the risk of fraud or other malpractice.

To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.

To ensure that systems are documented, and staff trained in operations.

To consult with the Section 151 Officer/ Deputy Section 151 Officer before changing any existing financial system or introducing new financial systems.

To establish a scheme of delegation identifying officers authorised to act on the Budget Manager's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.

To supply lists of authorised officers, with specimen signatures and delegated limits, to the Section 151 Officer/ Deputy Section 151 Officer, together with any subsequent variations.

To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off-site, or in an alternative location within the building.

To ensure that, where appropriate, computer systems are registered in accordance with the data protection legislation and that staff are aware of their responsibilities under that legislation.

To ensure that relevant standards and guidelines for computer systems issued by the Information Technology Manager are observed.

To ensure that computer equipment and software are protected from loss and damage through theft, vandalism etc.

To comply with the copyright, designs, and patents legislation and, in particular, ensure that:

- only software legally acquired and installed by the Council's ICT Unit is used on its computers;
- staff are aware of legislative provisions; and
- in developing systems, due regard is given to the intellectual property rights section of these procedures.

### **34. Income**

#### **Why is this important?**

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all of the income due is identified, collected, receipted, and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash flow and also avoids the time and cost of administering debts. Failing this, recording of the debt in the Council's debtor (sales) ledger system must be made.

#### **Key controls**

Key controls for income are:

- all income due to the Council is identified and charged correctly in accordance with an approved charging policy which is regularly reviewed;
- all income is collected from the correct person, at the right time using the correct procedures and the appropriate stationery;
- where possible, payment is made prior to a service being delivered;
- all money received by an employee on behalf of the Council is paid without delay to the Council's bank account and properly recorded. The responsibility for cash collection should be separated from that:
  - for identifying the amount due; and
  - for reconciling the amount due to the amount received;

- effective action is taken to pursue non-payment within defined timescales;
- formal approval for debt write-off is obtained;
- appropriate write-off action is taken within defined timescales;
- appropriate accounting adjustments are made following write-off action;
- all appropriate income documents are retained and stored for the defined period in line with the document retention schedule; and
- money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.
- Cheques shall not be cashed out of money on behalf of the Council.
- No Officer shall give a receipt for money received on behalf of the Council on any form other than the official receipt form.
- Sums up to £5,000 may be written off by the appropriate Budget Manager, with the approval of the Section 151 Officer/Deputy Section 151 Officer.

### **Responsibility of Section 151 Officer/ Deputy Section 151 Officer**

To agree arrangements for the collection of all income due to the Council and approve the procedures, systems and documentation for its collection and banking reconciliation.

To advise on all aspects of controlled stationery and satisfy himself regarding the arrangements for their control.

To ensure that appropriate accounting adjustments are made following write-off action.

### **Responsibility of Budget Managers**

To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and review it regularly, in line with corporate policies.

To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

To issue official receipts or maintain other documentation for income collection.

To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.

To hold securely receipts, tickets and other records of income, for the appropriate period.

To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.

To ensure that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received. Appropriate details should be recorded on to paying in slips to provide an audit trail. At least weekly money collected and deposited must be reconciled to the bank account on a regular basis to ensure income is not used to cash personal cheques or other payments.

No deduction shall be made from income received.

To supply the Section 151 Officer/ Deputy Section 151 Officer with details relating to work done, goods

supplied, or services rendered or other amounts due, to enable the Section 151 Officer/ Deputy Section 151 Officer to record correctly the sums due to the Council and to ensure accounts are sent out promptly. To do this Budget Managers should use established performance management systems to monitor the recovery of income and flag up areas of concern to the Section 151 Officer/ Deputy Section 151 Officer. All Managers have a responsibility to assist the Section 151 Officer/ Deputy Section 151 Officer in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf. Only up to approved levels of cash can be held on the premises.

To keep a record of every transfer of money between employees of the Council. The receiving officer must sign for the transfer and the transferor must retain a copy.

To recommend to the Section 151 Officer/ Deputy Section 151 Officer all debts to be written off. Once raised, no debt may be cancelled except by full payment or by its formal writing off.

A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.

To notify the Section 151 Officer/ Deputy Section 151 Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Section 151 Officer/ Deputy Section 151 Officer and not later than 7 April.

## **35. Banking Arrangements and Cheques**

### **Why is this important?**

All arrangements with the Council's bankers shall be made by, or under arrangements approved by, the Section 151 Officer/ Deputy Section 151 Officer who shall be authorised to operate such banking accounts as he may consider necessary.

### **Key Controls**

All cheques shall be ordered only on the authority of the Section 151 Officer/ Deputy Section 151 Officer, who shall make proper arrangements for their safe custody.

Cheques drawn on the Council's main banking accounts shall bear the facsimile signature of the Section 151 Officer/ Deputy Section 151 Officer or be signed by the Section 151 Officer/ Deputy Section 151 Officer or designated signatories.

Supplier payments in excess of £100,000 shall be countersigned by 2 approved bank signatories. Prime documents must be produced for checking at the time of countersigning.

The Section 151 Officer/ Deputy Section 151 Officer shall submit quarterly to the Audit and Governance Committee a Statement of the Council's Cash Position.

## **36. Ordering and Paying for Work, Goods and Services**

### **Why is this important?**

Public money should be spent with demonstrable probity and in accordance with the Council's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services can receive value for money in their purchasing arrangements. These procedures should be read in conjunction with the contract procedures.

### **General**

Every officer and Councillor of the Council has a responsibility to declare any links or personal interests which they may have with purchasers or suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council in accordance with appropriate Codes of Conduct.

Official orders must be in a form approved by the Section 151 Officer/ Deputy Section 151 Officer. Official orders must be issued for all work, goods, or services to be supplied to the Council except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions.

Verbal orders shall only be given in cases of emergency, and these shall always be confirmed by an official order not later than the next working day.

Each order must conform to the guidelines approved by Full Council on the ordering and payments system. Standard terms and conditions must not be varied without the prior approval of the Section 151 Officer/ Deputy Section 151 Officer.

Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

All official stationery will be obtained and controlled by user departments. All accounts shall be certified by the respective Budget Manager.

All invoices, accounts, and certificates due for payment shall be in the name of East Lindsey District Council, except where by agreement the Council is acting as paymaster for an authorised agent of the Council.

Copy accounts and statements shall not normally be passed for payment.

VAT can only be reclaimed\* by the Council, upon receipt of a valid VAT invoice.

*\*subject to the partial exemption rules.*

Invoices should be paid within 30 days, or other agreed period.

Each appropriate officer shall notify the Section 151 Officer/ Deputy Section 151 Officer of the names of those members of his staff authorised to initiate official orders, and the financial limit that applies before an order is referred back to him, in the computerised ordering system.

The Section 151 Officer/ Deputy Section 151 Officer shall be notified by each appropriate officer of the names of those members of staff authorised to sign the summary of orders raised, together with specimen signatures and initials. No officer shall sign any name other than his own, and facsimile signatures shall not be used.

In replacing the signing of an order, the signing of the summary of orders shall indicate that: -

- The goods or services are necessary for the discharge of responsibilities of the Council.
- There is provision for the cost within the approved estimates or is otherwise approved in accordance with the Council's Financial Procedures.
- Financial Procedures, Contract Procedures and Standing Orders have been complied with.
- Use of the Council's credit card facility does not remove the need for the rules and controls to be followed.

### **Key controls**

The key controls for ordering and paying for work, goods and services are:

- all goods and services are ordered only by authorised officers and correctly recorded;
- all goods and services shall be ordered in accordance with the Council's code of practice for tenders and contracts;
- goods and services received are checked to ensure they are in accordance with the order;
- payments are not made unless goods have been received by the Council to the correct price, quantity, and quality standards;
- all payments are made to the correct person, for the correct amount and are properly recorded;
- all appropriate evidence of the transaction and payment documents are retained and stored for the defined period in accordance with the document retention schedule;
- all expenditure including VAT, is accurately allocated; and
- in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

Any use of the Council Credit Card will be in accordance with the Council's Procurement Card Policy. All cardholders must sign up to this Policy prior to Credit Card use.

The Council publishes payments over £250 in accordance with the Transparency Code and good practice.

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To ensure that all of the Council's financial systems and procedures are sound and properly administered.

To approve the form of official orders, and associated terms and conditions.

To make payments from the Council's funds on the Budget Manager's authorisation that the

expenditure has been duly incurred in accordance with financial regulations.

To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.

To make payments to contractors on the certificate of the appropriate Budget Manager, which must include details of the value of work, retention money, amounts previously certified and amounts now certified within authorised limits.

### **Responsibility of Budget Managers**

To ensure that the Council's electronic official order system is used for all goods and services.

To ensure that orders are only used for goods and services provided to the unit. Individuals must not use official orders to obtain goods or services for their private use.

To ensure that only those staff authorised by him/her sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the Council's approach to procurement. Value for money should always be achieved.

To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories.

To ensure any payments, with VAT charged, are valid VAT invoices and meet the requirements of HMRC.

To ensure that payments are not made unless an invoice has been received, checked, coded, and certified for payment confirming:

- receipt of goods or services;
- that the goods and services have been inspected and found to be satisfactory;
- that the invoice has not previously been paid;
- that expenditure is legal and has been properly incurred and is within budget provision;
- that prices, discounts, credits, and arithmetic are correct and accord with quotations, tenders, contracts, or catalogue prices;
- that standing orders, financial procedures and Council resolutions have been complied with;
- correct accounting treatment of tax;
- the invoice is correctly coded;

- discounts have been taken where available; and
- that appropriate entries will be made in accounting records;
- that the account, in part or whole, has not previously been passed for payment and the payment has been recorded, or the order within the computerised ordering system;
- that the appropriate entries have been made in inventories or stores records.

To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. In every case a different officer from the person who processed the order should authorise the invoice.

To ensure that the service unit maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Section 151 Officer/ Deputy Section 151 Officer.

To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of these being rendered should be reported to the Service Manager – Audit and Information Governance (Head of Internal Audit).

To ensure that the unit obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the guidelines and best practices which are in line with best value principles and contained in the Council's tendering and contracts procedures.

To utilise the purchasing procedures in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the code of practice on tenders and contracts and will cover:

- authorised officers and the extent of their authority;
- advertisement for tenders;
- procedure for creating, maintaining, and revising a standard list of contractors;
- selection of tenderers;
- compliance with UK and EC legislation and regulations;
- procedures for the submission, receipt, opening and recording of tenders;
- the circumstances where financial or technical evaluation is necessary;
- procedures for negotiation;
- acceptance of tenders;
- the form of contract documentation;
- cancellation clauses in the event of corruption or bribery; and

- contract records.

To ensure that loans, leasing, or rental arrangements are not entered into without prior agreement from the Section 151 Officer/ Deputy Section 151 Officer. This is to protect the Council against entering into unapproved credit arrangements and to ensure value for money is being obtained.

To notify the Section 151 Officer/ Deputy Section 151 Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the accounts closedown timetable determined by the Section 151 Officer/ Deputy Section 151 Officer.

With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Section 151 Officer/ Deputy Section 151 Officer, the systems, and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording, and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of sub contractors' tax status.

To notify the Section 151 Officer/ Deputy Section 151 Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.

To ensure that all appropriate payment records are retained and stored for the defined period in accordance with the document retention schedule.

### **Responsibility of Purchase Card Holder**

To comply with the terms of the Council's procurement card scheme.

### **37. Contracts**

(Please read in conjunction with the Contract Procedures)

#### **Why is this important?**

Contract payments are a large part of the Council's expenditure.

#### **Key Controls**

All contracts entered into by the authority shall be subject to the Council's Standing Orders, and every exception thereto shall be reported to the Executive Board with the reasons that justify the exception being made.

No tender shall be accepted, or contract signed until the Section 151 Officer/ Deputy Section 151 Officer is satisfied with the financial standing of the contractor and there is provision in the Capital Programme and/or Revenue Estimates for the total estimated cost of the project.

Appropriate officers shall, prior to commitment to each new individual capital or revenue project exceeding £25,000, undertake an appraisal or appraisals which shall include the following: -

- Appraising the need for the expenditure and its priority, e.g., has a business case been developed which sets out the service objectives, the criteria for evaluation and the options for delivery;
- Defining the objectives of the purchase;
- Consider the risks associated with the purchase over its life and how to manage them;
- Considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing or sourcing through ESPO, and collaboration with other purchasers;
- Consulting users as appropriate about the proposed procurement method, contract standards and also performance and user satisfaction monitoring;
- Selecting the most appropriate procurement method; and
- Consider the maturity of the market (local, regional, and national) whether the contracting approach is likely to yield enough competition.

This shall form the basis for inclusion in either the revenue or capital programme. The appropriate officer shall ensure that the project details and design are adequate to satisfactorily initiate and complete the project.

No work on site shall be permitted and no payment shall be made on any contract until contract documentation in an approved form has been completed and deposited with the Monitoring Officer. Any variations or extras agreed on behalf of the Council shall be reported by the appropriate officer to the Section 151 Officer/ Deputy Section 151 Officer.

Payment on account to outside contractors shall be authorised only on a certificate signed by the appropriate officer or his authorised officer showing the total amount of the contract, the value of approved variations thereto, the value of work executed to date, retention money, amount paid to date, and the amount now certified.

A register shall be kept, in a form approved by the Section 151 Officer/ Deputy Section 151 Officer, of all contracts in which particulars of the contracts entered into by the Council and payments made under such contract shall be recorded.

Any exemption to Contract Procedure Rules will be reported to Executive Board on a quarterly basis.

#### **Responsibility of Designated Engineer or Architect**

The officer or outside Consultant designated as Engineer or Architect in any contract for building, civil engineering, or mechanical installations shall be the officer responsible for the issue of all interim and final certificates or for the issue of variation orders provided that the Section 151 Officer/ Deputy Section 151 Officer shall have a reasonable opportunity, prior to the issue of the final certificates, for auditing the contract accounts. Every variation in any contract shall be authorised in writing by the appropriate officer or a duly authorised officer.

#### **Responsibility of Section 151 Officer/ Deputy Section 151 Officer**

The Section 151 Officer/ Deputy Section 151 Officer shall be informed of any variation considered essential in the exercise of professional judgement or other circumstances which, after allowing for contingencies already encountered, increases the total authorised amount of the contract. To ensure any variation to provide non-essential modifications or extras to the contract or specification which will increase the amount

payable shall be subject to the prior approval of the Executive Board.

To ensure claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Section 151 Officer/ Deputy Section 151 Officer for consideration of the Authority's legal liability and for financial consideration before settlement is reached.

### **Responsibility of Budget Managers**

Where contract completion is delayed beyond the contract period the appropriate officer shall take action in respect of any claim for liquidated damages and report on the matter to the Executive Board.

The appropriate officer shall notify the Section 151 Officer/ Deputy Section 151 Officer in writing at practical completion of the contract so that any performance bond can be released.

The appropriate officer shall notify the Section 151 Officer/ Deputy Section 151 Officer in writing on satisfactory completion of the maintenance period under a contract so that any retention money can be released.

The appropriate officer shall, where a contract for works, goods or services is to be placed and is known to be in value above £10,000, obtain at least three written quotations.

The appropriate officer shall ensure that tendering procedures are in accordance with those in existence for all contracts.

## **38. Payments to Employees and Members**

### **Why is this important?**

Staff costs are one of the largest items of expenditure for the Council's services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and accord with an individual's conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for, and that Councillors allowances are authorised in accordance with the scheme adopted by Full Council.

### **Key controls**

The key controls for payments to employees and members are that:

- appointments of employees shall be made in accordance with the approved establishments, grades and rates of pay, conditions of employment and subject to budget provision;
- proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
  - starters
  - leavers
  - variations
  - enhancements and that payments are made on the basis of timesheets or claims;
- frequent reconciliation of payroll expenditure against approved budget and bank account;
- all appropriate payroll documents are retained and stored; and
- Inland Revenue regulations are complied with.

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To arrange and control secure and reliable payment of salaries, wages, compensation, or other emoluments to existing and former employees in accordance with procedures prescribed by him/her, on the due date.

To authorise any requests for advance payments of salaries,

To record and make arrangements for the accurate and timely payment of tax, superannuation, and other deductions.

To make arrangements for the payment of all travel and subsistence claims or financial loss allowance.

To make arrangements for paying Councillors' travel or other allowances upon receiving the prescribed form duly completed and authorised.

To provide advice and encouragement to secure the payment of salaries and wages by the most economical means.

To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

To complete all Inland Revenue returns regarding PAYE

### **Responsibility of PSPS**

To notify the Chief Executive of appointments, dismissals, resignations, suspensions, secondments, transfers.

Changes in remuneration other than normal increments.

All information necessary to maintain records of service or superannuation, income tax, national insurance, and other deductions and additions.

### **Responsibility of Budget Managers**

To ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scales of pay, and that adequate budget provision is available.

To notify the PSPS Human Resources and the Section 151 Officer/ Deputy Section 151 Officer of all appointments, terminations, or variations which may affect the pay or pension of an employee or former employee.

To ensure that adequate and effective systems and procedures are operated, so that:

- payments are only authorised to bona fide employees;
- payments are only made where there is a valid entitlement;

- conditions and contracts of employment are correctly applied; and
- employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.

Employee payments are processed only through the payroll system. Budget Managers should give careful consideration to the employment status of individuals employed on a "self-employed consultant or subcontract" basis. The Inland Revenue applies a tight definition for employee status and in cases of doubt; advice should be sought from S151 Officer.

To certify travel and subsistence claims and other allowances on a monthly basis.

Certification is taken to mean that journeys were authorised, and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications.

To ensure that the motor insurance policy of any officer authorised to use their vehicle on Council business shall cover the official use of the vehicle in the service of the Council.

Officers in receipt of car allowance mileage reimbursement shall, on request, produce such policy and/or premium receipts as may be necessary.

To ensure that the details of any employee benefits in kind are notified to the Section 151 Officer/ Deputy Section 151 Officer to enable full and complete reporting within the income tax self-assessment system.

To ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.

To ensure that all appropriate payroll documents are retained and stored in accordance with corporate retention guidelines.

### **Responsibility of Councillors**

To submit claims for travel and subsistence allowances on a monthly basis and, in any event, within one month of the year-end.

Payments in respect of Travelling and Subsistence to Members of the Council will be made by the Chief Executive upon receipt of the prescribed form, duly certified by the Councillor.

Claims should be made within three months of the event giving rise to the claim. The payment of Basic and Special Responsibility Allowances will be made monthly by the Chief Executive directly into the Councillor's bank account. This will occur automatically unless the Councillor renounces claim to the Allowances.

## **39. Taxation**

### **Why is this important?**

The Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the

penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

### **Key controls**

The key controls on taxation are:

- budget managers are provided with relevant information and kept up to date on tax issues;
- budget managers are instructed on required record keeping;
- all taxable transactions are identified, properly carried out and accounted for within stipulated timescales;
- records are maintained in accordance with instructions; and
- returns are made to the appropriate authorities within the stipulated timescale.

### **Responsibility of the Section 151 Officer/ Deputy Section 151 Officer**

To complete a monthly VAT return of the Council's input and output tax transactions with the net amount being paid to/due from Her Majesty's Revenue & Customs (HMRC). To provide details to the Inland Revenue regarding the Construction Industry Tax Deduction Scheme.

### **Responsibility of Managers**

To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with Her Majesty's Revenue & Customs (HMRC) Regulations. Guidance can be obtained from Financial Services, and the use of a VAT professional.

To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary Construction Industry Tax Deduction requirements.

## **40. Trading Accounts**

### **Why is this important?**

Trading accounts have become more important as local authorities have developed a more commercial culture. Authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost.

### **Responsibility of the S151 Officer**

To advise on the establishment and operation of trading accounts.

### **Responsibility of Budget Managers**

To observe all statutory requirements in relation to trading accounts, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and an annual report in support of the final accounts.

To ensure that the same accounting principles are applied in relation to trading accounts as for other service units.

To ensure that each trading service area prepares an annual service plan.

#### **41. External Partnerships**

##### **Why is this important?**

The distinctive role of the Council is one of leadership to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.

Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the wellbeing of the area. The Council can work in partnership with others - public agencies, private companies, community groups and voluntary organisations.

The Council can mobilise investment, bid for funds, champion the needs of their areas, and harness the energies of local people and community organisations. The Council is measured by what it achieves, in partnership with others.

##### **General**

The main reasons for entering a partnership are:

- to provide new and better ways of delivering services to our residents;
- the desire to find new ways to share risk;
- the ability to access new resources; and
- to forge new relationships.

A partner is defined as either:

- an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project; or
- a body whose nature or status gives it a right or obligation to support the project.

Partners participate in projects by:

- acting as a project deliverer or sponsor, solely or in concert with others;
- acting as a project funder or part funder; or
- being the beneficiary group of the activity undertaken in a project.

Partners have common responsibilities to:

- be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
- act in good faith at all times and in the best interests of the partnership's aims and objectives;
- be open about any conflict of interests which might arise;
- encourage joint working between themselves and promote the sharing of information, resources and skills between public, private and community sectors;
- hold confidentially any information received, as a result of partnership activities or duties, that is of a confidential or commercially sensitive nature; and
- act wherever possible as ambassadors for the project.

### **Key controls**

The key controls for Council partners are to:

- if appropriate, be aware of their responsibilities under the Council's financial procedures and the contract procedures;
- ensure risk management processes are in place to identify and assess all known risks;
- ensure project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;
- agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences; and
- communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

### **Responsibility of Section 151 Officer/ Deputy Section 151 Officer**

To advise on effective controls to ensure that resources are not wasted.

To advise on the key elements of funding a project. These include:

- a scheme appraisal for financial viability both in the current and future years;
- risk appraisal and management;
- resourcing, including taxation issues; and
- audit, security, and control requirements.

To ensure that the accounting arrangements are satisfactory.

### **Responsibility of Budget Managers**

To maintain a register of all contracts entered into with external bodies

To ensure that before entering into agreements with external bodies, a risk management appraisal has been prepared.

To ensure that such agreement and arrangements do not impact adversely upon the services provided by the Council.

To ensure that all agreements and arrangements are properly documented.

To provide appropriate information to the Section 151 Officer/ Deputy Section 151 Officer to enable the appropriate disclosure to be entered into the Council's Statement of Accounts concerning material items.

## **42. External Funding**

### **Why is this important?**

External funding is potentially a very important source of income and Budget Managers are encouraged to bid for scheme funding. However, funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. The Council is increasingly encouraged to provide 'seamless' service delivery through working closely with other agencies and private service providers.

Funds from external agencies can enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.

### **Key controls**

The key controls for external funding are to ensure that:

- key conditions of funding and any statutory requirements are complied with, and that the responsibilities of the accountable body are clearly understood;
- funds are acquired only to meet the priorities approved in the policy framework by the full Council; and
- any match funding requirements are given due consideration prior to entering into long term agreements and that future revenue budgets reflect these requirements.

### **Responsibility of Section 151 Officer/ Deputy Section 151 Officer**

To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.

To ensure that the match funding requirements are considered prior to entering into the agreements and

future revenue budgets reflect these requirements.

To ensure that audit requirements of the Funding Body are met.

### **Responsibility of Budget Managers**

To ensure that all claims for funds are made by the due date.

To ensure that the project progresses in accordance with the agreed project and all expenditure is properly incurred and recorded.

To ensure that conditions, after grant is awarded and the project is complete, are met.

### **43. Work for Third Parties (including other Local Councils)**

#### **Why is this important?**

Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise.

Effective controls need to be in place to ensure that any risks associated with this work are minimised, and that the work falls within the Council's statutory powers.

East Lindsey District Council's financial procedures apply equally to any service carried out by East Lindsey District Council for any other Council, body, or person.

#### **Key controls**

The key controls for working with third parties are:

- to ensure that proposals are costed properly;
- to ensure that contracts are drawn up using guidance provided by the Section 151 Officer/ Deputy Section 151 Officer and Council Solicitor and that the formal approvals process is adhered to; and
- issue guidance with regard to the financial aspects of third-party contracts and the maintenance of the Contract Register.

#### **Responsibility of Section 151 Officer/ Deputy Section 151 Officer**

To issue guidance and properly assess the financial aspects of third-party contracts and the maintenance of the contract register.

#### **Monitoring Officer**

To issue guidance sheet for the Council on the legal aspects of third-party contracts.

To maintain a register of all contracts entered into with third parties.

To ensure that all contracts are properly documented.

**Responsibility of Budget Managers**

To ensure that the approval of the Executive Board is obtained before any negotiations are concluded to work for third parties.

To ensure that appropriate insurance arrangements are made.

To ensure that the Council is not put at risk from any bad debts.

To ensure that no contract is subsidised by the Council.

To ensure that payment is received in advance of the delivery of the service, or in accordance with contract conditions.

To ensure that the unit has the appropriate expertise and capacity to undertake the contract and do not impact adversely upon the services provided for East Lindsey District Council.

To provide appropriate information to the Section 151 Officer/ Deputy Section 151 Officer to enable the appropriate disclosure to be entered into the Statement of Accounts.

#### Part 4.10 - Officer Employment Procedure Rules

##### 1. Recruitment and appointment

###### (a) Declarations

i) 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.

ii) 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.

###### (b) Seeking support for appointment

i) Subject to paragraphs 3 & 4 below. 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.

ii) Subject to paragraphs 3 & 4 below. No Councillor will seek support for any person for any appointment with the Council.

##### 2. Recruitment of the Chief Executive, Chief Officers and members of the Management Team

Where the Council proposes to appoint a Chief Officer (namely Chief Executive or Deputy Chief Executive or other member of the Management Team and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

###### (a) draw up a statement specifying:

i) the duties of the officer concerned; and

ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

##### 3. Appointment of Head of Paid Service (Chief Executive)

(a) The Council may approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or Sub-Committee of the Council, constituted by the Council as and when required for that purpose. That Committee or Sub-Committee must include at least one member of the Executive Board.

(b) The 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 Executive Board.

#### 4. Appointment of Deputy Chief Executive

(a) A Committee or Sub-Committee of the Council will appoint the Deputy Chief Executive unless such appointment is delegated to the Chief Executive or his/her nominee. Any such Committee or Sub-Committee will be constituted by the Council as and when required for that purpose and must include at least one member of the Executive Board.

(b) An offer of employment as a Chief Officer shall only be made where no well-founded objection from any member of the Executive Board has been received.

#### 5. Other appointments

(a) Officers below Chief Officers. Appointment of officers below Chief Officers is the responsibility of the Chief Executive or his/her nominee, and may not be made by Councillors.

#### (6. Disciplinary action

(a) Suspension. The Chief Executive, Monitoring Officer and Section 151 Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

(b) The Statutory Officers' Employment Advisory Panel. In the event of disciplinary action being taken against the Chief Executive, Monitoring Officer or Section 151 Officer, the Council will convene a Panel [an advisory Committee of the Council known as "The Statutory Officers' Employment Advisory Panel"] made up of a minimum of two appointed Designated Independent Persons. The role of the Panel is to offer advice, views and recommendations to Council. The Panel must be convened and be in place at least 20 working days before the date of any meeting of the Council at which a decision in regard to the disciplinary matter will be considered. The Regulations as laid down in The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 require that any decision following receipt of an advisory report of The Statutory Officers' Employment Advisory Panel is taken by vote at a meeting of Full Council.

(c) Councillors will not be involved in the disciplinary action against any officer below the Chief Executive, Monitoring Officer or Section 151 Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Councillors in respect of disciplinary action.

#### 7. Dismissal

Councillors will not be involved in the dismissal of any officer below the Chief Executive, Monitoring Officer or Section 151 Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Councillors in respect of dismissals.

## Part 5 - Codes & Protocols

### Part 5.1 - Protocol on Councillor/Officer Relations

The purpose of this protocol is to guide Councillors and officers of the Council in their relations with one another. It promotes the high standards of ethical conduct that are required for the operation of efficient, effective and accountable Local Authority governance.

The protocol is based upon the key principle that both Councillors and officers need an appreciation of the pressures that each are operating under.

The protocol emphasises the principles of courtesy, trust and mutual respect in all dealings (both formal and informal) and aims to ensure that any problems that do arise from time to time are addressed in good faith in the context of openness, trust and mutual respect.

“Every Local Authority should have its own written statement or protocol governing relations between Councillors and Officers” (the Nolan Committee on Standards in Public Life)

#### Preamble:

- (i) Mutual trust and respect between Councillors and officers is at the heart of a Council’s good governance. They are essential if the partnership necessary for the effective running of a local authority is to succeed.
- (ii) Guidance in the event of relationships going wrong is to be found in this protocol.
- (iii) A protocol is both a central element of a Council’s corporate governance and a commitment to upholding standards of conduct in public life. It is one way of demonstrating to the public at large that the local government sector in general and East Lindsey District Council in particular is serious about protecting and enhancing its integrity and reputation.

#### General

1. The fundamental principles are:
  - (a) The Council is a single entity, a statutory corporate body.
  - (b) In everything they do, the elected Councillors and officers of the Council are obliged to act within the law and in compliance with relevant standards and codes of conduct.
  - (c) All elected members of the Council are accountable to all the people of East Lindsey for their actions as District Councillors.
  - (d) The Political Administration of the day, whether joint or single, is ultimately politically accountable 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 the officers in accordance with those approved policies and plans.
  - (e) The officers serve the whole Council as a single statutory corporate body.

(f) The officers will provide adequate and timely support to all elected Councillors in their local or representational role.

(g) Dealings between elected Councillors and officers should be based on courtesy, mutual trust and respect.

2. Derived from the fundamental principles that officers serve the Council as a whole and are obliged to act within the law and in compliance with relevant standards and codes of conduct, the following working principles apply:

(a) The interests of the Council are best served where there is mutual trust and confidence between elected Councillors and officers;

(b) Elected Councillors recognise that officers have the duty and right to provide appropriate professional advice, and the right to have that advice recorded, so that all elected Councillors are fully aware of the implications of their decisions;

(c) Officers recognise that it is the right of the elected Councillors to take the final decisions in the light of their advice;

(d) The provision of that advice is the principal means by which elected Councillors can gain assurance that their decisions comply with the law and relevant standards or codes of conduct;

(e) The advice provided by the officers should be fearless, factual, complete, honest, objective and politically neutral;

(f) The advice should be sensitive to the political aspirations and constraints of elected Councillors but should not reflect, or be influenced by, those aspirations and constraints;

(g) The advice given 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 in dealing with the Executive, overview and scrutiny or the regulatory elements of the Council's Constitution.

#### Information and the political perspective

3. 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 Executive, Overview and Scrutiny or Regulatory aspects 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 if 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 conformed to, and honoured by, any officers with whom the information is shared.

4. Appropriate and regular liaison between elected Councillors and officers connected with the Executive and Overview and Scrutiny aspects of the Council should avoid the relationship between Scrutiny and the Executive becoming adversarial and polarised. This liaison, combined with the politically balanced nature of Overview and Scrutiny, should reduce the number of occasions on

which it is necessary for information to be supplied by elected Councillors to officers on a party political confidential basis at the Executive/Overview and Scrutiny level.

5. 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. In such cases the officer will discuss these concerns with the Councillor(s) before deciding what action, if any is necessary, taking account of advice from the Chief Executive/Monitoring Officer as appropriate.

6. Where party political confidentiality would be maintained in accordance with the preceding subparagraph, the officers may, nonetheless, seek to persuade the elected 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 would continue to respect it.

7. Where there is a change in Political Administration, the 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.

#### Officer advice/political neutrality of officers

8. There is a statutory recognition for political groups. It is common practice for group meetings to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body or officers under delegated powers.

9. The extent to which it is appropriate for officers to attend meetings of this kind depends on the nature of the meeting, but the general principles governing the basis on which they attend and take part are the same. In principle, equivalent facilities are available to all party groups represented on the Council, if they so request.

- a) Officers should not attend party group meetings, or party political meetings without the agreement of the Chief Executive;
- b) Officers may make presentations to party groups of Elected Councillors of the Council on request. All requests for advice of this kind should be routed through the Chief Executive who would be responsible for advising the other party groups who could then ask for the same briefing;
- c) Officers may attend briefing meetings with the Leader of the Council, Group Leaders, Chairs, Vice-Chairs, Executive spokespersons, shadow spokespersons either on a specific topic or prior to a Committee meeting or the like;
- d) Officers may meet Chairs prior to consulting them formally as a precondition to exercising delegated powers;
- e) Officers may attend for briefing with the Group Leaders of all political parties on the Council;
- f) Officers should not, except in exceptional circumstances, attend party group meetings involving party colleagues who are not Councillors (see paragraph below).

10. Certain points must however be understood by all those participating in this type of process, Councillors and Officers alike (in cases of doubt advice should be sought from the Chief Executive/Monitoring Officer). In particular:

a) Officer support in these circumstances should not extend beyond providing information and advice in relation to matters of Council business, and Officers should not be expected to be involved in advising on matters of party business;

b) Such meetings, whilst they may form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions, and should not be interpreted as such;

c) Similarly, where officers provide information and advice to such meetings in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered;

d) Officers should not be asked to provide advice on how to undermine agreed Council Policy or prevent from being implemented. . This does not prevent officers from providing information or advice on alternative options, the implications of different policies or factual information on matters relating to the Council's business.

11. Special care needs to be exercised if officers are involved in providing information and advice to a party group meeting, which includes persons who are not Councillors. Such persons will not be bound by the Code of Conduct (in particular, the provisions concerning the declarations of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a meeting where those in attendance are bound by the provisions of the code.

12. Officers must respect the confidentiality of any discussions at which they are present with Councillors. If officers receive information which, although confidential, they have a duty to disclose elsewhere, they must indicate that this is the case.

13. Any particular cases of difficulty or uncertainty in this area of officer advice to political groups should be raised with the Chief Executive who will discuss them with the relevant group Leader(s).

14. Officers must never allow their own personal or political opinions to interfere with their work. Officers should not take part and Councillors should not ask officers to take part in any activity, which could be seen as influencing support for a group. Councillors should raise with the Chief Executive any concerns about the political neutrality of an officer.

15. Senior officers are subject to legal rules limiting their political activities outside work.

#### The Executive and Overview

16. Given the nature and purpose of the Council and the respective roles of Councillors and officers, it is accepted that the officers, while remaining politically neutral, will inevitably give advice on a wide range of issues and on a more regular basis to the Executive. For their part, the Executive will continue to respect the political neutrality of the officers and accept that officers are obliged to

respond positively to any requests from overview and scrutiny for appropriate information and advice relevant to the issue being considered. The Executive will provide an appropriate Councillor to attend an Overview Committee and Scrutiny and Policy Panel meeting to explain the Executive's decision and the reasons for it.

#### Decisions under delegated powers

17. Where an officer consults a Councillor 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 and that the process of reference to a Councillor is not intended to operate as a clandestine delegation of power to the Councillor.

18. 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 Councillor(s) consulted. However, it might be appropriate for the officer to decline to exercise the delegated authority and refer the decision back to the Chief Executive.

19. In implementing any process of consultation, if the view of the Councillor is not in conformity with the professional view of the officer and the difference of view is material and cannot be reconciled, then to protect the interests of the Councillor, the officer and, ultimately, the Council, the officer should consider:

- (a) seeking advice from the Chief Executive, Monitoring Officer or Section 151 Officer as appropriate; and if appropriate.
- (b) referring the issue to a meeting of the Executive or the body which conferred the delegated power.

#### The Role of Councillors

20. Councillors are elected democratically. It is their vision, ideas, policies and decisions which people vote for. Councillors set the core values of the organisation, set corporate goals reflected in the Corporate Strategy through consultation with the residents of the District, set the budget/policy framework, ; and promote the Council in all its work. Councillors are the key channel of democratic accountability, not only in their ward, but across the District in their role as community Leaders, promoting the social, economic and environmental well-being of the community often in partnership with other agencies.

21. The role of the Council is set out in Article 5. The Council meets as a body when all its Councillors are summoned to attend a Council meeting. The Council can delegate authority to Committees and Sub-Committees of Councillors (and co-opted Councillors in some cases) and to officers.

22. Councillors will also be involved in a variety of less formal meetings, engage in correspondence and discussion with other Councillors, officers and people outside the Council, to represent the community, help develop policies, promote change and deliver improved or new services.

23. As a Councillor attending a meeting of Council, the Executive Board, Committees or groups, you will have different roles. These may include:

- a) the strategic role – formulating the core strategies
- b) the Executive Board role – the decision-making role representing the interests of the District as a whole
- c) the Ward Councillor role – representing the interests of individual residents or residents' groups within the Ward but within the overall public interest
- d) the quasi-judicial role – serving on the Planning or Licensing committees
- e) the lead Councillor role – accountable to the Executive Board and, ultimately, to Full Council for the performance of those services which are included in the portfolio.
- f) the role of the opposition
- g) the overview and scrutiny role of holding the Executive to account.

24. Councillors will be supported by the officers to enable them to perform their roles effectively in the interests of the Council and the public. Officers will provide support, information and advice to help Councillors in their roles in accordance with the Councillor/Officer protocols, set out in the Constitution.

#### The Relationship between Councillors and Officers

25. The conduct of Councillors and officers shall be such as to instil mutual trust and confidence.

26. The key elements are recognition of, and a respect for, each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

27. Councillors, through respect for the impartiality of officers, should not put pressure on an officer on matters which have been delegated for officer decision. This might lead officers to make decisions that:

- are not objective and cannot be properly accounted for or
- favour unfairly one Councillor or member of the public over another or
- is in contravention of a legal rule or ethical principle or
- are open to successful legal challenge or leading to complaints of maladministration

28. Nor should Councillors bring influence to bear on an officer to take any action which is against procedure or policy, such as:

- a breach of personnel procedures

- conflict with Council Procedure Rules
- conflict with planning procedures, protocols and policies
- a breach of Financial Procedure Rules

29. Councillors must declare any special relationships, such as friend or relative as set out in the Councillors' Code of Conduct with constituents when dealing with Council officers. Although Councillors are elected to represent the interests of their constituents, they should not seek special treatment for any individual. This does not prevent a member progressing an individual case on behalf of a constituent, but they must not seek special treatment (for instance non implementation of council policy or advantageous treatment regarding an enforcement/regulatory matter when doing so). Councillors must promote the public good in an objective way, having regard to the Nolan principle of objectivity, as enshrined in the Councillor Code of Conduct.

30. Councillors and officers will often work closely together and develop good relationships. This can be beneficial but there are limits and risks for all concerned in this area and it is not enough to avoid actual impropriety. Council decisions can be legally challenged and quashed on account of apparent as well as actual bias. Perception in this area, is as important as reality, particularly in light of the Nolan principles of objectivity, openness, honesty, integrity, personal judgement and leadership. Councillors and officers should at all times avoid any situation which can give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between employees and individual Councillors.

31. Councillors must declare to their Group Leader and to the Chief Executive any relationship with an officer which might be seen as influencing their work as Councillors.

32. Councillors must not sit on, or participate in decisions by, any Council Committee or other Council body which directly affects an employee to whom they are:

- the partner
- otherwise closely related such as sisters, brothers, parents and grandparents.

33. Officers will do their best to give timely responses to Councillors' enquiries. However, officers should not have unreasonable requests placed upon them. Their work priorities are set and managed by senior managers. Councillors should avoid disrupting officers' work by imposing their own priorities. Officers should respect deadlines imposed on Councillors, particularly when the Councillor is representing the Council, to avoid harming the Council's reputation.

34. Councillors will endeavour to give timely responses to enquiries from officers.

35. Councillors must be fair and just in their dealings with officers, bearing in mind that officers cannot respond to criticism in the same way as politicians can.

36. All dealings between Councillors and officers, whether written or oral, should observe reasonable standards of courtesy. Neither party should seek to take advantage of their position.

Reporting Improper Conduct: Alleged Misconduct by Councillors

37. The Monitoring Officer will receive allegations of fraud or criminal misconduct against Councillors. The Monitoring Officer will report such matters to the Police. The Monitoring Officer may investigate other allegations of misconduct against Councillors but only if:

- a) the matter affects the business of the Council or its reputation; and
- b) it is proper for the Monitoring Officer to investigate

38. Some issues are matters of group discipline. Even if the allegations are proved, there may be no action or sanction that the Council can apply. Such matters should be investigated by the group itself. Senior officers and the Monitoring Officer may refer matters to the Group Leaders for consideration.

39. The Monitoring Officer:

- a) will investigate any matters which are properly raised with them
- b) will always inform the Councillor who is the subject of the allegations – unless this would prejudice the investigation
- c) has no obligation to report findings to the person making the allegation but is responsible for informing the informant that appropriate action has been taken
- d) has a duty to take whatever action they think fit as a result of any formal or informal investigation, in accordance with their statutory duties.
- e) The Monitoring Officer shall in the first instance attempt to resolve matters on an informal basis and shall seek to do so in a way which would promote the principles of good governance and high standards of ethical conduct, taking account of issues raised during any complaint.

40. Investigations will be reported to the Audit & Governance Committee of the Council or any equivalent body.

41. Where an allegation is within the terms of reference of the Council's auditors or the Police, the matter will be referred to them.

#### The Role of Officers

42. Officers can also have a variety of roles:

- a) They are responsible for the operational management of the Council
- b) They advise Councillors to help them to take decisions in the Executive Board, Committees, Sub-Committees and Full Council
- c) Some officers have personal statutory powers and duties for example, the officers designated as Head of Paid Service (Chief Executive), the Section 151 Officer and the Monitoring Officer

d) The Council has given delegated powers to some officers so that they can act and take decisions on behalf of the Council in many areas, provided they follow the rules of delegation and Councillors have access to their decisions

e) The Council is a very large organisation, and officers have a generalist role to play within the organisation itself, as well as a specialist/functional role. This is relevant to cross-cutting issues

43. The organisational role of officers has two important dimensions. Some have professional or technical skills relevant to a particular task; others have a primarily managerial responsibility. Many have elements of both in their job.

44. Professional officers reasonably expect to have the opportunity to give “honest advice” and to have their professional integrity respected (e.g. not to be required to make recommendations they cannot professionally support) and the chance to “explain” what appears to be a performance failure or inconsistency.

45. In addition, Councillors and officers must understand there is a clear and acceptable division of responsibilities regarding policy and implementation, although it is recognised that effective delivery of corporate objectives depends on both. It is the duty of officers to manage the implementation of policy, in agreement with Councillors.

46. Officers serve the Council through its Committees and other Council bodies. They work to the instructions of their Manager or Chief Executive – not individual Councillors, whatever office the Councillor might hold.

47. Officers should:

a) Pursue every known lawful policy of the Council

b) Implement the decisions of Council, the Executive, Committees and Sub-Committees

c) Inform Councillors through their manager of any decision that they cannot fully implement

d) Be helpful and respectful to Councillors

e) Behave in a professional manner

f) Serve all Councillors, not just those of the administration group(s)

g) Maintain confidentiality

h) Deal with Councillor enquiries effectively and on a timely basis

i) Strive continually to comply with the Council’s operating performance aspirations and scrutiny processes

j) Support Councillors in their role as Ward Councillors

Monitoring the Performance of Officers

48. Councillors should set the parameters for Council work and then let officers deliver services within these whilst ensuring that strong scrutiny systems are in place.

49. Councillors have right to criticise reports or the actions taken by officers but they should always:

- a) Avoid personal attacks on officers
- b) Ensure that criticism is constructive and well-founded
- c) Be mindful of the fact that in any public forum officers may not be able to reply (see paragraph 51 below).

50. Councillor complaints about officers or Council services should be made to the Chief Executive. Councillors have a duty to raise issues which they have reason to think might involve fraud or corruption or any sort.

51. Councillors should avoid undermining respect for officers at Committee meetings, or in any public forum including the media. This would be damaging both to effective working relationships and to the public image of the Council. In general, officers are unable to 'answer back' or defend themselves against criticism in a public forum.

#### Whistle Blowing

52. The Council's commitment to the highest standards of openness and accountability mean that both officers and Councillors have a duty to:

- Raise with the Chief Executive any irregularities and matters which they feel have been dealt with improperly
- Submit any evidence or relevant information they have

53. In particular, Councillors have a duty to raise any issues they have reason to think might involve fraud or corruption of any sort.

54. However, the Chief Executive will take appropriate action if frivolous or malicious allegations are made.

55. The provisions for this protocol are in addition to the right of any Councillor or employee to raise an issue of concern with an appropriate body outside the Council. For example, he/she may choose to raise a criminal matter directly with the Police.

56. The Council has adopted a Whistle Blowing Policy for officers. This sets out the process under which officers can raise concerns with their manager or, if they prefer, with the Monitoring Officer. It sets out how this works, and the responsibilities of the people concerned.

57. The Council will receive Whistle Blowing matters from any source and investigate the issues raised. As with complaints, Whistle Blowing issues should be reported to the Chief Executive who will cause an investigation to take place and act appropriately on the findings.

**EAST LINDSEY DISTRICT COUNCIL COUNCILLOR CODE OF CONDUCT**  
**ADOPTED BY FULL COUNCIL ON 12 MAY 2022**

The role of councillors across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## **Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. East Lindsey District Council adopted the LGA Model Councillor Code of Conduct (as updated 17 May 2021) in whole on 12 May 2022.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), at Appendix A, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

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.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

#### **2. Bullying, harassment and discrimination**

##### **As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

### **As a councillor:**

#### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

### **As a councillor:**

#### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

### **As a councillor:**

#### **7.1 I do not misuse council resources.**

#### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

### **As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B sets** out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

**As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
  
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
  
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **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 Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	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.
<b>Contracts</b>	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
<b>Land and Property</b>	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.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer

<b>Corporate tenancies</b>	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.
<b>Securities</b>	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 whom the councillor is living as if they were, spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## Table 2: Other Registrable Interests

You must register as an Other Registrable Interest :

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management.



**East Lindsey**  
DISTRICT COUNCIL

## Code of Conduct

This is the Council's Code of Conduct. It sets out the expectations/standards required of employees whilst at work and outside of work. This supplements an employee's Terms and Conditions of employment and supports the Council's corporate vision, which is defined in the Corporate Strategy 2014-18. Roles and responsibilities associated with the Code of Conduct are also defined in this document. The Code adheres to statutory UK legislation and ACAS best practice. The Council ensures it is a fair, equitable and transparent Code with the needs of employees at heart. The Council ensures compliance with equality & diversity legislation making sure consideration is given to the needs of its employees, balancing these with the needs of the business.



## CODE OF CONDUCT

### Introduction

As a Council, East Lindsey is accountable to the public we serve. If the public are to have confidence in us, we and all our employees must be honest, fair and impartial in the way we conduct our business, AND we must be seen to be so too.

The Council requires all employees to adhere to a particular standard of behaviour and as such, this Code of Conduct defines these expectations. It is designed to provide employees with information and guidance, which will ensure that our standards are beyond question. It aims to assist employees to perform their duties to the best of their abilities, at all times.

The Code of Conduct applies to all employees of the Council and supplements the terms and conditions of employment. Employees are required to familiarise themselves with the Code and the additional documents, policies, and procedures referred to therein. This Code cannot cover every eventuality and therefore employees are encouraged to seek further guidance from their immediate manager or HR (PSPS), if they are in any doubt about the standards of behaviour expected of them.

A breach of this Code of Conduct may lead to disciplinary action. Please refer to the Council's agreed Disciplinary Procedure for further information.

This document draws on legislation including, but not limited to:

- Data Protection Act 1998
- Employment Rights Act 1996
- Equality Act 2010
- Freedom of Information Act 2000
- Health & Safety At Work Act 1974
- Working Time Regulations

### Supporting Documents

This Code of Conduct should be read in conjunction with the HR Policies and Procedures listed overleaf.

These will be applied fairly irrespective of the race, colour, creed, nationality, age, social background, ethnic or national origin, gender, sexual orientation, disability, marital status/civil partnership, maternity/pregnancy or trade union membership of the employee concerned, and includes, but not limited to:

- Data Protection & Freedom of Information guidelines
- Dignity at Work Policy
- Disciplinary Procedure
- Equal Opportunities and Diversity Policy
- Health & Safety Policy
- Information Security Policies
- Leave for Domestic, Social and Other Policy
- No Smoking Policy
- Sickness Absence Policy
- Whistle Blowing Policy
- The People Strategy

All policies and procedures can be found on the Council's Intranet. Hard copies are available directly from HR or alternatively they can be viewed at Skegness Depot, Mablethorpe Depot, and Louth Depot.

### **Scope of the Code of Conduct**

The Code applies to all employees of the Council irrespective of their role or status of employment. The document is made available for all employees to access, read and understand. Employees should make it their priority to ensure that the Code is fully understood and if at any point they feel there has been a breach, to raise this, in the first instance, with their line manager or HR (PSPS).

The Code is also applicable to contractors and agency staff working for, and on behalf of, the Council.

### **Summary**

The Council is committed to its employees. We look to support and develop the people we employ, growing their knowledge and skills, now and for the future.

We treat staff in a fair and respectful manner and equitable in accordance with their personal needs. At all times we remain open, honest and transparent providing access to internal services for our employees and seeking to provide support where required.

We maintain a safe, well equipped working environment ensuring the wellbeing of the people we employ. Communication is essential and we actively engage with employees, listening to what is being said and seeking to implement new initiatives that are mutually beneficial.

Learning is key and we advocate the development of employees to ensure they are fully equipped to do their job and adaptable in response to changing priorities and circumstances. We celebrate the performance, effort and commitment of our staff and recognise this positive influence on driving the Council forward.

In return, the Council expects its employees to:

- Show commitment and passion for their service and its customers;
- Be extremely customer focused and strive for customer excellence;
- Strive to maintain a positive outlook despite the challenges we face;
- Provide positive suggestions to improve the way we work;
- Respond flexibly to changes that will enhance the Council's sustainability;
- Consider the health, safety, and wellbeing of all colleagues and customers;
- Seek support to meet their own needs should they face difficulties;
- Give feedback if our communication channels break down;
- Notify us immediately if any impropriety is suspected.

## **Code of Conduct**

### **Working with the public, our customers**

The Council provides a range of services to the residents of and visitors to the district of East Lindsey. Members of the public receiving these services are our customers and in accordance with our strategic vision and objectives, employees are required to maintain professionalism at all times. Employees are required to provide the customers with the best standard of service ensuring that their needs are met with dignity, equality, and fairness. Employees are to:

- remain professional at all times;
- communicate politely, truthfully and with integrity;
- listen, understand and provide the appropriate service, guidance, support, and/or advice as necessary;
- provide your full name and department when speaking or writing to elected members, clients, and customers;
- wear their identity badge at all times;
- ensure they provide accurate and timely information whilst respecting confidentiality;
- avoid doing anything that would make a member of the public question their motives and integrity as a Council employee or may bring the Council into disrepute.

These principles must be followed throughout all aspects of an employee's role whether it be face-to-face, verbally, or in writing (letters, emails etc).

When liaising with colleagues during the course of their duties, employees must also ensure they adhered to the same standards of behaviour and etiquette. Employees should treat a fellow colleague how they would like to be treated themselves, with respect and professionalism.

### **General responsibilities at work**

All employees are expected to work within the scope of their contract of employment, undertaking the specific duties and responsibilities of their role, and carrying out the reasonable instructions of their supervisor/Service Manager.

The Council places trust and confidence in its employees to adhere to their contract of employment, undertake their role to the standards required of them and operate in compliance with agreed Council policies and procedures. In addition, employees must comply with the requirements of the law.

Trust and confidence can be broken if an employee:

- is not truthful or honest in their dealings with the Council, our customers, and their colleagues and supervisors/service manager;
- is not truthful or honest in their dealings outside of the Council
- which may have an impact on the capabilities to do their job;
- purposefully withholds information during the recruitment and
- selection process in order to obtain employment;
- seeks to deceive the Council by withholding information, providing
- false information, falsifying/damaging/altering records and/or documentation;
- misrepresents the Council in their dealings with others both
- internally or externally (i.e. providing a statement to the media);
- fails to respect and adhere to Council policies and procedures;
- breaches their contract of employment and the terms associated with it;
- brings, or risk bringing, the Council's name into disrepute;
- commits any act of misconduct whether at work or outside of work.

### **Personal Standards & Behaviours**

An employee's personal standards of behaviour both at work and outside of work must remain high and professional. This is particularly the case when dealing with elected members, customers, and members of the public. Employees must operate in a way, which does not suggest mistrust from the perspective of the public confidence or the Council.

Employees are not to:

- behave in a way which could be deemed as threatening or abusive (e.g fighting, assaulting, arguing), either physically or verbally;
- physically damage Council belongings or property;
- steal money or belongings which are the property of the Council;
- use their position within the Council to show favouritism to any friends, family, or personal contacts;
- use their position within the Council to inappropriately advance the interests of any other person or organisation they may be associated with.

### **Standards of Dress**

Employees should be suitably and appropriately dressed for their duties and responsibilities including wearing appropriate safety clothing and equipment where required by Health & Safety regulations and their Service Manager.

Employees may follow the traditions of their ethnic/cultural/religious background provided that they are safe and appropriate to their job.

## **Dealing with Confidential Information**

East Lindsey deals all the time with sensitive and confidential information affecting our policies, our business, our employees, and our relationship with other organisations and individual members of the public. If the public and our partners are to have confidence in us, employees should treat such information with discretion, regarding it as confidential and not disclosing it unless given permission to do so.

Employees should not make public the proceedings of a confidential Council committee or contents of confidential Council papers unless they are required by law or expressly authorised to do so. In turn, the Council will not disclose any information relating to your private affairs without your permission.

The use of computers, tablets, and smart phones in everyday business means that information is available more freely than ever before. Employees must not disclose information about the Council's affairs without permission, and must never use it to their own advantage. Employees who use computers must follow procedures designed to ensure confidentiality and prevent misuse. Employees must read, understand and complete the Information Security Policy training to comply with the requirements of their role.

## **Making Information Public**

Having stressed the need for the Council to maintain confidentiality where appropriate, we want to operate openly and let the public know what we are doing.

All meetings of Full Council and some Committees are open to the public and only rarely do we conduct business in private. We try to ensure that information becomes public knowledge at the earliest stage, both so that the public is kept informed, and to reduce the likelihood of it being misused by individuals 'in the know'. We rely on the honesty of all our employees in this matter.

The Press are, of course, one of the main channels through which we can keep the public informed. They are entitled to attend most Council meetings. Beyond that, we provide further information through briefings or press releases.

Employees should only give information to the Press if they are specifically asked to do so by Senior Management. Employees should inform Senior Management and the Service Manager (Growth and Promotion) if they receive any requests for information from the press/media.

## **Taking Other Employment**

Whilst off duty, employees should not find themselves in a position where their official duty and their private interests conflict. This includes behaviour, which, because of the nature of employment, would undermine the Council's trust and confidence in an employee.

The Council does not stop its employees from taking additional jobs, the council must, however, be satisfied that these do not make it difficult for an employee to do their job with us properly, cause working hours to exceed working time directives, conflict with our interests or in any way weaken public confidence in the way we do business. An employee's role with the Council is their primary employment. All external work must be notified to the Council and agreement sought for this.

Employees should always be aware of the requirements of the Working Time Regulations. They must inform their Service Manager if their working hours in their role with the Council and with additional other employment, exceed an average of 48 hours per week over a 17-week period.

Hours recorded whilst carrying out business for the Council are monitored.

Any employee found in breach of these regulations, will be expected to reduce their working hours or take flexi leave or time off in lieu to bring their working week back in line with the regulations.

Employees must not undertake paid work outside of the Council, which relates and/or is in conflict or competition with their official duties. They must not help any individual or organisation in their dealings with the Council (e.g. in assisting them in the preparation of plans or documents that require Council approval), without first obtaining the approval of their Service Manager/Assistant Director.

If an employee wishes to undertake any additional employment, they should consult their Service Manager/Assistant Director and seek their written permission in advance.

## **Criminal Charges**

If an employee is facing criminal charges or investigation, they must tell their Service Manager as soon as possible. If an employee is subsequently charged or cautioned with regard to any crime whether on or off duty this must be reported without delay to their Service Manager. The only exception would be minor driving offences but only if an employee's job does not include the use of a car.

## **Gifts**

As a general rule, employees must politely decline to accept any gift offered by an individual or an organisation, whether or not they are a supplier of the Council. There may be some occasions when such a refusal might cause offence; notably at Christmas when it is common practice for companies to send small gifts. For an employee's own protection, as well as the Council's, the employee should report any offer of a gift to their immediate manager, whether or not they feel they can accept it. If an employee accepts the gift they must notify HR (PSPS) of this and the gift will be donated to a charity recognised by the Council.

## **Sales Promotion Offers**

It is not uncommon for suppliers of goods and services to make special offers such as free gifts or vouchers towards goods, for example at petrol stations. The rule is that it is the Council, not the individual, who should benefit from any such offers made to the employee when on Council business. Where possible the offers should be in the form of cash discounts; otherwise, the employee should hand the goods over to the Council, or tell their Service Manager of any such benefits they have received.

Where a gift has been won by a department as a result of a competition run by external sources, the gift must be returned or passed onto a more needy area or business within East Lindsey (for example a domestic violence hostel etc.).

## **Hospitality**

Employees should exercise great discretion in accepting outside hospitality of any kind, in order not to put their integrity at risk. It is reasonable to accept conventional hospitality, which is appropriate to the circumstances and enables genuine Council business to be carried out. This might include, for example:

- a working lunch/breakfast in the course of official visits;
- accepting reasonable hospitality when attending sites, offices, or
- people's homes (e.g. tea/coffee or some other light refreshment);

Where an offer of hospitality is made, employees should refer to internal Audit and an Assistant Director and register the 'item of hospitality' with Democratic Services.

However, there are other occasions when an employee should politely decline offers of hospitality, such as:

- frequent or regular invitations to lunch on a one-sided basis;
- hospitality of a predominantly social nature, such as sporting events
- or entertainment, where the connection with work is very loose.

If an employee is invited to a conference or exhibition, the Council should specifically authorise the visit and bear the expense. This is particularly important where there is a connection with an existing or potential supplier or contractor.

All gifts, hospitality and promotional offers should be recorded in the register located in Democratic Services.

## **Preferential Treatment**

Employees may not purchase for their private use, goods or services offered on preferential terms by a Council supplier or contractor, if these terms are offered because of their own dealings with that company as an employee of the Council.

## **Disclosing an interest in contracts**

Under the law, local authority employees have a specific responsibility to declare any interest, which could be to their personal financial advantage in contracts being negotiated or considered by the Council; breaches of law are punishable by fine.

If an employee become aware of any such contract, they must give the Council written notice of the fact. This also applies if the advantage is to the employee's friend or family member rather than themselves.

Employees may not accept any fee or reward offered because of their position, other than their proper salary/wage.

### **Personal Interests**

If an employee is dealing with a Council matter in which they have a personal interest, whatever the means, that interest, must be disclosed to their Service Manager and recorded in the personal interest record, held in Democratic Services. Depending on the nature of the employee's interest, their Service Manager may ask them not to be involved in the matter to be determined by the Council.

### **Planning Applications by Officers**

If an employee is submitting a planning application they must ensure that they correctly complete page 4 of the application, 'declaring your interests or relationships with any Member of the Council – or as an employee of the Council'. This also relates to persons that may be related to the employee or to an elected member. A relative is defined as:

- A spouse: a partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons;
- Partner: a member of a couple who live together.

Employees also need to disclose their interest to their Service Manager and record the interest in the personal interest record, held in Democratic Services.

All planning applications submitted by or on behalf of a Council employee, or by their spouse/partner or parent if they are living with them will be determined by the Planning Committee.

Where Council officers, for example an Environmental Health Officer may have an interest in the application (such as through consultation attached to the application) – personal interest must be declared and the steps outlined under personal interests must be followed.

### **Making a purchase from the Council**

Employees are free to buy surplus Council goods, which may be offered for sale to the public, unless the employee has been officially involved with their sale, obtained special knowledge about their condition by virtue of their position, or intend buying them to resell rather than for personal use.

### **Using Council resources**

The Council has a wide range of vehicles, equipment, stationery, office services and other resources, which are required for business use. Employees should ensure that these resources are treated with care and are not used for any purpose, other than those for which you have been granted permission in the course of your work.

This specifically refers to physical assets, financial resources, intellectual property, and computer data and information.

Council vehicles are prohibited from being operated for personal or other non-Council use unless granted special authorisation by management.

Where intellectual property has been produced by an employee during the course of their employment, it remains the property of the Council.

### **Canvassing for an appointment**

If an employee applies for a post within the Council, they are not allowed to canvass or seek support from any elected member, committee or officer concerned with the appointment, either directly or indirectly. If they do, they will be disqualified from the recruitment campaign.

### **Appointment of Employees**

Employees who are involved in recruitment campaigns should ensure that any appointments are made purely on merit. They should not be involved in an appointment if they are related to an applicant or have a personal relationship outside of work. Only with management & HR authorisation can this be the case.

### **Relationships at work**

Where personal relationships arise, which could cause conflict under certain circumstances, it may be inappropriate for relationships to take place. Employees are encouraged to liaise with HR (CBPS) should they have any concerns regarding a personal relationship.

### **Alcohol / Drugs**

It is important that employees are fit for work and remain so in order to perform their duties. Alcohol consumption is not permitted on Council premises and the Council prohibits the use, possession, distribution or sale of drugs in the workplace or when on Council business.

Employees must not:

- be under the influence of illegal drugs when reporting for work;
- be under the influence of alcohol when reporting for work;
- be in the possession of, distribute, or consume illegal or controlled drugs (other than appropriately prescribed medication to be consumed by themselves only) in the workplace, in a Council vehicle, or whilst on duty;
- drink alcohol or be under the influence of alcohol or illegal drugs whilst in the workplace or in a Council vehicle, regardless of whether on duty at the time;
- drink alcohol or be under the influence of alcohol or illegal drugs whilst on call;
- present an unsatisfactory and unprofessional image whilst at work due to the consumption of alcohol or influence of drugs during breaks or immediately before work.

If employees have an alcohol dependency or drug dependency problem this will be considered as a treatable illness and practical support will be offered as far as possible with intervention from Occupational Health. Should this be the case, employees must contact their Service Manager/HR for

support and appropriate measures and intervention will take place. Further support is also available through the national support service, DART. If an employee is on medication which may have side effects they must inform their manager/Service Manager. A risk assessment will be completed and a temporary reasonable adjustment may need to be considered should this have a bearing on the role the employee undertakes.

### **Anti-Fraud & Anti-Corruption**

Any suspicion of fraud or corruption will be dealt with seriously and any wrong doing will be treated as a disciplinary offence and will include civil action where appropriate. If an employee is suspected of committing fraudulent activity or corruption, Audit must be informed as a matter of urgency in accordance with the Council's disciplinary procedure.

If an employee suspects fraudulent activity or corruption, they must report it to the Service Manager - Audit and Information Governance (Head of Internal Audit) immediately.

### **Behaviour at External Events**

At all times, when representing the Council at external events, employees will conduct themselves professionally. This should not subject the Council to any claims of an employee's behaviour bringing the Council into disrepute or causing damage to the Council's reputation.

Even whilst not on duty, employees of the Council are expected to conduct themselves in a manner to avoid damaging the Council's reputation.

### **Compliance with Policies & Legislation**

Employees are expected to be aware of, and comply with, all relevant legislation, including but not limited to:

- Equality Act 2010;
- Health & Safety at Work Act 1974;
- Data Protection Act 1998;
- Freedom of Information Act 2000.

In addition, employees are expected to comply with all local policies and procedures relating to their employment. If an employee is a member of a professional institute or association they are also obliged to comply with any professional standards of practice associated with that organisation.

### **Health**

Employees have a duty to take reasonable care of their own health including following any medical advice given to them by a health professional. Any condition or treatments which could impact on an employee's work should be discussed with their line manager/Service Manager.

## **Health & Safety**

All employees, including temporary persons, consultants and agency workers, have a duty to take reasonable care of their own health and safety and that of others and to co-operate with their manager on health and safety issues.

Where required in the course of an employee's duties, they must wear the appropriate PPE and take the necessary safety precautions as prescribed to them. In addition, employees should be aware of the Working Time Directives and ensure that they remain compliant.

Employees should familiarise themselves with the Health & Safety at Work Act 1974 and any relevant departmental safety guidance/procedures.

Failure to comply with health and safety requirements can lead to prosecution by the Health and Safety Executive (HSE) and will be regarded as a disciplinary matter by the Council.

Equally, the Council has a duty of care to ensure the health, safety and welfare of its employees. The Council is committed to this and rules, procedures, and policies are implemented and adhered to so that an employee's health & safety is not compromised.

## **Equal Opportunities**

Employees must not discriminate against others and must comply with the Equality Act 2010. Further information including the expectations and standards of behaviour are detailed within the Council's Equal Opportunities and Diversity Policy.

## **Harassment**

Under The Criminal Justice and Public Order Act 1994 and the Harassment Act 1997 it is a criminal offence to harass another person. Employees should respect colleagues, Elected Members, and the public. Further information is detailed in the Council's Dignity at Work Policy.

## **Smoking at Work**

Smoking is not allowed in any Council buildings, depots or vehicles and the Council will not permit employees to smoke at any time whilst they are at work unless during a designated break period. Full details are available in the Council's Smoke-Free Policy.

## **Use of Computer Equipment**

To ensure the security of data and systems employees should not copy programmes or use unauthorised software on Council computers, tablets, or smart phones. Prior to any employee being granted computer access, they must complete the Information Security Policy training. Access will not be granted until this training has been completed. User identification and passwords must not be disclosed to anyone. To maintain security, passwords must be changed every 90 days. Computer use and security is covered in full in the Information Security Policy and associated documentation.

Personal e-mail use should be kept to a minimum and under no circumstances should any e-mails be sent or forwarded on which could be considered offensive, defamatory or threatening. Employees

are not permitted to use their personal email accounts unless during their designated lunch/rest breaks.

Where technology has been provided to employees for home working or remote working, the equipment must only be used for work purposes and no illegal copying or loading of programmes will be tolerated, onto equipment loaned to an employee, without prior consent of IT (PSPS).

Personal use of the Internet including social media (e.g. Facebook, Twitter) is only allowed during designated break periods (outside of core hours or lunch hour). This includes Council and personal devices. This should however, not be abused and must not be accessed for inappropriate reasons.

Where mobile phones and office phones have been provided, these should be used solely for work purposes only. However, in the event of an emergency, this is permitted.

### **Breach of Code of Conduct**

Employees are encouraged to speak to their line manager if they have concerns about anything they observe at work, which may breach this Code.

If an employee is suspected of being in breach of this Code they will be formally investigated in line with the corporate Disciplinary Procedure, available on the Intranet. The employee will be advised of the alleged breach and will be informed of the procedure for investigating this. At the conclusion of the investigation, the employee will be advised in writing of the outcome and whether a disciplinary hearing will be convened.

In the exceptional circumstance where an employee does not feel comfortable raising a concern to their manager or HR, the Council has a Whistle Blowing Policy, which is available on the Intranet.

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**Note to Part 5.2 – Officer Code of Conduct.**

The Chief Executive has exclusive jurisdiction to enforce and deal with any staff matter under the Officer Code of Conduct. If it shall be necessary to amend the Officer Code of Conduct, the Chief Executive shall after carrying out appropriate consultations, make such amendments as may be necessary and shall report the same to the Audit & Governance Committee for noting.

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## Part 5.4 - Councillors' Planning Code of Good Practice

### Background

This Code of Good Practice ('the Planning Code') should be read in conjunction with the Councillor and Officer Codes of Conduct (in Part 5.2 and Part 5.3 of this Constitution) and the procedure rules set out in Part 4 of the Constitution. .

### Introduction

The aim of the Planning Code is to ensure that in the planning process there are no grounds for suggestion that a decision has been biased, partial or not well founded in any way.

The key purpose of the Planning system is to manage the development of land and buildings in the public interest.

Your role as a Member of the Local Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons, in accordance with the requirements of Article 13 of the Constitution, relating to Decision Making.

The Planning Code applies to Councillors in the following circumstances:-

- Members of a Planning Committee ('the Committee');
- Members who sit in on a meeting of the Committee as a substitute Member;
- Members who attend the Committee (whether or not they take part in a debate in the Committee on a planning application or other development management matter);
- Members who are involved outside the Committee on a planning application or other development management matter – including informal occasions such as meetings with officers or public and consultative meetings;
- Members who attend planning application site visits.

If you have any doubts about the application of the Planning Code to your own circumstances you should seek advice from the Monitoring Officer as soon as possible.

#### 1. Relationship to the Councillors' Code of Conduct

- Do apply the rules in the Councillors' Code of Conduct first, which must always be complied with.
- Do then apply the rules in the Planning Code, which seeks to explain and supplement the Councillors' Code of Conduct for the purpose of planning control. If you do not abide by the Planning Code, you may undermine the integrity of the decision making process by putting the Council at risk of proceedings on the legality or maladministration of the related decision, and

yourself at risk of an investigation by the Monitoring Officer for breach of the Planning Code.

## 2. Development Proposals and Interests under the Councillors' Code of Conduct

- Do be open and transparent and in general 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, although you may make such a disclosure at any time. If in doubt, seek advice from the Monitoring Officer.
- Do then act accordingly, so as to resolve any conflict of interest, bearing in mind that avoiding the potential for any negative perceptions is important in protecting your own standing as a Councillor, the reputation of the Council and the integrity of the decision making process.

### Disclosable Pecuniary Interest ('DPI')

Where you have a DPI – which is an interest (as defined by the Localism Act 2011 and set out in the Councillor Code of Conduct) which is or should be registered on your Register of Members Interests and lodged with the Monitoring Officer – you should follow the requirements of the Councillor Code of Conduct, ALWAYS withdraw and do not debate or vote on any matter related to it (to do so is a criminal offence, for which you would run the risk of criminal prosecution). If the interest is registered in your entry in the Register of Members Interests, you MAY (in the interests of transparency) declare it at the meeting, but are not obliged to do so. If however the interest is not so registered, you MUST declare it at the meeting and ensure it is registered with the Monitoring Officer within 28 days of any such meeting taking place.

### Other Interests

- Where you have a personal interest in a planning matter (for instance, there is a shop that is the subject of a planning application and you visit it as a customer), then you should declare the interest on account of being transparent although you may take part in the debate and are entitled to vote. If on the other hand, you had a personal interest that was also prejudicial (for instance if you were close friends with the shop owner) then you should withdraw from the process of debate and not vote on the matter. Although the terms personal and prejudicial interests have been removed from the legislation, the common law principles that applied to them still operate as a good guide to upholding the principles contained in the Planning Code and the Councillor Code of Conduct.

The legal test for a personal interest becoming prejudicial is when the Councillor considers that a person with full knowledge of the circumstances would conclude that the interest adversely impacted upon their ability to objectively consider the matter in question. Again, perceptions are all important in this regard.

It is the responsibility of each individual Councillor to comply with these requirements, although the Monitoring Officer shall be pleased to provide advice on any particular occasion, upon being requested to do so.

In addition to the position outlined above in respect of a DPI, if a Councillor has other interests that would satisfy the personal/prejudicial interest test above, they should generally act as follows:-

- (a) Don't participate, or give the appearance of trying to participate, in the making of any decision on the matter by the Local Planning Authority.
- (b) Don't try to represent (Ward/Local) views or seek to call-in an application, you can request that the Portfolio Holder for Planning does so instead (subject to the usual planning criteria being satisfied and the usual call in process being followed).
- (c) Don't get involved in the processing of the application – leave that to Council officers.
- (d) Don't seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have any interest in a proposal, using your position to discuss that proposal with officers or Councillors when other members of the public would not have the same opportunity to do so.
- (e) Do notify the Monitoring Officer in writing of your own planning application and note that: -
  - notification to the Monitoring Officer should be made no later than submission of the application;
  - the proposal will be reported to the Committee as a main item and not dealt with by officers under delegated powers; and
  - it is advisable that you employ a professional planning agent to act on your behalf on the proposal in dealing with officers, and you need to leave the room for the period of the the debate and vote (including the public gallery) .
- (f) Do seek advice/guidance from the Monitoring Officer, at any time.

### 3. Fettering Discretion in the Planning Process

- Don't fetter your discretion and therefore your ability to participate in planning decision making at the Council. Fettering your discretion is making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the Planning Committee and of you hearing the officer's presentation and evidence and arguments on both sides. You must come to the meeting with an open mind, although you may have an inclination as to what way you may vote (a pre-disposition) you must be open to other arguments and assess the case on the planning merits before finally making up your mind on the matter at the planning committee meeting. Section 25 Localism Act 2011 makes it clear that expressing an initial view prior to the committee meeting does not of itself mean that the matter has been pre-determined, provided the Councillor approaches the matter with an open mind.
- Planning decisions are quasi-judicial in nature. They are not political and are dependent upon planning judgement and planning policy and assessing that in relation to any particular application or other case that arises.
- Do be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief

advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its merits).

- Do also be aware that, whilst the Councillors' Code of Conduct provides for a presumption that you may regard yourself as not necessarily having a prejudicial interest in matters which relate to the organisations mentioned below, you must exercise your discretion in deciding whether or not to participate in each case and where you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of another local or public authority of which you are a member; or a body to which you have been appointed or nominated by the Council as its representative; or you are a trustee or company director of the body submitting the proposal and were appointed by the Council.

If you feel that that you have fettered your discretion, you should make the appropriate declaration of interest and withdraw. Again, do seek advice from the Monitoring Officer in any particular circumstances.

- Do consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the Parish Council, for example, or both a District and County Councillor), provided:
  - the proposal does not substantially affect the well-being or financial standing of the consultee body
  - you make it clear to the consultee body, preferably in writing, that:
    - a) Your views are expressed on the limited information before you only;
    - b) You must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
    - c) You will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
  - you disclose a personal interest regarding your membership or role when the Committee comes to consider the proposal.

\* Do give special consideration to your role if you are the chair of a Parish Council that has been involved as a consultee. Given that the Parish Council is a corporate body and perceptions are important, it may well be prudent to make the appropriate declaration of interest and withdraw from the matter. Again, advice may be sought from the Monitoring Officer in any particular circumstances.

- Don't speak and vote on a proposal and withdraw from the room before any debate where you have fettered your discretion.

- Do explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- Do take the opportunity to exercise your separate rights as a Ward/Local Councillor (where this has been granted by the Authority's Procedure Rules or by the consent of the Chair and Committee). You may wish to do this if you have fettered your discretion. If you advise the Proper Officer that you wish to speak as Ward Councillor then you should withdraw from the main chamber when the matter is up for discussion and leave after you have made your representations.
- Do have regard to the principles of Bias, Predetermination and Pre-Disposition as laid out in the Annex to this Code.

#### 4. Contact with Applicants, Developers and Objectors

- Do refer those who approach you for planning, procedural or technical advice to officers.
- Don't agree to any formal meeting with applicants, developers or groups of objectors. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Service Manager – Development Control (Head of Planning) to organise it. The officer 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 Committee.
- Do otherwise:
  - follow the rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report to the Service Manager – Development Control (Head of Planning) any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition in respect of presentations by applicants/developers:

- Don't attend a planning presentation unless an officer is present and/or it has been organised by officers.
- Do ask relevant questions for the purposes of clarifying your understanding of the proposal.
- Do remember that the presentation is not part of the formal process of the debate and determination of any subsequent application. This will be carried out by the Planning Committee.

- Do be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Councillors might vote.
5. Lobbying of Councillors
- Do explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
  - Do remember that your overriding duty is to the whole community, not just to people in your Ward/Local area and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
  - Don't accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is a minimum, its acceptance is declared as soon as possible and remember to register the gift or hospitality where its value is over £25 in accordance with the Authority's rules on gifts and hospitality (see Councillors' Code of Conduct).
  - Do copy or pass on any lobbying correspondence you receive to the Service Manager – Development Control (Head of Planning) at the earliest opportunity.
  - Do promptly refer to the Service Manager – Development Control (Head of Planning) any offers made to you of planning gain or constraint of development, through a proposed Section 106 Planning Obligation or otherwise. Do not attempt any informal negotiation or discussion with the Developer in respect of these matters, instead you need to refer the Developer to the Service Manager – Development Control (Head of Planning).
    - Do inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
    - Do comply with the requirements of the Planning Code on lobbying and presentations.
  - Do note that, unless you have a prejudicial interest (including a DPI) interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
    - listening or receiving viewpoints from residents or other interested parties;
    - making comment to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
    - seeking information through appropriate channels; or
    - being a vehicle for the expression of opinion or speaking at the meeting as a Ward/Local Councillor, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or Ward/Local view, you have not committed

yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

## 6. Lobbying by Councillors

- Don't become a member of, lead or represent an organisation whose primary purpose is to lobby, promote or oppose planning proposals. If you do, you will have fettered your discretion and placed yourself in a position where you have a perceived bias and have to withdraw. Involvement in such activity before you were elected as a Councillor could also be perceived by the public as a relevant consideration and you need to consider such a possibility before taking part in a planning determination..
- Do join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, Council for the Protection of Rural England, Ramblers Association or a local civic society/action group, but disclose a personal interest where the organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- Don't lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- Don't 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.

## 7. Site Visits

- Do try to attend site visits organised by the Council where possible.
- Where a site visit is arranged it is mandatory for Councillors who vote on the application to have attended the site visit.
- Don't request a site visit unless you feel it is strictly necessary because:
  - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - there are significant policies or precedent implications and the specific site factors need to be carefully addressed.
- Do ensure that any information that you have gained from the site visit is reported back to the Committee, so that all Councillors have the same information.
- Do ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- Do ensure that at all times, you follow the movements of the Chairman on the site.

- Do ask the officers at the site visit questions or seek clarification from them on matters that are relevant to the site inspection.
- Don't hear representations from any other party, with the exception of the Ward/Local Councillor(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that it might prejudice your ability to participate in the decision to engage in a dialogue with them.
- Don't express opinions or views to anyone. The merits of the application will only be debated in the Committee meeting at the Council offices.
- Do proceed immediately to the next designated site at the conclusion of the site visit at the instruction of the Chair, without entering into discussions with any party.
- Don't enter the site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
  - you feel it is essential for you to visit the site other than through attending the official site visit; and
    - you have first spoken to the Service Manager – Development Control (Head of Planning) about your intention to do so and why (which will be recorded on the file); and
    - you can ensure you will comply with these Good Practice rules on site visits.

#### 8. Officers

- Don't put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Service Manager – Development Control (Head of Planning), which may be incorporated into any Committee report).
- Do recognise that the officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with the Service Manager – Development Control (Head of Planning) or those officers who are authorised by the Service Manager – Development Control (Head of Planning) to deal with the proposal at a Councillor level.
- Do recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Officer Code of Conduct 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, which may on occasions be at odds with the views, opinions or decisions of the Committee or its Councillors.

#### 9. Decision-Making

- Do ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, your reasons are recorded and repeated in the report to the Committee.

- Do come to meetings with an open mind and demonstrate that you are open-minded.
- Do comply with Section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Local Plan (taking account of the National Planning Policy Framework) unless material considerations indicate otherwise.
- Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- Don't vote or take part in the Meeting's discussion on a proposal unless you have been present to hear the entire debate at the Committee Meeting.
- Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the Local Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote being taken. Be aware that you may have to justify the resulting decision by giving evidence in the event of any legal challenge by way of appeal or judicial review.

Due to the importance of the duty to provide a properly considered reason or reasons for refusal only the broad grounds for the decision will be given at the meeting. Officers may on occasion request that they bring a report to the next meeting submitting the draft refusal notice for the approval of the Committee. Subject to the Committee's decision, the refusal notice with the proper and actual reasons of the Committee for such refusal will then be issued following that second meeting.

#### 10. Training

- Don't participate in decision-making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- Do endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the National Planning Policy Framework and Local Plan beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

## Annex

### Legal Principles on Predetermination and Bias

1.1 Councillors must also be aware of and act within the rules on predetermination and bias. Avoidance of bias or predetermination is a principle of natural justice which has evolved through the courts, although section 25 of the Localism Act 2011 is also relevant. Even if a Councillor does not have a DPI or is not acting in breach of the Councillor Code of Conduct he or she may cause a decision to be invalid if he or she participates while predetermined or biased (whether actual or perceived). The rules regarding predetermination and bias are likely to be more strictly applied where the Council is making “quasi-judicial” decisions, such as the determination of a planning application, than in the case of other decisions.

1.2 The basic legal position is that a Councillor should not take part in making a decision on a planning matter if he or she is **biased** or has **predetermined** the matter. Councillors should bring an unbiased, properly directed mind to the consideration of any matters before them at Committee. This does not mean that Councillors are not entitled to have and to express opinions about general planning matters, or planning cases. However, they must approach, and must be seen to approach, matters before them with an open mind.

1.3 In this respect a distinction is to be drawn between those Councillors who are making the decision (i.e. speaking and voting as part of the committee) and those Councillors seeking merely to influence the decision (i.e. making representations as a Ward Councillor). The prohibition in respect of predetermination or bias only affects those actually making the decision. A Councillor who has predetermined or who is biased may still speak as a Ward Councillor (provided that he or she does not also have a DPI).

### Predetermination

1.4 The law also makes a distinction between *predetermination*, which rules out participation in decision-making and *pre-disposition*, which does not.

1.5 A Councillor is entitled to have and to express views on local matters, both general planning matters and more specific applications. These views may indicate that a Councillor has a pre-disposition towards a particular policy or viewpoint. This is perfectly acceptable and a Councillor with a predisposition may take part in decision-making.

1.6 A predisposition will move on to becoming predetermination if, in relation to any matter before the Committee, a Councillor has taken a stance which indicates that he or she has finally closed his or her mind on the matter and that nothing that he or she hears at Committee will alter his or her position.

1.7 Section 25 of the Localism Act 2011 expressly provides that a Councillor shall not be taken to have had a closed mind just because he or she has previously done anything that directly or indirectly indicated what view he or she took, or would or might take, in relation to a matter. Therefore a Councillor will not have predetermined merely because he or she has made statements about a planning application in the past. However, this does not mean that a Councillor is free to say or do *anything* and still participate in the debate and vote. If by his or her actions and words the Councillor makes it clear that he or she will be voting a certain way no matter what information is presented at the Committee, then he or she will have predetermined and should not take part in the decision making.

## **Bias**

1.8 A Councillor should not be party to decisions in which he is actually biased or gives the appearance of being biased, to the reasonable observer. The test for the appearance of bias is whether a fair minded and informed observer, having considered the facts, would conclude that there was a possibility that the decision maker was biased.

1.9 Bias may arise by virtue of a Councillor being closely connected with a person who has a vested interest in the application – either the applicant or an objector. This may result from a personal connection, such as an applicant being a relative or friend, or result from the Councillor espousing a particular viewpoint (e.g. by being part of a lobby group). The role of the Committee is to consider applications in accordance with the legislation, planning policy and planning considerations, in order to balance the interests of persons with competing views and this may not be possible where a Councillor is closely connected with a particular party.

1.10 In addition, circumstances which raise the possibility of bias may also lead to an accusation of a breach of the Councillor Code, as that is founded on the principle that decisions are taken on an objective basis in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for themselves, their family, friends or close associates. Where this might occur, Councillors should not take part in the decision-making process.

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## Part 5.5 - Supporting Ward Councillors - Protocol

### Introduction

All Councillors have a right to information they reasonably need to carry out their role as a Councillor. This information will differ depending on the particular duties that a Councillor is required to perform. The Constitution sets out roles and responsibilities and the formal rights of call-in, consultation etc. Part 5 of the Constitution includes protocols that apply to Councillor/Officer relations (Part 5.1), a Councillor Code of Conduct (Part 5.3) and an Officer Code of Conduct (Part 5.2). This protocol builds on these rights and sets out what support Councillors can reasonably expect from the organisation.

### Principles

Councillors can expect: -

- To be regularly and fully informed of significant East Lindsey District Council issues that affect their Ward only, (in the case of 2 or 3 member wards, then all members shall be so informed) including photo opportunities with sufficient time to respond.
- To be given the opportunity to comment on these significant issues and to have their views taken into account.
- To be provided with copies of correspondence to the Local Town or Parish Council on matters concerning their Ward (with the exception of material relating to complaints which are the subject of investigation by the Monitoring Officer).
- To be provided with copies of legal notices/actions (i.e. Licensing & Planning Appeals, decisions, Enforcement Notices) which are taken in relation to people/business within their Ward, subject to the exceptions set out below.
- To have any correspondence or issue they raise dealt with expeditiously within 15 working days.
- To have telephone calls returned within 24 hours (or by the following Monday if made on a Friday).
- To have e-mails responded to within 24 hours (or by the following Monday if made on a Friday)
- Exceptions
  - Usually personal information relating to constituents will not be disclosed – unless at the specific request of a constituent. e.g. Councillors would not normally be told about action on Council Tax/Benefits or a request for housing assistance.
  - If the Council is asked to keep an issue confidential this will be respected where it is legally possible to do so.

- Where information is readily and regularly available elsewhere e.g. planning applications, which are posted on the Internet.

## Part 5.6 - Monitoring Officer Protocol

### General Introduction

1. The Monitoring Officer is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act 1989 (as amended). This provision places a statutory duty on the Monitoring Officer, which they have a personal obligation to discharge. This protocol provides some general information on how this statutory duty and other aspects of the work of the Monitoring Officer shall be discharged at East Lindsey District Council.

### Statutory Duty under section 5 Local Government & Housing Act 1989 (as amended)

2. The Monitoring Officer must (after consultation with the Chief Executive and the Section 151 Officer) make a statutory report to the Council on any proposal, decision or omission by the Council (or any of its Committees, or officers) which in their opinion has given rise or is likely to give rise to a contravention of any rule of law or be in breach of a statutory code of practice, or would constitute maladministration within the meaning of the Local Government Act 1974.

3. A summary list of statutory responsibilities relevant to the Monitoring Officer (or, in his or her absence, the Deputy Monitoring Officer) appears in the table annexed to this document.

### Working Arrangements

4. Having excellent working relations with Councillors and officers will assist in the discharge of the statutory responsibilities of the Monitoring Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Councillors and officers must, therefore work with the Monitoring Officer to discharge the Council's statutory and discretionary responsibilities.

5. The following arrangements and understandings between the Monitoring Officer and Councillors and Senior Management Team are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will: -

(a) be alerted by Councillors or officers to any issue/s of concern, including, in particular, issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise

(b) have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) including the Council, Executive, Committee meetings and Senior Management Team (or equivalent arrangement)

(c) have the 'right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Senior Management Team (or equivalent)

(d) in carrying out any investigation/s have unqualified access to any information held by the Council and to any officer who can assist in the discharge of his/her functions

- (e) liaise with the other statutory officers (Chief Executive and the Section 151 Officer) regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise
- (f) meet regularly with the Chief Executive and the Section 151 Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise and ensure that the Chief Executive and Section 151 Officer have up-to-date information regarding emerging issues
- (g) report to the Council, from time to time but at least annually on the Constitution and any necessary or desirable changes following consultation with the Chief Executive and Section 151 Officer and consideration by the Audit & Governance Committee
- (h) report to Audit & Governance Committee as appropriate on issues of Councillor conduct and on constitutional matters from time to time.
- (i) as statutorily required make a report to the Council, as necessary, on the staff, accommodation and resources he/she requires to discharge his/her statutory functions
- (j) have a special relationship with the Chairmen on the Overview Committee and Audit & Governance Committee with a view to ensuring the effective and efficient discharge of their duties
- (j) develop effective working liaison and relationships with the Police, District Auditor and the Local Government Ombudsman, including the giving and receiving of relevant information on appropriate terms, whether confidential or otherwise, including but not exclusive to any potential criminal investigation regarding a potential offence under section 34 Localism Act 2011 and any such steps shall not constitute a breach of a duty of confidentiality owed towards the Council by the Monitoring Officer.
- (k) maintain and keep up to date relevant statutory Registers for the declaration of Councillors' interests, Gifts and Hospitality
- (l) give advice on the Council's Code of Councillor Conduct and receive all complaints about elected members of the District and parish councils, requesting advice from the Independent Person where appropriate
- (m) in consultation, as necessary, with the Chairman of the Council, defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigation body is involved
- (n) make arrangements to ensure effective communication between his/her office and the Clerks of Town and Parish Councils on Monitoring Officer issues
- (o) have sufficient resources as in the opinion of the Monitoring officer enable him/her to address any matters concerning the discharge of Monitoring Officer functions and to liaise with the Chief Executive and Section 151 Officer as appropriate on this matter

(p) obtain legal advice at the expense of the Council on any matter which in his/her opinion could lead to the publication of a report under Section 5 Local Government & Housing Act 1989 (as amended).

(q) subject to the approval of the Audit & Governance Committee, be responsible for preparing any training programme for Members (including members of Town and Parish Councils) on ethical standards and Code of Conduct issues

(r) keep the Deputy Monitoring Officer briefed on any relevant issues that he/she may be required to deal with in the absence or incapacity (through illness) of the Monitoring Officer

5. To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Councillors and officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.

6. The Monitoring Officer is also available for Councillors and officers to consult on any issue of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Procedure Rules, Policy Framework, Terms of reference, Scheme of Delegation, etc).

#### Conflict of Interest

7. Where the Monitoring Officer becomes aware that he/she has a potential conflict of interest, on any particular matter, he shall liaise with the Chief Executive and the Deputy Monitoring Officer with a view to taking such steps as may be appropriate in the circumstances including making an appointment under section 82A Local Government Act 2000, to protect the best interests of the Council and in the interests of promoting high standards of ethical conduct.

Summary of Monitoring Officer Functions – (these are in addition to any duties the Monitoring Officer may hold as Proper Officer)

Description	Source
Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 of the Local Government and Housing Act 1989 (as amended)
Report any maladministration or injustice where the Ombudsman has carried out an investigation	Section 5 of the Local Government and Housing Act 1989 (as amended)
Appointment of a Deputy	Section 5 of the Local Government and Housing Act 1989 (as amended)
Report on resources	Section 5 of the Local Government and Housing Act 1989 (as amended)
Investigate complaints of misconduct of Councillors under the Councillor Code of Conduct in compliance with the Monitoring Officer Protocol and in liaison with the Independent Person, as appropriate.	Localism Act 2011
Establish and maintain Registers of Councillors Interests and Gifts and Hospitality (operationally managed by the Service Manager – Corporate Support	Section 81 of the Local Government Act 2000, Section 29 Localism Act 2011 and the Councillor Code of Conduct
Advice to Councillors on interpretation of the Code	Councillor Code of Conduct/Monitoring Officer Protocol
Key role in promoting and maintaining high standards of conduct through support of the Audit & Governance Committee	Section 27 Localism Act 2011
New Ethical Framework functions in relation to Town and Parish Councils	Section 83(12) of the Local Government Act 2000, Localism Act 2011
Report to the Council on the appropriateness of compensation for maladministration	Section 92 of the Local Government Act 2000
Advice on insurance/indemnity for Councillors and Officers (in consultation with Section 151 officer)	Section 101 Local Government Act 2000
Advice on ultra vires issues, maladministration, financial impropriety, probity, and policy framework and budget issues to all Councillors	New Council Constitution Guidance (DETR) para.8.21

## Part 5.7 - Scheme of Delegation to Portfolio Councillors Protocol

Article 8 of the Constitution provides for Executive functions to be delegated to individual Portfolio Holders, in which case the provisions of this protocol would apply. At present however, the Executive has not delegated any functions to individual members of the Executive Board.

This Scheme of Delegation to individual Portfolio Holders does not expand the role of the Executive but allocates individual responsibility within the agreed framework determined by the Council.

When a decision under delegated powers is to be taken by a Portfolio Councillor the following procedure will be followed. Nothing in this protocol overrides any other requirements and the need to comply therewith contained in within this Constitution, particularly in relation to the extent of the powers of delegations, consultation to be undertaken and the rules applying to Executive decisions taken by the Executive as a whole.

1. The Officer requiring a Portfolio Holder decision will produce a report based on the template provided. The template will require a record of the decision required; the reason for the decision, what alternatives were considered, compliance with Council policy and corporate risks if appropriate.

Accepting that there could be occasions when the Councillor will not want to act in accordance with the recommendation, an officer should also record their professional advice.

2. The report will be circulated to or discussed and agreed by the Council's three Statutory Officers namely:

- The Chief Executive
- Section 151 Officer
- Monitoring Officer

3. A copy of the report will then be sent to or discussed with the following to obtain their approval:

- The Chairman of Overview Committee
- The local Ward Councillor(s)
- The Portfolio Holder/s

4. A copy of the report should be placed on the Council's website in the 'Decisions to be made by a Portfolio Holder' section so that all Councillors are aware of this action. It should contain the date of publication and specify subject to call-in the decision will come into force on the expiry of 6 working days after publication.

5. No decision can be taken until after 6 working days and the report has been made available in accordance with paragraphs 3 & 4 above. The call-in procedure applicable to decisions of the Executive Board will apply at this point. Portfolio delegated decisions will not be key decisions so if no individual objection is received, the decision can be implemented after 6 working days.

6. The Portfolio Holder may, subject to their being no significant objection, make the decision by signing the report and forwarding this to the Democratic Services Section for recording and retention.
7. A record of the decision made should be posted in the 'Decisions taken by Portfolio Holders' section of the Intranet and on the Council's Website.
8. In the event of call-in then the decisions of the Executive Board would apply.

## **Part 5.8 - Protocol for Councillor Representation on Outside Bodies**

The Council will appoint Councillors to serve on outside bodies in accordance with Article 3.2 of the Constitution.

The Council has produced this protocol to ensure that Councillors and officers are aware of their obligations when representing the Council on outside bodies (Companies, Unincorporated Associations, Charities and other Public Authorities).

### **General Principles**

Councillors who are appointed to outside bodies shall be prepared to regularly attend all meetings of bodies to which they are appointed or to send an agreed and empowered substitute in exceptional cases.

Councillors shall report back to the Council (either Council, the Executive Board or the Committee whichever made the appointment) on proceedings/decisions taken by the outside body, as appropriate and in all cases within a reasonable time of being requested to do so.

Councillors shall also report back to the Overview Committee within a reasonable time if requested to do so.

Councillors shall act in accordance with the Nolan Principles of Public Life enshrined in the Council Code of Conduct.

### **Key Principles of the Protocol**

- \* Councillors and officers will act according to the rules, constitutions and frameworks set by the relevant outside body and, where possible, with those of the Council.
- \* Councillors and officers will make independent and personal judgements based on their duty of care to the outside body.
- \* Councillors will report back on their involvement with the outside body, to the Council, as required.
- \* Councillors will comply with their obligations as far as they are applicable pursuant to the Code of Conduct.
- \* Councillors and officers will take an active and informed role in the management of the outside body's affairs.
- \* Councillors and officers are under a duty to exercise independent judgement in the interests of the organisation in which they are involved. Whilst it is recognised that Councillors and officers may have a commitment to representing the Council on the outside body, they must be aware that it is their responsibility to decide on what view to take on any question before that organisation. For example, an instruction from the Council to vote one way or the other would put the Councillor or officer in breach of his/her duty to the organisation. It is permissible to take account of the Council's wishes, but not to vote simply in accordance with them without applying their own judgement to the question before them.

\* Where a Councillor or officer is involved in an outside organisation as a representative of the Council, he/she must declare that fact to the organisation.

\* Councillors/Officers must also ensure that avoidable loss is not incurred in managing the organisation concerned. They cannot avoid this responsibility by not reading the papers or failing to ask for the appropriate report. Councillors should seek professional advice as appropriate.

\* Councillors and officers who represent the Council need to familiarise themselves with the duties they will assume and any potential liabilities they may face. It is essential that they are aware of how to deal with any conflicts of interest that may arise.

#### **Duties when appointed as a Company Director.**

\*To act in good faith and in the best interests of the company when making decisions as a director. This means exercising your own, independent judgement on matters and whilst factors such as the views and wishes of the Council or, if you are a Councillor, your political group, may be taken into account, one should avoid slavishly following the council or party group line without considering all other relevant considerations. When making decisions about the company the law also requires you to consider the interests of employees as well as the interests of Councillors/shareholders. In certain cases you may find that the best interests of the company and the Council conflict. Guidance on conflicts of interest is included in this protocol.

\* To exercise reasonable care and skill when making decisions as a director. A director requires no greater skill than might reasonably be expected of someone of that individual's particular knowledge and experience. Directors are not deemed to be experts but they are expected to use due diligence and to obtain expert advice if necessary. This is very similar to the Councillor/Officer relationship in terms of decision making and the provision and consideration of professional advice.

\* A fiduciary duty to act honestly and in good faith and in the best interests of the company as a whole.

\* To act in accordance with the company's memorandum and articles of association, plus any other rules, regulations or bylaws that the company may operate pursuant to. Councillors/Officers should ensure that they have an up to date copy of these documents and are aware of their contents.

\* To inform the board of a company if you have any direct or indirect interest in a contract the company is considering, proposing or entering. This, for example, will include contracts between the company and the Council. These requirements are similar to those contained in the Code of Conduct governing the declaration of interests. In general terms, Councillors must notify the other directors before the company makes a decision on the matter concerned and the Councillor should not take part in any board discussions about the contract. However this does not apply to Directors of Public Sector Partnership Services Limited or trustees of Magna Vitae. In these circumstances Directors who are also Councillors can take part in company discussions and vote in respect of Council contracts.

\* Not to make a profit from their positions within the company. You must therefore declare any interests you have (or those of your family) in relation to the company's contracts. Permission to vote on a particular matter would depend on the Articles of Association.

\* To comply with company law. Directors must ensure that the Companies Acts are complied with particularly in respect of the maintenance of accounts and the submission of statutory returns to the registrar of companies. Failure to do so incurs fines and persistent default can lead to disqualification as a director.

### **Liabilities once appointed as a Company Director.**

Councillors/Officers acting as company directors may be held personally responsible for the company's debts and liabilities if they:-

\* Engage in wrongful trading, i.e. if you knowingly permit the company to continue to trade or incur liabilities when you know or ought to have known that the company is unable to pay its debts. Accordingly, councillors/officers must ensure that they obtain regular information about the company's financial position. Advice on interpretation of financial information may be obtained from the company's chief financial officer or if appropriate the Council itself. If you feel the company is unable to pay its debts you should notify the other directors as soon as possible. You should also consider whether to resign as a director. The Monitoring Officer will be able to advise you and you should seek their advice as soon as possible.

\* Misuse company assets.

\* Fail to act in the best interests of the company or fail to act with the level of skill that could be reasonably expected of you, save and except where the Court is satisfied that you acted honestly and reasonably.

\* Exceed the scope of any delegated authority you may have from the company. This is very similar to your position as a Councillor/Officer. Acting outside of the Council's powers can result in legal challenge.

\* Failure to disclose a direct or indirect interest in a contract with the company could result in;- The imposition of a fine and/or the requirement to pay to the company any money you have received under the terms of the contract.

Should the number of Directors on a company fall to two, advice it will be prudent to inform the Monitoring Officer so that the Council can consider whether it is prudent for your involvement to continue.

### **Public Sector Partnerships Services Ltd/Magna Vitae**

Where the appointment is to act as a Company Director (e.g. in the case of Public Sector Partnership Services Ltd or Magna Vitae Leisure Trust) then the Councillor (and/or officer if applicable) must undertake such duties with due regard to Company Law. This means that their responsibility is to act and contribute to company decision making in the best interests of the Company (which may not necessarily coincide with the best interests of the Council). The duty to act in accordance with Company Law is a personal duty owed to the Company as a corporate body which is placed upon the Director.

### **The Principles of Charity Law**

Charities may be created by registering any of the following with the Charity Commission:-

- (1) A Trust Deed – the Trustees become charity trustees.
- (2) A company limited by guarantee – the directors become charity trustees.
- (3) An unincorporated association – the Management Committee become charity trustees.

In order to qualify for a charitable status, the Charity Commission must be satisfied that the organisation is operating for a charitable purpose namely:- the relief of poverty and human suffering, the advancement of education or the advancement of religion.

### **The Duties of a Charity Trustee**

A Charity Trustee must:-

- \* Act strictly in accordance with the charity's constitution and rules.
- \* Act in the best interests of the charity.
- \* Manage the charity's affairs prudently.
- \* Not derive any personal benefit or gain from the charity.
- \* Take professional advice on matters you are not competent to decide yourself.
- \* Ensure that the charity's bank accounts are operated by more than one person.
- \* Ensure the trustees have proper control of the charity's property and assets.
- \* Ensure that the charity keeps full and accurate accounting records.
- \* Spend charity income solely for the purposes set out in the charity's Constitution. Ensure charity property is properly maintained and insured.

### **Personal Liability of a Charity Trustee**

Personal liability may be incurred if a trustee:- (1) acts outside the scope of the trust deed (2) falls below the required standard in respect of the duty of care owed by them (3) makes a personal profit from the trust assets or any transaction associated with the charitable trust.

### **Unincorporated Associations**

Bodies which are not charities, companies or public bodies are often referred to as unincorporated associations. They usually operate pursuant to a constitution or set of rules defining the organisation's responsibilities and those of its Councillors. The affairs of an unincorporated association are usually governed by a management committee in accordance with the organisation's constitution or agreed rules of procedure. Unincorporated associations cannot enter into contracts, own land, or employ staff. Councillors of the organisation's management committee must act in accordance with its Constitution and must take reasonable care in exercising the organisation's powers. Generally, Councillors of the Management Committee are personally liable for the acts of the organisation but are entitled to an indemnity from the funds of the organisation if they have acted reasonably and in good faith. If there are not enough funds, the Committee Councillors will

however be personally liable for the shortfall. Councillors of a Management Committee will have personal liability if they act outside the authority given to them or if they do not comply with the relevant legal obligations.

### **Duties of Management Committee Councillors of Unincorporated Associations**

- \* Councillors must act in the best interests of the association.
- \* Use reasonable care and skill when involved in decision making on behalf of the association.
- \* Act in accordance with the association's rules or Constitution.
- \* Councillors/officers are therefore encouraged to clarify the extent of any limits to their power to act on behalf of the Council.
- \* Promptly notify the Monitoring Officer if the association is proposing to take a course of action which is disadvantageous to the Council or which seems to involve considerable risk.
- \* Ensure the association has clear rules and procedures for decision making, particularly for entering into contracts and promptly notify the Monitoring Officer of any concerns in this regard.

### **Other Public Authorities**

Some Councillors will be appointed to other public authorities, for example Internal Drainage Boards. Like the Council, these bodies are created by statute and have a range of powers and duties. Councillors appointed to such Public Authorities will be required to comply with that Authority's code of conduct if one is in operation, when conducting business for them. In practice they are likely to be similar to the Council's own Code of Conduct. In cases of doubt, advice should be sought from the Monitoring Officer.

Councillors representing the Council on other bodies (such as a company, charity or unincorporated association), must comply with the Council's Code of Conduct except where it conflicts with any legal obligations the other body or organisation is bound by. Such conflicts are, in the view of the Monitoring Officer likely to be rare. In cases of doubt, advice should be sought from the Monitoring Officer.

### **Compliance with the Council's Code of Conduct**

Councillors are obliged to observe the provisions of the Code Conduct whenever they conduct the business of the authority including when they act as a representative of the authority, except and insofar as it conflicts with any other lawful obligations to which that body is subject. It isn't easy to imagine such circumstances arising, but one example might be where the Council was proposing to take action which would have an extremely adverse effect on the financial wellbeing of a company on which a member held a Directorship. If the Councillor was privy to the information concerning the authority's plans he may find himself in a position where he was compelled to disclose this potentially confidential information to the company due to his fiduciary duty to the company itself and duties arising under the Companies Acts to avoid trading when insolvent. This is an extreme example but one which could feasibly arise. In such circumstances, acting contrary to the Council

Code of Conduct would not be taken as a breach, because of the wider duties that apply to the Company.

### **Declaration of Interests**

A Councillor must regard themselves as having a personal interest in any business before the Council, if the matter relates to an interest in an outside body with which they are involved. This means that where a Councillor is appointed to an outside body, they must declare it before (or at the time) the item is raised. Where a Councillor has a personal interest in a matter they must also give consideration as to whether they should withdraw from debate/voting on the matter. The legal test applied for this is an objective one of whether a member of the public with full knowledge of the circumstances would reasonably regard the interest as so significant that it is likely to prejudice the member's judgement of the public interest. Advice of the Monitoring Officer should be sought in particular cases and councillors should always remember that perception is an important aspect of the ethical principles outlined in the Council Code of Conduct.

### **Conflicts of interest**

Conflicts of interest may arise between the Council and a company to which you are appointed as a Director. Even if the Council and the company have the same overall aims and objectives, you cannot assume that their interests will always be the same. The legal position and your obligations, remain the same, namely that you have a fiduciary duty to the company as a matter of company law.

Conflicts of interest may arise If for instance the council is disposing of land to the company, if the company and the Council are negotiating a contract with each other, if the company is seeking funding from the Council, if there is a dispute between the company and the council or if the company is tendering or negotiating to provide goods, services or works to the Council.

Company law requires you to act in the best interests of the company but the Council will have nominated you as a director to represent or promote the Council's interests. Accordingly, if you are uncertain whether a conflict of interest exists you should seek advice from the Monitoring Officer in any particular case.

If you think you have a conflict of interest you should take the following steps:-

- Notify the Monitoring Officer
- Notify the company's Board of Directors
- Take no further part in the matter on behalf of the company.
- You should take no part in the matter on behalf of the Council either. This includes not taking part in any discussions on the matter or representing the council at meetings where the matter is discussed. You should declare an interest and leave the room whenever the matter is raised.

## Part 5.9 - Councillor Call for Action ('CCfA') Protocol and Procedure Note

### Protocol

1. Any Councillor may submit a request for a CCfA in accordance with the provisions set out in these paragraphs. The expectation is that a CCfA will only be initiated when all other methods have been exhausted and CCfA will therefore be a means of a last resort. The following matters are excluded from CCfA:

- A local crime and disorder matter (dealt with elsewhere)
- Any matter relating to a planning decision
- Any matter relating to a licensing decision
- Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment
- Any matter which is vexatious or discriminatory

2. Members may only use a CCfA at the Council that they have been elected to. A District Councillor cannot raise a CCfA at a County Council and vice versa.

3. The Chief Executive and the Chairman and Vice-Chairman of Overview Committee have delegated authority to reject a CCfA on the following grounds:-

- The issue falls into one of the excluded matters/relates to a regulatory matter
- The issue does not relate to a local authority function
- The issue does not affect all or any part of the Ward of the Councillor promoting the CCfA or any person who lives or works in that Ward
- The issue is currently or has been the subject of a call-in
- The issue is already or has been the subject of a CCfA by another Councillor
- The issue is currently being dealt with under the Council's Corporate Complaints Procedure
- The relevant Officer/Portfolio Holder has not had the opportunity of dealing with the issue
- The issue is currently being dealt with by the relevant Officer/Portfolio Holder
- The issue has already exhausted the local democratic process and cannot go any further

4. If a CCfA request is considered valid, Overview Committee may convene a Policy and Scrutiny Panel to investigate the facts and interview the parties involved. This will enable requests to be dealt with promptly and reported back to Overview Committee.

5. If Overview Committee decides not to pursue the CCfA it must notify the referring Councillor of its decision and the reasons for it.

6. The action stages (1 to 6) for progression of a CCfA are as follows: -

#### Procedure Note

##### (1) Public or Community Request

1. The Local Ward Councillor receives a request in respect of a public or community issue. This may be via direct contact or forwarded by an Officer. The Ward Councillor has a responsibility to try and resolve the issue directly with the relevant responsible authority which may be a service provider, a Portfolio Holder, the Executive Board or a partner organisation.

##### (2) Deciding if there is an issue to address

2. It is the initial responsibility of the Local Ward Councillor to establish that the local issue raised is a genuine concern and that it is not an excluded subject. Assuming the criteria is met the Ward Councillor should raise a CCfA proforma and submit it to the Chief Executive's office together with the completed checklist (Appendix B) where it will be recorded in the CCfA Register. If the CCfA meets the above criteria and there are no grounds for rejection it will proceed to the next stage.

##### (3) Referral to Overview Committee

3. If the CCfA is accepted, the submission to Overview Committee should include details of the action(s) already taken to try and resolve the matter directly and the results achieved to date, together with any supporting evidence. It is essential at this stage to determine what would be a satisfactory outcome and the Ward Councillor should agree this with the parties involved.

##### (4) Overview Committee review

4. The Overview Committee has a duty to consider a valid CCfA when requested by a Ward Councillor. The referring Councillor will be invited to attend the meeting in order to make representations and answer questions. The relevant Portfolio Holder and Officer should also be invited.

In the event that Overview Committee decides not to pursue the matter, the Ward Councillor who referred the CCfA will be notified in writing of the reasons for rejection.

If the Overview Committee accepts the CCfA for review, there are a number of possible actions it may take depending on the nature of the subject and these include:

- If there is sufficient supporting evidence - make immediate recommendations to the Executive Board, Council or other responsible authority
- Request further information from the referring Ward Councillor
- Ask Officers/Portfolio Holders to investigate and report back
- Set up a panel to investigate
- Invite a partner stakeholder to investigate and report

When the review is complete the Committee will submit a report with recommendations to the responsible authority. A copy of the report will also be provided to the referring Ward Councillor

(5) Responsible Authority

5. Executive Board, Council or other responsible authority will review the report together with the recommendations and provide a written response back to Overview Committee within two months.

(6) Overview Committee reviews outcome

6. The Overview Committee will review the response from the relevant responsible authority and monitor the implementation of any action. The final outcome from the review will be advised to the referring Ward Councillor in a closure report. Cont.

## PROFORMA

## Appendix B

### COUNCILLOR CALL FOR ACTION CCfA EAST LINDSEY DISTRICT COUNCIL

To: For the attention of the Chief Executive, the Chairman and Vice Chairman of the Overview Committee

From: Councillor: \_\_\_\_\_

Division/Ward: \_\_\_\_\_

Contact details: \_\_\_\_\_

Telephone No: \_\_\_\_\_

Email: \_\_\_\_\_

SUBJECT	
<p><b>Details</b></p> <p>Please explain</p> <p>a) what the issue is b) how it affects your ward - and c) why this issue has been raised</p>	
<p><b>Action taken to date:</b></p> <p>Please explain what steps have been taken to try to resolve the issue</p> <p>(please tick the actions you have taken to date – and provide details of dates, those involved and the outcome)</p>	<ul style="list-style-type: none"><li>• Informal discussions with Officers or other Members</li><li>• Approach the relevant partnership's body/bodies or local group</li><li>• Formal discussions with Officers and Members</li><li>• The issue has been raised at the appropriate Local Area Committee/Community Cabinet (LAC)</li><li>• the issue is currently or has been the subject of a call-in</li><li>• the issue is already or has been the subject of a CCfA by another Member</li><li>• Matter already raised with/considered by the Overview Committee</li><li>• The matter has been raised with the relevant Executive Board Member – verbally/in writing</li><li>• A question has been submitted at Full Council</li><li>• A motion has been raised at Full Council</li><li>• Public Meeting</li><li>• Petition</li><li>• the Complaints Procedure has been enforced/exhausted</li></ul>

	<ul style="list-style-type: none"> <li>• A Freedom of Information (FOI) request has been submitted</li> <li>• Communication with local MPs</li> </ul> <p>Additional actions and further detail:</p>
<p>Please give details of the resolution sought</p>	
<p><b>Papers attached:</b></p> <p>Please list documents attached which should evidence the impact of the issue, the steps taken and any responses received</p>	

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

**Please submit the completed form and supporting details to the Democracy Manager for the attention of the Chief Executive, who will liaise with the Chairman and Vice Chairman of Overview to consider if the matter raised meets the Councillor Call for Action criteria.**

**If so, the matter will be passed to the Overview Committee for consideration.**

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## Part 6 East Lindsey District Council Members' Allowances Scheme 2021-2024

East Lindsey District Council in exercise of powers conferred by the Local Authorities (Members' Allowances) Regulations 2003 (as amended) has made the following scheme:-

1. The Scheme may be cited as the East Lindsey District Council Members' Allowances Scheme 2021-2024 and shall have effect for the period from 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2024.
2. Each member shall be entitled to be paid a Basic Allowance for each year.
3. Each member that holds a special responsibility shall be entitled to one special responsibility allowance for each year as set out below (subject to the exceptions set out herein).
4. Sums shall be paid pro-rata for part of the year as applicable.
5. Any member who is entitled to a payment may forego any part of his/her entitlement by written notice to the Proper Officer.
6. Travel and subsistence allowance claims shall be dealt with as set out herein.
7. Any member may claim Dependants' Carers' Allowance upon meeting the conditions as set out herein.
8. Where a member is a member of another local authority he/she may not receive an allowance from more than one authority in respect of the same duties.

### Basic and Special Responsibility Allowances Rates 2022 - 2023

Basic Allowance (Paid to all Members)	£4,984.70
Leader of the Council	£14,005.92
Deputy Leader of the Council	£7,003.08
Other Executive Councillors	£4,904.13
Chairman of the Council	£4,204.44
Vice-Chairman of the Council	£1,263.36
Chairman of Overview Committee	£4,204.44
Vice-Chairman of Overview Committee	£1,263.36
Chairman of Planning Committee	£4,204.44
Vice-Chairman of Planning Committee	£1,263.36
Chairman of Licensing Committee	£4,204.44
Vice-Chairman of Licensing Committee	£1,263.36
Chairman of the Audit & Governance Committee	£4,204.44
Vice-Chairman of the Audit & Governance Committee	£1,263.36
Vice-Chairman of Planning Policy Committee	£1,053.72
Chairmen of Scrutiny and Policy Panels (per report)	£393.97

Political Group Leader:	
5-10 Members	£1,795.68
11-20 Members	£2,396.73
20+ Members	£2,995.08

**Notes:**

- I. From 1 April 2022:
  - a. The Basic Allowance is increased by £50 per annum.
  - b. The Basic Allowance and Special Responsibility Allowances are indexed to the annual local government pay percentage increase as agreed by the National Joint Committee for Local Government Services. Any amendments are to be applied with effect from the beginning of the financial year in which the amendment is made.
  - c. The Chairman and Vice Chairman Allowances for the Licensing Committee and the Planning Committee are amended to reflect those paid to the Chairman and Vice Chairman of the Audit and Governance Committee, Overview Committee and the Council.

Members may only receive one Special Responsibility Allowance with the exception of Political Group Leaders and Chairmen of Scrutiny and Policy Panels who may receive these Allowances in addition to one other Special Responsibility Allowance. The Chairman of a Scrutiny and Policy Panel shall be entitled to claim the allowance upon submission of the appropriate report to the Council.

Members will continue to receive allowances if suspended, pending an investigation, but will be required to repay them from the date of the suspension if the alleged offence is subsequently proven. Payment will be withheld during any periods of suspension following a proven case or when a Councillor ceases to be a member of the Authority or is in any way not entitled to receive allowances.

**Dependants' Carers' Allowance**

A Dependants' Carers' Allowance is available, which Members can claim to assist them with the cost for care of dependants they may have while on approved Council duties.

A maximum of 20 hours per week can be claimed. In addition, the Councillor cannot claim for multiple carers for multiple dependants within the same category of care.

From 1 April 2022 the Dependants' Carers' Allowance is paid up to and indexed to the National Living Wage.

The Allowance is not payable to a member of the claimant's own household or a family member and all claims must be supported by signed receipts.

The Allowance is only payable where there is medical or social work evidence that care is required or in the case of children where the child is 14 years old or under.

## **Travel and Subsistence Allowances**

Members can claim Travel and Subsistence Allowances whilst on approved Council duties.

The following applies:

### **Rail Travel**

Members should travel by standard class rail unless the Chairman of the Council and Monitoring Officer expressly state otherwise.

Bus travel should be considered in appropriate instances.

Members must make travel arrangements through the Democratic Services Team of the Council (except on grounds of urgency).

In some instances, savings on ticket prices can be achieved if bookings can be made at the earliest opportunity and Members are encouraged to contact the Democratic Services Team as soon as they are aware of their need to travel.

Where Members have made their own arrangements for travel they may reclaim the actual costs incurred (subject to the above limits)

### **Air Travel**

Is permitted, under the following circumstances: -

- All bookings must be made through the Democratic Services Team (except on the grounds of urgency after consultation with the Chief Financial Officer)
- and
- Where it can be demonstrated to be more cost effective than alternative modes of transport in terms of: -
  - Saving in time
  - Saving in overnight accommodation/subsistence costs
  - Direct and indirect travel costs
- Where a Councillor, on grounds of urgency and approved by the Section 151 Officer, incurs expenditure on air travel payments shall be limited to:
  - the ordinary fare or any cheap fare for travel by regular air service; or
  - where no such service is available, or, in the case of urgency, the fare actually paid by the Councillor.
- Where Members have made their own arrangements for travel they may reclaim the actual costs incurred (subject to the above limits)

### **Taxi and Private Hire Travel**

The full costs of taxi and private hire fares will be reimbursed in cases of proven need and inability to drive or take alternative transport to attend approved duties. The reasons to be approved by the Chief Executive and where practicable in advance of fares being incurred. Fares will be reimbursed on the production of a receipt.

### **Other Forms of Transport**

In all other cases, the amount of the fare for appropriate public transport will be paid.

### Other Incidental Travel Costs

Actual expenditure will be reimbursed for costs incurred on tolls, ferries and parking fees. Receipts must be obtained.

If a Councillor can demonstrate that in the previous municipal year, or can show in the forthcoming municipal year, that the cost of reimbursing parking while on approved duties is more than the cost of a Car Parking Permit then a parking Permit will be issued.

The reimbursement of the cost of parking permit or bus pass or the purchase of a permit or pass by the Council, on behalf of a Councillor is a Taxable Benefit and will be declared on the Council's returns to the Inland Revenue.

### Mileage Rates

The mileage rates for Members will reflect HMRC mileage payment guidelines, currently the following rates apply:-

Cars and vans	45p per mile
Motorcycles	24p per mile
Bicycles	20p per mile

A passenger allowance of 5p per passenger may be payable in some circumstances. The passenger must be a fellow Councillor and the Councillor must receive the allowance from the Council.

### Subsistence Allowance

Subsistence Allowance can only be claimed for the time necessary to attend approved duties, including necessary travelling time (i.e. not all the time spent away from the Councillor's residence, if some of that time includes non-eligible activities).

Subsistence Allowance is claimable to enable a Councillor to perform any approved duty except that:

- Members should note that expenditure must be incurred before Subsistence Allowance may be claimed.
- Claims not supported by receipts and vouchers will not be paid.
- To claim subsistence allowance a member must be away from home for more than 4 hours

Where a meal is provided free of charge (except where the Councillor is in any case required to pay full board) then the allowance shall not be payable.

That Subsistence Allowance rates for Members will reflect the ELDC Officer Subsistence rates, currently the following rates apply:

- Breakfast (before 11am) £5.75
- Lunch (12-2pm) £7.94
- Tea £3.13
- Evening Meal (7pm) £9.82

### Overnight Accommodation

Where a substantial journey has to be undertaken, e.g. to London or Aberdeen, Members are permitted to leave the previous day if they would otherwise have to leave home before 7 a.m. They may return the following day if they would otherwise arrive home after 10.00 p.m.

Hotel and other accommodation must (subject to below) be booked in advance by the Democratic Services Team to enable the Council to secure such discounts which may be available to it.

If, for reasons of urgency, a Councillor makes a booking direct and pays for the accommodation, reimbursement will be limited to the discounted cost available to the Council.

### **Approved Duties**

Allowances may be paid for the following approved duties:-

- a meeting of the Executive
- a meeting of a committee of the Executive
- a meeting of the Authority
- a meeting of a Committee or Sub-Committee of the Authority
- a meeting of some other body to which the Authority make appointments or nominations
- a meeting of a Committee or Sub-Committee of a body to which the Authority make appointments or nominations
- a meeting which has both been authorised by the Authority, a Committee, or Sub-Committee of the Authority or a Joint Committee of the Authority and one or more other authorities, or a Sub-Committee of a Joint Committee and to which representatives of more than one political group have been invited (if the Authority is divided into several political groups) or to which two or more Members have been invited (if the Authority is not divided into political groups)
- a meeting of a Local Authority Association of which the Authority is a member
- duties undertaken on behalf of the Authority in pursuance of any standing order requiring a Councillor or Members to be present while tender documents are opened
- duties undertaken on behalf of the Authority in connection with the discharge of any function of the Authority conferred by or under any enactment and empowering or requiring the Authority to inspect or authorise the inspection of premises
- any other duty approved by the Authority in connection with discharging the duties of the Authority or its Committees or Sub-Committees
- a Meeting/event to which the Councillor has received an official invitation from a representative of the Authority
- a training event organised by, or approved by the Authority

### **Notes:**

- I. From 1 April 2022 travelling expenses are payable for attendance at Parish/Town Council Meetings where the Councillor attends as a representative of East Lindsey District Council, provided that the Councillor is not a Member of the Parish/Town Council.

### **Payment Rules and Timescales**

Payment of the Basic Allowance and Special Responsibility Allowance shall be paid in twelve equal monthly instalments

Claims for reimbursements for dependants' travel and subsistence expenses shall be supported by relevant receipts and shall be paid monthly in accordance with the rates set out herein.

Where receipts and/or vouchers are not available payments will be subject to National Insurance and Income Tax as appropriate and subject to evidence that the journeys claimed for have been made.

All claims must be made within 3 months of costs being incurred. Any claims outside of this period shall only be paid at the discretion of the Proper Officer.

Payment and reimbursements will be through the payroll system (except on the grounds of urgency as determined by the Chief Financial Officer).

Link to the Council's Management Structure:

[Click here](#)

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## GLOSSARY OF TERMS

<b>'Budget and Policy Framework'</b>	The Budget and Policy Framework set out in Article 5 which is decided upon by Full Council.
<b>"Chief Executive"</b>	Head of the Paid Service within the meaning of Section 4 of the Local Government & Housing Act 1989.
<b>"Code of Conduct"</b>	The codes regulating conduct of Officers and Members as set out in the Constitution.
<b>"Committee"</b>	A committee, which has power to make, decisions for the Council, for example a joint committee with another local authority but not a scrutiny committee.
<b>"Common Seal"</b>	The common seal of the Council that is applied to a contract that is signed and sealed as a Deed.
<b>"Constitution"</b>	This constitutional document approved by the Council which: <ul style="list-style-type: none"> <li>▪ Allocates powers and responsibilities within the Council and between it and others;</li> <li>▪ Delegates authority to act to the Executive Board, Committees, and Officers; and</li> <li>▪ Regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.</li> </ul>
<b>"Council"</b>	For the purposes of these Contract and Procurement Procedure Rules, "Council" refers to East Lindsey District Council.
<b>"Deed"</b>	A signed and usually sealed instrument containing some legal transfer, bargain, or contract.
<b>"Delegated Powers"</b>	Powers allocated to officers and members within the Scheme of Delegation set out in the Constitution.
<b>"Executive Board"</b>	The Council's Executive as defined in Article 8 of the Constitution.
<b>"Financial Procedure Rules"</b>	The Financial Procedure Rules outlining Officer responsibilities for financial matters issued by the Council in accordance with the Constitution.
<b>"Forward Plan"</b>	The document that sets out Key Decisions to be taken by the Executive Board.

<b>“Full Council”</b>	The meeting of all 55 District Council members. The Full Council sets the political direction of the Council and the Budget and Policy Framework (as set out in Article 5).
<b>“Key Decision”</b>	Decisions of the Council that are defined as Key Decisions in its Constitution – namely decisions that involve significant expenditure (more than £100,000 Revenue expenditure or £250,000 Capital Expenditure) or has an impact on more than two wards.
<b>“Management Team”</b>	Officers comprising the senior officer management arrangement as defined in the flowchart set out in Part 7 of the Constitution.
<b>“Monitoring Officer”</b>	The officer appointed by the Council under S5 of the Local Government and Housing Act 1989 (as amended).
<b>“Overview and Scrutiny”</b>	The Overview and Scrutiny function is carried out by the Overview Committee and Scrutiny and Policy panels (appointed by the Overview Committee) to provide scrutiny and challenge for the work of the Executive Board and Full Council. The Overview function is governed by Article 7 of the Constitution and the Overview and Scrutiny Procedure Rules set out in Part 4.5.
<b>“Proper Officer”</b>	An officer of the Council appointed to carry out a specific function designated by legislation.
<b>“Regulatory Function”</b>	These are functions such as Planning, Licensing and Planning Policy which are not functions of the Executive Board and are dealt with by specific committees. Often these decisions impact upon individual rights and must be taken on a quasi-judicial basis providing a right for interested parties to be heard before decisions are taken.
<b>“Section 151 Officer”</b>	The officer appointed by the Council to have responsibility for the financial affairs of the Council within the meaning of section 151 Local Government Act 1972 (as amended).