



Friday, 9 June 2023

Dear Sir/Madam

A meeting of the Governance, Audit and Standards Committee will be held on Monday, 19 June 2023 in the Council Chamber, Council Offices, Foster Avenue, Beeston NG9 1AB, commencing at 7.00 pm.

Should you require advice on declaring an interest in any item on the agenda, please contact the Monitoring Officer at your earliest convenience.

Yours faithfully

Chief Executive

To Councillors:	S J Carr (Chair)	K Harlow
	S Paterson (Vice-Chair)	G S Hills
	P J Bales	A Kingdon
	M Brown	J M Owen
	R Bullock	D K Watts
	G Bunn	S Webb
	R S Falvey	

## A G E N D A

1. APOLOGIES

To receive apologies and to be notified of the attendance of substitutes.

2. DECLARATIONS OF INTEREST

Members are requested to declare the existence and nature of any disclosable pecuniary interest and/or other interest in any item on the agenda.

3. MINUTES

(Pages 3 - 6)

The Committee is asked to confirm as a correct record the minutes of the meeting held on 22 May 2023

4. CONSTITUTION REVIEW (Pages 7 - 114)

To consider an annual review of the Constitution to ensure it is fit for purpose and is in accordance with current legislation.

5. REVIEW OF FINANCIAL PROCEDURE RULES, INCLUDING CONTRACT PROCEDURE RULES (Pages 115 - 174)

To report on the annual review of the Council's Financial Procedure Rules, including the Contract Procedure Rules; to consider the proposed changes made to the Rules and to recommend onto Council that these updated Rules are adopted as part of the Council's Constitution

6. ANNUAL REVIEW OF THE CODE OF CONDUCT AND UPDATE ON MEMBER CODE OF CONDUCT COMPLAINTS (Pages 175 - 198)

To update Members on the annual review of the Code of Conduct, training provided to the Borough and Parish/Town Members and to update on Member Code of Conduct Complaints, prior to seeking the Code be adopted by full Council.

7. WORK PROGRAMME (Pages 199 - 200)

To consider items for inclusion in the Work Programme for future meetings.

## GOVERNANCE, AUDIT AND STANDARDS COMMITTEE

MONDAY, 22 MAY 2023

Present: Councillor S J Carr, Chair

Councillors: P J Bales  
M Brown  
R Bullock  
G Bunn  
R S Falvey  
K Harlow  
G S Hills  
A Kingdon  
J M Owen  
S Paterson  
D K Watts  
S Webb  
G Marshall (Ex-Officio)  
PJ Owen (Ex-Officio)

Officers in attendance: Zulf Darr, Martin Paine, Chris Fish, Jeremy Ward, Jo Beaumont and Lisa Evans

1 DECLARATIONS OF INTEREST

There were no declarations of Interest

2 MINUTES

The minutes of the meeting held on 13 March 2023 were confirmed and signed as a correct record.

3 PRESENTATION FROM THE DEPUTY CHIEF EXECUTIVE, HEAD OF FINANCE AND HEAD OF DEMOCRATIC SERVICES

A presentation was provided at the meeting by the Deputy Chief Executive and Section 151 Officer.

4 CORPORATE GOVERNANCE ARRANGEMENTS

Members were informed of action taken to develop and comply with statutory obligations regarding corporate governance and noted compliance with the Code on Delivering Good Governance to make any further amendments deemed necessary. The report would be amended to accurately reflect the current Governance arrangements prior to being submitted within the statement of accounts.

The Accounts and Audit Regulations 2015 required Authorities to conduct a review, at least once in each financial year, of the effectiveness of its system of internal control and this statement would be included within the statement of accounts.

Local Authorities were under a statutory obligation to follow the published approach using the CIPFA/SOLACE document, Delivering Good Governance in Local Government Framework. There were seven core principles to follow. A summary of how the Council met each of the seven core principles, including evidence, and where improvement action or steps had been taken in 2022/23 was provided.

**RESOLVED that:**

- 1. the draft Annual Governance Statement as shown in appendix 4 be approved in principle for inclusion in the Council's statement of Accounts**
- 2. that responsibility be delegated to the Chief Executive in consultation with the Chair of this Committee to make any further amendments deemed necessary.**

5 AUDIT OF ACCOUNTS 2021/22 UPDATE

Members noted the latest position in respect of the audit of the Council's Statements of Accounts for 2021/22. The external auditors, Mazars had almost concluded their work on the Statement of Accounts 2021/22 and presented its Audit Completion Report to the Committee on 13 March 2023. However, a delay has occurred relating to an external issue outside of the Council's control within the Local Government Pension Scheme and the basis of valuation included in the Council's accounts as covered by the International Accounting Standard (IAS 19) on Employee Benefits. The extended duration of the audit meant that the basis of valuation used in accounts may require updating following the outcome of the 2022 triennial valuation exercise. As such, Mazars have paused on the signing of 2021/22 accounts until the issue has been resolved.

6 INTERNAL AUDIT PROGRESS REPORT

The Committee were informed of the recent work completed by Internal Audit and noted the appendices within the report. Reassurance was provided for completion of the Procurement of the Grounds Maintenance Services audit as the target date had been revised.

7 WORK PROGRAMME

The Committee considered the work programme and noted the additional meeting on 19 June 2023.

**RESOLVED that the Work Programme be approved.**

8 EXCLUSION OF PUBLIC AND PRESS

**The Committee RESOLVED that, under Section 100A of the Local Government Act, 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of the Schedule 12A of the Act.**

9 INTERNAL AUDIT PROGRESS REPORT - APPENDIX 3

The appendix was noted.

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## Report of the Monitoring Officer

**CONSTITUTION REVIEW**1. Purpose of report

To report on the annual review of the Constitution to enable the Committee to consider the changes and to recommend these to full Council to be adopted.

**Recommendation**

**The Committee is asked to consider the amendments to the Constitution and RECOMMEND to Council accordingly.**

2. Detail

Under its terms of reference, this Committee is tasked with an overview of the Council's Constitution, consideration of proposed amendments or revisions and to recommend to Council amendments to this Constitution.

On 11 May 2022, the Council moved from a Committee system of governance to an Executive Cabinet system, which involved making significant changes to the Council's Constitution. It was consequently agreed that an annual review of these arrangements would be undertaken following implementation and in line with Best Practice Recommendations, to ensure the Constitution was kept updated and to ensure good governance.

A review of the Constitution has been undertaken in which Officers have been engaged and comment has been invited from Members through their respective Group Leaders. Although, it is acknowledged that the Borough Elections will have limited the ability for Member engagement, as a number of Members were not standing to be re-elected and new Members needed time to be inducted.

Therefore, the majority of the proposed amendments have been identified through Officer consultation. The amendments include consequential restructure changes to Officer responsibilities and titles, amending the Officer scheme of delegation and the terms of reference to build in better governance arrangements for the Stapleford Towns Fund, Kimberley Levelling Up Fund and UKSPF. A separate exercise has been undertaken concerning the Council's Financial Regulations and the Code of Conduct reported separately on this agenda.

Governance workshops are also being scheduled for Officer, Members and key Stakeholder to further develop the arrangements we have in place for the Stapleford Town's Fund, Kimberley Levelling Up Fund and UKSPF. Once these arrangements have been developed, a further report on proposed changes will be brought back to this Committee to consider and recommend to Council.

Appendix 1 contains a change table with reasons for the amendments. Appendix 2 contains the relevant sections of the Constitution with changes highlighted in red.

Furthermore, the resolutions from the full Council meeting held on 17 May 2023, have been incorporated into the Constitution, these included the removal of the Policy Advisory Committee and adding a Policy Overview Working Group, Events, Arts, Culture and Heritage Working Group and the UKSPF Panel in addition to the removal of named substitutes on non-quasi-judicial Committee meetings.

3. Financial Implications

The comments from the Head of Finance Services were as follows:

There are no direct financial implications arising from this report.

4. Legal Implications

The comments from the Head of Legal Services and Deputy Monitoring Officer were as follows:

Section 37 of the Local Government Act 2000 requires local authorities operating executive arrangements to prepare and keep up to date a document which contains:

- (a) such information as the Secretary of State may direct
- (b) the authority's standing orders (i.e. rules of procedure)
- (c) the code of conduct for members
- (d) such information as the authority considers appropriate.

Broxtowe Borough Council's Constitution is available on the Council's website

5. Human Resources Implications

There were no comments from the Human Resources Manager.

6. Union Comments

There were no Unison comments in relation to this report.

7. Data Protection Compliance Implications

There are no Data Protection issues in relation to this report.

8. Equality Impact Assessment

As there is no change to policy an equality impact assessment is not required.

9. Background Papers

Nil.



APPENDIX 1

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 1 Part 3 xx (Leader's Delegation)	Added to the Leader's delegations: 'To represent the Council at Derbyshire and Nottinghamshire Leader meetings concerning devolution.'	To ensure the appropriate representation on behalf of the Council.
Chapter 2 Part 1, 1.1	<del>In a year when there is an ordinary election of Councillors, the annual meeting will take place on the second Wednesday following the first Thursday in May. In any other year, the annual meeting will take place in the month of May</del>  Annual Council meeting: to extend the period to hold meetings, including in the year of an election.	To give more flexibility and allow for training/induction of new members.
Chapter 2 Part 1, 2.19	Add updates on the scrutiny work programme to ordinary Council meetings.	To platform the work of scrutiny and allow engagement across the Council.
Chapter 2 Part 1, 2.20	Add 'Receive an Annual Review of Scrutiny report at an appropriate time at ordinary Council meetings.'	To platform the work of scrutiny and allow engagement across the Council.
Chapter 2 Part 3, 2.20 (ED&AMPH).	Replacement of 'Consider the Asset Management Strategy' from Resources and Personnel Portfolio Holder to Economic Development and Asset Management Portfolio Holder (ED&AMPH).	To better align responsibilities.
Chapter 2 Part 3, 2.21 (ED&AMPH)	Addition of 'To consider and make recommendations in relation to Towns Fund Boards.'	Inclusion of new responsibilities

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 2 Part 3, 2.22 (ED&AMPH)	Addition of 'To consider and make recommendations in relation to Levelling Up Funding (e.g. UK Shared Prosperity Fund).'	Inclusion of new responsibilities
Chapter 2 Part 8-17, 10	To include the need for substitute Members of the Planning Committee to complete training prior to attending meetings of the Planning Committee.	To reinforce the need for substitutes to undergo training
Chapter 2 Part 8-17, 8	Membership of the Shareholder Sub-Committee should exclude Board Members of Liberty Leisure.	To avoid conflicts of interest.
Chapter 2 Part 8-17, 12	Senior Officer Employment Committee to be renamed Chief Officer Employment Committee.	To avoid confusion between the terms 'Chief' and 'Senior' Officer.
Chapter 2 Part 8-17, 19	Inclusion of 'Functions Performed by The Stapleford Towns Deal Executive Board (Information to be added.)'	To capture responsibilities of the Towns Deal Board
Chapter 3 Part 1, 11.27 & 12.1	Moving Complaints compensations from Executive Director to Monitoring Officer.	To align responsibilities for complaints.
Chapter 3 Part 1 7.4.4	<del>Corporate Communications Manager</del>  'Communications, Cultural and Civic Services Manager	To reflect correct Job title
Chapter 3 Part 1 7.5	Insertion of 'The Senior Officers of the Council are those who comprise the Senior Management Team as well as those who report directly to a Member of General Management Team as listed at paragraph 7.3 and 7.4'	To clarify who forms part of SMT

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 3 Part 1 9.6	<p>In consultation with the HR Manager, to deal with all matters other than those reserved to the Council relating to the recruitment, appointment, remuneration, conditions of service, discipline, dismissal, superannuation, qualifications, training, job evaluation, promotion, safety and provision of welfare facilities of all employees of the Council (including settlement of claims up to £25,000 after consultation with the Monitoring Officer and Deputy Chief Executive/Section 151 Officer). <del>if within existing budgets).</del></p> <p>In consultation with the HR Manager, as necessary, to deal with all matters other than those reserved to the Council relating to the recruitment, appointment, remuneration, conditions of service, discipline, dismissal, superannuation, qualifications, training, job evaluation, promotion, safety and provision of welfare facilities of all employees of the Council (including settlement of claims up to £25,000 after consultation with the Monitoring Officer and Deputy Chief Executive/Section 151 Officer). <del>if within existing budgets).</del></p>	To reflect the impact the pay awards may have on the approved staffing budgets.
Chapter 3 Part 1 9.12	Insertion of 'Cabinet'	To reflect the correct position
Chapter 3 Part .14	Insertion of 'To sign and seal documents on behalf of the Council, as required'.	To reflect the correct position
Chapter 3 Part 1 11.2.3	Insertion of 'Council'	To reflect the correct position
Chapter 3 Part 11.2.5	<del>To provide advice support the Council's Standards Complaints Officer undertake an initial assessment of complaints made under the Code of Conduct for Members and in consultation with an Independent Person, determine any further action to be taken</del>	To reflect the correct position
Chapter 3 Part 1 1.2.5	Change from 'o' to Capital 'O'	Grammatical Correction

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 3 Part 1 13.3	Insertion of 'and withdraw'	Clarification
Chapter 3 Part 1 14.	Head of <del>Governance</del> & Deputy Monitoring Officer Head of Democratic Services & Deputy Monitoring Officer	To reflect correct job title
Chapter 3 Part 1 14.1	To perform, the Council's <del>Governance</del> functions To perform, the Council's Democratic Service functions	To reflect the correct position
Chapter 3 Part 1 14.2	<del>To perform the Council's Information Governance functions</del>	This responsibility has moved to Head of Administrative Services.
Chapter 3 Part 1 14.3	<del>To perform the Council's Democratic Services functions</del>	Already stated in clause 14.1
Chapter 3 Part 1 14.4	<del>'To perform the Council's Parking Services functions'</del>	This responsibility has moved to Head of Administrative Services.
Chapter 3 Part 1 14.5	<del>Deletion of 'to perform the Council's Surveillance functions'</del>	This responsibility has moved to Head of Administrative Services
Chapter 3 Part 1 14.7	Insertion of 'and in accordance with the relevant legislation'	Point of clarification
Chapter 3 Part 1 14.8	<del>To act as the Council's Senior Responsible Officer under the Surveillance Commissioner Code of Practice'</del>	This responsibility has moved to Head of Administrative Services
Chapter 3 Part 1 16.5	<del>To determine planning applications accordingly</del>	Reflect the current position

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 3 Part 1 16.7	To determine applications for planning permission, the need for prior approval, consent for the display of advertisements and listed building consent and the determination of or response to any other application or matter received in respect of the town and country planning function, <b>(excluding enforcement)</b> including Article 4 directions subject in each case to the proviso that any Member of the Council may bring the application before the Planning Committee for decision, and subject also to the provisos below	Reflect the current position
Chapter 3 Part 1 16.8	<p>To determine planning enforcement action as may be necessary having due regard to the <del>after prior</del> consultation response from <del>with</del> Ward Members, and the Chair of Planning Committee and the Head of Legal Services to include the</p> <p>To determine planning enforcement action as may be necessary <b>having due regard to</b> the consultation <b>response from</b> Ward Members, the Chair of Planning Committee and the Head of Legal Services to include the:</p>	Reflect the current position
Chapter 3 Part 1 16.9	Insertion of: On a finding of breach of planning control, after consultation with Ward Members, Chair and Vice Chair of Planning Committee and Head of Legal Services to carry out the necessary action.	Reflect the current position
Chapter 3 Part 1 16.10	<p>To <del>perform</del> the Council's functions under the Building Act 1984 to include the issue of Notices under Section 36 of the Building Act 1984 (removal or alterations of work done in breach of Building Regulations) in consultation with the Head of Legal Services.</p> <p>To <b>manage</b> the Council's functions under the Building Act 1984 <b>as amended</b> to include the issue of Notices under Section 36 of the Building Act 1984 (removal or alterations of work done in breach of Building Regulations) in consultation with the Head of Legal Services.</p>	Administrative Change

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 3 Part 1 16.17	Insertion of: Where Section 106 contributions have been approved at the relevant Committee to arrange payments of these in consultation with the Head of Legal Services.	Reflect current position
Chapter 3 Part 1 17.2	<del>To deal with Housing Repairs and Compliance matters</del>	This responsibility has moved to Head of Housing
Chapter 3 Part 1 17.3	Insertion of To approve bids and adaptations to Council properties up to a maximum of £30,000.	This responsibility has moved to Head of Asset Management,
Chapter 3 Part 1 18.8	To award compensation under the Secure Tenants of Local Authorities (Compensation for Improvement) Regulations 1994 unless appropriate to exercise a discretion.  To award compensation ( <b>up to a maximum of £1000</b> ) under the Secure Tenants of Local Authorities (Compensation for Improvement) Regulations 1994 unless appropriate to exercise a discretion.	Point of clarification
Chapter 3 Part 1 18.11	To consider and conduct reviews of Council <del>homeless decisions</del> and introductory tenancies.	Point of clarification
Chapter 3 Part 1 18.11	Insertion of 'To deal with Housing Repairs and Compliance matters'	This responsibility now with the Head of Housing
Chapter 3 Part 1 18.12	Insertion of 'In common with the Head of Legal Services deal with acquisition, appropriations and disposals of Council Houses not exceeding the value currently set out in Financial Regulations.	Reflect current position
Chapter 3 Part 1 18.13	Insertion of 'To consider, negotiate and determine all acquisitions, appropriations and disposals, lettings, negotiations and settlement of leases and rents for Council Houses not exceeding the rental or capital consideration currently set out in the Financial Regulations and in accordance with relevant Council policies.	Reflect current position

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 3 Part 1 20.3	Insertion of 'including the assessment of all reliefs, discounts levy's and exemptions'.	Point of clarification
Chapter 3 Part 1 20.5	Insertion of 'To appoint Officers (either internally or externally) to act on behalf of the Council to perform functions in relation to Revenues, Benefits and Customer Services	Point of clarification
Chapter 3 Part 1 21.4	Insertion of ' To perform the Council's Parking Services functions'.	This delegation now with Head of Administrative Services.
Chapter 3 Part 1 21.5	Insertion of ' To perform the Council's Surveillance functions'	This delegation now with Head of Administrative Services.
Chapter 3 Part 1 21.6	Insertion of ' To act as the Council's Senior Responsible Officer under the Surveillance Commission Code of Practice'.	This delegation now with Head of Administrative Services.
Chapter 3 Part 1 23.7	Insertion of 'sharing and Key Individuals Network Contact Systems'	Point of clarification
Chapter 3 Part 1 23.8	<del>'To perform the Council's functions in managing the Local Strategic Partnership and Community Safety Partnership sharing and Key Individuals Network Contact Systems'</del>	Point of clarification
Chapter 3 Part 1 Schedule of Proper Officer table	Local Government Act 1972 S100B(2), S100B(7), S.100C(2) Head of <del>Governance</del> Democratic Services  The Local Authorities (EXECUTIVE ARRANGEMENTS) Access to Information (ENGLAND) Regulations 2012 N0.2089 Regulation 5, 7, 9,10,12,13,14,15,16 and 20 Head of <del>Governance</del> Democratic Services	To reflect correct job title

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 5 Part 3 4.1	<p>Only one person objecting and the applicant or a supporter may speak. <del>Professional representatives/agents will not be entitled to speak.</del> Where an application affects a large area, additional speakers will be allowed, at the discretion of the <del>Monitoring Officer</del> Head of Planning and Economic Development, if it is felt there is justification on the basis of a multiplicity of viewpoints and issues.</p> <p>Only one person objecting and the applicant or a supporter may speak. Where an application <b>is a major planning application</b> and affects a large area, additional speakers will be allowed, at the discretion of the <b>Head of Legal</b> and Head of Planning and Economic Development, if it is felt there is justification on the basis of a multiplicity of viewpoints and issues.</p>	To allow professional representatives/agents to speak to enable discussion to focus on planning grounds and to align with general planning protocol across other authorities.
Chapter 5 Part 3.4 Notes	<p><del>Any Member may refer an application to the Planning Committee for a decision.</del> Any Member may refer an application to the Planning Committee, on giving 28 days' notice from the date the application is published on the weekly list and having completed the relevant referral form. The Such a Member may speak but not vote on the application, unless they are a Member of the Committee. Additionally, Ward Councillors also have the right to attend and speak but not to vote on an application for planning consent for a matter affecting their Ward. Speeches by Members who have referred an application to Committee and by Ward Members will be limited to five minutes' duration. Any Ward Councillor having spoken to the Committee will have the right to reply before the Committee votes</p> <p><b>Any Member may refer an application to the Planning Committee, on giving 28 days' notice from the date the application is published on the weekly list and having completed the relevant referral form. The</b></p>	To streamline the process when referring applications to planning committee.



	<p>Such a Member may speak but not vote on the application, unless they are a Member of the Committee. Additionally, Ward Councillors also have the right to attend and speak but not to vote on an application for planning consent for a matter affecting their Ward. Speeches by Members who have referred an application to Committee and by Ward Members will be limited to five minutes' duration. Any Ward Councillor having spoken to the Committee will have the right to reply before the Committee votes.”</p>	
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# **Broxtowe Borough Council Constitution**

## **Chapter 2 – Part 1 & 2**

### **The Council and Council Procedure Rules**

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## **Chapter 2 Part 1 & 2: THE COUNCIL AND COUNCIL PROCEDURE RULES**

### **Part 1:**

#### **1. The Council**

##### **Functions & Responsibilities**

- 1.1 Under the provisions of the Local Government Act 2000 and, where applicable, Sections 101 and 102 of the Local Government Act 1972 and other relevant legislation, and in the manner set out in this Constitution the Council arranges for the discharge of its functions by the Cabinet (Executive functions), Committees (Non-Executive functions) and by Officers under delegated authority other than:
- 1.2 Those functions reserved as Council Functions by the Local Government Act 2000 (as amended) or any other Act.
- 1.3 Those functions set in Schedule 1 of the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended);
- 1.4 Those plans and strategies set out in Schedule 3 of the of the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended);
- 1.5 Those functions which would be Cabinet functions but for the circumstances set out in Schedule 4 of the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended);
- 1.6 Those functions set out below which the Council has determined shall be reserved to the Council:
  - 1.6.1 Consideration of reports by the Chief Executive under Section 4(5) of the Local Government and Housing Act 1989
  - 1.6.2 The election of the Mayor of the Council under S.4 of the Local Government Act 1972
  - 1.6.3 The appointment of the Deputy Mayor of the Council under S.5 of the Local Government Act 1972
  - 1.6.4 The matters set out in section 67(2)(a), (b), (c) and (d) of the Local Government (Finance) Act 1992 being determination as to discounts or liability in prescribed cases and the setting of the Council Tax
  - 1.6.5 Determination or variation of the Council's affordable borrowing limit under Section 3 of the Local Government Act 2003
  - 1.6.6 Appointing and Discharging the Leader of the Council by resolution
  - 1.6.7 Noting the appointment of the Leader and Deputy Leader of the Opposition and the Leader and Deputy Leader of any other political group;
  - 1.6.8 Approval or adoption of amendment of the following policy documents:

The Council's Constitution including

- (a) Procedure Rules.
- (b) The Code of Conduct.
- (c) Corporate Plan.
- (d) Overall capital programme and revenue budget (including associated strategies).
- (e) Statement of Licensing Policy.
- (f) Statement of Gambling Principles.

1.6.9 The making of byelaws.

1.6.10 The promotion or adoption of an Act of Parliament.

1.6.11 The receipt of petitions.

1.6.12 The appointment and dismissal of the Chief Executive, Monitoring Officer, S151 Officer. and other Chief Officers.

1.6.13 The adoption and amendment of the Councillor's allowance scheme.

1.6.14 Determining or delegating of any matter or function within the remit of the Council not delegated or performed elsewhere under this scheme.

1.6.15 Functions conferred on the Council by Part 4 of the Local Government and Public Involvement in Health Act 2007 in respect of the receipt of petitions and the institution, conduct and determination of a Community Governance Review.

1.6.16 Appointment to outside bodies.

1.6.17 Establishing Joint Committees to perform functions that would fall to be performed by a Joint Committee of the Council and similar Members or representative of some other authority or body.

1.6.18 Pay Policy.

1.6.19 Approving and adopting the Budget and Policy Framework.

## **The Budget and Policy Framework**

2. The Policy Framework

2.1 The Policy Framework means the following plans and strategies:

2.1.1 Corporate Plan / Forward Plan

2.1.2 Development Management Documents prepared in accordance with the Planning and Compulsory Purchase Act 2004 (or as subsequently amended)

2.1.3 The Planning Development Plan

2.1.4 Licensing Authority Policy Statement

- 2.1.5 Statement on Gambling Policy
- 2.1.6 Crime and Disorder Reduction Strategy
- 2.1.7 Annual Treasury Management Strategy
- 2.1.8 Financial Strategy (Medium Term Financial Plan, Revenue Budget, Council Tax Setting and Capital Programme)
- 2.1.9 Capital Investment Strategy
- 2.2 Budget

The Budget includes the allocation of financial resources to different services and projects, centrally held funds, determining the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### 2.3 Budget and Policy Framework Procedure Rules

The Budget and Policy Framework are prepared and adopted by the Council in accordance with the Budget and Policy Framework Procedure Rules set out at Chapter 2 Part 6 of this Constitution.

## **Part 2: Council Procedure Rules**

### **1. Annual Meeting of the Council**

#### 1.1 Timing and business

In a year when there is an ordinary election of Councillors, the annual meeting will take place ~~on the second Wednesday following the first Thursday in May. In any other year, the annual meeting will take place in the month of May~~ **within 21 days of the retirement of the outgoing Councillors (Note, retirement takes place on the fourth day after the election). In any other year, the annual meeting will take place in April or May.**

The annual meeting will:

- 1.1.1 elect a person to preside if the Mayor and Deputy Mayor of the Council are not present;
- 1.1.2 elect the Mayor of the Council;
- 1.1.3 appoint the Deputy Mayor of the Council;
- 1.1.4 approve the minutes of the last meeting;
- 1.1.5 receive any announcements from the Mayor;
- 1.1.6 note the Leader of the Council, the Leader of the Opposition and the Leader of any other group;
- 1.1.7 elect the Leader in the year of an ordinary election of Councillors;
- 1.1.8 appoint the Committees the Council considers appropriate to deal with matters which are not reserved to the Council (as set out later in this Constitution);

- 1.1.9 agree the scheme of delegations or such part of it as the Constitution determines it is for the Council to agree (as set out later in this Constitution);
- 1.1.10 consider any business set out in the notice convening the meeting;
- 1.2 Selection of Councillors on Committees and Outside Bodies; at the annual meeting, the Council meeting will:
  - 1.2.1 decide the allocation of seats to political groups in accordance with the political balance rules;
  - 1.2.2 make appointments to outside bodies except where appointment to those bodies has been delegated by the Council;
  - 1.2.3 appoint the Chairs and Vice-Chairs of Committees;
  - 1.2.4 note that either the Leader of the Council or another Councillor being their nominated representative, and either the Leader of the Opposition or another Councillor being their nominated representative, have the right to attend any of the Council's Committees, which are not scrutiny Committees, as ex-officio Members and to speak but not vote at it provided that such nominated representatives may not be in attendance at the same meeting as their respective Leaders, unless they have been appointed as a Member of that Committee or are acting as a substitute for a named Member.

## **2. Ordinary Meetings**

- 2.1 Ordinary meetings of the Council will take place in accordance with a programme decided at a previous meeting. The order of business at ordinary meetings will be as follows:
  - 2.1.1 elect a person to preside if the Mayor and Deputy Mayor are not present;
  - 2.1.2 approve the minutes of the last meeting;
  - 2.1.3 receive any declarations of interest from Members;
  - 2.1.4 receive any announcements from the Mayor;
  - 2.1.5 receive a report from the Leader and receive questions and answers on the report if any;
  - 2.1.6 receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chief Executive are relevant to the Council's functions (subject to Rule 8.5);
  - 2.1.7 receive reports from the Cabinet Portfolio Holders and receive questions and answers on the reports;
  - 2.1.8 receive reports from the Committees and receive questions and answers on the reports;



- 2.1.9 consider business which, in the opinion of the Chair or Vice-Chair of the Overview & Scrutiny Committee, or in their absence, the Mayor or Deputy Mayor, or in their absence the Chief Executive or their nominee's should be considered at the meeting as a matter of urgency;
- 2.1.10 receive petitions in relation to matters which in the opinion of the Chief Executive are relevant to the Council's functions;
- 2.1.11 receive items referred from the Committees or questions from Members on the business of the Committees;
- 2.1.12 consider any other business specified in notice convening the meeting, including proposals from the Cabinet in relation to the Budget and Policy Framework and reports from the Overview and Scrutiny Committee;
- 2.1.13 consider motions;
- 2.1.14 receive a presentation from the Youth Mayor, as appropriate, (and/or the Deputy Youth Mayor), by invitation, for up to five minutes on the activities of Broxtowe Youth Voice (the Youth Mayor and/or the Deputy Youth Mayor will have the right to speak, but not to vote, on any item on the agenda at a full Council meeting whether annual or ordinary with the rules on speaking being as per these Council Procedure Rules);
- 2.1.15 receive questions from Councillors to those representing the Council on outside bodies;
- 2.1.16 deal with questions from Councillors in accordance with Rule 10;
- 2.1.17 approve a programme of ordinary meetings of the Council and Committees for the year at an appropriate time. The Council meeting to consider the budget shall be limited to only that substantive item unless by agreement of the Mayor;
- 2.1.18 approve amendments to the membership of Committees.
- 2.1.19 receive updates from the Chair or Vice Chair of the Overview and Scrutiny Committee on the Scrutiny work programme.
- 2.1.20 Receive an Annual Review of Scrutiny report at an appropriate time.

### **3. Extraordinary Meetings**

#### **3.1 Calling extraordinary meetings**

The Chief Executive or in their absence, the Deputy Chief Executive (section 151 Officer) may call Council meetings in addition to ordinary meetings and those listed below may request the Chief Executive or in their absence, the Deputy Chief Executive to call additional Council meetings:

- 3.1.1 the Council by resolution;
- 3.1.2 the Mayor of the Council;

3.1.3 any five Members of the Council if they have signed a requisition presented to the Mayor of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven clear working days of the presentation of the requisition the Chief Executive, the Deputy Chief Executive (Section 151 Officer) or the Monitoring Officer, respectively, in the exercise of their statutory duties.

### 3.2 Business of extraordinary meetings

The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc except that the Mayor, or in their absence the Deputy Mayor may at their absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business within the provisions of the law.

## 4. **Time, Place and Duration of Council Meetings**

### 4.1 Time and Place of Meetings

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

### 4.2 Duration of Meetings

4.2.1 At an ordinary meeting of the Council, when two hours have elapsed after the commencement of the meeting a Member of the Council may move without notice that the meeting shall end at a time to be specified in the motion. The Mayor shall, at the conclusion of the debate on the item of business then under consideration, put the matter to the vote if the duration of the meeting will exceed three hours.

4.2.2 If there are other motions or recommendations on the agenda that remain to be dealt with, and require decisions, they will be deferred to the next meeting.

4.2.3 During the process set out in at Rules 4.2.1 and 4.2.2 above the only other motions which may be moved are that a matter be withdrawn or deferred under or that a particular Rule be suspended under Rule 21.1 or that a matter be delegated to the Cabinet, Committee or Sub-Committee for decision or report under Rule 8.10.

4.2.4 When all motions and recommendations have been dealt with, the Mayor will declare the meeting closed.

## 5. **Notice of and Summons to Meetings**

5.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear working days before a meeting, the Chief Executive will send a summons signed by them to every Member of the Council. The summons will give the date, time and

place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

## **6. Chair of Meeting**

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

## **7. Quorum**

7.1 The quorum of a meeting will be one quarter of the whole number of Councillors or Committee Members (unless stated elsewhere in this constitution) and for Committees shall be no less than three Members. During any meeting if the Mayor counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

## **8. Questions by the Public**

### **8.1 General**

Members of the public who are residents of the Borough or run a business in the Borough may ask one question of the Leader, Portfolio Holder or of the Chair of a Committee at ordinary meetings of the Council.

The total time allocated for questions by the public is limited to 15 minutes in total and no more than 5 minutes per question.

### **8.2 Order of questions**

Questions will be asked in the order in which notice of them was received, except that the Mayor may group together similar questions.

### **8.3 Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than midday three clear working days before the day of the meeting. Each question must give the name and address of the questioner.

### **8.4 Number of questions**

At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of one organisation.

### **8.5 Scope of questions**

The Chief Executive may reject a question if it:

- 8.5.1 is not about a matter for which the Council has a responsibility or which affects the Borough;
- 8.5.2 is defamatory, frivolous or offensive;
- 8.5.3 is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- 8.5.4 requires the disclosure of confidential or exempt information.

8.6 Record of questions

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

8.7 Asking the question at the meeting

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

8.8 Supplementary question

There will be no right for a member of the public to put a supplementary question.

8.9 Written answers

Subject to the provisions of paragraph 8.7, 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 Councillor to whom it was to be put, will be dealt with by a written answer.

8.10 Reference of question to the Cabinet or a Committee

No discussion will take place on any question, but any Councillor may move that a matter raised by a question be referred to the Cabinet, Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion

**9. Petitions from the Public**

9.1 Notice of Petition

If a resident of the Borough or someone running a business in the Borough wishes to present a petition to a Council meeting, notice must be given at least seven clear working days before the meeting and the petition must have over 1,000 signatures (the signatories must either be resident of the Borough or someone running a business in the Borough). Otherwise a petition must be presented through a Councillor.

9.2 Presentation of Petitions

- 9.2.1 The petition organiser, or Councillor, will be allowed to present the petition at the meeting. Only one person may speak to present a petition and any such

presentation shall be limited to those words heading the presentation. There will be no more than two petitions at any Council meeting.

9.2.2 The Council will then debate the petition for a maximum of 15 minutes at the next Council meeting, unless the Mayor decides that urgent circumstances warrant an immediate debate.

9.2.3 The Mayor will call upon the Portfolio Holder or the Chair of the Committee within whose remit the subject of the petition falls to make a proposal at the next meeting in respect of the petition. Such a proposal shall be to:

- a) take the action the petition requests;
- b) not to take the action requested;
- c) or commission further investigation into the matter by the relevant Portfolio Holder or Committee;
- d) The proposal shall be put to the vote;
- e) The petition organiser will receive written confirmation of this decision which will also be published on the Council's website.

### 9.3 Number of Petitions

At any one meeting no person or organisation may present more than one petition.

### 9.4 Scope of Petitions

The Chief Executive may reject a petition if it:

- 9.4.1 is vexatious, abusive or otherwise inappropriate;
- 9.4.2 relates to a planning decision;
- 9.4.3 relates to a licensing decision;
- 9.4.4 relates to any other 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;
- 9.4.5 requires the disclosure of confidential or exempt information;
- 9.4.6 is outside of the Council's scope of business or responsibility.

## **10. Questions by Members and Ward Matters**

### 10.1 Questions on notice at full Council

10.1.1 Subject to Rule 10.2, a Member of the Council may ask:

- a) the Mayor;
- b) the Leader;
- c) the Portfolio Holder or Chair of any Committee or Sub-Committee.

a question on any matter in relation to which the Council has powers or duties or which affects the Borough or in the case of (c) falls within the terms of reference of the Cabinet or that Committee or Sub- Committee, but is not included within the decisions being considered at the meeting;

10.1.2 The total time permitted for Members' questions and Ward matters will be 1 hour.

10.1.3 There shall be no general debate on questions.

## 10.2 Notice of questions

A Member may ask a question under Rule 10.1 if:

10.2.1 they have given notice of the question in writing or by electronic mail no later than midday three clear working days before the day of the meeting to the Chief Executive; or

10.2.2 if the question relates to urgent matters, they have the consent of the Mayor or Member to whom the question is to be put and the content of the question is given to the Chief Executive by 12 noon on the day of the meeting;

## 10.3 One question per Member

A Member may ask only one question under Rule 10.1 except with the consent of the Mayor of the Council, or the Chair [or Vice Chair] of a Committee or Sub-Committee other than under Rule 10.7.

## 10.4 Order of questions

Questions of which notice has been given under Rule 10.1 will be put to the meeting in the order determined by the Mayor of the Council.

## 10.5 Content of questions

Questions under Rule 10.1 must, in the opinion of the Mayor relate to matters on which the Council has or may determine a policy.

## 10.6 Response

An answer may take the form of:

10.6.1 a direct oral answer at the meeting;

10.6.2 where the desired information is in a publication of the Council or other published work, a reference to that publication; or

10.6.3 where the reply cannot conveniently be given orally, a written answer shall be delivered within 10 clear working days.

## 10.7 Supplementary question

A Member asking a question under Rule 10.1 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

## 10.8 Length of speeches

A Member asking a question under Rule 10.1 and a Member answering such a question may speak for no longer than 5 minutes unless the Mayor consents to a longer period.

## 10.9 Ward matters

10.9.1 A Member may speak on Ward matters if either:

- (a) they have given notice in writing no later than midday three working days before the day of the meeting to the Chief Executive and or
- (b) the Ward matter relates to urgent matters, they have the consent of the Mayor and the content of the Ward matter is given to the Chief Executive by 12 noon on the day of the meeting.

10.9.2 A Member may make only one speech on Ward matters except with the consent of the Mayor of the Council.

10.9.3 Speeches on Ward matters of which notice has been given under this Rule 10.9 will be listed on the agenda in the order determined by the Mayor of the Council.

10.9.4 There shall be no general debate on speeches on Ward matters.

## 10.10 Length of speeches

A Member speaking on Ward matters may speak for no longer than 5 minutes and the total time allotted to Ward matters in any one meeting shall not exceed 30 minutes unless the Mayor consents to a longer period.

## **11. Motions on Notice**

### 11.1 Notice

Except for motions which can be moved without notice under Rule 12, written notice of every motion, must be delivered to the Chief Executive not later than 12 noon seven clear working days before the Council meeting at which it is to be considered. Motions received will be recorded and open to public inspection.

### 11.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order determined by the Mayor.

### 11.3 Scope

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

#### 11.4 One motion per Member

No Member may give notice of more than one motion for any Council meeting, except with the consent of the Mayor.

#### 11.5 Time allowed for motions

The time allowed for consideration of a motion submitted under Rule 11 shall not without the consent of the Mayor exceed 45 minutes, the mover of the motion shall not speak for longer than 10 minutes, the seconder of the motion shall not speak for longer than 5 minutes, subsequent to which the mover of the motion shall have no more 10 minutes to sum up. At the expiry of 45 minutes (from the commencement of the Council's consideration of a motion), the Mayor shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

11.5.1 if the speech to be concluded is a speech proposing a motion, the Mayor shall allow the motion to be formally seconded (without comment);

11.5.2 if the speech to be concluded is a speech moving an amendment to the motion, the Mayor shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise their right of reply; and

11.5.3 otherwise, the Mayor shall allow the mover of the motion to exercise their right of reply.

Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

### **12. Motions without Notice**

12.1 The following motions may be moved without notice:

12.1.1 to appoint a Chair of the meeting at which the motion is moved;

12.1.2 in relation to the accuracy of the minutes;

12.1.3 to change the order of business in the agenda;

12.1.4 to refer something to an appropriate body or individual;

12.1.5 to appoint a Committee or Member arising from an item on the summons for the meeting;

12.1.6 to receive reports or adoption of recommendations of the Cabinet, Committees or Officers and any resolutions following from them;

12.1.7 to withdraw a motion;

12.1.8 to amend a motion;

12.1.9 to proceed to the next business;



- 12.1.10 that the question be now put to adjourn a debate;
- 12.1.11 to adjourn a meeting;
- 12.1.12 to end a meeting at a time stated in the motion;
- 12.1.13 to suspend a particular Procedure Rules;
- 12.1.14 to exclude the public and press in accordance with the Access to Information Procedure Rules;
- 12.1.15 to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- 12.1.16 to give the consent of the Council where its consent is required by this Constitution.

### **13. Rules of Debate**

#### **13.1 No speeches until confirmation of seconder**

Before commencing their speech supporting their motion, the mover of a motion shall indicate to the Mayor, which Councillor is to second the motion, and that Councillor will confirm this to the Mayor, following which the mover will commence their speech. If that Councillor does not confirm this, then the Mayor will ask if any other Councillor will second the motion. If a Councillor confirms this, then the mover can commence their speech. If not, the Mayor will rule that the motion fails. No speeches may be made until after the motion has a confirmed seconder.

#### **13.2 Right to require motion in writing**

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to them before it is discussed.

#### **13.3 Secunder's speech**

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

#### **13.4 Content and length of speeches**

13.4.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.

13.4.2 A speech by the mover of a motion may not exceed 10 minutes without the consent of the Mayor.

13.4.3 A speech by the seconder of a motion may not exceed 5 minutes without the consent of the Mayor.

13.4.4 The time limit does not apply to speeches by officers in presenting reports or advising the Council on any matter.

13.4.5 Immediately following the seconder speaking on a motion or reserving their right to speak until later in the debate, the Mayor shall ask the Leader of the

main opposition group to speak on the motion, or nominate a Councillor to speak next on the motion. A speech under this section may not exceed 5 minutes without the consent of the Mayor.

- 13.4.6 Speeches by ordinary Members (where not stipulated at 11.5) shall not exceed 5 minutes, without the consent of the Mayor.

### 13.5 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:

- 13.5.1 to speak once on an amendment moved by another Councillor;
- 13.5.2 to move a further amendment if the motion has been amended since they last spoke;
- 13.5.3 if their first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- 13.5.4 in exercise of a right of reply;
- 13.5.5 on a point of order; and
- 13.5.6 by way of personal explanation.

### 13.6 Amendments to motions

- 13.6.1 An amendment to a motion must be relevant to the motion and will either be:
- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (b) to leave out words;
  - (c) to leave out words and insert or add others; or
  - (d) to insert or add words,
  - (e) as long as the effect of (b) to (d) is not to negate the motion.
- 13.6.2 Subject to Rule 13.6.6 below, 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.
- 13.6.3 If an amendment is not carried, other amendments to the original motion may be moved.
- 13.6.4 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion upon which further speakers may be invited and to which any further amendments are moved.
- 13.6.5 After an amendment has been carried, the Mayor will read out the amended motion before inviting any further speakers upon it as the substantive motion

or accepting any further amendments to it, or if there are none, and after the right to reply has been offered put it to the vote.

13.6.6 The Mayor may determine on the presentation of a report and recommendation being proposed and seconded, that the motions and any subsequent amendments would be debated together. In this case, at the conclusion of the debate, the amendments will be voted on separately in the order in which they were proposed.

13.6.7 Before any speeches on an amendment that has been proposed, the Mayor shall ask the mover and seconder of the original motion or substantive motion whether they are prepared to accept the amendment. If they are, the amendment will be treated as an alteration under Procedure Rules 13.7. If they are not, then the amendment will be debated.

### 13.7 Alteration of motion

13.7.1 A Councillor may alter a motion of which they have given notice in accordance with Procedure Rules 11 with the consent of the meeting. The meeting's consent may be signified without discussion.

13.7.2 A Councillor may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent may be signified without discussion.

13.7.3 Only alterations which could be made as an amendment maybe made.

### 13.8 Withdrawal of motion

A Councillor may withdraw a motion which they have submitted or moved with the consent of the seconder if the debate has begun. No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

### 13.9 Rights of reply

13.9.1 At close of a main motion (i.e. un-amended) debate:

- (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.

13.9.2 At close of an amendment debate:

- (a) 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;
- (b) the mover of the amendment shall also have the right of reply at the close of the debate immediately prior to the closing speech by the mover of the original motion.

13.9.3 At close of substantive motion (i.e. after an amendment to a main motion has been carried) debate:

- (a) the mover of the successful amendment shall have a right of reply at the end of any debate on the substantive motion.

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

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

- 13.10.1 to withdraw a motion;
- 13.10.2 to amend a motion;
- 13.10.3 to proceed to the next business;
- 13.10.4 that the question be now put to the vote;
- 13.10.5 to adjourn a debate;
- 13.10.6 to adjourn a meeting;
- 13.10.7 to extend the length of the meeting;
- 13.10.8 to exclude the public and press in accordance with the Access to Information Procedure Rule; and
- 13.10.9 to not hear further a Councillor named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

#### 13.11 Closure motions

13.11.1 A Councillor may move, without comment, the following motions at the end of a speech of another Councillor:

- (a) to proceed to the next business;
- (b) that the question be now put;
- (c) to adjourn a debate; or
- (d) to adjourn a meeting.

13.11.2 If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

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

13.11.4 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will give the mover of the original motion or an amendment, or a substantive motion (as the case may be) a right of reply and then put the procedural motion to the vote.

### 13.12 Point of order

A Councillor may raise a point of order at any time. The Mayor 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 order or law and the way in which they consider it has been broken. The ruling of the Mayor on the matter will be final.

### 13.13 Personal explanation

A Councillor may make a personal explanation at any time. 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 Mayor on the admissibility of a personal explanation will be final.

## 14. **Previous Decisions and Motions**

### 14.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past 6 months cannot be moved unless the notice of motion is signed by at least 10 Members or in the case of a committee, 25% of the Committee's membership

### 14.2 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 6 months cannot be moved unless the notice of motion or amendment is signed by at least 10 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for 6 months.

## 15. **Voting**

### 15.1 Majority

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

### 15.2 Mayor's casting vote

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

### 15.3 Method of voting

Unless a recorded vote is demanded under Rule 15.4 the Mayor will take the vote by show of hands or, if there is no dissent, by the affirmation of the meeting.

### 15.4 Recorded vote

If 5 Members present at the meeting at any time request the names for and against the motion or amendment or abstaining from voting will be taken down in writing and

entered into the minutes. Unless in the case of Committees or Cabinet where a request by 2 Members present will be sufficient to require a recorded vote to be taken.

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

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

#### 15.6 Recorded votes at budget meetings

A recorded vote is required when Members take formal decisions about expenditure on local services and Council tax levels for the year ahead.

#### 15.7 Voting on appointments

If there are more than 2 people nominated for any position to be filled and there is not a clear majority of votes in favour of 1 person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

### **16. Minutes**

#### 16.1 Signing the minutes

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

#### 16.2 No requirement to sign minutes of previous meeting at an 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.

#### 16.3 Form of minutes

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

### **17. Record of Attendance**

17.1 All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

## **18. Exclusion of Public and Press**

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

## **19. Members' Conduct**

### **19.1 Speaking at meetings**

When a Member speaks at full Council they must address the meeting through the Mayor. If more than one Member signifies their intention to speak, the Mayor will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

### **19.2 Mayor speaking**

When the Mayor speaks during a debate, any Member speaking at the time must stop.

### **19.3 Member not to be heard further**

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

### **19.4 Member to leave the meeting**

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

### **19.5 General disturbance**

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

## **20. Disturbance by the Public**

### **20.1 Removal of member of the public**

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

### **20.2 Clearance of part of meeting room**

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

## **21. Suspension and Amendment of Procedure Rules**

### **21.1 Suspension**

The following Rules may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present: Rule 4.2, and Rules 8 to 14. Suspension can only be for the duration of the meeting.

#### 21.2 Amendment

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

### **22. Application of these Rules Committees and Sub-committees**

22.1 All of these Rules apply to meetings of full Council. Only Rules 4 to 7, and Rules 12 to 21 apply to meetings of the Cabinet, Committees, Sub-Committees or Joint-Committees (with 'Mayor' being read as 'Chair' and 'Council meeting' being read as the last meeting of the relevant Committee or Sub-Committee or Joint Committee). The application of these Rules to meetings of a Committee and Sub-Committees is subject to any additional rules which may also apply to a specific Committee or Sub-Committee.

### **23. Appointment of Substitute Members on Council Bodies**

23.1 These substitution Rules shall not apply to meetings of the Cabinet or Committees of the Cabinet, or non-quasi-judicial or non-regulatory bodies.

23.2 Subject to any other restrictions provided elsewhere in this Constitution or under the law, any Member of the Council will be permitted to act as a substitute on a Committee or Sub-Committee of the Council, subject to their having completed any training required for Members of the Committee or Sub-Committee to which they are substituted.

23.3 A Member of a Committee or Sub-Committee of the Council may appoint a substitute Member, subject to Rule 23. The appointing Member shall notify Democratic Services of the substitution.

23.4 In order to be eligible to sit as substitutes on regulatory or quasi-judicial Committees, Sub-Committees or panels established by the Council, Members must have received formal training in relevant procedures and the law.

23.5 Substitute Members 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.

23.6 Substitute Members may attend meetings in that capacity only:

23.6.1 to take the place of the ordinary Member for whom they are designated substitute;

23.6.2 where the ordinary Member will be absent for the whole of the meeting;



- 23.6.3 if there are named substitutes, then the substitute must be a named substitute;
- 23.6.4 The relevant Committee or Sub- Committee of the Council must be notified of the substitute prior to the commencement of the meeting of the relevant Committee or Sub- Committee of the Council.

## **24. Emergency Powers**

- 24.1 In consultation with the Leader of the Council and where possible the Leader of the opposition, the Chief Executive has the power to authorise the taking or carrying out of action, notwithstanding anything in the Council's Procedure Rules, Financial Regulations all other delegations, where they consider that circumstances exist that make it expedient or necessary for action to be taken prior to the time when such action could be approved through the normal Council procedures. A report on such action, and the circumstances justifying the exercise of the delegated powers, shall be made to the next meeting of the Council as appropriate.

## **25. Election of Members and Resignation of Offices by Members**

- 25.1 The regular election of Members will be held on the first Thursday in May every four years. The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.
- 25.2 For the purpose of clarity, if the Mayor, or the Deputy Mayor, wish to resign their offices (under sub-sections (2) of sections 3 and 5 of the Local Government Act 1972 respectively) and continue as ordinary Members of the Council, they shall do so in writing, and such resignation shall be delivered to the Chief Executive and shall be accepted by the Council as operative from the moment when it was delivered to the Chief Executive.
- 25.3 If the Leader of the Council, the Deputy Leader of the Council, the Leader or Deputy Leader of any political group or the Chair or Vice-Chair of a Committee wishes to resign their office they should do so in writing in accordance with Rule 25.2 above and at the same time, as applicable, shall deliver written communication of their resignation to the Leader and the Cabinet, procedure rule The Deputy Leader of the Council shall, at the same time as delivering to the Chief Executive a written communication as to their resignation, deliver a communication in similar terms to the Leader of the Council.
- 25.4 The resignation of the Chair or Vice-Chair of a Committee shall be reported to the next meeting of the Council and / or the Committee concerned and successors shall be appointed by the Council.

## **26. Filming, Videoing, Streaming, Photography and Audio Recording**

- 26.1 The filming, streaming and recording of public meetings of the Council is allowed, however it is required to be in accordance with the Openness of Local Government

Bodies Regulations 2014. This does not permit any person to provide an on-going audio commentary while the meeting is on-going. The Council Procedure Rules in relation to disrupting a meeting apply and in particular there should be no flash photography, requests made during the meeting that people speak up for the purposes of the recording, requests for comments previously made to be repeated for the purposes of the recording; this list is non-exclusive and in addition to the other provisions in relation to the disrupting of meetings and in no way fetters the Mayor's discretion to determine if behaviour is disrupting a meeting of the Authority.



Broxtowe  
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COUNCIL

# Broxtowe Borough Council Constitution

## Chapter 2 – Part 3

### The Executive (Cabinet)

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## **Chapter 2 Part 3: THE EXECUTIVE (CABINET)**

### **3.1 Rules**

3.1.1 The following Rules apply to the Cabinet, a Committee, Sub-Committee or Joint Committee of the Cabinet:-

- i. Council Procedure Rules 4 to 7 and Rules 12 to 21
- ii. The Cabinet Procedure Rules
- iii. The Access to Information Procedure Rules.

### **3.2 The Leader**

3.2.1 The Leader is elected by full Council and holds office for a period of four years from the date of their election at the Annual Meeting of the Council or earlier if they:

- i. Resign from the office of Leader; or
- ii. Are no longer a Councillor; or
- iii. Are removed from office by a resolution of the Council.

3.2.2 The Deputy Leader will assume responsibility of the Leader where there is a vacancy until the next Council Meeting, where the Council will elect a Leader.

3.2.3 Where both the Leader and Deputy Leader cease to hold office at the same time, the Council's Mayor shall call a meeting of Council as soon as possible to elect a new Leader.

### **3.3 Functions and Responsibilities**

3.3.1 The Leader is responsible together with the rest of the Executive for those functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

3.3.2 Only the Leader will exercise the following functions -

- i. Appointment of the Deputy Leader;
- ii. Appointment of the Cabinet;
- iii. Allocation of portfolio responsibilities;

- iv. Producing and maintaining the Scheme of Delegation set out in Chapter 3 Part 1 detailing who will discharge functions;
- v. To provide leadership to the Cabinet and chair Cabinet meetings;
- vi. To ensure that Cabinet Members work collaboratively with the Council's Overview and Scrutiny Committee, to support the Council's Scrutiny function and to carefully consider the recommendations of the Overview and Scrutiny Committee in the formulation and development of the Council policy;
- vii. To ensure that Members of Cabinet abide by the Codes and Protocols set out in the Constitution;
- viii. To ensure Members of the Cabinet receive information, training and regular updates, to take account of changes in the law, policy and procedure and to encourage development and continuous improvement;
- ix. The Leader will provide strategic leadership to the Council to implement Council's policy and budget decisions;
- x. To ensure effective arrangements for consultation and community planning and to lead in developing the Council's partnerships with other organisations;
- xi. To ensure effective communication and explanation of all Executive/Cabinet decisions and recommendations to Council;
- xii. To ensure that the decisions of Cabinet are made within the budgetary framework and financial limits set by the Council;
- xiii. To ensure the preparation and publication of a forward plan, in line with statutory requirements, which sets out the details of any matters which they consider are likely to be the subject of a Key Decision;
- xiv. To be the main Member representative of the Council, with other Portfolio Holders in dealing with the community, business, voluntary sector and other local and national organisations, other than in respect of ceremonial events;
- xv. To ensure effective liaison with other political groups within the Council;
- xvi. To represent the Council on relevant outside organisations, regional and national bodies, partnerships and working groups and to pursue matters of interest to the Council and its communities;

- xvii. To work with Portfolio Holders to consider and agree actions to ensure effective delivery of services within their portfolios against the agreed policies of the Council, and to ensure the delivery of the Cabinet's responsibilities and the delivery of objectives as outlined in the Corporate Plan;
- xviii. To be responsible for their own personal development and undergo appropriate development and continuous improvement;
- xix. To provide mentoring and support to Cabinet Members;
- xx. To represent the Council at Derbyshire and Nottinghamshire Leader meetings concerning devolution.

### **3.4 The Deputy Leader**

- 3.4.1 The Deputy Leader will be a Councillor appointment to the position by the Leader.
- 3.4.2 If for any reason the Leader is unable to act, or the office of the Leader is vacant, the Deputy Leader must act and exercise all functions reserved to the Leader in their absence.
- 3.4.3 If for any reason the Leader and Deputy Leader are unable to act, or their offices are vacant, the remaining Cabinet Members may act collectively or appoint an interim Leader until the next Council meeting where a new Leader will be elected.

### **3.5 The Cabinet**

- 3.5.1 The Cabinet comprises the Leader, the Deputy Leader and up to eight other Councillors (Cabinet Members) appointed to the Cabinet by the Leader.
- 3.5.2. The Leader appoints the Deputy Leader and also six Cabinet Members as Portfolio Holders who have full voting rights on the Cabinet's business. The remaining two Cabinet Members are 'without portfolio' but have voting rights on the Cabinet's business.

### **3.6 Functions & Responsibilities**

- 3.6.1 The Cabinet discharges those functions of a local authority specified in local government legislation as the Executive functions of an authority to be exercised by its Executive or Cabinet; including functions that may be (but need not be) the responsibility of an Executive or Cabinet referred to in Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2007. No functions of the Cabinet (other than those required under the law to be exercised by the Leader) shall be exercised other than by way of a meeting of the Cabinet unless an express delegation is in place.
- 3.6.2 The Cabinet determines those matters within the Terms of Reference of the Cabinet Portfolios set out below on the basis of collective decision-making. Individual Portfolio Holders do not have delegated authority to determine matters within their remit.

### **3.7 Functions Reserved to the Cabinet**

The following functions are reserved to the Cabinet:-

- 3.7.1 To determine responses on behalf of the Council within the remit of the Portfolios to any government, local authority or other consultation and the launch of consultation exercises on behalf of the Council, except for day-to-day technical and operational consultations which amount to Administrative Decisions made by Officers.
- 3.7.2 To consider establishment changes referred for decision outside delegated authority.

### **3.8 The Portfolios**

The Cabinet Portfolios are:-

- 3.8.1 Resources and Personnel Policy
- 3.8.2 Economic Development & Asset Management
- 3.8.3 Housing
- 3.8.4 Leisure & Health
- 3.8.5 Environment & Climate Change
- 3.8.6 Community Safety



### **3.9 The Portfolio General Terms of Reference**

Matters within the General Terms of Reference of the Portfolios and the specific Terms of Reference of each Portfolio are determined by the Cabinet collectively. Portfolio Holders are not delegated authority to determine any matter within the remit of their Portfolio. The general Terms of Reference for each Portfolio are:-

- 3.9.1 To provide strategic direction to any delivery body established by the Council;
- 3.9.2 To keep the policies of their portfolio under review;
- 3.9.3 To consider and recommend the letting of contracts to third parties where the value of the contract exceeds delegation limits as set out in procurement Procedure Rules. (where within Budget);
- 3.9.4 To identify and recommend opportunities for future income generation and cost savings;
- 3.9.5 To examine further procurement and collaborative working opportunities with the private sector and other local authorities;
- 3.9.6 To recommend responses on behalf of the Council to any government, local authority or other consultation;
- 3.9.7 To consider and recommend ways of achieving reductions in ongoing financial commitments through a review of essential and desired services and service levels.

### **3.10 Resources & Personnel Policy Portfolio**

The Resources and Personnel Policy Portfolio specific Terms of Reference are:-

- 3.10.1 To keep the Council's resources under review.
- 3.10.2 To consider and recommend to the Council the level of Council house rents, service charges and the level of Council tax.
- 3.10.3 To consider and recommend to the Council the overall capital programme and revenue budget.
- 3.10.4 To consider and recommend requests for supplementary capital and revenue estimate.
- 3.10.5 To consider and recommend write off debts in excess of the current limit for delegation contained within Financial Regulations.

- 3.10.6 To consider and recommend loan repayment postponements.
- 3.10.7 To consider and recommend the use of the Insurance Fund.
- 3.10.8 To consider and recommend the appointment of the Council's bankers.
- 3.10.9 To consider and recommend virement between budget heads above any limits prescribed in Financial Regulations.
- 3.10.10 To consider and recommend the letting of contracts to third parties where the value of the contract exceeds delegation limits as set out in procurement Procedure Rules.
- 3.10.11 To consider and recommend the means to attract external sources of funding into the Borough across the whole range of the Council's services and Statutory functions.
- 3.10.12 To consider in detail those areas of the revenue budgets affecting the General Fund and Housing Revenue Account (HRA) which are judged to be of the highest risk and monitor the position of the Council in relation to those areas.
- 3.10.13 To examine in detail the proposals for budgetary control and consider such plans as are deemed to be required to bring about necessary controls, especially on the effects on employees and services.
- 3.10.14 To receive at regular intervals information as to revenue and capital budgetary monitoring.
- 3.10.15 To receive and recommend responses to updates on government and external funding issues which have a direct effect on the budgetary position.
- 3.10.16. To receive regular updates on welfare benefit reforms and the effects on Council tenants and Council tax payers.
- 3.10.17 To monitor the effects of the countywide business rates pooling arrangement on the finances of the Council.
- 3.10.18 To review the People Strategy and any other policy or strategy concerning human resources.
- 3.10.19 To consider and identify issues relating to the Council's establishment structure and employees, including significant changes to local terms and conditions and the discretionary elements of both national and local conditions of service.
- 3.10.20 Consideration of the draft Pay Policy before submission to Council.

- 3.10.21 To receive reports on post-entry training and development for employees including apprenticeships and Members and to consider and recommend the Training and Development Policy.
- 3.10.22 Consider and recommend the Job Evaluation Scheme and pay structure arising from it, to Council, as appropriate.
- 3.10.23 To receive recommendations from the Local Joint Consultative Committee.
- 3.10.24 To consider functions conferred on the Council by part 4 of the Local Government and Public Involvement in Health Act 2007 in respect of the receipt of petitions and the institution, conduct and determination of a Community Governance review.
- 3.10.25 To consider the Health and Safety at Work Policy.
- 3.10.26 To develop, any other policy (other than those policy documents reserved to the full Council) within the remit of the Portfolio and without prejudice to the generality of the foregoing to develop.
- 3.10.27 To consider and develop the Emergency Plan.
- 3.10.28 To consider and recommend the Information Technology Strategy.
- 3.10.29 ~~To consider and recommend the Asset Management Strategy.~~
- 3.10.30 To consider and recommend the Council's Equality and Diversity Strategy and action plan and monitor the implementation of it.
- 3.10.31 To consider and recommend the Capital Strategy.
- 3.10.32 To consider and recommend the Sustainable Communities Strategy.
- 3.10.33 To consider and recommend other such policies and strategies as Council may from time to time decide should be adopted.
- 3.10.34 To consider and monitor progress on the Corporate Plan.
- 3.10.35 To consider and recommend in relation to the exercise of the Council's shareholder / Member function in respect of its wholly or partly owned companies.

### **3.11 Economic Development & Asset Management Portfolio**

The Economic Development & Asset Management Portfolio specific Terms of Reference are:-

- 3.11.1 To monitor progress on economic development, regeneration and levelling up strategies
- 3.11.2 To monitor the impact of significant external projects on the Council's services.
- 3.11.3 To develop, any other policy (other than those policy documents reserved to the full Council) within the remit of the portfolio and without prejudice to the generality of the foregoing to develop.
- 3.11.4 In association with the Planning Committee to propose matters of planning policy to the Council in accordance with Part II of the Town and Country Planning Act 1990.
- 3.11.5 To consider and recommend authorisation of the supplementary planning documents, development briefs and other documents under the local development scheme.
- 3.11.6 To consider and recommend the means to attract external sources of funding into the Borough across the whole range of the Council's services and Statutory functions.
- 3.11.7 To consider all matters relating to the Strategic Location for Growth and the wider area including the boundaries of the site, the retention of open space, the promotion of employment, integration with the proposed and existing infrastructure including road improvements, the tram and rail links and the suitable mix of development within the site.
- 3.11.8 To consider and make recommendations to acquire, appropriate and dispose of land or property and of interests in or over land.
- 3.11.9 To consider and make recommendations to let, negotiate and settle leases and rents for Council owned land or property. (excluding Council Houses).
- 3.11.10 To consider and make recommendations to the policies with regards to the Council's land, buildings and assets.
- 3.11.11 To consider and recommend investment in, improvement of and carbon reduction of the Council's housing stock.
- 3.11.12 To consider and recommend housing building schemes.
- 3.11.13 To consider and recommend the making of compulsory purchase orders and carry out all procedures.
- 3.11.14 To consider and recommend the making of conservation areas.

- 3.11.15 To consider and recommend supplementary planning documents, development briefs and other documents under the local development scheme.
- 3.11.16 To consider and recommend directions under Article 4 Town and Country Planning (General Permitted Development) order 1995.
- 3.11.17 The portfolio shall lead on plans for strategic development, economic development, levelling up and regeneration throughout the area.
- 3.11.18 To consider and recommend policies for Car Parking.
- 3.11.19 To consider and recommend in relation to the exercise of the Council's shareholder / Member function in respect of its wholly or partly owned companies.
- 3.11.20 To consider and recommend the Asset Management Strategy.
- 3.11.21 To consider and make recommendations in relation to Towns Fund Boards
- 3.11.22 To consider and make recommendations in relation to Levelling Up Funding (e.g. UK Shared Prosperity Fund)

### **3.12 Housing Portfolio**

The Housing Portfolio specific Terms of Reference are:-

- 3.12.1 To consider and recommend the Council policy relating to sales of Council houses.
- 3.12.2 To consider and recommend Council policy relating to council house rent collection.
- 3.12.3 To consider and recommend the policy to apply to the provision of funds for aids and adaptations to Council properties.
- 3.12.4 To consider and recommend housing buy backs.
- 3.12.5 To identify surplus housing assets or redevelopment potential within the housing stock.
- 3.12.6 To develop and recommend any other policy (other than those policy documents reserved to the full Council) within the remit of the portfolio and without prejudice to the generality of the foregoing to develop.
- 3.12.7 To consider and recommend the Homelessness Strategy.

- 3.12.8 To consider and recommend policies for the management of all buildings and lands held for housing purposes.
- 3.12.9 To consider and recommend the policy for allocating Council housing stock.
- 3.12.10 Any other such policies and strategies as Cabinet may from time to time decide should be developed.
- 3.12.11 To recommend the provision of assistance to Housing Associations, privately let housing accommodation, and payments to enable people to access such accommodation as the law may enable.
- 3.12.12 To recommend the declaration of renewal areas, criteria for discretionary housing facilities grants and provision of other grants as the law may permit from time to time.
- 3.12.13 To consider and recommend applications for aids and adaptations to Council housing above £30,000.

### **3.13 Leisure & Health Portfolio**

The Leisure & Health Portfolio specific Terms of Reference are:-

- 3.13.1 To consider and recommend policies to promote health, artistic, sporting and cultural activities within the Borough.
- 3.13.2 To develop, any other policy (other than those policy documents reserved to the full Council) within the remit of the portfolio and without prejudice to the generality of the foregoing to develop.
- 3.13.3 To consider and recommend policies for the management of all buildings and lands held for leisure purposes including leisure centres and museums.
- 3.13.4 To consider and recommend the arts and events and leisure strategies.
- 3.13.5 To consider and recommend the policy for events taking place in parks, open spaces and recreation grounds owned or managed by the Council.
- 3.13.6 Review and monitor the Council's arrangements that each Council service area has in place to respond to individuals, who may have mental health issues and need to access Council Services.
- 3.13.7 To consider and recommend twinning and friendship activities.

- 3.13.8 To consider and recommend events taking place in parks, open spaces and recreation grounds owned or managed by the Council.
- 3.13.9 Recommend such policies and action plans as are necessary to promote the physical and mental health of the population of Broxtowe.
- 3.13.10 Work in partnership with partner organisations and partnership structures including Nottinghamshire County Council Public Health department; integrated care systems such as the local Place based partnership and local primary care networks as well as the organisations represented within the Broxtowe partnership, to promote the health of the local population.
- 3.13.11 Develop and recommend plans and policies to prevent ill health occurring and promote the wider determinants of health.
- 3.13.12 Work to promote physical activity across Broxtowe.
- 3.13.13 Come forward with proposals to reduce loneliness and isolation, and promote social cohesion across Broxtowe.
- 3.13.14 Develop and work to implement plans to enable people to live well with dementia in Broxtowe.
- 3.13.15 Work to develop action and plans to reduce health inequalities.
- 3.3.16 To consider and recommend the letting of contracts to third parties where the value of the contract exceeds delegation limits as set out in procurement procedure rules (where within budget).

### **3.14 Environment & Climate Change Portfolio**

The Environment & Climate Portfolio Specific Terms of Reference are: -

- 3.14.1 To develop, any policy (other than those policy documents reserved to the full Council) within the remit of the portfolio and without prejudice to the generality of the foregoing to develop -
- 3.14.2 To consider and recommend management and recycling arrangements and policies.
- 3.14.3 To consider and recommend policies in respect of street cleansing and the removal of litter.
- 3.14.4 To consider and recommend policies regarding energy.
- 3.14.5 To consider and recommend policies regarding air quality.

- 3.14.6 To consider and recommend policies for allotments and cemeteries.
- 3.14.7 To consider and recommend the Energy Conservation Strategy.
- 3.14.8 To consider and recommend the Waste Management Strategy.
- 3.14.9 To consider and recommend policies in respect of stray dogs.
- 3.14.10 To consider and recommend Contaminated Land Strategy.
- 3.14.11 To consider and recommend applications for and amendments to waste transfer stations.
- 3.14.12 To lead on the development and implementation of the Climate Change Plan for Broxtowe Borough Council.
- 3.14.13 To take the climate change agenda forward and ensure that all departments are engaged in this process.
- 3.14.14 To lead on development and implementation of the Travel Plan.
- 3.14.15 To feed into the Nottinghamshire and Derbyshire Local Authority Energy Partnership, Nottinghamshire Climate Change Partnership and Broxtowe Borough Partnership.
- 3.14.16 To work in partnership with service providers to identify opportunities for the delivery of services, avoid duplication and maximise resources.
- 3.14.17 To keep under review the functions under the Environmental Protection Act 1990.
- 3.14.18 To consider and recommend all issues relating to environmental improvements.

### **3.15 Community Safety Portfolio**

The Community Safety Portfolio specific Terms of Reference are:-

- 3.15.1 To develop, any other policy (other than those policy documents reserved to the full Council) within the remit of the portfolio and without prejudice to the generality of the foregoing to develop.
- 3.15.2 To consider and recommend policies regarding transport, including the powers contained in the LG(MP)A 1978 in relation to hackney carriage and private hire licensing vehicles, but save those other functions in respect of



hackney carriage and private hire vehicles delegated to the Licensing and Appeals Committee.

- 3.15.3 To consider and recommend Anti-Social Behaviour Strategy and action plan;
- 3.15.4 To consider and recommend community safety policies as may be needed from time to time to ensure the safety of the population.
- 3.15.5 To consider, recommend and monitor the implementation of safeguarding and violence, serious violence and domestic violence policies and sanctuary scheme.
- 3.15.6 To consider and recommend the adoption of Local Strategic Partnership strategies and policies.
- 3.15.7 To consider and recommend Public protection strategies.
- 3.15.8 To consider and recommend the adoption of strategies and policies arising from the Anti-Social Behaviour, Crime and Policing Act 2014 including public space protection orders and fixed penalty notices and powers introduced by any subsequent legislation which offers tools and measures to regulate undesirable activity and behaviour.
- 3.15.9 To consider and recommend the adoption of Policies under the Scrap Metal Dealers Act 2013.
- 3.15.10 To consider and recommend enforcement under the Sunday Trading Act 1994.
- 3.15.11 To receive reports in relation to Nottinghamshire Police and Crime Panel.
- 3.15.12 To consider and recommend applications for vehicle operator's licences required for the Council's business.
- 3.15.13 To consider and recommend authorising objections to vehicle operator licence applications made by third parties.

### **3.16 The Policy Advisory Committee**

- 3.16.1 The Leader has established the Policy Advisory Committee, as a Committee of the Cabinet. The Policy Advisory Committee supports and assists the Cabinet in the development of policies and strategies including resources and personnel policy, economic development and asset management, housing, leisure and health, environment and climate change and community safety.

3.16.2 The Policy Advisory Committee may make recommendations to the Cabinet but has no decision-making powers.

### **3.17 Other Committees**

3.17.1 The Leader may establish such other Cabinet Committees as may be required from time to time, the terms of reference and membership of which shall be determined by the Leader.



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# **Broxtowe Borough Council Constitution**

**Chapter 2 – Part 8-17**

**Committee Arrangements**

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## 8. Governance, Audit and Standards Committee

### Rules

The following Rules apply to this Committee:-

- Council Procedure Rules 4 – 7 and 12 – 21.
- The Access to Information Procedure Rules.

### Membership, Chair and Quorum

Substitute Members Permitted	Yes
Political Proportionality Rules Apply	Yes
Appointments / Removals	Council
Restrictions on Membership	<ul style="list-style-type: none"> <li>• The Leader, Deputy Leader and Cabinet Members may not serve on this Committee.</li> <li>• Members of this Committee must have completed training for the Standards Hearings Sub Committee</li> <li>• <b>Membership of the Advisory Shareholder Sub-Committee should exclude Board Members of Liberty Leisure</b></li> </ul>
Restrictions on Chair / Vice Chair	As above
Quorum	One quarter (1/4) of Members rounded up to be no less than 3
Number of Ordinary Meetings per Council Year	Not less than 4
Sub-Committee <ul style="list-style-type: none"> <li>• Standards Hearing Sub-Committee (3 Members; Quorum of 2 Members)</li> </ul>	<ul style="list-style-type: none"> <li>• The Committee may appoint Sub-Committees to which it can delegate elements of its work, or which it can ask to advise on certain matters.</li> <li>• The Committee shall appoint as required as:-</li> </ul>

<ul style="list-style-type: none"> <li>• Advisory Shareholder Sub Committee (5 Members; Quorum of 3 Members)</li> </ul>	<ul style="list-style-type: none"> <li>○ Standards Hearing Sub-Committee</li> <li>○ Advisory Shareholder Sub Committee</li> </ul>
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**Remit and Terms of Reference**

1. To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
2. The functions conferred in relation to Member standards of conduct by the Local Government Act 2000, the Localism Act 2011 and associated legislation.
3. Without prejudice to the generality of the foregoing:
  - 3.1 promoting and maintaining high standards of conduct for all Members and Officers;
  - 3.2 preparing for adoption or revision by the Council policies and Codes of Conduct for Members, Co-opted Members and Officers;
  - 3.3 monitoring the operation of the Codes of Conduct;
  - 3.4 granting dispensations to Members (including co-opted Members) from requirements relating to interests set out in the Members' Code of Conduct unless otherwise determined by the Monitoring Officer;
  - 3.5 advising and ensuring training for Members, Co-opted Members and Officers on matters relating to conduct;
  - 3.6 considering, determining and dealing with matters referred by the Monitoring Officer;
  - 3.7 considering, determining and dealing with matters referred by the Chief Executive or Monitoring Officer under the Council's Whistleblowing Policy;
  - 3.8 monitoring the complaints made against the Council including those made via the Local Government and Social Care Ombudsman;
  - 3.9 making recommendations to Council and for The Leader or Group Leaders in relation to conduct and standards matters;
  - 3.10 undertaking functions in relation to Member standards of conduct in respect of Parish Councils / Town Councils within the Council's area;

- 3.11 Overview of the Council's Constitution and consideration of proposed amendments or revisions to the Constitution including the Schemes of Delegation, Procedure Rules and Protocols;
  - 3.12 recommend to the Council amendments to this Constitution.
4. The Committee will:
  - 4.1 oversee the arrangements for the maintenance of the Council's internal control environment;
  - 4.2 monitor the operation of this Constitution and recommend amendments to it for the approval of the Council;
  - 4.3 monitor and make recommendations regarding the Council's corporate governance arrangements including the appointment of the external auditor;
  - 4.4 consider ways of achieving reductions in ongoing financial commitments through a review of essential and desirable services and service levels;
  - 4.5 identify opportunities for future income generation and cost savings;
  - 4.6 examine further procurement and collaborative working opportunities with the private sector and other local authorities.
5. Consider the Council's published financial accounts and associated documents, including the Annual Governance Statement, and give approval to them when satisfied.
6. Review the work of the internal audit section including the approval of an audit strategy and annual audit plans.
7. Consider significant issues arising from internal audit reviews, make recommendations accordingly and monitor management's response.
8. Receive reports from the Council's external auditors, the Council's internal auditor and from any inspection agencies and monitor action in response to any issues raised.
9. Oversee the effectiveness of the Council's risk management procedures, the control environment and associated fraud and anti-corruption arrangements including the approval of amendments to the strategic risk register and associated action plans.
10. Monitor and review the Council's business continuity arrangements.
11. The power to make payments or provide other benefits in cases of maladministration (section 92 Local Government Act 2000).

12. To receive reports directly from the Chief Audit and Control Officer as and when he/she thinks fit.
13. To receive reports directly from the Council's external auditors as and when appropriate.
14. The Committee may appoint Sub-Committees/panels comprising a proportionate combination of three Members of the main Committee.
15. Consider in detail polling district boundaries for the Borough Council's administrative area and any necessary changes to ensure that:-
  - 15.1 electors have such reasonable facilities for voting as are practicable in the circumstances;
  - 15.2 as far as is reasonable and practicable, that polling places are accessible to all electors, including those who are disabled, and when designating a polling place, have regard to the accessibility needs of disabled persons.
16. Consider polling places for the Borough Council's administrative area.
17. Consider the warding arrangements for Broxtowe to ensure electoral equality in all areas.
18. Consider the boundaries of Parish Councils in the Borough and warding arrangements in those areas, if appropriate.
19. Consider the names of Borough Council and Parish Council Wards.

#### **Standards Hearing Sub-Committee**

1. Number of Members: 3 (politically proportionate).
2. To carry out hearings into complaints and if appropriate make recommendations to full Council or to the Leader or Group Leaders as to action or sanctions under the Code of Conduct for Members in accordance with the Councils arrangements and any other matters as delegated by the Governance, Audit and Standards Committee.
3. Meetings / hearings to be called by the Monitoring Officer as necessary to deal with complaints under the Code of Conduct for Members.
4. Members of the Standards Hearing Sub-Committee shall undertake training on the Code of Conduct for Members.

#### **Advisory Shareholder Sub-Committee**



1. Number of Members: 5 (politically proportionate)
2. The Advisory Shareholder Sub-Committee may co-opt and / or otherwise engage the services of such external consultants and advisors as may be required from time to time, including but not limited to, auditors.
3. Meetings shall be held as necessary and not less than once each year. The quorum for meetings is 3
4. The Advisory Shareholder Sub-Committee acts in an advisory capacity and is not a decision-making body.
5. The Advisory Shareholder Sub-Committee shall assist, support and advise the Portfolio Holder for Resources and Personnel Policy and the Cabinet in its exercise of the Council's function as the shareholder of the Council's companies.
6. Without prejudice to the generality of clause 5 above, the Advisory Shareholder Sub-Committee shall consider the business plans and financial performance of the Council's companies in respect of which it may advise and make recommendations to the Portfolio Holder for Resources and Personnel Policy and the Cabinet in respect of its exercise of the shareholder function.

### **Delegations**

The Governance, Audit & Standards Committee may delegate matters falling within its remit as permissible under the law unless otherwise delegated or reserved under this Constitution.

## **9. Licensing and Appeals Committee**

### **Rules**

The following Rules apply to this Committee:-

- Council Procedure Rules 4 – 7 and 12 – 21.
- The Access to Information Procedure Rules.
- Council's Hearing Procedure Rules.

### **Membership, Chair and Quorum**

Substitute Members Permitted	No
Political Proportionality Rules Apply	Yes

Appointments / Removals	Council
Restrictions on Membership	<ul style="list-style-type: none"> <li>Members of the Licensing &amp; Appeals Committee must complete training prior to attending a meeting of the Committee.</li> <li>Members of the Discretionary Panel must complete training on the discretionary Housing Payment Scheme prior to attending meetings of the Panel.</li> </ul>
Restrictions on Chair / Vice Chair	As above
Quorum	<p>One quarter (1/4) of Members rounded up to be no less than 3</p> <p>DHP - One quarter (1/4) of Members rounded up to be no less than 2</p>
Number of Ordinary Meetings per Council Year	<p>Not less than 4</p> <p>DHP – As required</p>
Sub-Committee <ul style="list-style-type: none"> <li>Licensing Appeal Panel</li> <li>Alcohol and Entertainments Licensing Panel</li> <li>Discretionary Housing Payments Panel</li> </ul>	The Committee shall convene a Licensing Appeal Panel and a Alcohol & Entertainments Licensing Panel as required.

### Remit and Terms of Reference

1. To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
2. All the functions of the licensing authority capable of being performed by a licensing committee established under section 6 Licensing Act 2003; section 154 Gambling Act 2005, including (for the avoidance of doubt) the powers in section 212 Gambling Act 2005 (setting of fees), but (for the avoidance of doubt) not the powers contained in

the LG(MP)A 1978 in relation to hackney carriage and private hire licensing vehicles which is for the consideration of the Cabinet.

3. The Committee may appoint a Licensing Appeal Panel (sub-committee) comprising of a politically proportionate combination of three or five Members of the main Committee.
4. A Licensing Appeal Panel is delegated all the functions capable of being exercised by the Committee.

### **Licensing Appeal Panel / Alcohol and Entertainments Appeal Panel**

1. The functions of the Council relating to licensing and registration and the consideration and determination of appeals against the Council's decision across the full range of the Council's functions not otherwise provided for including hazardous substances consent, intentional homelessness, arrangements for Joint Negotiating Committee appeals, grievance and disciplinary appeals, including all those functions conferred on the Council or on a licensing committee by the Licensing Act 2003 and the Gambling Act 2005.
2. Without prejudice to the generality of the foregoing the consideration and determination of applications for licences permits and registration not otherwise delegated.
3. The enforcement of the functions of the Committee and the making and reviewing of policies concerning those functions, save for policies reserved for approval by full Council.
4. To make determinations in respect of the Scrap Metal Dealers Act 2013.
5. To consider applications for Discretionary Housing Payments in accordance with the Council's policy. Meetings to be called by the Monitoring Officer as necessary to deal with applications.

### **Delegations**

The Licensing and Appeals Committee may delegate matters falling within its remit as permissible under the law unless otherwise delegated or reserved under this Constitution.

## **10. Planning Committee**

### **Rules**

The following Rules apply to this Committee:-

- Council Procedure Rules 4 – 7 and 12 – 21.

- The Access to Information Procedure Rules.
- Probity in Planning: Code of Good Practice for the Planning Service.

### Membership, Chair and Quorum

Substitute Members Permitted	Yes
Political Proportionality Rules Apply	Yes
Appointments / Removals	Council
Restrictions on Membership	<ul style="list-style-type: none"> <li>• Members of the Planning Committee (including substitutes) must complete training prior to attending meetings of the Planning Committee</li> </ul>
Restrictions on Chair / Vice Chair	As above
Quorum	One quarter (1/4) of Members rounded up to be no less than 3
Number of Ordinary Meetings per Council Year	Not less than 11

### Remit and Terms of Reference

1. The functions of the Council relating to town and country planning and development control other than where they are required to be exercised by full Council.
2. Without prejudice to the generality of the foregoing, the functions of the Council in the areas at 3 – 18 below.
3. In association with the Cabinet to propose matters of planning policy to the Council in accordance with Part II of the Town and Country Planning Act 1990.
4. The determination of applications for planning permission listed building and conservation area consent, consent for the display of advertisements and all matters capable of being dealt with by a regulatory Committee for development control and building control.
5. The power to enter into agreements regulating the development and use of land including s106 Agreements.
6. The power to grant conservation area consent and hazardous substances consent.

7. The power to require the discontinuance of a use of land.
8. The power to serve a completion notice under Section 94(2) Town and Country Planning Act 1990.
9. The Council's powers in respect of tree preservation.
10. The Council's development control and building control enforcement powers.
11. The power to create, stop up and divert footpaths and bridleways.
12. The functions detailed in Schedules 1 and 2 to The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 in respect of:
  - 12.1 town and country planning and development control;
  - 12.2 footpaths and bridleways and other public rights of way;
  - 12.3 trees and hedgerows.
13. The functions of the Council under the Planning and Compulsory Purchase Act 2004 and in particular the functions relating to local development plan documents under sections 20 to 23 and 25, 26 and 28 of the Planning and Compulsory Purchase Act 2004.
14. Enforcing section 224 Town and Country Planning Act 1990 (control of advertisements).
15. To authorise the making of conservation areas.
16. To authorise directions under Article 4 Town and Country Planning (General Permitted Development) Order 1995.
17. To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.

### **Delegations**

The Planning Committee may delegate matters falling within its remit as permissible under the law unless otherwise delegated or reserved under this Constitution.

### **11. Overview & Scrutiny Sub-Committee**

See Overview & Scrutiny Arrangements and Procedure Rules at Chapter 2 Part 7.

### **12. Senior Chief Officer Employment Committee**

#### **Rules**

The following Rules apply to this Committee:-

- Council Procedure Rules 4 – 7 and 12 – 21.
- Council Hearing Procedure Rules.

### Membership, Chair and Quorum

Number of Members	5
Substitute Members Permitted	Yes
Political Proportionality Rules Apply	Yes
Appointments / Removals	Council
Restrictions on Membership	<ul style="list-style-type: none"> <li>• The Committee must include at least one Cabinet Member.</li> <li>• If the Committee is considering the dismissal of the HOPS; MO or s151 Officer or any other Chief Officer, two independent persons must be co-opted.</li> <li>• Members of the Committee must be complete training prior to attending meetings of the Committee</li> </ul>
Restrictions on Chair / Vice Chair	As above
Quorum	One quarter (1/4) of Members rounded up to be no less than 3
Number of Ordinary Meetings per Council Year	As required.
Sub-Committee – Hearing Panel	A <del>Senior</del> Chief Officer Employment Hearing Panel shall be convened as required.

### Remit and Terms of Reference

1. To short list and interview candidates for the posts of Head of Paid Service and Chief Officers including the Monitoring Officer, Section 151 Officer and any other Chief Officer.

2. To recommend to full Council the appointment of the Head of Paid Service, the Monitoring Officer, Section 151 Officer and any other Chief Officer.
3. To recommend to the Chief Executive (as Head of Paid Service) all permanent appointments to Chief Officer posts.
4. To determine matters, other than those which under the law must be referred to full Council, relating to severance agreements for Chief Officers and Statutory Officers.
5. To determine matters, other than those which under the law must be referred to full Council, involving the discipline and suspension of Chief Officers and Statutory Officers.
6. To investigate, concerns in relation to the proposed dismissal of the Head of Paid Service, the Monitoring Officer, Section 151 Officer and any other Chief Officer subject to the Committee containing two Independent Persons when performing this function.
7. To determine any other matters referred to it by full Council.
8. Providing advice, views and recommendations to Council in respect of the dismissal of any Statutory or Chief Officer, subject to the Committee containing two Independent Persons when performing this function.
9. The functions of an Investigating and Disciplinary Committee under the JNC Conditions of Service Handbook for Chief Executives, 7 September 2022.

**13. Functions Performed by The Local Joint Consultative Committee ('LJCC')**

The LJCC is the forum between Members of the Council and representatives of the employees of the Council set up to consider matters of common interest, further good relations between Members and Officers and make recommendations to the Cabinet, at Chapter 6 appendix 3.

**14. Functions Performed by The Bramcote Bereavement Services Joint Committee**

As set out in the agreement with Erewash Borough Council at Chapter 6 appendix 4.

**15. Functions Performed by The Economic Prosperity Committee**

As set out at Chapter 6 appendix 5.

## 16. Policy Overview Working Group

**Note:** The Policy Overview Working Group is a Working Group of the Cabinet,

### Membership, Chair and Quorum

Number of Members	13
Substitute Members Permitted	Yes
Political Proportionality Rules Apply	At the Leader's discretion
Appointments / Removals	The Leader
Restrictions on Membership	<ul style="list-style-type: none"><li>• Must have at least one Cabinet Member on the Working Group</li></ul> The following Councillors may not serve on the Policy Overview Working Group; <ul style="list-style-type: none"><li>• Members of the Overview and Scrutiny Committee</li></ul>
Restrictions on Chair / Vice Chair	As above
Quorum	One quarter (1/4) of Members rounded up to be no less than 4
Number of Ordinary Meetings per Council Year	Up to 10  Frequency and timing of meetings to be determined by the Chair  Hybrid Meeting

### Remit and Terms of Reference

- To consider and recommend to Cabinet all the Councils policies and strategies for the Portfolios of Resources and Personnel Policy, Housing, Economic Development and Asset Management, Community Safety, Leisure and Health, and Environment and Climate Change.
- To also include supporting reviewing and making recommendations towards the implementation of Member facilities, expenses, and allowances.
- Time critical reports would go straight to Cabinet.



## 17. Events, Arts, Cultural and Heritage Working Group

**Note:** The Events, Arts, Cultural and Heritage Working Group is a Working Group of the Cabinet,

### Membership, Chair and Quorum

Number of Members	13
Substitute Members Permitted	Yes
Political Proportionality Rules Apply	At the Leader's discretion
Appointments / Removals	The Leader
Quorum	One quarter (1/4) of Members rounded up to be no less than 4

### Remit and Terms of Reference

- To further promote the management of DHL Museum under the heritage banner.
- To promote the health and vitality of town centres and communities through a planned programme of events and arts programmes.
- To promote close co-operation with our twin towns in Gutersloh and friendship arrangement in Myskow and to bring forward the CCity project across Europe to Broxtowe.
- To promote the Council's heritage and culture through collaborate working with our European partners.

## 18. SHARED PROSPERITY FUND MEMBERS ADVISORY PANEL (UKSPF PANEL)

**Note:** The UKSPF Panel is a Panel of the Cabinet,

### Membership, Chair and Quorum

Number of Members	5
Substitute Members Permitted	No
Political Proportionality Rules Apply	At the Leader's discretion
Appointments / Removals	The Leader
Restrictions on Membership	Membership of this Panel shall include: The Leader, Portfolio Holder of Resources and Personnel Policy, One other Labour Member, Leader of the Opposition, Leader

	of the Independent /Liberal Democrat Group
Quorum	2 plus Chair
Number of Meetings per Council Year	As required

**Remit and Terms of Reference**

- UKSPF Panel to assist and advise to the S151/Deputy Chief Executive in making urgent delegated determinations, which fall in between Cabinet cycles, where expediency is required to ensure Investment Plan funding can be defrayed in a timely manner and not clawed back or any other urgent matters that cannot wait for Cabinet including the awarding of business grants.
- Decisions should be by consensus wherever possible, however, the final decision will lie with the Section 151/Deputy Chief Executive.
- The S151/Deputy Chief Officer will report back urgent decisions made to the next suitable Cabinet.
- The Panel should at all times work to the agreed rules reflected in the DHLUC/BBC Memorandum of Understanding and any other further rules or best practice required by the funding body

**19. Functions Performed by The Stapleford Towns Deal Executive Board**

(Information to be added.)



Broxtowe  
Borough  
COUNCIL

# **Broxtowe Borough Council Constitution**

## **Chapter 3 – Part 1**

### **Scheme of Delegation**

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## **Chapter 3 Part 1: THE SCHEME OF DELEGATION**

### **Introduction to the Scheme of Delegation**

Under the Local Government Act 1972 and the Local Government Act 2000 the Council has arranged for the discharge of its functions and responsibilities by the Council bodies detailed below and as set out in the corresponding section of this Constitution:

- 1.1.1 The Council (Chapter 2 Part 1 & 2);
- 1.1.2 The Cabinet (Chapter 2 Part 3);
- 1.1.3 Committees (Chapter 2 Part 8 -17);
- 1.1.4 Officers (Chapter 3 this Part 1 – the Officer Scheme of Delegation);

The exercise of delegated powers is subject to the restrictions set out at paragraph 3 below:

Where a power has been delegated, the Council, Cabinet or Committee, or in the case of an Officer Sub-Delegation, the delegating Officer, may still exercise that power in a particular instance if considered appropriate. Equally, any matter may be referred up to the source of the delegation for determination.

Where the name of a post is changed, or its relevant functions become vested in a different post, any delegated powers possessed by the post shall be retained by the renamed post or transferred to the different post as the case may be. This includes any delegated powers vested in a post by resolution of the Council, the Cabinet, or a Committee/Sub Committee.

In the event of a restructure the Chief Executive shall have authority to re-allocate the delegated powers to other posts and shall give notice of this to the Monitoring Officer and the Head of Legal Services. Any use of the Chief Executive's exercise of this delegated power must be reported to the Council and/or to the Cabinet as soon as practicable.

### **The Officer Scheme of Delegation**

#### **1. Introduction to the Officer Scheme of Delegation**

- 1.1 This Officer Scheme of Delegation (OSD) is for the Officers of the Council. 'Officers' are defined as all employees and staff employed or engaged by the Council to carry out its functions. It includes those under short-term, agency, or other non-employed situations. It does not apply to any person employed by contractors who are carrying out work or duties for the Council under contracts.

- 1.2 The OSD has been adopted by the Council and sets out the extent to which the powers and duties of the Council are delegated to Officers under the Local Government Act 1972, the Local Government Act 2000 (as amended) and all other powers enabling the delegation of Executive and Non-Executive functions to Officers.
- 1.3 The OSD is intended to provide a streamlined, clear and simple decision-making process and empower Officers to carry out their functions and deliver the Council's services within the Budget and Policy Framework set by the Council, and subject to the guidelines set by the Council, the Cabinet and the Council's management team. The OSD should be interpreted widely.
- 1.4 All references to legislation shall be deemed to include any subsequent amendments to such legislation.
- 1.5 In this OSD references to powers and functions of 'the Council' include the powers and functions of the Cabinet (Executive).
- 1.6 The delegations under this OSD are intended to be cumulative. Each delegation may be read on its own unless it is specifically expressed to be subject to another.
- 1.7 An Officer to whom a power has been delegated may Sub-Delegate that power to another appropriate Officer(s) following consultation with the Chief Executive and Monitoring Officer. A record of any delegations shall be provided to the Monitoring Officer, Head of Legal and Head of Democratic Services for their records.
- 1.8 Where an Officer has delegated powers, the Council, the Cabinet, a Committee or a delegating Officer (as the case may be) can still exercise that power in a particular case if it considers it appropriate to do so. It remains open to an Officer not to exercise delegated powers and instead refer the matter up to the source of their delegated power for determination.

## **2. Functions which are Not Delegated**

- 2.1 This OSD does not delegate to Officers:
  - 2.1.1 any matter reserved to full Council by law or otherwise in accordance with this Constitution;
  - 2.1.2 any matter which by law may not be delegated to an Officer;
  - 2.1.3 any Key Decision;
  - 2.1.4 any matter expressly withdrawn from delegation by the Council, Committees, Leader or Cabinet or delegating Officer (as the case may be).

### **3. Restrictions**

#### **3.1** The exercise of delegated powers by an Officer is subject to:

3.1.1 any statutory restrictions;

3.1.2 the Budget and Policy framework;

3.1.3 any provision of this Constitution including the Financial Regulations, Procurement Regulations and Procedure Rules;

3.1.4 any financial limits set out in the revenue or capital budgets except as set out in the Financial Regulations set out at Chapter 4 Part 1&2;

3.1.5 any policy set by the Council or its Committees, the Cabinet, the Leader or Chief Executive;

3.1.6 the Employee Code of Conduct;

3.1.7 consultation (as applicable).

### **4. Consultation and Liaison**

**4.1** When exercising delegated powers Officers must consult as appropriate, give due regard to any advice received and keep Councillors and relevant other Officers properly informed of actions arising within the scope the delegation exercised.

### **5. Transfer of Functions**

**5.1** Where the name of a post is changed, or its relevant functions become vested in a different post, any delegated powers possessed by the post shall be retained by the renamed post or transferred to the different post as the case may be. This includes any delegated powers vested in a post by resolution of the Council, the Cabinet, or a Committee/Sub Committee.

**5.2** In the event of a restructure the Chief Executive shall have authority to re-allocate the delegated powers to other posts and shall give notice of this to the Monitoring Officer. Any use of this delegated power must be reported to the Council and/or to the Cabinet as soon as practicable.

### **6. Proper Officer Functions and Delegations**

**6.1** Officers designated by the Council as “Appropriate” or “Proper” Officer” for the purposes of any statutory function (including where necessary or convenient having regard to any professional or technical requirements of an Officer who is not an employee of the

Council) and their functions are set out at the Schedule of Proper Officer Functions & Delegations below.

## **7. The Council's Statutory Officers and Management Structure**

The Council shall engage such Officers as considered necessary for the discharge of its functions.

### *The Statutory Officers & The General Management Team*

#### **7.1** The Council's Statutory Officers are:

7.1.1 The Head of Paid Service (Chief Executive);

7.1.2 The Deputy Chief Executive/Section 151 Officer;

7.1.3 The Monitoring Officer.

#### **7.2** The Statutory Officers together with the Executive Director are the Council's 'Chief Officers' and comprise the Council's General Management Team.

### *The Senior Management Team*

#### **7.3** The Senior Officers listed below are part of the Council's Senior Management Team and they have delegated authority within the terms of this Constitution for their areas of responsibility as set out further below, without limitation, at paragraphs 13 – 24.

7.3.1 Head of Legal Services & Deputy Monitoring Officer;

7.3.2 Head of Democratic Services and Deputy Monitoring Officer;

7.3.3 Head of Finance Services;

7.3.4 Head of Planning & Economic Development;

7.3.5 Head of Asset Management;

7.3.6 Head of Housing;

7.3.7 Head of Environment Services;

7.3.8 Head of Revenue, Benefits & Customer Services;

7.3.9 Head of Administrative Services;

7.3.10 Chief Environmental Health Officer;



7.3.11 Chief Communities Officer.

7.4 The following Senior Officers are also members of the Council's Senior Management Team:

7.4.1 ICT and Business Transformation Manager;

7.4.2 Payroll and Job Evaluation Manager;

7.4.3 Health and Safety and Emergency Planning Manager;

7.4.4 ~~Corporate Communications Manager~~; **Communications, Cultural and Civic Services Manager.**

7.4.5 Human Resources Manager;

7.4.6 Commercial Manager.

**7.5 The Senior Officers of the Council are those who comprise the Senior Management Team as well as those who report directly to a Member of General Management Team as listed at paragraph 7.3 and 7.4.**

## **8. Delegation of General Powers**

**8.1** The delegation to Chief Officers and Senior Officers shall include:-

8.1.1 All powers under all present and future legislation relevant to their areas of responsibility and the discharge of their duties and functions, including all powers incidental and/or conducive to that legislation, their areas of responsibility and the discharge of their duties and functions. All such functions must be managed in accordance with Council policies, strategies and procedures and all applicable law. It shall be the responsibility of each chief Officer to liaise with their senior Officers as to the discharge of their delegated functions to ensure it aligns with corporate policy.

8.1.2 The power to authorise the exercise of the delegated powers of decision by such other Officers as may be deemed appropriate for the proper and efficient performance of the work. A record of any delegations shall be provided to the Monitoring Officer and Head of Legal and Head of Democratic Services (The Deputy Monitoring Officers) for their retention.

**8.2** If the Officer to whom a function has been delegated is unable to act due to a conflict of interest, a conflict of opinion with a Chief Officer or any other reason, then it is for the Chief Executive to determine who should exercise that function. If the Chief Executive is

unable to act due to a conflict of interest, or any other reason, then it is for the Section Deputy Chief Executive/Section 151 Officer to determine who should exercise that function. If the Chief Executive and Deputy Chief Executive/Section 151 Officer are unable to act due to a conflict of interest, or any other reason, then the function can be exercised by any Chief Officer from the General Management Team.

- 8.3 Subject to any statutory restrictions or as otherwise provided for in this Constitution, the powers of a Statutory Officer/Chief Officer, Proper Officer or Senior Officer may be exercised by their nominated deputies or any other authorised Officer.
- 8.4 A Statutory Officer/Chief Officer, Proper Officer or Senior Officer may, so far as permissible under the law or otherwise as provided for in this Constitution, sub-delegate their powers within their area of responsibility (including cross-service delegation where appropriate).

### **Chief Officer Responsibilities and Specific Delegated Powers**

Without limitation the responsibilities and specific delegated powers of the Chief Officers are as set out below.

#### **9. The Chief Executive (Head of Paid Service)**

- 9.1 To act as the Council's Head of Paid Service and to undertake the associated duties as set out in Section 4 of the Local Government and Housing Act 1989.
- 9.2 To lead, manage and direct all Officers of the Council in providing a corporate, co-ordinated, cross-functional approach towards Strategy and Policy Development and the delivery of services for the Council.
- 9.3 To deal with the grant and supervision of exemptions from political restrictions in respect of the relevant Council's posts.
- 9.4 To review the Whistleblowing Procedure for Employees.
- 9.5 To review the Employee Code of Conduct.
- 9.6 In consultation with the HR Manager, as considered necessary, to deal with all matters other than those reserved to the Council relating to the recruitment, appointment, remuneration, conditions of service, discipline, dismissal, superannuation, qualifications, training, job evaluation, promotion, safety and provision of welfare facilities of all employees of the Council (including settlement of claims up to £25,000 after consultation

with the Monitoring Officer and Deputy Chief Executive/Section 151 Officer) ~~if within existing budgets.~~

- 9.7 To act as the Council's Returning Officer for the elections of Councillors of the Borough, Electoral Registration Officer for the Borough and Proper Officer for Parish polls under the Local Government Act 1972.
- 9.8 To act as the Council's Emergency Planning Officer in both wartime and peacetime emergencies and to liaise as necessary with neighbouring authorities, government departments, agencies and other bodies.
- 9.9 To perform the functions of the Council in respect of crime reduction including the payment of grants within the policy and budget of the Crime and Disorder Reduction Partnership.
- 9.10 The Chief Executive, following consultation with the Leader of the Council and, where possible, the Leader of the Opposition, shall have the power to allocate any new functions of the Council, or a function which has not been allocated under this Scheme, to the Officer (including the Chief Executive), which the Chief Executive considers most appropriate to perform the function. This enhances delegated urgency powers to the Chief Executive in light of any pandemic or other such circumstances.
- 9.11 In consultation with the Leader of the Council, and other recognised group Leaders, to nominate or recommend any appointment to Liberty Leisure Ltd on behalf of the Council as shareholder.
- 9.12 In consultation with the Leader of the Council and where possible, the Leader of the Opposition to authorise the taking or carrying out of action, notwithstanding anything on the Council's Procedure Rules or Financial Regulations, where they consider that circumstances exist that make it expedient or necessary for action to be taken prior to the time when such action could be approved through the normal Council procedures. A report on such action, and the circumstances justifying the exercise of the delegated powers, shall be made to the next meeting of the Cabinet or Council, as appropriate.
- 9.13 Any action in accordance with the Council's agreed policies and procedures with respect to the recruitment, appointment, promotion, training, grading, discipline, determination of wages and salary scales, determination of allowances, determination and application of conditions of service, including but not limited to allocation of leave, honorariums, ill health retirement and determination of establishment.
- 9.14 To sign and seal documents on behalf of the Council, as required.

## **10. The Deputy Chief Executive/Section 151 Officer**

10.1 The Deputy Chief Executive shall deputise for the Chief Executive in their absence or where they are unable to act unless prohibited from doing so under the law or otherwise by any provision of this Constitution.

10.2 To perform the Council's commercial services function.

10.3 The Deputy Chief Executive is the Council's Deputy Chief Executive/Section 151 Officer and in such capacity:-

10.3.1 Ensuring Lawfulness and Financial Prudence in Decision-Making

After consulting with the Head of Paid Service and the Monitoring Officer, the Deputy Chief Executive/Section 151 Officer shall report to the Council, the Cabinet or appropriate Committee (as the case may be) and the Council's external auditor, any proposal, decision or course of action which in the opinion of the Deputy Chief Executive/Section 151 Officer will incur unlawful expenditure or is otherwise unlawful and likely to cause a loss or deficiency, or where the Council is about to enter an item of account unlawfully.

10.3.2 Administration of Financial Affairs

- (a) The Deputy Chief Executive/Section 151 Officer shall be responsible for the administration of the financial affairs of the Council pursuant to section 151 of the Local Government Act 1972;
- (b) 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;
- (c) To take any action to recover debts due to the Council and to write off debts considered to be irrecoverable for any proper reason;
- (d) To authorise arrangements for the disposal of surplus or obsolete assets and consequential accounting entries;
- (e) To determine all financial matters specified within statutory provisions and not reserved therein to the Council;
- (f) To allocate budgetary provision from approved contingencies and earmarked reserves;

- (g) To make arrangements for the provision of an internal audit service to the Council;
- (h) Negotiate and settle the Council's insurance claims through insurers up to a financial limit determined by policy;
- (i) Together with the Chief Executive and the Monitoring Officer 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 support and advise Councillors and Officers in their respective roles.

**10.4** In consultation with the Head of Finance and Head of Revenue, Benefits & Customer Services:

10.4.1 Give financial information and provide financial information to the media, Members of the public and the community;

10.4.2 Write off debts to the limit set in Financial Regulations;

10.4.3 Grant non-domestic rating discretionary relief;

10.4.4 Assess and determine applications regarding the Policy on Discretionary Council Tax Discounts.

**10.5** To discharge the Council's functions in respect of:

10.5.1 The Administration of benefits, including determination of entitlement and the award of discretionary housing benefits;

10.5.2 The Collection of revenues due to the Council under currently prevailing legislation relating to local government finance;

10.5.3 The Determination and declaration of the appropriate local average rate in March and September each year in respect of Council mortgages and perform and consequential administration;

10.5.4 Appearance at hearings of the Valuation Tribunal;

10.5.5 The recovery of rates and Council Tax including the appointment of enforcement agents for this purpose and the pursuit of court proceedings in consultation with the Head of Legal Services, where appropriate;

- 10.5.6 The Management of the Council's investments and debts, including the appointments of external investment managers and brokers, in accordance with the Council's adopted Treasury Policy Statement;
- 10.5.7 The Appointment of, and liaison with, insurers;
- 10.5.8 Unless otherwise delegated, the determination of tenders in respect of all activities in accordance with relevant legislative requirements and organisation and performance of all works in relation thereof;
- 10.5.9 The negotiation and acceptance of quotations from contractors for works classified as part of tenders within limits specified in the Financial Regulations;
- 10.5.10 The reduction or remittance of the charge for non-domestic rates on occupied and unoccupied properties on grounds of hardship, under Section 49 of the Local Government Finance Act 1988.

## **11. The Monitoring Officer**

- 11.1 The Monitoring Officer is the Council's Monitoring Officer for the purpose of section 5 of the Local Government and Housing Act 1989.
- 11.2 The Monitoring Officer has the following specific functions:
  - 11.2.1 To report to the Council, if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission would give rise to a finding of maladministration, after such consultation with the Chief Executive and the S151 Officer. Such a report, once issued, will have the effect of stopping the proposal or decision being implemented until the report has been considered;
  - 11.2.2 To maintain an up-to-date version of the Constitution and ensure that it is widely available to Members, staff and public, to include the recording of any changes ensuring that all administrative changes are made in consultation with the Chief Executive, Leader and Leader of the Opposition, save where such consultees object to the proposed changes in which case the matter shall be determined by the Council;
  - 11.2.3 To provide support and advice to the Council, Cabinet, Committees and Officers;
  - 11.2.4 To provide advice to all Members on issues in relation to the scope of powers and authority to take decisions, interests, maladministration, financial impropriety, probity and the Budget and Policy Framework;

11.2.5 In consultation with the with Head of Legal Services and/or other Senior Officer's as may be appropriate, deal with matters concerning regulators and Ombudsmen.

11.2.6 To determine corporate complaints and to make payments for maladministration and other similar compensation awards by the Council up to a limit of £5,000.

## **12. Executive Director**

~~12.1 To determine corporate complaints and to make payments for maladministration and other similar compensation awards by the Council up to a limit of £5,000.~~

12.2 To negotiate compensation claims by or against the Council up to the maximum currently set out in Financial Regulations in capital consideration in each case or weekly compensation not exceeding that sum in each case.

12.3 To perform the Council's, Environmental Services, Governance, Administration, Payroll and Job Evaluation, ICT and Business Transformation, Health, Safety and Emergency Planning, Corporate Communication and Civic Office functions.

12.4 To perform functions in relation to Climate Change matters.

12.5 To act as the Council's Data Protection Officer as required by relevant legislation.

12.6 To act as the Council's Senior Information Risk Owner (SIRO).

## **Senior Management Team Responsibilities and Specific Delegated Powers**

Without limitation the responsibilities and specific delegated powers of the Senior Management Team are as set out below.

## **13. Head of Legal Services and Deputy Monitoring Officer**

13.1 Legal services Affixing the Common Seal of the Council.

13.2 Certifying true copies.

13.3 To determine, authorise, issue and withdraw any Notice, decision, proceedings (to include criminal and civil proceedings) and appeals on behalf of the Council.

13.4 To exercise discretion in consultation with the S151 Officer to settle court and tribunal proceedings and other potential proceedings.

13.5 To authorise, in conjunction with the Chief Executive, Officers under Section 223 of the Local Government Act 1972 to appear on behalf of the Council in proceedings before

the Magistrates' Court where those Officers would otherwise not have rights of audience before the court.

- 13.6 To arrange and authorise the signing of a contract under seal such signing to be witnessed by an Officer or Member of the Council and registered in a book kept for that purpose by the Monitoring Officer.
- 13.7 To confirm unopposed public path orders and tree preservation orders.
- 13.8 To determine applications for the Register of Community Assets and applications for compensation.
- 13.9 To approve Wayleave Agreements.
- 13.10 To authorise any person or sign any Notice to enable the use of the Council's powers of entry to land or property including applications to the court to enforce or ensure that the power of entry can be exercised.
- 13.11 To determine, prepare and serve applications for Certificates of Lawful Use or Development notices and directions subject to prior approval with the Head of Planning and Economic Development or his or her nominated Officer.
- 13.12 To enter into an agreement regulating the development or use of land in consultation with the Head of Planning and Economic Development (Section 106 Town and Country Planning Act 1990).
- 13.13 To determine appeals in relation to compensation for matters relating to the Register of Community Assets.
- 13.14 To determine and issue any Notice, decision, proceedings, appeals not otherwise delegated to Officers (other than where prohibited by statute) or in circumstances where that Officer is unable to exercise his or her delegated authority.

#### **14. Head of Democratic Services & Deputy Monitoring Officer**

- 14.1 To perform, the Council's Democratic Service functions.

~~To perform the Council's Parking Services functions.~~

~~To perform the Council's Surveillance functions.~~



- 14.2 To perform the Council's Complaints functions.
- 14.3 To ensure that all decisions, reasons for those decisions, relevant Officer reports and background papers are made publicly available as soon as possible **and in accordance with the relevant legislation.**
- 14.8 ~~To act as the Council's Senior Responsible Officer under the Surveillance Commissioner Code of Practice.~~

## **15. Head of Finance Services**

- 15.1 To perform the Council's Financial Management functions to manage the finances in an efficient manner such that the Council has sufficient financial resources to enable it to successfully implement its policies and plans.
- 15.2 To perform the Council's Accountancy Services functions to prepare and monitor the Council's detailed financial plans and pay all creditors and collect all income due to the Council promptly.
- 15.3 To perform the Council's Treasury Management and Banking functions to manage the Council's debt portfolio, investments and banking arrangements, manage the risks associated with these activities and pursue optimum performance consistent with these risks.
- 15.4 To perform the Council's Internal Audit functions as a key component of the Council's governance framework to enhance and protect organisational value by providing risk-based and objective assurance, advice and insight.
- 15.5 To co-ordinate the Council's Fraud and Corruption prevention activity. The Council takes a zero-tolerance approach to fraud and corruption and is committed to establishing a strong anti-fraud and corruption culture.
- 15.6 To co-ordinate the Council's Business Planning and Performance Management framework, including support with the preparation of Business Plans and the suite of performance indicators and targets and the monitoring of these through the performance management system.
- 15.7 To perform the Council's Insurance and Risk Management functions to identify, arrange and monitor insurance requirements, including claims handling, and to implement risk management initiatives which minimise the risk of injury or loss to customers, employees and other stakeholders and safeguard the Council's assets.

15.8 To co-ordinate the Council's Procurement and Commissioning activity to improve the delivery and cost effectiveness of high quality services across the organisation through the promotion of effective, prudent and innovative procurement and commissioning practices.

15.9 To perform the Council's Grant Aid activity to process applications for grant aid from voluntary organisations and individuals involved in sports or the arts.

## **16. Head of Planning & Economic Development**

16.1 To perform the Council's Planning regeneration and development management functions.

16.2 To manage the Council's shared Building Control functions.

16.3 To perform the Council's Street works functions.

16.4 To perform the Council's Planning policy functions.

16.5 ~~To determine Planning applications accordingly.~~

16.6 To perform the Council's functions in relation to Economic Development, Investment Regeneration, and Local Enterprise Partnership.

16.7 To determine applications for planning permission, the need for prior approval, consent for the display of advertisements and listed building consent and the determination of or response to any other application or matter received in respect of the town and country planning function, (**excluding enforcement**) including Article 4 directions subject in each case to the proviso that any Member of the Council may bring the application before the Planning Committee for decision, and subject also to the provisos below:

16.7.1 Any application above that is

**i)** contrary to policy

**ii)** made by a Member of the Council or

**iii)** by an Officer involved in the planning process, namely: Directors, Heads of Service and employees of the planning and building control sections shall be referred to Planning Committee for decision;

16.7.2 In consultation with Ward Members, ~~and~~ the Chair and Vice Chair of the Planning Committee, the decision not to take enforcement action must only be made in consultation with the Head of Legal Services.

- 16.8 To determine planning enforcement action as may be necessary **having due regard to the ~~after-prior~~ consultation ~~response from~~ with** Ward Members, **and** the Chair of Planning Committee and the Head of Legal Services to include the:
- 16.8.1 Investigation leading to breach of condition notices;
  - 16.8.2 Investigation leading to enforcement notices and injunctions;
  - 16.8.3 Investigation leading to stop and temporary stop notices;
  - 16.8.4 Investigations leading to untidy land notices or community protection notices.
- 16.9 On a finding of breach of planning control, after consultation with Ward Members, Chair and Vice Chair of Planning Committee and Head of Legal Services to carry out the necessary action.**
- 16.10 To approve or reject plans deposited under the Building Regulations and to make a declaration that plans approved under the Building Regulations since 1 April 1974 are of no effect where work has not commenced on site within 3 years of deposit of plans.
- 16.11 To ~~perform~~ **manage** the Council's functions under the Building Act 1984 **as amended** to include the issue of Notices under Section 36 of the Building Act 1984 (removal or alterations of work done in breach of Building Regulations) in consultation with the Head of Legal Services.
- 16.12 To exercise all local authority functions under the currently subsisting Building Act and Building Regulations.
- 16.13 To issue Notices requiring advance payment of Private Street Works charges under Section 220 of the Highways Act 1980 and Exemption Notices under Section 219 of the Highways Act 1980.
- 16.14 To enforce in respect of complaints Part 8 of the Anti-Social Behaviour Act 2003, including high hedges.
- 16.15 To determine street naming and numbering.
- 16.16 To authorise suitable bidding requests for grant aid for shop fronts and industrial improvement.
- 16.17 Where Section 106 contributions have been approved at the relevant Committee to arrange payments of these in consultation with the Head of Legal Services.**

## **17. Head of Asset Management**

- 17.1 To deal with Capital Works Housing stock management and modernisations.
- 17.2 ~~To deal with Housing Repairs and Compliance matters.~~
- 17.3 **To approve bids and adaptations to Council properties up to a maximum of £30,000.**
- 17.3 House Building Delivery – To consider and recommend housing building schemes.
- 17.4 Estate Management - Property/land acquisition and disposal (except housing stock).
- 17.5 To carry into effect approved capital and revenue programmes with regard to the Council's housing stock.
- 17.6 To manage and maintain buildings and lands held for directorate purposes including public car parks, industrial and commercial property.
- 17.7 To operate civil parking enforcement on and off street including those vested in the Council via an agreement with the County Council as Traffic Authority; save for the consideration of parking appeals referred back to the Council by the Traffic Penalties Tribunal.
- 17.8 In common with the Head of Legal Services acquisitions, appropriations and disposals of land or property (except Council Houses) not exceeding the value currently set out in Financial Regulations.
- 17.9 To consider, negotiate and determine all of the Council's acquisitions, appropriations and disposals of any land or property (except Council houses), lettings, negotiations and settlement of leases and rents for Council owned land or property (except Council houses), easements, licences or other rights or interests affecting the land whether granted or to be granted to or by the Council not exceeding the rental or capital consideration currently set out in Financial Regulations and in accordance with the Council's land disposal policy.
- 17.10 To negotiate and accept quotations from contractors for such related works classified as part of tenders within limits specified in the Financial Regulations.
- 17.11 To perform the function of requesting the County Council to apply to the Secretary of State for the closure or diversion of a public right of way on the grounds of crime reduction, following consultation with any Ward Members and the Crime and Disorder Reduction Partnership, for the purposes of the Countryside and Rights of Way Act 2000.

17.12 To consider and recommend investment in, improvement of and carbon reduction of the Council's housing stock.

17.13 To negotiate and accept quotations from contractors for works to the Council housing stock classified as part of tenders within limits specified in the Financial Regulations.

## **18. Head of Housing**

18.1 Housing Operations Management -The Council's functions as a housing provider and as regards its housing stock and housing revenue account.

18.2 The Council's functions as regards homelessness.

18.3 ~~To deal with Income Management.~~

18.4 The Council's functions as regards to Housing Strategy.

18.5 To perform the Council's functions with regard to the Council's housing stock and housing revenue account property in accordance with all legislation relevant to housing and including homelessness, anti-social behaviour, **repairs** and allocations.

18.6 To carry into effect approved capital and revenue programmes and approved policies with regard to the Council's housing stock.

18.7 To approve conditions of sale and administer, in conjunction with the Head of Legal Services, the right to buy, voluntary sales schemes and property purchases.

18.8 To award compensation (**up to a maximum of £1000**) under the Secure Tenants of Local Authorities (Compensation for Improvement) Regulations 1994 (or other legislation) unless appropriate to exercise a discretion.18.9 To recover rent, rates (from the Council's housing stock), including the appointment of agents for this purpose and pursuit of Court proceedings.

18.10 ~~To approve bids and adaptations to Council properties up to a maximum of £30,000.~~

18.11 To consider and conduct reviews of Council ~~homeless decisions~~ and introductory tenancies.

**18.11 To deal with Housing Repairs and Compliance Matters.**

**18.12 In common with the Head of Legal Services deal with acquisitions, appropriations and disposals of Council Houses not exceeding the value currently set out in Financial Regulations.**

18.13 To consider, negotiate and determine all acquisitions, appropriations and disposals, lettings, negotiations and settlement of leases and rents for Council Houses not exceeding the rental or capital consideration currently set out in Financial Regulations and in accordance with relevant Council policies.

**19. Head of Environment Services**

19.1 To deal with Environmental services and waste collection services.

19.2 Vehicle, plant, equipment and facilities management, acquisition and disposal.

19.3 To deal with functions relating to Bereavement Services.

19.4 To carry into effect approved capital and revenue programmes with regards to the Council's vehicle fleet and improvements to public parks and green spaces.

19.5 To manage and maintain buildings and land held for Directorate purposes including Public Parks, Cemeteries, Woodlands, Play Areas, Recreational Grounds with associated Sports Facilities including Pavilions, Nature Reserves, The Nottingham Canal, public civil engineering assets and Allotments.

19.6 To manage and operate the licence, in accordance with statutory obligations, on behalf of the Council as Waste Collection Authority.

19.7 To manage and authorise the acquisition and disposal of all of the Council's vehicles and plant not exceeding the value currently set in the Financial Regulations.

19.8 To deal with all matters in relation to the provision of vehicles, facilities and equipment within the overall capital programme including power to negotiate and execute all leases for items of plant and equipment within the capital programme.

19.9 To establish and review as necessary internal rates in respect of labour, plant and materials.

**20. Head of Revenue, Benefits & Customer Services**

20.1 To perform the Council functions in relation to Revenue and benefits.

20.2 To perform the Council functions in relation to Customer Services Contact Centre.

20.3 To perform the Council functions in relation to Council Tax and Business Rates **including the assessment of all reliefs, discounts levy's and exemptions.**

20.4 To perform the Council's Quality & Control functions.

20.5 To appoint Officers (either internally or externally) to act on behalf of the Council to perform functions in relation to Revenues, Benefits and Customer Services.

## **21. Head of Administrative Services**

21.1 To perform the Council's Business Support functions.

21.2 To perform the Council's elections, electoral registration and Local Land Charges functions.

21.3 To perform the Council's Support Services & Cleaning functions.

21.4 To perform the Council's Information Governance functions

21.5 To perform the Council's Parking Services functions

21.6 To perform the Council's Surveillance functions

21.7 To act as the Council's Senior Responsible Officer under the Surveillance Commission Code of Practice

## **22. Chief Environmental Health Officer**

22.1 To perform the Council's functions, with regards to public protection and environmental health under all current and new relevant legislation to include anti-social behaviour, occupational health and safety, control of diseases, control of pollution, air quality, contaminated land, public health, drainage, statutory nuisance, verminous persons and property, animal health and welfare, private sector housing, Sunday trading, food and water supplies, environmental protection, health protection unlawful encampments and smoking and the regulation and deregulation of businesses.

22.2 To approve and authorise the payment of housing grants.

22.3 To implement property charges on dwellings in respect of aids and adaptations.

22.4 To consider, determine and issue all of the Council's applications for approvals, licences, permits and registration for the Directorate, and if applicable vary, refuse, revoke or suspend such approvals, licences, permits and registration in relation to relevant Council functions and under the relevant current and new legislation including (but not limited to)

- skin piercing and special treatments
- pleasure boats and vessels
- premises for the preparation of food (including the Food Hygiene Rating Scheme)

- animal activities including but not exclusively; dog breeding, pet vending, premises where animals are bred or kept as part of a business, animal boarding, animal trainers and exhibitors, riding establishments, zoos, dangerous wild animals, guard dogs
- house in multiple occupation
- mobile homes
- scrap metal dealers (except for refusals which will go to Committee)
- pollution control
- private water supplies
- health protection Liquor (Licensing Act 2003)
- Gambling (Gambling Act 2005)
- street collections
- house to house collections
- sex shops and cinemas
- massage and special treatment
- vehicles, drivers and operators
- hypnotism
- pavement licences
- Scrap Metal Dealers (Sites and Collectors)

22.5 To perform the role of Hearing Officer on an application to review a decision to issue possession proceedings on the absolute ground.

22.6 To determine and maintain a matrix of competency and scope of enforcement levels of officers within environmental health.

22.7 To administer Simple Cautions in conjunction with an officer from Legal Services.

22.8 To be appointed as an Inspector in pursuance of section 19 of the Health and Safety at Work etc. Act 1974 authorised to carry out the powers vested in Inspectors by sections 20, 21, 22 and 25 of the Act and also the several provisions mentioned in the third column of Schedule 1 to the 1974 Act and any regulations, orders and instruments made hereunder:

- To authorise persons accompanying them on inspections for the purposes of section 20(2)(c)(i) of the Act.
- To request prosecution proceedings under Section 39 of the Health & Safety at Work Etc. Act 1974.

22.9 To act as an authorised officer under Food Safety Act 1990.

22.10 To perform all the Council's functions with regard to moveable dwellings, caravan sites and unlawful encampments.

22.11 To perform the functions of the Council with respect to anti-social behaviour including Community Protection Notices and Fixed Penalties.



- 22.12 To enforce the powers of the Council in relation to smoking, save that the power to instigate legal proceedings is delegated to the Head of Legal Services.
- 22.13 To be authorised to carry out private sector housing functions including caravan sites, waste, filthy and verminous and HIMO's and improvement schemes (excluding Housing Act Notices, Grant Approvals and Licences).
- 22.14 To exercise powers not otherwise provided for by committee under the Licensing Act 2003 and the Gambling Act 2005, including providing for the discharge of the Authority's functions as a responsible authority within the meaning of the Licensing Act 2003 and the Gambling Act 2005.
- 22.15 To issue licences for hackney carriage and private hire vehicles which are outside the current age limits under the Council's Exceptional Condition policy.
- 22.16 To be authorised to carry out enforcement of all of the functions relating to the Licensing activities above (excluding the issue of Licences and Notices).

### **23. CHIEF COMMUNITIES OFFICER**

- 23.1 To perform the Council's functions, with regards to public protection and under all current and new relevant legislation to include anti-social behaviour and smoking.
- 23.2 To perform the Council's functions in the role of Independent Chair on an application to review Multi Agency Action in relation to community trigger applications (Anti-Social Behaviour Crime and Policing Act 2014).
- 23.3 To perform the Council's functions in authorising the issuing of Community Protection Warnings for Anti-Social Behaviour.
- 23.4 To perform the Council's functions with respect to anti-social behaviour including Community Protection Notices and Fixed Penalties.
- 23.5 To perform the Council's functions in enforcement of the powers of the Council in relation to smoking.
- 23.6 To perform the Council's functions in determining applications for Sanctuary Scheme in accordance with the Sanctuary Scheme Policy.
- 23.7 To perform the Council's functions in managing secure systems for Multi-Agency information **sharing and Key Individuals Network Contact Systems**.
- 23.8 ~~To perform the Council's functions in managing the Local Strategic Partnership and Community Safety Partnership sharing and Key Individuals Network Contact Systems.~~

- 23.9 To perform the Council's functions in managing the Local Strategic Partnership and Community Safety Partnership.
- 23.10 To perform the Council's functions in managing Partnership finances on behalf of South Notts Community Safety Partnership.
- 23.11 To perform the Council's functions in commissioning Domestic Homicide Reviews.
- 23.12 To perform the Council's functions in managing the Vetting Procedure.
- 23.13 To perform the Council's functions in managing and perform the role of Chair the Anti-Social behaviour and Complex Case Panel.
- 23.14 To perform the Council's functions in determining Safeguarding referrals and referrals into other services or agencies.
- 23.15 To perform the Council's functions in determining applications for sharing personal information without consent in relation to vulnerable people.
- 23.16 To perform the Council's functions in determining referrals for Child Criminal Exploitation, Child Sexual Exploitation, PREVENT, Modern Slavery and Trafficking.
- 23.17 To perform the Council's functions in relation to Section 11 Children Act 2004 and Safeguarding Assurance Returns.

## **24. SEALING**

- 24.1 The common seal of the Council shall be kept in a safe place in the custody of the Legal team.
- 24.2 The common seal of the Council shall only be affixed to a document on the authority of a Proper Officer, as detailed in the Schedule of Proper Officer Functions and Delegations or otherwise on the authority of the Council, or other Officer with delegated authority to commit the Council to enter into an instrument to which the Council's seal should be affixed.
- 24.3 An entry of every sealing of a document shall be made, and numbered consecutively, in a book kept for that purpose by the Monitoring Officer, and shall identify the persons who shall have attested the seal and the date when the seal was affixed. The seal may be witnessed and attested by any Officer or Member of the Council.

### **Schedule of Proper Officer Functions and Delegations**

The Council has approved the appointment of the following Officers as Proper Officers.

**The Chief Executive** shall act as the Proper Officer in relation to any other enactment where specific arrangements have not been made under the following provisions.

**The Deputy Chief Executive/Section 151 Officer** shall act as the Proper Officer in respect of any other statute where specific arrangements for financial matters have not been made under the following provisions.

**The Monitoring Officer** shall act as the Proper Officer in respect of any other statute where specific arrangements for legal matters have not been made under the following provisions.

Proper Officer functions may be discharged by their Deputies or any other Officers duly authorised to act in the name of the Proper Officer concerned.

If the Officer to whom a function has been delegated is unable to act due to a conflict of interest or any other reason, then it is for the Chief Executive to determine who should exercise that function. If the Chief Executive is unable to act due to a conflict of interest, or any other reason, then it is for the Deputy Chief Executive/Section 151 Officer to determine who should exercise that function. If both the Chief Executive and Section 151 Officer is unable to act then the powers shall be exercisable by any other Chief Officer of the Council's General Management Team.

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
<b>PUBLIC HEALTH ACT 1936</b>			
S.79	Power to require removal of noxious matter	Chief Executive	Chief Environmental Officer
S.84	Certificate relating to cleansing or destruction of filthy or verminous items	Chief Executive	Chief Environmental Officer
S.85(2)	Cleansing of verminous persons or articles	Chief Executive	Chief Environmental Health Officer
<b>LOCAL GOVERNMENT ACT 1972</b>			
S.83 (1) to (4)	Witness and receipt of Declaration of Acceptance of Office	Monitoring Officer	Chief Executive
S.84	Receipt of notice of resignation of Elected Member	Chief Executive	Deputy Chief Executive/Section 151 Officer

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
S.88(2)	Arranging a Council meeting to appoint to Chair of the Council	Chief Executive	Monitoring Officer
S.89(1)	Notice of casual vacancy	Chief Executive	Monitoring Officer
S.100B(2)	The Officer also may exclude from agendas any information which is likely to be dealt with in the absence of press and public	Monitoring Officer	Head of Democratic Services
S.100B(7)	Disclosure to newspapers of a copy of the agenda and/or any further copies of documents in connection with the item.	Monitoring Officer	Head of Democratic Services
S.100C(2)	Where parts of the published minutes have not been disclosed due to exempt information and the document does not provide members of the public with a reasonably fair and coherent record than the proper officer shall prepare a written summary of the proceedings at Cabinet/ Committees and Sub-Committees	Monitoring Officer	Head of Democratic Services
S.100D(1) and (5)	The Officer responsible for identifying and compiling lists of background papers	Officer supporting the portfolio holder to compile the report.	The Director of the service compiling the report.
S.100F(2)	The Officer making decisions as to documents disclosing exempt information which are not required to be open to inspection by Council Members	Chief Executive	Monitoring Officer

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
S.115(2)	Receipt of money due from Officers	Deputy Chief Executive/Section 151 Officer	Head of Finance Services
S.137 and 137A	Receipt of statement provided in relation to financial assistance	Deputy Chief Executive/Section 151 Officer	Head of Finance Services
S.146(1) (a) and (b)	Declarations and certificates with regard to transfer of securities	Deputy Chief Executive/Section 151 Officer	Head of Finance Services
S.151 (and S.114 Local Government Finance Act 1988)	The Officer responsible for the proper administration of the Council's financial affairs	Deputy Chief Executive/Section 151 Officer	Head of Finance Services
S.191	Officer to whom an application under S.1 of the Ordnance Survey Act 1841 will be sent	Head of Legal Services	Head of Planning and Economic Development
S.210	Charity functions of predecessor authorities transferred to the Council	Chief Executive	Monitoring Officer
S.225	Deposit of documents	Chief Executive	Head of Legal Services
S.228(3)	Accounts for inspection by any Member of the Council	Deputy Chief Executive/Section 151 Officer	Chief Executive
S.229(5)	Certification of photographic copies of documents	Monitoring Officer	Head of Legal Services

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
S.234	Officer who may authenticate documents	Monitoring Officer	Head of Legal Services
S.236(9) and (10)	Sending of copies of byelaws to Parish Councils, Parish meetings and County Council	Monitoring Officer	Head of Legal Services
S.238	Certification of byelaws	Monitoring Officer	Head of Legal Services
S.248	Officer who will keep the Roll of Freemen	Chief Executive	Monitoring Officer
Para 4(2)(b) of Schedule 12	Signing of summons to Council meeting	Chief Executive	Monitoring Officer
Para 25 of Schedule 14	Certification of resolution passed under this paragraph	Monitoring Officer	Chief Executive
Schedule 29	To undertake those duties which arise at District and Parish Council elections which, under the Representation of the People Acts, are required to be undertaken not by the Returning Officer but by the Proper Officer.	Chief Executive	Head of Administrative Services
<b>LOCAL GOVERNMENT ACT 1974</b>			
S.30(5)	To give notice that copies of an Ombudsman's report are available	Monitoring Officer	Chief Executive
<b>LOCAL LAND CHARGES ACT 1975</b>			
	Local Land Charges Registrar under the Land Charges Rules	Chief Executive	Head of Legal Services
<b>LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>			
S.41(1)	The Officer who will certify copies of evidence of resolutions and minutes of proceedings	Monitoring Officer	Chief Executive
<b>REPRESENTATION OF THE PEOPLE ACT 1983</b>			

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
S.8	Electoral Registration Officer	Chief Executive	Head of Administrative Services
S.35	Returning Officer for local elections	Chief Executive	Head of Administrative Services
S.52(2)	Deputy Electoral Registration Officer	Head of Administrative Services	Chief Executive
S.67	Acting as the appropriate person for the purposes of Part II	Chief Executive	Head of Administrative Services
S.128	Publishing a petition questioning a local election	Chief Executive	Head of Administrative Services
S.131	Providing suitable accommodation for election court	Chief Executive	Head of Administrative Services
S.145	Receipt of High Court Certificate at the conclusion of trial of local election petition	Chief Executive	Head of Administrative Services
S.200	Posting notices required in relation to local elections	Chief Executive	Head of Administrative Services
Paragraphs 3, 6 and 8 of Schedule 4	Receipt of an election expense declarations and returns and the holding of those documents for public inspection	Chief Executive	Head of Administrative Services
<b>PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984</b>			
S.48	To issue certificates relative to the removal of bodies to mortuaries or for immediate burial	All Lead Consultants from Public Health England (East Midlands)	Chief Executive
S.60	Service of notices and other documents	Chief Executive	Chief Environmental Health Officer
s.61	Powers to enter premises	Chief Executive	Chief Environmental Health Officer
<b>BUILDING ACT 1984</b>			

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
S.35A	Certifying evidence is sufficient to justify commencing proceedings for contravention of building regulations	Chief Executive	Head of Legal Services
S.61	Access to work to repair drain	Chief Executive	Head of Legal Services/Chief Environmental Health Officer
S.78	Taking immediate action in relation to dangerous building	Chief Executive	Head of Legal Services/Chief Environmental Health Officer
S.93	Authentication of documents	Chief Executive	Head of Legal Services
<b>NOTTINGHAMSHIRE COUNTY COUNCIL ACT 1985</b>			
Part II	Public Health	Chief Executive	Chief Environmental Health Officer
Part III	Public Order & Safety	Chief Executive	Chief Environmental Health Officer
Part IV	Establishments for massages or special treatment	Chief Executive	Chief Environmental Health Officer
<b>LOCAL GOVERNMENT FINANCE ACT 1988</b>			
S114A, 115	Responsibility for Chief Financial Officer Reports.	Section 151 Officer	Chief Executive
S. 116	Notify auditor of meeting to consider financial report to the authority and decision at that meeting	Section 151 Officer	Chief Executive
<b>LOCAL GOVERNMENT AND HOUSING ACT 1989</b>			
S.2(4)	Recipient of the list of politically restricted posts	Monitoring Officer	Chief Executive
S.4	Designation and reports of head of paid service	Deputy Chief Executive/S151 Officer	Chief Executive
S.5 (as amended by para 24 of schedule 5 of	Designation and reports of Monitoring Officer	Monitoring Officer	Chief Executive



<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
the Local Government Act 2000)			
S.15,16	To undertake all matters relating to the formal establishment of political groups within the membership of the Council	Chief Executive	Deputy Chief Executive/Section 151 Officer
<b>LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990 NO. 1553</b>			
	For the purposes of the composition of Committees and nominations to political groups	Monitoring Officer	Chief Executive
<b>FOOD SAFETY ACT 1990</b>			
s.5(6)	Authorised Officer for the purposes of the Council's functions	Chief Executive	Environmental Health Officers and Environmental Health Technical Officers
<b>ENVIRONMENTAL PROTECTION ACT 1990</b>			
S.149	Relating to stray dogs	Executive Director	Head of Environment
Part III	Relating to statutory nuisances	Chief Executive	Chief Environmental Health Officer
<b>DATA PROTECTION ACT 1998</b>			
	Data Protection Officer/Senior Information RiskOwner	Executive Director	Chief Executive
<b>FREEDOM OF INFORMATION ACT 2000</b>			
s.36 (2) and (5)	The qualified person for the purposes of deciding whether information is exempt from disclosure to the public relating to the prejudice to the conduct of public affairs	Monitoring Officer	Chief Executive
S.36	Determination of all exemptions apart from those relating to the prejudice to the conduct of public affairs	Monitoring Officer	Chief Executive

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
<b>LOCAL GOVERNMENT ACT 2000</b>			
S.52	Undertakings by Members and co-opted Members to observe the Council's Code of Conduct	Monitoring Officer	Chief Executive
<b>REGULATION OF INVESTIGATORY POWERS ACT 2000</b>			
	Authorising Officer and Designated Person for the use of surveillance and the acquisition and disclosure of communications data	Deputy Chief Executive/Section 151 Officer , Head of Legal Services, Head of Housing, Head of Revs and Bens.	Chief Executive
<b>LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS AND DIRECTIONS) (ENGLAND) REGULATIONS 2011 NO. 2914</b>			
Regulation 4	Publish the number that is equal to 5 per cent of the number of local government electors for the authority's area	Chief Executive	Head of Administrative Services
Regulation 7	Post announcement and post directions – petitions	Chief Executive	Head of Administrative Services
Regulation 8	Amalgamation of petitions	Chief Executive	Head of Administrative Services
Regulation 11	Procedure on receipt of petition	Chief Executive	Head of Administrative Services
Regulation 13	Publicity for valid petitions	Chief Executive	Head of Administrative Services
Regulation 14	Publicity for invalid petitions	Chief Executive	Head of Administrative Services
Regulation 19	Action following direction	Chief Executive	Head of Administrative Services
<b>THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) ACCESS TO INFORMATION (ENGLAND) REGULATIONS 2012 NO.2089</b>			
Regulation 12	Recording of Executive decisions made at meetings	Monitoring Officer	Head of Democratic Services
Regulation 13	Recording of Executive decisions made by individual	Monitoring Officer	Head of Democratic Services

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
	Members		
Regulation 14	Making documents available for inspection following Executive decisions	Monitoring Officer	Head of Democratic Services
Regulation 5	Compiling list of background papers for inspection	Monitoring Officer	Head of Democratic Services
Regulation 15	Making report and background papers relating to key decision available for inspection	Monitoring Officer	Head of Democratic Services
Regulation 7	Access to agenda and connected reports	Monitoring Officer	Head of Democratic Services
Regulation 9	Publicity in connection with key decisions	Monitoring Officer	Head of Democratic Services
Regulation 10	General exception	Monitoring Officer	Head of Democratic Services
Regulation 16	Members' rights of access to documents	Monitoring Officer	Head of Democratic Services
Regulation 20	Confidential/exempt information and exclusion of public from meetings	Monitoring Officer	Head of Democratic Services
<b>LOCAL AUTHORITIES (MEMBERS' ALLOWANCES) (ENGLAND) REGULATIONS 2003</b>			
Regulation 13	Receipt of notice in writing that a Councillor wishes to forgo any part of his entitlement to an allowance	Chief Executive	Deputy Chief Executive/Section 151 Officer
<b>HOUSING ACT 2004</b>			
Section 4	Where an official complaint about the condition of any residential premises in the district of a local housing authority is made to the proper Officer of the authority, and the circumstances complained of indicate – a) That any category 1 or category 2 hazard may exist on those premises, or	Chief Executive	Chief Environmental Health Officer

<b>STATUTE OR REGULATION</b>	<b>ACTION</b>	<b>PROPER OFFICER</b>	<b>SUBSTITUTE PROPER OFFICER</b>
	b) That an area in the district should be dealt with as a clearance area, the proper Officer must inspect the premises or area.		
<b>LOCAL ELECTIONS (PARISHES AND COMMUNITIES) (ENGLAND AND WALES) RULES 2006 NO. 3305</b>			
Rule 5	Receipt of request to fill a casual vacancy in the office of a Parish or Community Councillor	Chief Executive	Head of Administrative Services
Paragraph 50 of Schedule 2	Receipt of declaration of result in Parish or Community election	Chief Executive	Head of Administrative Services
<b>THE LOCAL AUTHORITIES (MAYORAL ELECTIONS) (ENGLAND AND WALES) REGULATIONS 2007 NO.1024</b>			
Paragraph 54 of Schedule 1	Receive declaration of result	Chief Executive	Head of Administrative Services
<b>LOCAL AUTHORITIES (CONDUCT OF REFERENDUMS) (ENGLAND) REGULATIONS 2012 NO 323</b>			
Regulation 4	Publicity in connection with referendums	Chief Executive	Head of Administrative Services
Paragraphs 41 and 43 of Schedule 5	Receive declaration of result	Chief Executive	Head of Administrative Services

### **Authentication of Documents**

Any notice, order or other document which the Council are authorised or required by or under any enactment (including the Local Government Act 1972) to give, make or issue shall be signed or sealed on behalf of the Council by the proper Officer of the Council as defined below.

<b>Proper Officer</b>	<b>Substitute</b>	<b>Purpose</b>

Chief Executive	Appropriate Member of GMT	In accordance with their functions highlighted in the Constitution and the Proper Officer functions
Deputy Chief Executive/Section 151 Officer	Head of Finance Services	In accordance with their functions highlighted in the Constitution and the Proper Officer functions
Monitoring Officer	Head of Planning & Economic Development Head of Administrative Services Head of Legal Services & Deputy Monitoring Officer	In accordance with their functions highlighted in the Constitution and the Proper Officer functions
Head of Legal Services	Chief Executive	In accordance with their functions highlighted in the Constitution and the Proper Officer functions
Chief Environmental Health Officer	Chief Executive	In accordance with their functions highlighted in the Constitution and the Proper Officer functions
Head of Asset Management	Chief Executive	In accordance with their functions highlighted in the Constitution and the Proper Officer functions
Head of Planning and Economic Development	Chief Executive	In accordance with their functions highlighted in the Constitution and the

		Proper Officer functions
Head of Housing	Chief Executive	In accordance with their functions highlighted in the Constitution and the Proper Officer functions

# **Broxtowe Borough Council Constitution**

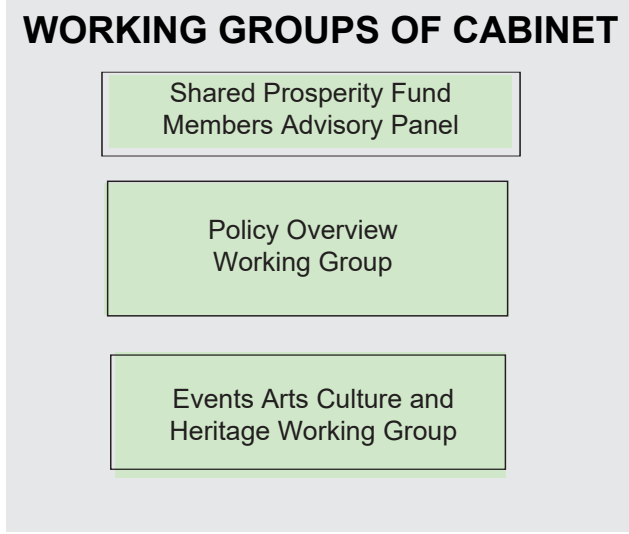
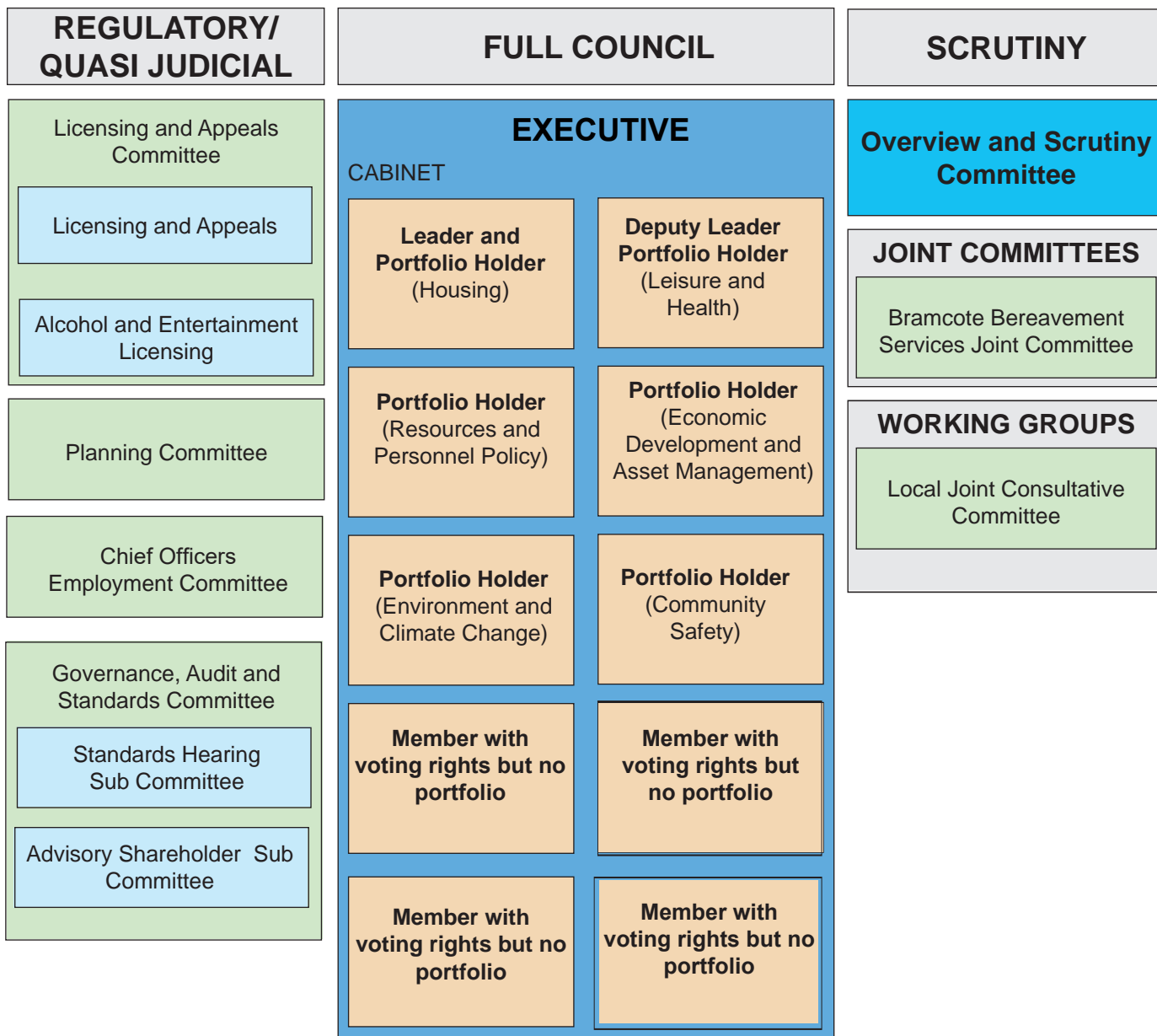
## **Chapter 6 – Appendix 1**

### **Governance Structure Chart**

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# Governance Arrangements



**Notes:**

- No Executive Members can be on Scrutiny Committees
- Collective decision making by Cabinet
- Portfolio holders cannot be Chair of regulatory Committees
- Proportionality must be observed across non- Executive Committees

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## Report of the Deputy Chief Executive

**REVIEW OF FINANCIAL PROCEDURE RULES, INCLUDING CONTRACT PROCEDURE RULES**1. Purpose of Report

To report on the annual review of the Council's Financial Procedure Rules, including the Contract Procedure Rules; to consider the proposed changes made to the rules and to recommend onto Council that these updated rules are adopted as part of the Council's Constitution.

2. Recommendation

**The Committee is asked to CONSIDER the updated Financial Procedure Rules, including the Contract Procedure Rules, and to RECOMMEND to Council that these be approved.**

3. Detail

Under its terms of reference, this Committee is tasked with an overview of the Council's Constitution and consideration of proposed amendments or revisions to the Constitution including the Schemes of Delegation, Procedure Rules and Protocols; and to recommend to the Council amendments to this Constitution.

The annual review of the Council's Financial Procedure Rules, including the Contract Procedure Rules, has been completed. These rules, formerly referred to as Financial Regulations and Contract Standing Orders, are designed to assist the Council to regulate and control the finances of all directorates and services. These rules are fundamental to maintaining acceptable standards of financial administration, supporting good governance and the performance of functions across all areas of service delivery. As a contractual condition of employment, every employee shall comply with these rules when carrying out their duties.

A brief overview and summary of the changes made to the rules are provided in appendix 1, whilst the updated versions of the Financial Procedure Rules and the Contract Procedure Rules are provided at appendix 3 and 4 respectively.

The documents were benchmarked against other district councils and have been subsequently reviewed by General Management Team. Whilst leading Members were provided with the opportunity to feedback on the existing regulations, it is acknowledged that there has only been limited time for Member engagement given the timing of the Borough elections. It is noted though that the Financial Procedure Rules are subject to periodic review, so any further changes required can be considered again as part of the next annual review of the Constitution.

4. Financial Implications

The comments from the Head of Finance Services were as follows:

The Financial Procedure Rules are designed to assist the Council to regulate and control the finances of all directorates and services of the Council. The rules are fundamental to maintaining acceptable standards of financial administration, supporting good governance and the performance of functions across all areas of service delivery.

5. Legal Implications

The comments from the Head of Legal Services and Deputy Monitoring Officer were as follows:

Section 37 of the Local Government Act 2000 requires local authorities operating executive arrangements to prepare and keep up to date a document which contains:

- (a) such information as the Secretary of State may direct
- (b) the authority's standing orders (i.e. rules of procedure)
- (c) the Code of Conduct for Members
- (d) such information as the authority considers appropriate.

Broxtowe Borough Council's Constitution is available on the Council's website

6. Human Resources Implications

There were no comments from the Human Resources Manager.

7. Union Comments

There were no Union comments in relation to this report.

8. Data Protection Compliance Implications

There are no Data Protection issues in relation to this report.

9. Equality Impact Assessment

As there is no change to policy an equality impact assessment is not required.

10. Background Papers

Nil

## APPENDIX 1

## UPDATES TO FINANCIAL PROCEDURE RULES

1. Financial Procedure Rules

The Financial Procedure Rules (formerly referred to as Financial Regulations) are designed to assist the Council to regulate and control the finances of all directorates and services of the Council. Section 151 of the Local Government Act 1972 requires that '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 Deputy Chief Executive is the 'Section 151 Officer' so responsible and, as such, he will exercise control over accounting arrangements and obtain uniformity therein throughout all directorates and services of the Council.

The review of the Financial Procedure Rules has been undertaken to ensure these remain fit-for-purpose, comply with the relevant legislation and regulations and meet the current and future requirements of the Council. The process has included a complete review of the rules and benchmarking against similar documents published by other local district councils.

The existing Financial Regulations were found to be generally effective but did require some update in terms of process and to specified delegated limits, which have not been refreshed for many years.

In addition to some minor wording updates, the main changes relate to the inclusion of new sections and increases in delegated limits which have not been updated in recent years, as follows:

Section	Updates
2. Budget	<p>Updates to budget virement limits, with better clarification at 2.7.2 including delegated limits and for Cabinet approval to be required for amounts above the limit.</p> <p>New addition at 2.7.3 to allow for capital budget virement by the Deputy Chief Executive from any remaining approved capital contingency budget of up to £25k.</p>
4. Audits	Slight refinement, particularly at 4.4, to better reflect the current Public Sector Internal Audit Standards and reference to counter fraud and corruption policy.
5. Income	Update of write-off limits at section 5.9 to increase the delegated limit from £1,200 to £7,500. Benchmarking has suggested that this limit is still lower than some district authorities in Nottinghamshire.

Section	Updates
6. Banking Arrangements 10. Payment of Accounts	Minor updates to emphasise payments now by electronic methods with cheques only used in the most exceptional of circumstances.
14. Council Assets and Properties	Updated section title and at section 14.3 to increase delegated limit from £20k to £25k for all acquisitions and appropriations of land or property (except Council houses) and to refer to the addition of the new section 'Sale of Council Assets' at 14.6 to 14.11 which has been moved from the earlier Contract Standing Orders.
15. Stocks and Stores	Update to stores write-off limits at 15.8 to increase the values before a report to Cabinet is required to approve the disposal of surplus or obsolete materials, stores or equipment. This now aligns with delegated limits for debt write-off.
21. External Arrangements	New section inserted to refer to partnership arrangements and external funding
24. Failure to comply with and Interpretation of Rules	New addition at section 24.1 regarding failure to comply with rules.

## 2. Contract Procedure Rules

The review has been undertaken to ensure the Contract Procedure Rules are compliant with procurement regulations; meet the current needs of the Council; and allow for future procurement legislative requirements.

The process has included a complete review of the document and benchmarking against similar documents published at local authorities, including Derby City Council, Nottingham City Council and Derbyshire Dales District Council.

The main objectives underpinning the review were to:

- Allow for greater flexibility in the Council's approach to procurement
- Allow for the implementation of new Procurement Regulations (UK Procurement Law) anticipated early 2024
- Allow for changes in UK Procurement Thresholds; and
- Structure the rules in a more logical order.

The Contract Procedure Rules have been largely re-written. The following table shows the list of the key areas for review, considered to be either important, new or materially changed:

Material Changes to Chapter 4 – Part 2 Financial Procedure Rules (Contracts)

Section/Area	Current Rules and Process	Proposed Rules/Process	Reason for Change
<p><b>Section 11.6/11.7 – Pre-Procurement Approvals</b></p>	<p>Not applicable</p>	<p>Where the Contract Value is above £25,000 or when procurement involvement is required, a Procurement Approval Form is to be completed by the Procuring Officer and signed by the Head of Service.</p> <p>A ‘Broxtowe Procurement’ (BP) reference number will be allocated to the process to uniquely identify the procurement project.</p>	<p>There is no current pre-approval process for procurement projects. This proposed process will ensure Head of Service awareness and budget approval and allow transparency to the procurement officer of Council contracts.</p> <p>A unique reference number will help with audit trails and identifying particular projects.</p>
<p><b>Section 28 – Award Procedure and Internal Approvals</b></p>	<p>Deputy Chief Executive approves contract awards above £25,000.</p> <p>The appropriate Committee can if a tender is above budget provision.</p>	<p>For contracts values below £100,000 and within the stated budget, Head of Service approval is required. If a competitive tendering process has been undertaken the Deputy Chief Executive needs to approve it.</p> <p>For contracts values in excess of £100,000 and within the stated budget, an evaluation report with a recommendation, should be presented to the Deputy Chief Executive for approval, unless previously decided that Cabinet approval is required.</p>	<p>Updating the process to take account of the updated Contract Value thresholds in Appendix A and to make process clearer. It also adds the reminder of ‘Key decisions’ if report is going to Cabinet.</p>

Section/Area	Current Rules and Process	Proposed Rules/Process	Reason for Change
		<p>Where it has been decided before the procurement process that Cabinet approval is required, a report shall be submitted to Cabinet as to the bid that should be accepted and the basis for such a recommendation. Where the value of the expenditure / income is greater than £250,000 and affects more than two wards, it needs to meet the deadlines required for the Key Decision process.</p>	
<p>Page 20 Section 30 and Appendix A – Contract Approval and Signing</p>	<p>Contract terms and conditions needed consultation with the Head of Legal Services and the Procurement Officer if value is below £25,000.</p>	<p>The contract only needs consultation with Head of Legal Services if below £25,000.</p> <p>Confirmation that use of suppliers terms and conditions above £25,000 needs Head of Legal Services approval.</p> <p>Confirmation of types of contract signature that are acceptable.</p> <p>ICT to also give approval for ICT related contract terms and conditions.</p>	<p>Unclear why the Procurement Officer also needed to see contract terms and conditions for values under £25,000.</p> <p>Added reference to use of suppliers terms and conditions.</p> <p>Added types of signature that are acceptable as there was no reference to this.</p> <p>Added ICT input for contracts relating to ICT to use their expertise.</p>
<p>Section 36 - Information Communication Technology</p>	<p>No distinction between ICT contracts and any other contract.</p>	<p>Description of process and approvals relating to existing software. This may be ‘maintain’, ‘enhance’ existing software or ‘purchase’ new software.</p>	<p>To formally document this process.</p>



Section/Area	Current Rules and Process	Proposed Rules/Process	Reason for Change
<b>Section 40 – Externally Funded Projects</b>	No reference to managing projects that have external funding.	Requirement to ensure procuring officer understands the rules for spending the external funding and to keep appropriate records.	To make reference that the spend of external funding follows our procurement rules unless there are separate conditions relating to the granting of the external funding.
<b>Section 48 – Waivers (exemption to these Rules)</b>	Exemption to rules required from Chief Executive or Deputy Chief Executive and then reported to Committee	<p>Introduction of three types of waiver and detail on the process and reporting requirements.</p> <p>Deputy Chief Executive approval (Directorate Waiver), if Contract Value is below £100,000.</p> <p>Cabinet approval (Cabinet Waiver) if Contract Value is above £100,000</p> <p>Chief Executive or duly nominated representative approval (Urgent Waiver), if Contract Value is above £100,000, in cases of urgency.</p> <p>List of reasons provided for a Waiver.</p> <p>Requirement for Cabinet to approve ‘waivers’ above £100,000.</p>	<p>Clearer process proposed and reference to having a contract as limited information on current process.</p> <p>Allowance for ‘Directorate’ waiver to these rules to increase flexibility. All waivers to be justified and transparent.</p> <p>Classification of different levels of Waiver.</p> <p>Likely to increase transparency of such contracts as process is clearer and identifies areas where a contract may need tendering in the near future.</p>
<b>Appendix A – Contract Values and procurement Processes</b>	Very Low Value – Below £1,000 Ensure Value for Money	<p>Very Low Value – Below £25,000 Senior Officer decides if quotes needed.</p> <p>Low Value – £25,000 to £100,000 – three quotes minimum to be requested.</p>	Increased thresholds to allow more flexibility and quicker procurement processes, still with the requirement of value for money.

Section/Area	Current Rules and Process	Proposed Rules/Process	Reason for Change
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 122</p>	<p>Low Value - From £1,000 to £25,000 – Obtain three quotations (note)</p> <p>Medium Value - From £25,000 to OJEU threshold - Conduct Tender exercise (Procurement)</p> <p>Above Threshold - Over OJEU threshold - Conduct Tender exercise</p> <p><i>Note: The relevant Senior Officer (as defined in the Scheme of Delegation) can decide if quotations are needed and/or are appropriate in order to demonstrate Value for Money</i></p>	<p>Medium Value – £100,001 to UK Procurement Threshold (Currently £177k) – Competitive Tendering Process</p> <p>High Value – Above UK Procurement Threshold (currently £177k) – Competitive Tendering Process as dictated by UK Procurement</p> <p>ICT Existing Software licensing and maintenance - Below UK Procurement Threshold – Direct Award if not tendering out.</p>	<p>Increase in thresholds does not prevent competitive tendering below £100,000 if appropriate.</p> <p>Treating ICT Existing Software renewals so that direct awards are allowed up to the UK Procurement Threshold, when the process in section 36 has been followed.</p>

## APPENDIX 2

**BROXTOWE BOROUGH COUNCIL CONSTITUTION  
CHAPTER 4 PART 1: FINANCIAL PROCEDURE RULES****1. GENERAL**

- 1.1 This Code of Financial Procedure Rules is designed to assist the Council to regulate and control the finances of all directorates and services of the Council.
- 1.2 Section 151 of the Local Government Act 1972 requires that “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”. In Broxtowe Borough Council, the Deputy Chief Executive is the Officer so responsible (the ‘Section 151 Officer’).
- 1.3 As such, the Deputy Chief Executive will exercise control over accounting arrangements and obtain uniformity therein throughout all directorates and services of the Council.
- 1.4 Each Chief Officer shall consult the Deputy Chief Executive regarding any matter within their purview which is liable materially to affect the finances of the Council, before any provisional or other commitment is incurred or before reporting thereon to the Cabinet. All Officers have responsibility for financial matters within their purview. Chief Officers are responsible for developing estimates and the Deputy Chief Executive is responsible for ensuring that they are robust and that there are sufficient reserves to deal with any unforeseen circumstances.
- 1.5 In these Financial Procedure Rules a reference to an Act of Parliament or Statutory Instrument includes a reference to any amendment or replacement to that Act or Instrument, or any consolidating re-enactment of it.
- 1.6 Any reference in these Financial Procedure Rules to a named Officer shall be deemed to include:
  - (i) a reference to any Officer who may at any time succeed to or carry out the functions of that named Officer (whether as a result of departmental reorganisation, change of post title or otherwise)
  - (ii) a reference to any Officer who is duly authorised by the named Officer to perform the relevant functions.
- 1.7 Any references to Chief Officer include the Chief Executive and Deputy Chief Executive when he or she is operating in the capacity of a Chief Officer.

**2. BUDGET**

- 2.1 The detailed form of capital and revenue estimates shall be determined by the Deputy Chief Executive in a manner consistent with the general directions of Cabinet for further consideration by full Council.
- 2.2 Estimates of income and expenditure on revenue and capital accounts shall jointly be prepared by Chief Officers and the Deputy Chief Executive.
- 2.3 Upon the approval by the Council of the revenue budget and programme of capital expenditure, the Chief Officer concerned shall be authorised to take steps to ensure that the budget and the programme, as amended from time to time, are implemented (with the exception of asterisked items, which require the prior approval of Cabinet), and provided that the expenditure on both capital and revenue accounts does not exceed the approved estimate.
- 2.4 Any proposal to Cabinet which would involve the incurring of expenditure shall be accompanied by a report of the Chief Officer concerned, indicating the sufficiency or otherwise of the relevant financial provision in the budget and/or the capital programme.
- 2.5 A medium term financial strategy, providing a forward assessment of the commitments of the Council, shall be produced as deemed necessary by the Deputy Chief Executive.
- 2.6 Where it appears that the amount of any estimate of approved expenditure may be exceeded or the amount of any approved income may not be reached, it shall be the duty of the Chief Officer concerned, after consultation with the Deputy Chief Executive, to inform Cabinet unless the additional cost can be contained within overall expenditure totals and met by approved virement within the limits specified below.
- 2.7 Amendment to Revenue Budgets – Virement
- 2.7.1 The object should be to avoid the transfer of estimates and this is best achieved by sound and detailed estimating together with the accurate coding of expenditure during the year in accordance with the provisions made.
- 2.7.2 Where it is desired to transfer funds between expenditure budgets, the following procedure shall be adopted, with the Deputy Chief Executive consulted in every case, to effect the necessary amendments to the approved budgets:
- (i) Transfer between detailed budget codes within a particular cost centre up to a cumulative limit of £25,000 within each financial year (subject to exclusions at 2.7.2 below) can be authorised by the relevant Head of Service (as set out in the Scheme of Delegation at sections 7.3.1 to 7.3.11 inclusive), in conjunction with the Deputy Chief Executive, and actioned by Finance Services.

- (ii) Transfer between cost centres within a particular directorate / service area, up to a cumulative limit of £25,000 within each financial year, can be authorised by the Deputy Chief Executive following a request from the relevant Chief Officer. For any individual request between £25,000 and £50,000, the Deputy Chief Executive and the Chief Officer concerned should consult with the relevant Portfolio Holder for the service regarding the action taken. Any individual request above £50,000 will require the approval of Cabinet, having been recommended by the Deputy Chief Executive and the relevant Chief Officer. All transfers to be actioned by Finance Services.
  - (iii) Transfer between corporate priority areas is subject to the appropriate authorisation of the Deputy Chief Executive (up to the £25,000) or the approval of Cabinet over this delegated limit.
- 2.7.2 No virement shall be undertaken with the purpose of utilising additional income for expenditure purposes and/or out of savings on payroll budgets without the express consent of the Deputy Chief Executive.
- 2.7.3 Virement between capital budgets is not allowed, including virement between revenue and capital budgets. It is, however, permissible for any approved capital contingency to be utilised and transfer requests for urgent works from contingencies can be authorised by the Deputy Chief Executive up to a value of £25,000 per scheme, subject to the limitation within the approved annual contingency budget.
- 2.7.4 There shall be no carry forward of any underspending on budgets into the following financial year without the express authorisation of the Deputy Chief Executive and the approval of Cabinet. When considering any applications for carry forwards, the Deputy Chief Executive shall consider the overall budget position of the Council.
- 2.7.5 The Deputy Chief Executive is authorised to introduce additional restrictions on virement.

### **3. ACCOUNTING ARRANGEMENTS**

- 3.1 The Deputy Chief Executive shall be responsible for the financial organisation and accounting necessary to ensure the proper recording of all sums due from and accruing to the Council and for overseeing arrangements for the collection, custody, control, accounting and disposal of all monies including cash. The Deputy Chief Executive shall advise on proper accounting systems for the control of all assets (including stores) and, in liaison with other Chief Officers, ensure that proper standards of financial administration are maintained throughout the Council's business.

- 3.2 The Chief Officer of the directorate concerned shall consult the Deputy Chief Executive as to the form and manner of undertaking financial transactions and keeping financial records, statements and accounts. No change shall be made to any such system or matter without the Deputy Chief Executive's prior approval.
- 3.3 Financial records shall not be disposed of other than in accordance with the arrangements approved by the Deputy Chief Executive.
- 3.4 The following principles shall be observed in the allocation of accounting responsibilities:
  - a) the duties of providing information regarding amounts due to or from the Council and of calculating, checking and recording these amounts shall be separated as completely as possible from the duties of collecting or disbursing them.
  - b) Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of those transactions.
- 3.5 A Chief Officer shall be able to transfer, subject to the Deputy Chief Executive's prior approval, individual capital or revenue estimates within the limits specified in these rules. Such revenue transfers shall be limited to estimates other than for recharges, capital charges, and estimates provided for specific items of expenditure.
- 3.6 The Deputy Chief Executive shall be kept informed by the appropriate Chief Officer of any change in charges or in fees determined by legislation and shall be consulted in relation to any other proposal to introduce new or amend existing charges for work done, services rendered, goods supplied, fees, tolls, scales of rent or similar income and any scale for the remission of sums due to the Council either wholly or in part. The appropriate Chief Officer, in consultation with the Deputy Chief Executive, shall review existing charges at least annually and shall report upon the results of such a review to Cabinet.
- 3.7 Chief Officers shall furnish the Deputy Chief Executive with such information as they may reasonably require from time to time in connection with the financial administration of the Council.
- 3.8 The Deputy Chief Executive shall produce, for the guidance of Officers responsible for incurring expenditure, such financial information as may be necessary for the efficient conduct of their functions.
- 3.9 The Deputy Chief Executive shall prepare a statement of all accounts of the Council after the close of each financial year. They shall prepare or liaise with the directorates concerned and with partner organisations in the preparation of financial returns required by government departments or other agencies.

3.10 Where an employee of the Council operates on behalf of the Council and/or Mayor an unofficial fund or funds as part of their duties or in connection with their duties, Chief Officers shall ensure that Proper Officers are appointed to administer the fund and that the fund is audited by persons having knowledge of the purpose of the fund. Any proposed unofficial funds shall have the prior approval of Chief Officers who shall maintain a record of all such funds and receive the audited accounts thereof. Such accounts shall be prepared annually or at the completion of the purpose for which the fund was set up, whichever is the earlier. The Deputy Chief Executive shall have access to any records relating to such funds.

#### **4. AUDITS**

4.1 The Deputy Chief Executive shall ensure that an adequate and effective audit is undertaken of the Council's accounting records and of its system of risk management, control and governance processes in accordance with the Accounts and Audit Regulations 2015.

4.2 The role of Internal Audit is defined within the Internal Audit Charter, as periodically reviewed by the Chief Audit and Control Officer and approved by the Governance, Audit and Standards Committee. The work of Internal Audit is performed in accordance with Public Sector Internal Audit Standards and other associated guidance.

4.3 Internal Audit has been established to provide independent, objective assurance to the Council on its operations and to add value by assisting management to improve the delivery of the Council's objectives and operations through evaluating and challenging the effectiveness of risk management, control and governance processes.

4.4 In accordance with Public Sector Internal Audit Standards, the work of the Internal Audit Service is performed utilising a risk-based approach. Primarily, this approach is made through the production and delivery of an annual Internal Audit Plan, based on an independent risk assessment of all aspects of the Council's operations in conjunction with Chief Officers, Heads of Service and other Senior Managers. Other ad-hoc reviews of specific areas of operations may also be occasionally performed at the request of the relevant Chief Officer.

4.5 The Deputy Chief Executive, or their authorised representative, if required to do so for the purposes of the internal audit, shall have authority to:

- a) enter at all reasonable times on any Council premises or land;
- b) call for the production of all records, documents (including information recorded in an electronic form), cash, stores, correspondence or other Council property in the custody or under the control of any employee of the Council as are considered necessary by those conducting the internal audit;

- c) require and receive such explanations as are necessary concerning any matter under examination.
- 4.6 Officers shall ensure adherence to the Council's anti-fraud and corruption prevention policies and ensure that all suspected irregularities are reported accordingly. The Deputy Chief Executive shall be notified forthwith, by the respective Chief Officer, of any circumstances which suggest the possibility of irregularity affecting cash, stores or other property of the Council. Any irregularity shall be investigated and reported upon by the Chief Audit and Control Officer to the Deputy Chief Executive who shall, where appropriate, inform the Chief Officer of the circumstances concerned. If fraud or serious irregularity is disclosed, the matter shall be reported to the Chief Executive.
- 4.7 The Deputy Chief Executive shall submit accounts and documents to the Council's external auditors and give any explanation required by them in the performance of their duties.
5. **INCOME**
- 5.1 The collection of all money due to the Council shall be under the control and supervision of the Deputy Chief Executive. It is the responsibility of departments to ensure that sundry debtor invoices are raised where appropriate in respect of debts to the Council.
- 5.2 All receipt forms, tickets, books and other documents of a similar nature shall be ordered under the direction of the Deputy Chief Executive, who shall be satisfied as to the arrangements for their control and issue. No receipts shall be given except on an authorised form.
- 5.3 All monies received by an Officer on behalf of the Council shall be properly safeguarded and without delay paid to the Deputy Chief Executive or as they may direct to the Council's bank account. No deduction may be made from such money save to the extent that the Deputy Chief Executive may specifically authorise. Any refunds of overpayments must be made through the payments system and not out of income. Each Officer who so banks money shall enter on the paying-in slip a reference to the related debt (such as the receipt number or the name of the debtor) or otherwise indicate the origin of the money.
- 5.4 All cheques shall be crossed specifically to the account of the Council when received.
- 5.5 Personal cheques shall not be cashed out of money held on behalf of the Council.
- 5.6 The Deputy Chief Executive shall be notified promptly of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council. They shall have the right to inspect any document or other evidence in this connection, as he or she may decide.



- 5.7 Each Chief Officer shall furnish the Deputy Chief Executive with such particulars in connection with work done, goods supplied or services rendered and of all other amounts due, as may be required by them to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of such sums.
- 5.8 Every transfer of official money from one Officer to another will be evidenced in the records of the department concerned by the signature of the receiving Officer unless instructions to the contrary are issued by the Deputy Chief Executive.
- 5.9 The Deputy Chief Executive, after consultation with the Head of Legal Services and Deputy Monitoring Officer, shall recommend to Cabinet to write off amounts deemed to be irrecoverable, subject to individual amounts of £7,500 or less, and debts claimed and admitted under the provisions of the Insolvency Act 1985, being written off at their discretion. Items in excess of the delegated limit shall be referred to Cabinet for approval on the recommendation of the Deputy Chief Executive.
- 5.10 The Deputy Chief Executive will provide departments with an aged profile of outstanding debt on a monthly basis. Departments will be required to analyse this information and ensure that appropriate further action is taken where necessary.
- 5.11 The Deputy Chief Executive, in consultation with the appropriate Chief Officer, shall submit periodical reports to the relevant Committee on the collection of income and the level of arrears.

## **6. BANKING ARRANGEMENTS**

- 6.1 All arrangements with the Council's bankers concerning the Council's banking arrangements and the issue of payments, including cheques, shall be made by or under arrangements approved by the Deputy Chief Executive. The Deputy Chief Executive shall be authorised to operate such subsidiary banking accounts as they may consider necessary.
- 6.2 All cheques shall be ordered only on the authority of the Deputy Chief Executive who shall make proper arrangements for their safe custody.
- 6.3 a) Payments drawn on banking accounts of the Council shall bear the signature of the Deputy Chief Executive.
- b) Payments by cheque for amounts of £5,000 or above shall include a second signature of an authorised Officer in addition to that of the Deputy Chief Executive.
- 6.4 Overdrafts shall not be permitted on subsidiary bank accounts.
- 6.5 Banking accounts shall be reconciled with cash books at least once in each month.

**7. TREASURY MANAGEMENT**

- 7.1 All money in the hands of the Council shall be aggregated for the purposes of treasury management and shall be under the control of the Deputy Chief Executive.
- 7.2 All Executive decisions on borrowing, investment, financing and all other Treasury Management transactions shall be delegated to the Deputy Chief Executive or through them to their Officers, who shall all be required to act in accordance with the CIPFA Treasury Management in the Public Services Code of Practice; the CIPFA Prudential Code for Capital Finance in Local Authorities; and the rules and procedures laid down in the Council's Treasury Policy Statement, and Treasury Management Strategy Statement.
- 7.3 The Deputy Chief Executive shall be the Council's Registrar of Stocks, Bonds and Mortgages and shall maintain records of all borrowing of money by the Council.
- 7.4 Within the approved Capital Programme, where finance is to be provided by way of lease, the Deputy Chief Executive shall have authority to arrange such leases.
- 7.5 The Deputy Chief Executive may make arrangements for the issue of negotiable securities only within the limits authorised from time to time by resolution of the Council.
- 7.6 All borrowings and investments shall be effected in the name of the Council.
- 7.7 The Deputy Chief Executive shall be responsible for the safe custody of all securities.
- 7.8 The Deputy Chief Executive shall periodically report to Cabinet and the Governance, Audit and Standards Committee on the activities of the treasury management operation and on the exercise of treasury management powers delegated to them. Such reports shall include at least a mid-year review of each year in question and an annual report on treasury management for presentation by 31 July of the succeeding financial year.

**8. IMPREST ACCOUNTS**

- 8.1 The Deputy Chief Executive shall make such advances as they consider appropriate for the purpose of defraying petty cash and other expenses. Such accounts shall be maintained on the imprest system. A receipt shall be signed in respect of each advance by the Officer concerned who shall be responsible to account therefrom.

- 8.2 No income received on behalf of the Council may be paid into an imprest account. All such income must be paid to the Deputy Chief Executive or direct to the Council's banking account, as provided elsewhere in these Financial Regulations. No cheques are to be cashed from cash imprest accounts.
- 8.3 Vouchers for petty cash disbursements shall be obtained wherever possible and all vouchers shall be carefully preserved and forwarded to the Deputy Chief Executive with a claim for reimbursement at such period as shall be arranged with them.
- 8.4 Payment out of petty cash advances shall be limited to minor items of expenditure only and to such other items as the Deputy Chief Executive may approve. In no case shall the amount of any individual payment exceed £50 except by special arrangement with the Deputy Chief Executive.
- 8.5 All petty cash accounts shall be certified as correct by the Chief Officer concerned or other responsible person expressly authorised by them. When required by the Deputy Chief Executive, an Officer holding an imprest account shall certify the state of the account.
- 8.6 Chief Officers shall be responsible for ensuring that all cash balances are kept in a safe place and secure from unauthorised interference.
- 8.7 On leaving the employment of the Council or otherwise ceasing to hold an imprest balance, an Officer shall account to the Deputy Chief Executive for the amount advanced to them.

9. **ORDERS FOR GOODS, SERVICES AND MINOR WORKS**

- 9.1 The custody and issue of all electronic and paper based Purchase Orders shall be maintained within the computerised financial management system under the direction of the Deputy Chief Executive.
- 9.2 The appropriate Chief Officer shall be responsible for all orders issued from their directorate. A list of all persons authorised to sign orders electronically or in writing shall be maintained by the Deputy Chief Executive and agreed with the relevant Chief Officers. No Officer shall authorise an order using any name or computerised registration other than their own. The authorising of the order shall indicate the following:
- a) that the goods or services are necessary for the discharge of responsibilities of the Council or to carry out functions approved by the Council under Section 137 of the Local Government Act 1972;
  - b) that there is provision for the cost within the approved annual estimates, supplementary estimate or special financial provision;
  - c) that Financial Procedure Rules have been complied with.

- 9.3 Official electronic and paper-based orders shall be in a form agreed by the Deputy Chief Executive and, where possible, shall indicate clearly the nature and/or quantity of work, goods or services required and any contract or agreed prices relating thereto. Electronically produced orders will be serially numbered and will be stored within the computerised financial management system. Paper-based order books will only be utilised in exceptional circumstances where access to the electronic based ordering system is not available.
- 9.4 All orders should specify that goods supplied must be accompanied by a delivery note and that invoices must be sent to the directorate or establishment issuing the orders as soon as possible after the despatch of the goods.
- 9.5 Orders on official pre-determined forms shall be issued for all works, goods and services to be supplied to the Council. Orders are not required for rents, rates or supplies of public utility services, nor for small purchases properly paid for by corporate purchasing cards or out of petty cash imprest accounts. Other exceptions must be agreed by the Chief Officer concerned with the Deputy Chief Executive.
- 9.6 Verbal orders shall be kept to a minimum and given only in cases of urgency, by an Officer authorised to sign the relevant order. They shall be confirmed either the same or next working day by electronic or written orders which shall be marked accordingly.
- 9.7 Each order shall conform with the directions of the Council with respect to central purchasing, the standardisation of supplies and materials and the Council's Procurement and Commissioning Strategy.
- 9.8 An exception exists to sections 9.4, 9.5 and 9.6 where corporate purchasing cards are used. This is dealt with in section 11 below.

## **10. PAYMENT OF ACCOUNTS**

- 10.1 The payment of all accounts due from the Council shall be made by the Deputy Chief Executive, with the exception of payments made using corporate purchasing cards or from imprest or petty cash accounts. Payments shall be made by electronic payment (BACS) or other instrument drawn on the Council's banking account. Cheques are only used in exceptional circumstances.
- 10.2 Each Chief Officer shall arrange for invoices to be sent to the directorate or establishment issuing the orders, in accordance with directions to be specified on the orders and the supplier shall be asked to quote the name of the department, the number of the order and the place where the work was done or goods delivered.
- 10.3 Chief Officers are responsible for ensuring that all invoices are scanned and images made available within the financial management system.

- 10.4 Invoices shall not be made out by Officers of the Council except in any cases or category of cases agreed by the Deputy Chief Executive, nor shall any Officer add any item to an invoice tendered by a supplier. Any amendment to an account shall be made in ink on the invoice and initialled by the Officer making it, briefly stating the reasons where they are not self-evident. The invoice should then be re-scanned and indexed if necessary to show any amendment made.
- 10.5 The certification of accounts for payment shall be by the Chief Officer concerned or by an Officer authorised by them. A list of the Officers authorised to certify accounts and the respective limits on individual transaction value shall be maintained by the Deputy Chief Executive and agreed from time-to-time with the relevant Chief Officer. Authorised officers should ensure that such limits are not exceeded. Where limits are exceeded unintentionally, then the Deputy Chief Executive should immediately be informed.
- 10.6 The Chief Officer issuing an order shall be responsible for the examination, verification, processing and certification of the relevant invoice(s) and, similarly, for any other payment vouchers or accounts arising from sources in their directorate. The processing and certification of any invoice by or on behalf of a Chief Officer shall mean:
- a) that the goods have been received, examined and approved as to quality and quantity, or that service rendered or work done has been performed satisfactorily;
  - b) that, where appropriate, the goods or services conform with the order;
  - c) that the price is in accordance with the quotation, contract or current market rate, whichever is applicable, or is otherwise reasonable;
  - d) that all trade and cash discounts, other proper allowances and credits due and Value Added Tax are correct;
  - e) that the expenditure has been properly incurred, was duly authorised, is within the relevant estimate provision and that the allocations are correct;
  - f) that the account is arithmetically correct;
  - g) that the account has not previously been passed for payment and is a proper liability of the Council;
  - h) that appropriate entries have been made in inventories, goods received and/or stores records which are required to be kept;
  - i) that the account has been correctly entered into the computerised purchasing/payments system.
- 10.7 The invoice submitted for payment should be cross referenced to any official order numbers.

- 10.8 The duties of completing and certifying orders shall not be performed by the same Officer, subject to the Deputy Chief Executive being informed where such separation of duties is in any individual instance impracticable.
- 10.9 All copy invoices or statements processed for payment must be certified to show that payment has not previously been made for the goods or services in question and that appropriate checks have been made to this effect, except where firms normally submit copy invoices and the directorate has notified the Deputy Chief Executive accordingly. This certification should be entered onto the copy invoice or statement as appropriate and the document should be re-scanned or indexed if necessary to show this certification.
- 10.10 Duly checked and authorised accounts shall be processed for payment without delay. The Deputy Chief Executive shall examine them to the extent that they consider necessary, for which purpose he or she shall be entitled to make such enquiries and to receive such information and explanations as he or she may require.
- 10.11 Subject to the foregoing Financial Procedure Rules being complied with, the Deputy Chief Executive shall, within a reasonable period, pay all accounts passed to them for payment and shall ensure the prompt payment of such of those accounts as are of an urgent nature.
- 10.12 Each Chief Officer shall, as soon as possible after 31 March in each year, and in any case not later than a date to be specified by the Deputy Chief Executive, submit to the Deputy Chief Executive schedules of all outstanding revenue and capital accounts relating to the previous financial year and, when such accounts are subsequently processed for payment, they shall be identified accordingly.

## **11. USE OF CORPORATE PURCHASING CARDS**

- 11.1 Where purchases are made using a corporate purchasing card, orders will not be required but details should be maintained of all purchases made in accordance with procedures laid down by the Deputy Chief Executive.
- 11.2 Corporate purchasing cards should only be used for Council purchases, unless in exceptional circumstances and with the prior agreement of the Deputy Chief Executive. Usage should be in accordance with the conditions of use as laid down by the Deputy Chief Executive.
- 11.3 Limits exist as to individual transactions and cumulative credit allowed on each card. Authorised users should ensure that such limits are not exceeded. Where limits are exceeded unintentionally, then the Deputy Chief Executive should immediately be informed.
- 11.4 Corporate purchasing cards are the personal responsibility of those users to whom they are issued. Such authorised users should not pass their card or card details to other individuals to use it on their behalf without the prior approval of the Deputy Chief Executive.

11.5 All endeavours shall be made by the card user to obtain a VAT receipt for the transactions made.

11.6 It is not permitted for any Officer using a corporate purchasing card to use their own personal shopper loyalty cards to obtain points and/or cash for personal gain when making transactions on behalf of the Council.

**12. CONTRACTS FOR BUILDING, CONSTRUCTIONAL AND ENGINEERING WORK**

12.1 All contracts entered into by the Council shall be subject to the Council's Contract Procedure Rules.

12.2 The Deputy Chief Executive shall be informed as soon as possible of all contracts, agreements, awards or other instruments involving the payment or receipt of money on behalf of the Council. Any variations or extras agreed on behalf of the Council shall be reported by the appropriate Chief Officer to the Deputy Chief Executive. Where such variations or extras cannot be contained within the approved estimate, they shall be subject to the prior approval of Cabinet.

12.3 Where contracts provide for payment to be made by instalments, the Deputy Chief Executive shall arrange for the maintenance of a contracts register to show the state of accounts between the Council and the contractor, together with any other payments and the related professional fees.

12.4 All payments to contractors on account of contracts shall be on the basis of a certificate signed by the Chief Officer concerned or their authorised Officer, even where outside consultants have been employed. The certificate shall show the total amount of the contract, the value of approved variations thereto, the value of work done and the date of valuation, any amount deducted by way of retention, the amount previously paid and the amount now due for payment.

12.5 The Officer 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. Every variation in any contract shall be authorised in writing by the Chief Officer or a duly authorised Officer.

12.6 The Deputy Chief Executive 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.

12.7 If, at any time, it appears to the Chief Officer or to the person appointed to supervise the contract that the tender sum or total authorised amount of the contract may be exceeded by more than 10%, then a report of the circumstances shall be submitted to Cabinet for approval at the earliest opportunity.

- 12.8 Notwithstanding Rule 12.7 and in accordance with section 2 above relating to budgetary control and virement, if it appears to the Chief Officer or person appointed that the tender sum or the total authorised amount of a contract may be exceeded and cannot be contained within the annual estimates or by virement within the limits allowed, then such additional expenditure should not be incurred or authorised without the prior approval of Cabinet.
- 12.9 A final certificate of payment under contract shall not be issued, except upon the requirements of a particular contract by the Chief Officer or duly authorised person acting as supervising Officer, until:
- a) they have made available to the Deputy Chief Executive a detailed statement of account together with such vouchers, documents and information as the Deputy Chief Executive may require relating to prime cost items, quantities, variations, rates, additions or omissions,
  - b) the Deputy Chief Executive shall have been supplied with a certificate of the completion of the work,
  - c) the Deputy Chief Executive shall have agreed the amount to be certified,

Nothing in this Rule shall in any way detract from the responsibilities of the supervising Officer or of any other technical Officer having any duty towards the contract.

- 12.10 The Deputy Chief Executive shall, to the extent they consider necessary, examine final accounts for contracts and they shall be entitled to make all such enquiries and receive such information and explanations as they may require in order to be satisfied as to the accuracy of the accounts.
- 12.11 Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Deputy Chief Executive for financial consideration and to the Head of Legal Services and Deputy Monitoring Officer for consideration of the Council's legal liability before settlement is reached.
- 12.12 Where completion of a contract is delayed it shall be the duty of the technical Officer concerned to take appropriate action in respect of any claim for liquidated damages and to report their action to Cabinet.
- 12.13 Every architect, engineer or other consultant appointed for the purpose of any contract for building, constructional or engineering works, whether as supervising Officer or otherwise, shall on engagement be placed under an obligation to conform to the requirements of the Financial Procedure Rules.
- 12.14 No site work on schemes for which a borrowing approval, subsidy approval or grant approval is required shall be started prior to the receipt of such approval. A copy of each appropriate approval must be forwarded to the Deputy Chief Executive.



12.15 All Officers and Members are required to provide a declaration of interest to the Monitoring Officer where contracts are entered into or orders placed with a third party where the Officer or Member concerned may have cause to be affected financially or otherwise by the decision. Further guidance is contained in the Member and Officer Codes of Conduct or may be obtained from the Monitoring Officer.

13. **SALARIES AND WAGES**

13.1 After taking account of the requisite arrangements outlined in section 3 of these rules, the payment of all salaries, wages and other emoluments to all employees or former employees of the Council shall be made by the Executive Director, in conjunction with the Chief Executive, who shall approve the method of payroll preparation and payment and the form of documents used and records maintained.

13.2 Each Chief Officer shall, as regards employees in their department, notify the Executive Director, the Deputy Chief Executive and the Chief Executive (for the Payroll, Human Resources and Finance Services teams who hold establishment records and budgets and make payments) as soon as possible and in the form prescribed by them of all matters affecting the payment of such emoluments, in particular:

- a) appointments, resignations, dismissals, suspensions, secondments and transfers;
- b) absence from duty for sickness or other reason apart from approved leave;
- c) changes in remuneration other than normal increments and pay awards and agreements of general application;
- d) information necessary to maintain records of service for superannuation, income tax and national insurance, and of a like nature.

13.3 Appointments of all employees shall be made in accordance with the policies and regulations of the Council and the approved establishments, grades and rates of pay.

13.4 Each Chief Officer shall ensure that adequate records of all time worked are maintained in respect of all employees and that the terms and conditions of the work specifications are adhered to. The following procedures shall be observed in connection with the preparation, allocation and certification of attendance sheets:

- a) attendance sheets shall be prepared, from the details held in each operational area, and be authorised by the Chief Officer of the directorate or by any Officers authorised by them, in manuscript and in the authorised Officers own name,

- b) attendance sheets shall include a record of all employees in that department, and provide a record of the hours worked by each employee along with leave, overtime and sickness details,
  - c) operational managers are required to maintain such records as may be required by the Chief Officer of the directorate concerned, in order that the accuracy of the hours claimed may be ensured.
- 13.5 The names of Officers authorised to sign time records or other pay documents shall be periodically sent to the Deputy Chief Executive and the Chief Executive together with specimen signatures. All amendments to the list of such names shall be notified to the Deputy Chief Executive and the Chief Executive in writing.
- 13.6 Attendance sheets and other payroll data shall be forwarded to the Chief Executive to comply with such deadlines as may be required.

#### **14. COUNCIL ASSETS AND PROPERTIES**

- 14.1 There shall be maintained a terrier/register of all properties owned by the Council (except dwellings provided under the Housing Acts) in a form agreed between the Head of Asset Management, the Head of Housing and the Deputy Chief Executive, recording the purpose for which the asset is held, location, extent, plan reference, purchase details, particulars of nature of interest, rents payable and particulars of tenancies granted. The Deputy Chief Executive will ensure that a revaluation programme is agreed to ensure that up-to-date valuations of assets are provided on the asset register.
- 14.2 The Head of Legal Services and Deputy Monitoring Officer shall have the custody of all title deeds under secure arrangements agreed with the Deputy Chief Executive.
- 14.3 All acquisitions and appropriations of land or property (except Council houses) exceeding £25,000 in value shall be referred to Cabinet for approval. The purchase of former Council houses and/or other land and property for Housing purposes will be authorised in accordance with policies and financial limits agreed and periodically reviewed by Cabinet. For all disposals of land, property or equipment (excluding Council housing) refer to sections 14.6 to 14.11 below.
- 14.4 Lettings, negotiations and settlement of leases and rents for Council-owned land or property (except Council houses) where the annual rental exceeds £10,000 shall be referred to Cabinet for approval. In respect of properties in Beeston Square only, lettings, negotiations and settlement of leases and rent for Council owned land or property where the annual rental exceeds £100,000 shall be referred to Cabinet for approval.
- 14.5 All easements, licences or other rights or interests affecting land whether granted or to be granted to or by the Council resulting in an annual rental in excess of £10,000, or a capital consideration in excess of £20,000, shall be referred to the Cabinet for approval.

Sale of Council Assets

- 14.6 All disposals of land, property or equipment (excluding Council housing) estimated to be below £25,000 in value shall only be disposed of with the prior approval of the appropriate Senior Officer acting in accordance with the agreed policy governing the disposal of land and property owned by the Council and any other policy agreed from time to time by full Council and/or Cabinet.
- 14.7 All disposals of land, property or equipment (excluding Council housing) estimated to be between £25,000 and £100,000 in value shall only be disposed of with the prior approval of the appropriate Chief Officer acting in accordance with the agreed policy governing the disposal of land and property owned by the Council and any other policy agreed from time to time by full Council and/or Cabinet.
- 14.8 All disposals of land, property or equipment (excluding Council housing) estimated to exceed £100,000 in value shall only be disposed of with the prior approval of Cabinet. In such cases Cabinet will decide upon the details of disposal having regard to the approved policy governing disposal of land and property owned by the Council and any other policy agreed from time to time by a by full Council and/or Cabinet.
- 14.9 Wherever possible, the sale of assets by bid will be conducted electronically using the Council's preferred e-Tendering portal.
- 14.10 Bids shall remain in the custody of the Deputy Chief Executive or an Officer of the Council designated by them until they are opened. Where bids are not electronic, they shall be opened at one time, by the appropriate Senior Officer, in the presence of the Deputy Chief Executive or his/her representative. Commercial details within the bids shall be immediately initialled and dated by those present at the opening. The names of the bidders and the amounts of the bids shall be immediately recorded in a register kept by the Deputy Chief Executive and the persons present at the opening of such bids shall record their presence in the said register.
- 14.11 The appropriate Senior Officer shall accept the highest offer received subject to scrutiny and shall report the acceptance to Cabinet.

15. **STOCKS AND STORES**

- 15.1 Each Chief Officer shall be responsible for the care and custody of the stocks and stores in their directorate.
- 15.2 The method of valuation of stores shall be approved by the Deputy Chief Executive, in consultation with the appropriate Chief Officer, and all stores accounts and records controlling the receipt and issue of stores and equipment shall be kept in a form to be approved by the Deputy Chief Executive.
- 15.3 The Deputy Chief Executive shall be entitled to check stores and to receive from each Chief Officer such information as they require in relation to stores for the accounting, costing and financial records of the Council.

- 15.4 Stocks shall not be held in excess of normal requirements, except in special circumstances with the approval of the respective Chief Officer and the Deputy Chief Executive.
- 15.5 Chief Officers shall arrange for continuous stocktaking at each store and shall ensure that all stocks are checked at least once in every year. The Chief Officer concerned shall issue to the Deputy Chief Executive a certified return of stores on hand at each year end.
- 15.6 Stores deficiencies and surpluses arising from continuous stock checks will be transferred to a Stores On-cost Account subject to the approval of the Deputy Chief Executive. This procedure will apply unless the deficiency on an individual item arising from any stocktaking exceeds £2,000 or the total annual value exceeds £7,500, in which event a report must be submitted to the Cabinet by the appropriate Chief Officer seeking approval to effect an adjustment in the stores accounts.
- 15.7 Disposal of surplus or obsolete materials, stores or equipment shall not be made unless at least three tenders are first obtained, except where the Deputy Chief Executive has approved other arrangements for a particular sale or a particular type of sale. The procedures for receipt, opening and acceptance of tenders shall be described in the Procedure Rules relating to contracts.
- 15.8 Where the value of surplus or obsolete materials, stores or equipment exceeds £7,500 on a particular item, disposal shall not take place without prior consideration by Cabinet.

16. **VEHICLES AND PLANT**

- 16.1 Each Chief Officer concerned shall ensure that records are maintained in respect of vehicles and plant under their control. Such records shall be kept in a manner approved by the Deputy Chief Executive and shall include details of usage, mileage and fuel consumed.
- 16.2 The Deputy Chief Executive, in consultation with the appropriate Chief Officer, shall be responsible for calculating and reviewing from time to time the hourly rates to be charged for the use of vehicles and plant.

17. **SECURITY**

- 17.1 A nominated Officer of the Council shall be responsible for maintaining proper security at all times for all public buildings.
- 17.2 Each Chief Officer is responsible for the stocks, stores, furniture, equipment, cash and other items under their control. They shall consult the Deputy Chief Executive in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

- 17.3 Each Chief Officer is responsible for items of furniture, equipment and cash and other items belonging to individuals who are not employees or Members of the Council temporarily taken into their control and shall record and make proper arrangements for the security of such items until they can be returned to the owner or the owner's representative.
- 17.4 Maximum limits for cash holdings shall not exceed the limits set down in the Council's policies of insurance, details of which shall be notified by the Deputy Chief Executive to the appropriate Chief Officers.
- 17.5 The Chief Officer shall arrange that designated Officers be responsible for the keys of all safes or similar receptacles and shall notify the Deputy Chief Executive of the names of such Officers. Such Officers shall keep the keys personally and not leave them on the premises. Duplicate keys shall be kept by the Chief Officer or in such a manner as may be approved by the Deputy Chief Executive. The loss of keys must be reported to the Deputy Chief Executive immediately.
- 17.6 Each Chief Officer shall be responsible for ensuring that information held within their directorate conforms to the Council's Information Management Strategy and Information Security Policy.
- 17.7 Each Chief Officer shall be responsible for ensuring that all information containing personal data within their directorate comply with the Council's Data Protection Policy and any other guidance as may be issued from time to time.
18. **INSURANCES**
- 18.1 The Deputy Chief Executive shall effect all insurance cover and, in consultation with other Officers where necessary, negotiate all claims and maintain the necessary records.
- 18.2 Each Chief Officer shall give prompt notification to the Deputy Chief Executive of the extent and nature of all new risks, properties or vehicles which require to be insured and of any alterations affecting existing insurances in their directorate.
- 18.3 Chief Officers shall notify the Deputy Chief Executive without delay and in writing, of any loss, liability or damage which constitutes a claim or is likely to lead to a claim. In no circumstances should an Officer admit liability for loss, damage or injury, however sustained.
- 18.4 All appropriate employees of the Council shall be included in a fidelity guarantee policy of insurance.
- 18.5 The Deputy Chief Executive shall carry out a review of insurances annually or at such other period as they may consider necessary, in consultation with other Chief Officers as appropriate.

18.6 Chief Officers shall consult the Deputy Chief Executive and the Head of Legal Services and Deputy Monitoring Officer regarding the terms of any indemnity which the Council is requested to give.

18.7 All employees using their car for Council business shall, on request, produce to the Deputy Chief Executive such policies or certificates of insurance and/or premium receipts and driving licences as may be necessary to ensure that adequate cover continues to be maintained against any liability of the Council arising out of official use.

## 19. **INVENTORIES**

19.1 Inventories in a form approved by the Deputy Chief Executive shall be kept of property belonging to or in the care of the Council and shall be maintained in all sections of all directorates. They shall be added to or amended by the Chief Officer in respect of the sections under their control and shall record an adequate description of furniture, fittings and equipment, plant and machinery. Items of a material value (over £250) should be notified to the Deputy Chief Executive in order that appropriate insurance cover can be provided. Advice as to items suitable to be shown on an inventory will be provided by the Deputy Chief Executive.

19.2 Each Chief Officer shall be responsible for making such checks upon items on the inventory as will ensure the accuracy of the records and the safeguarding of the equipment. Surpluses or deficiencies shall be reported to the Deputy Chief Executive and shall be noted on the inventories concerned.

19.3 The Deputy Chief Executive shall have access to all property of the Council and to audit the inventories.

19.4 All property belonging to the Council shall, as far as practicable, be marked in a suitable manner as being the property of the Council.

19.5 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 Chief Officer concerned.

## 20. **TRUST FUNDS**

20.1 All trust funds shall, wherever possible, be in the name of the Council.

20.2 All Officers acting as trustees by virtue of their official position shall deposit all securities, etc. relating to the trust with the Deputy Chief Executive unless the deed provides otherwise.

**21. EXTERNAL ARRANGEMENTS**

Partnerships and External Funding

21.1 Where the Council is involved with other organisations and partnerships in achieving its objectives, it is important that arrangements are rigorously controlled, with the highest level of probity as for any other arrangement. In particular, these rules will apply except where, in specific circumstances, the Deputy Chief Executive agrees that some alternative may be used, or where the Government and/or other funding body sets their own criteria and rules for the administration of grant funding.

21.2 The Deputy Chief Executive shall:

- Advise on the relevant controls that should apply to any arrangement, whether through these rules or some adequate alternative
- Ensure satisfactory accounting arrangements
- Ensure that any match-funding requirements are considered prior to entering into any such agreements
- Consider and, if necessary, challenge the business case for major projects and their future financial implications
- Certify all claims for payment in respect of grants awarded by any external organisation.

21.3 Chief Officers and Heads of Service shall:

- Consult with the Deputy Chief Executive in respect of financial controls
- Ensure that all agreements and arrangements are properly documented
- Provide appropriate information to the Deputy Chief Executive to enable proper accounting arrangements to be made
- Ensure that conditions of funding are duly complied with.

**22. OFFICERS' TRAVELLING AND SUBSISTENCE ALLOWANCES**

22.1 All claims for the payment of travelling, subsistence allowances, and incidental expenses in connection with the performance of duty, and for reimbursement of educational expenses incurred on approved courses of study shall be submitted to the Chief Executive. Such claims shall be duly certified as correct by each Officer submitting a claim in a form approved by the Chief Executive.

22.2 The names of Officers authorised to certify such claims shall be sent to the Deputy Chief Executive and the Chief Executive by each Chief Officer together with specimen signatures.

22.3 The certification by or on behalf of the Chief Officer shall be taken to mean that the certifying Officer is satisfied that the journeys were authorised, the expenditure properly and necessarily incurred and that the allowances are properly payable by the Council.

22.4 All claims shall be accompanied, as appropriate, by a valid VAT certificate relevant to the period of the claim and shall not otherwise be certified in accordance with Rule 22.1 above.

23. **MEMBERS' TRAVEL, SUBSISTENCE AND ATTENDANCE ALLOWANCES**

23.1 Procedure for submitting claims and making payments, and the documents to be kept in respect of Members' Travelling, Subsistence and Attendance Allowances shall be under the control of the Chief Executive and shall be as laid down in guidance which is available to all Members.

24. **FAILURE TO COMPLY WITH AND THE INTERPRETATION OF RULES**

24.1 Failure to comply with the Financial Procedure Rules is a breach of the Code of Conduct that is covered by the Council's Disciplinary Policy and Procedures.

24.2 The Deputy Chief Executive shall, if necessary, after consultation with the Monitoring Officer and the Chief Officer of the directorate concerned, report to the Cabinet any non-compliance with the Financial Procedure Rules.

24.3 Any doubt as to the interpretation of these rules, if unresolved after consultation with the Monitoring Officer, shall be referred to Cabinet.

24.4 The attention of all Officers and Members is drawn to the relevant Accounts and Audit Regulations and the CIPFA / IIA Public Sector Internal Audit Standards and associated Local Government Application Notes.



## APPENDIX 3

**BROXTOWE BOROUGH COUNCIL CONSTITUTION  
CHAPTER 4 PART 2: FINANCIAL PROCEDURE RULES (CONTRACTS)**

GLOSSARY

Bid	A potential or received submission from a Bidder in response to a procurement process.
Bidder	The organisation who will potentially or has submitted a Bid in response to a procurement process.
Competitive Tendering Process	A procurement process that has been openly advertised to all potential Bidders.
Concession Contracts	An agreement where an organisation is given the right to exploit works or services provided for their own gain and at their own risk.
Contract Manager	Officer responsible for the management of the contract on a day to day basis.
Contract Value	Annual value of the contract multiplied by the number of years of the contract, including any potential extension periods. It is the value of the contract to the Bidder/s.
HoLS	Head of Legal Services and Deputy Monitoring Officer (or delegated officer).
PCO	Procurement and Contracts Officer
Procuring Officer	Lead officer for the service area (may also be the Contract Manager).
Senior Officer	Officers comprising of the Senior Management Team (including those reporting directly to a Chief Officer) as listed at paragraph 7.3/7.4 in the Officer Scheme of Delegation.
UK Procurement Law	Means the Procurement Contracts Regulations 2015 and Concession Contracts Regulations 2016 as amended or any future enacted UK procurement legislation.
UK Procurement Threshold	Point where the Contract Value requires the full requirements of the UK Procurement Law to be complied with. UK Procurement Thresholds change every two years and are recalculated on 31 December every other year.

## CONTRACT PROCEDURE RULES

The rules below have been approved by the Council relating to contracts and are incorporated into the Council's Financial Procedure Rules (Financial Regulations) accordingly. These rules should be read alongside the Council's Procurement and Commissioning Strategy; the latest guidance on the Council's Intranet; and any other advice received from the Council's Procurement and Contracts Officer.

### 1. COMPLIANCE

- 1.1. All contracts (see *Rule 4*) must comply with these rules and procedures. A contract is any arrangement made by or on behalf of the Council for the supply of goods or services or for the carrying out of works. A concession contract is also subject to these rules.
- 1.2. Contracts may include verbal instructions to provide goods or services or to carry out works. This can commit the Council without any appropriate terms and conditions, insurance, health and safety requirements bidder accreditation, budget checks etc. being carried out or agreed. For this reason, all requirements must be communicated to Bidders by a signed contract or an official purchase order with appropriate authorisation, prior to the commencement of any works or supply of any goods or services.
- 1.3. Users of Council purchase cards should consider which terms and conditions apply, insurances, health and safety requirements, Bidder accreditation and budget for all purchases.
- 1.4. Every Officer involved in buying goods, services or works must be aware of these rules and comply with them. In case of doubt, advice must be sought from the PCO before proceeding.
- 1.5. Officers involved in any aspect of procurement are to have completed the Procurement E-Learning Module within three months of notification of requirement to complete.
- 1.6. No exception from any of the following provisions of these rules shall be made otherwise than by the direction of the Council or by Cabinet (as appropriate) or via *Rule 48* (Waivers).

### 2. GUIDANCE

- 2.1. Further information and guidance on procurement is on the Intranet Procurement pages.
- 2.2. In addition, advice on specific procurement issues and how to apply these rules can be obtained by contacting the PCO.

### 3. PURPOSE

3.1. The purpose of the rules is to:

- achieve value for money (value for money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price);
- be consistent with the highest standards of integrity;
- ensure transparency and fairness in allocating public contracts;
- comply with all legal requirements and legislative principles;
- ensure appropriate approvals for budgets and contract awards;
- support the Council's vision, values and priorities; and
- prevent fraud and corruption.

### 4. WHEN THESE RULES APPLY

4.1. These rules apply to the following types of procurement on behalf of the Council:

- purchasing any goods or materials, including information communication technology;
- purchasing of any services, including consultancy services;
- hiring, renting or leasing of any goods or equipment;
- ordering the carrying out of building or engineering works;
- Concession Contracts;

4.2. Partnership and Collaborative Arrangements: These rules will apply where the Council is part of a partnership and it is the lead or accountable body. Also see Rule 9.

4.3. Any agent or consultant appointed to act for the Council in a procurement exercise must be required to comply with these rules. A consultant is someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role.

### 5. EXEMPTIONS / NON-APPLICABLE EXPENDITURE

5.1. The rules do **NOT** apply to:

- contracts of employment with individual employees;
- land transactions (sales, purchases, leases, licences, easements etc. although certain development agreements are covered);
- performing artist contracts;
- giving of grant funding (but contracts with voluntary organisations for the supply of services, goods and works are covered by the rules);

5.2. Nothing in these rules and procedures shall require competitive bids to be invited in any of the following circumstances:

- 5.2.1. The works to be executed or the goods or materials to be supplied consist of repairs to or the supply of compatible parts to existing proprietary machinery or plant by the manufacturers or their agents which cannot be cost effectively provided by other bidders.
- 5.2.2. The renewal of existing ICT software license and maintenance services, where the ICT Software has been purchased, and the value of the renewal is less than the UK Procurement Threshold. General Management Team (GMT) are to agree the way forward and obtain procurement advice as appropriate (see *Rule 36*).
- 5.2.3. Utility/energy supplies to empty housing or buildings that are or will be available for occupation.
- 5.2.4. The estimated expenditure is less than £25,000, provided that the appropriate Senior Officer shall take reasonable steps to secure the order at the most competitive price.
- 5.2.5. Where the Council chooses to deliver services itself (in-house).
- 5.2.6. Where the Council uses one of its subsidiary companies to deliver services.
- 5.2.7. Where co-operating with another public sector body. For this to apply the public sectors bodies are required to ensure that public services they have to perform are provided with a view to achieving objectives they have in common and that the cooperation is governed solely by considerations relating to the public interests. Further procurement and legal advice is to be sought.

## **6. INTERPRETATION**

- 6.1. The PCO will advise on the implementation and interpretation of the rules and will seek the views of the Deputy Chief Executive and the Monitoring Officer, if required. The Monitoring Officer's view will be binding.

## **7. COMPETITION REQUIREMENTS**

- 7.1. The nature of the procurement process to be undertaken will depend on the estimated **total contract value** of the contract. See '*Appendix A – Contract Values and Procurement Process*' for further information.
- 7.2. Where it is considered appropriate, the Council can choose to go out for quotes or Competitive Tender Process in order to ensure value for money even if this is not required by these rules.

## 8. ALTERNATIVE PROCUREMENT METHODS: GENERAL

8.1. Before approaching the market for any goods, services or works the Procuring Officer undertaking the procurement must first establish if there are any of the following they could use:

- a Corporate Contract
- an existing Framework Agreement
- an existing Dynamic Purchasing System.
- contract extensions (*See Rule 31*)

8.1.1. Corporate Contract: Where an existing corporate contract exists, this should be considered as the default option.

8.1.2. Framework Agreement: These must only be used where the Council is either a named participant or where the Council is a recognisable class of contracting Council under the terms of the Framework Agreement.

Contracts based on Framework Agreements may be awarded by either:

- (i) applying the terms laid down in the Framework Agreement (where such terms are sufficiently precise) without reopening competition (direct award), or
- (ii) where the terms laid down in the Framework Agreement are not precise enough or it may be possible to obtain improved value for money, by holding a mini competition amongst all the organisations included within the Agreement.

8.1.3. Dynamic Purchasing System (DPS)

- (i) A DPS must only be used where the Council is either a named participant or where the Council is a recognisable class of contracting Council under the terms of the DPS.
- (ii) Contracts based on a DPS may only be awarded by holding a mini competition amongst all the organisations included within the Agreement.

## 9. PARTNERSHIP AND COLLABORATIVE PROCUREMENT

9.1. In order to secure value for money the Council may decide to enter into collaborative procurement arrangements. All purchases made/contracts awarded via a local authority procurement consortium or another Local Authority, who have followed their own rules, are deemed to comply with these rules and no exemption is required.

9.2. Purchases above the UK Procurement Threshold must be let under UK Procurement Law unless the consortium concerned has satisfied this

requirement already by letting their contract in accordance with UK Procurement Law on behalf of the Council and other consortium Members.

## **10. UK PROCUREMENT THRESHOLDS**

- 10.1. UK Procurement Law specifies financial thresholds, which determine how goods, services and works should be procured. Contracts for the supply of goods or services or works which are estimated to be over the UK Procurement Thresholds must be tendered in accordance with UK Procurement Law and the PCO must be consulted and their advice taken on how to comply with this legislation.
- 10.2. The current UK Procurement Thresholds can be found on the Procurement pages on the intranet.
- 10.3. The UK Procurement Thresholds relate to the estimated total value of the contract including VAT (including any potential extension periods), not the annual value.
- 10.4. Where it applies, the UK Procurement Legislation imposes requirements on such matters as:
  - conduct of each stage of the procurement process;
  - preliminary market consultation, including consideration of the Public Services (Social Value) Act 2012.
  - where the notices relating to advertising and awarding of bids must be placed and their contents;
  - minimum bid periods;
  - selection and award criteria and procedures;
  - reporting requirements and documentation.

## **11. CONTRACT VALUE, FUNDING AND PRE-PROCUREMENT APPROVALS**

### Estimated Contract Value

- 11.1. The Procuring Officer must estimate the total Contract Value, (including any extension periods). This estimate will determine what competition requirements apply under these rules (*see Appendix A - Contract Values and Procurement Process*).
- 11.2. Contracts must not be artificially divided to reduce the Contract Value and avoid the application of the requirements under these rules but should be packaged to ensure value for money.
- 11.3. The Contract Value or estimated Contract Value (in money or equivalent value) for a contract is calculated as follows:
  - where the contract is for a fixed period: by taking the total price to be paid or which might be paid during the whole of the period;

- where the purchase involves recurrent transactions for the same type of item: by aggregating the value of those transactions in the coming 12 months;
- where the contract is for an uncertain duration: by multiplying the monthly payment by 48;
- for feasibility studies: the value of the scheme or contracts which may be awarded as a result;

Contracts Across the Council

- 11.4. Where the aggregated value across all departments for similar goods, services or works Council on a number of individual contracts for is likely to exceed the UK Procurement Thresholds as laid down in these rules, then Officers shall seek guidance from the PCO. The department with the highest proportion of total expenditure is appointed as the lead service area.

Budget/Funding

- 11.5. A Procuring Officer must not place an order or start a process for letting a contract unless they are satisfied that expenditure for it has been included in an approved capital budget, revenue budget or grant.

Pre-Procurement Approval

- 11.6. Where the Contract Value is above £25,000 or when procurement involvement is required, a Procurement Approval Form is to be completed by the Procuring Officer and signed by the relevant Senior Officer. This is to be sent to the PCO.
- 11.7. Once the Procurement Approval Form has been received, the Procuring Officer will receive a 'Broxtowe Procurement' (BP) reference number that should be used in all communications, to uniquely identify the procurement project.

**PROCUREMENT PROCESS**

**12. PROCURING OFFICER RESPONSIBILITIES IN PROCUREMENT**

- 12.1. The Procuring Officer is to be integral to the procurement process and they are to fulfil the requirements in *Appendix C - Contract Manager Responsibilities*.

**13. SOFT MARKET TESTING/PRE-PROCUREMENT ENGAGEMENT**

- 13.1. UK Procurement Legislation encourage pre-bid market engagement in order to ensure that specifications are as accurate as possible. The Procuring Officer, when preparing a complex specification, should consult potential Bidders about the detailed requirements of the specification but before doing so, the Officer should seek the advice of the PCO.
- 13.2. When carrying out soft market testing the Procuring Officer must:

- make it clear to participating organisations that they will receive no preferential treatment in the Bid process;
- not draw up the specification wholly by reference to one specific Bidder or if they do, that organisation must be excluded from the subsequent bid process.
- keep a written record of all enquiries, responses and related meetings on the contract file.

13.3. The PCO provides advice and can facilitate the conduct of desktop soft marketing testing exercises.

#### **14. THE PUBLIC SERVICES (SOCIAL VALUE) ACT 2012**

14.1. For all contracts for services which exceed the UK Procurement Thresholds, Procuring Officers must consider the various matters prescribed by the Public Services (Social Value) Act 2012.

14.2. Procuring Officers must therefore before the formal procurement process starts consider:

- 14.2.1. how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area; and
- 14.2.2. how, in conducting the process of procurement, the Council might act with the aim of securing that improvement.

14.3. The PCO can provide advice and facilitate the conduct of a desktop social value consultation exercise.

#### **15. CHOICE OF TENDERING PROCEDURE**

15.1. Where there is a requirement in the rules for a contract to be subject to UK Procurement Legislation, the tendering procedures available can be obtained from the PCO.

#### **16. ADVERTISING CONTRACTS (where Alternative procurement method are not an option – Rule 8)**

16.1. Required advertising requirements of contract opportunities is detailed in *Appendix A – Contract Values and Procurement Process*.

16.2. Where the contract opportunity is to be advertised, the PCO must facilitate this process to ensure UK Procurement Legislation is complied with.

#### **17. SPECIFICATION**

17.1. Specifications can be performance based, with a focus on the result required, rather than how it is achieved and detail the minimum standards and accreditations a Bidder is required to meet. This will vary dependent on the requirement.



- 17.2. The Procuring Officer must make sure the specification provides details of the type and quality of goods or nature and standard of service or works to be supplied.
- 17.3. The length and detail of the specification will vary depending on the size, complexity and nature of the proposed contract requirements but it should be clear and include all the material details that the Bidder will be required to comply with and deliver.
- 17.4. Technical specifications must be defined by reference to relevant UK or EU Standards. Where a standard is quoted the words “*or equivalent*” must be added.
- 17.5. The specification must not refer to a particular make or brand names unless it is identified as a permissible exemption under UK Procurement Legislation and the PCO has provided specific advice.
- 17.6. The specification should not be designed to favour any particular Bidder.

**18. INSTRUCTIONS TO BIDDERS**

(required where a quote or Competitive Tendering Process is undertaken)

- 18.1. All procurement documents must include Instructions to Bidders as well as:
  - specification of the goods, services or works required; and
  - contract conditions.
- 18.2. All Instructions to Bidders must include:
  - the award criteria and, where applicable, the weightings applicable to each of those criteria;
  - the last time and date for receipt of Bids;
  - the address to which Bids must be delivered/submitted
  - a requirement that Bids must be kept open for acceptance for no less than 60 days;
  - full details of the time, date and method by which Bids can be submitted through the Council’s e-tendering system (if a Competitive Tendering Process);
  - a statement that the Council is not bound to accept the lowest or any Bid;
  - a statement that the Council will not be liable for the Bidders expense in preparing their Bid;
  - a statement that no Bid received after the closing date and time will be accepted, except as detailed in *Rule 23.1*

**19. CLARIFICATION PROCEDURES (PRE-SUBMISSION DEADLINE)**

- 19.1. Providing clarification for an invitation to bid to potential or actual Bidders involved or seeking clarification of a Bid, is permitted. These matters shall take place in such a way as to not disadvantage or show favour towards any Bidder involved.
- 19.2. Where a Competitive Tendering Process is undertaken All questions, in non-attributable form, together with the Council's responses, will be posted on the e-tendering portal, for all Bidders to see.
- 19.3. Exceptionally, Bidders may request information is not published if it could damage their commercial advantage or disclose their innovative ideas. The PCO will determine whether such information can be withheld from all other Bidders.
- 19.4. Where a meeting or a site visit is required, all Bidders should be invited to attend a single meeting so all are given the same information and have opportunities to ask questions and hear responses. Minutes should be taken of any meetings and published on the e-tendering portal to ensure all Bidders, including those not attending, have the same information.

**20. SELECTION AND AWARD CRITERIA**

- 20.1. Before placing an advert requesting Bids or issuing the procurement documents, the Procuring Officer, alongside the PCO where a Competitive Tendering Process is required, must define the selection and award criteria for the contract which is best suited to the procurement exercise and is designed to secure value for money.

**21. SELECTION OF BIDDERS**

- 21.1. UK Procurement Legislation and Cabinet Office guidance set out clear rules on the use of Pre-Qualification Questionnaires (PQQ) / Selection Questionnaire (SQ)

Selection Criteria

- 21.2. Selection (often referred to as pre-qualification stage) criteria involves an examination of the suitability and capability of the potential bidders to perform the contract. Selection criteria could include:
  - eligibility for public contracts in regard to the grounds specified in UK Procurement Law;
  - economic and financial standing;
  - suitable professional ability/qualifications/accreditations;
  - technical and professional ability including references.

Award Criteria

- 21.3. Award criteria should be designed to ensure Bidders demonstrate how well they can meet the Council's requirements and encourage competition and value for money.
- 21.4. All Bids must detail the award criteria and assessment methodology which will be used. The options are:
- (i) 'quality/price' ratio, (preferred option), where considerations other than price also apply, or
  - (ii) 'lowest price', where payment is to be made by the Council, or
  - (iii) 'highest price', where payment is to be received by the Council.
- 21.5. When 'quality' criteria are used, it must be fully defined in the procurement documentation supplied to Bidders, detailing assessment criteria which must be wholly relevant to the procurement. These may include service delivery process, quality of goods, previous experience (in limited circumstances), delivery date, relevant environmental features, technical performance, functional characteristics, after sales service, technical assistance, social value added and any other relevant matters. The extent and weighting of these criteria must be declared and documented when sending out any details.
- 21.6. The weighting of non-financial criteria must;
- reflect their importance to the Council,
  - ensure equal treatment of all potential Bidders,
  - not preclude or give undue preference to any Bidder
  - ensure that all dealings with Bidders are undertaken on a fair, equitable and transparent basis
  - be designed to give the Council the best possible outcome
- 21.7. All evaluations for procurement process above the UK Procurement Threshold must comply with UK Procurement Legislation and have regard to the financial and technical standards relevant to the contract and the award criteria.
- 21.8. Wherever possible a breakdown of costs should be requested, to allow clear understanding of the pricing structure and to allow minor adjustment of scope to meet changing circumstances.

**22. PERIOD FOR SUBMISSION OF BIDS**

- 22.1. Bidders must be given a reasonable period in which to prepare and submit a Bid having regard to the amount of detail that they have to prepare and the complexity of the contract requirements. UK Procurement Law lays down specific minimum time periods for contracts with a value in excess of UK Procurement Thresholds.

**23. SUBMISSION, RECEIPT AND OPENING OF BIDS**Quote Process

- 23.1. Any quotation received for procurement exercises below £100,000, after the specified date and time where the e-tendering portal has not been used, shall not be considered unless the appropriate Senior Officer, with the approval of the Deputy Chief Executive, consider that exceptional circumstances warrant it. Appropriate supporting documentation must be maintained to substantiate the decision taken.
- 23.2. Under no circumstances can any late quotation be considered after the other quotations have been opened.

Competitive Tendering Process

- 23.3. Bids must be issued and received electronically through the Council's e-tendering system, except for *Rule 23.7*.
- 23.4. For Bids above the UK Procurement Threshold, submissions must be managed electronically via the e-tendering portal unless there are justified reasons.
- 23.5. Bids remain within the e-Tendering portal's secure vault until the closing date and time. The vault shall be unlocked, releasing all bids simultaneously, by the Deputy Chief Executive, or an officer of the Council designated by them.

*NOTE: All Bid documents are securely retained in the vault within the e-tendering portal. This information is not visible until the vault is un-locked and cannot be changed once opened. All actions conducted within the portal are recorded and are fully auditable. There is therefore no requirement to witness the bid opening or record any data.*

- 23.6. Bids cannot be uploaded to the e-tendering portal after the closing date and time.

Use of Frameworks/DPS

- 23.7. Where use of a framework or DPS requires the use of an alternative e-tendering portal run by the framework/DPS provider then this will be deemed as complying with *Rule 23*.

**24. POST BID SUBMISSION CLARIFICATION PROCEDURES**

- 24.1. Where an error is discovered in a Bid during scrutiny by the Council's Officers, clarification should be sought. Material clarifications obtained must be detailed in the Bid evaluation report (where a report is required), with a recommendation

to accept or reject any required corrections. Bidders shall have the opportunity to withdraw their bid if they have made an error.

- 24.2. No Bidder will be permitted to alter its Bid after it has been received by the Council except with the PCO's consent to correct an arithmetical or typographical error or omission made in the Bid.
- 24.3. Should the contract have been awarded before the error or omission is identified, then it can only remain so if in the opinion of the Deputy Chief Executive or in their absence Head of Finance Services, it is still the most favourable to the Council following the correction.

## **25. ABNORMAL TENDER: CLARIFICATION**

If the Procuring Officer considers the lowest or most economically advantageous Bid to offer an unusually low price or excessive benefits ("abnormal") given the nature of the contract, the estimated Contract Value, and value for other bids he/she must ask the Bidder to clarify in writing its Bid or parts of it. The Procuring Officer with the PCO must take such explanation into account in deciding whether to consider the abnormal bid as part of the evaluation. Where the procurement process is governed by UK Procurement Law, this sets out grounds on which abnormal bids can be excluded from procurement process.

## **26. POST BID NEGOTIATIONS**

- 26.1. Discussions with Bidders after submission of a Bid and before the award of a contract may only occur where UK Procurement Law permits it.
- 26.2. Where negotiations are permitted by the procurement procedure being followed:
- negotiations must be conducted by at least two officers, one of whom must be a Senior Officer grade or above, or alternatively one Senior Office if a quotation process;
  - during negotiations tendered rates and prices must only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the bid documents;
  - negotiation meetings should be minuted;
  - any change in specification or price arising from post bid negotiations must be recorded in writing and signed by the Bidder;
- and
- where post-Bid negotiation result in a fundamental change to the specification (or contract terms) the contract must not be awarded but a new procurement process needs to be run, so as not to risk distorting competition or causing discrimination.
- 26.3. Where post bid negotiations relate to procurement process governed by UK Procurement Law then the PCO's advice should be sought.

**27. EVALUATION OF TENDERS**

- 27.1. Bids must be evaluated in accordance with the stated award criteria and where the criteria are other than the lowest price, a written record must be kept of the evaluation with scores for each Bidder on each of the stated award criteria.
- 27.2. Interviews may be conducted with some or all of the Bidders as part of the evaluation process but only to clarify matters relating to the award criteria and where part of the published award criteria includes an interview/presentation evaluation.

Due Diligence

- 27.3. If there is any doubt about the sustainability or capability of the Bidder, due diligence must be carried out prior to award. Due diligence may include financial checks, obtaining references (preferably from other public sector bodies), visiting other works which have been completed and ensuring the Bidder has sufficient available capacity with suitably experienced and qualified staff. Any potential due diligence checks should be clearly stated in the procurement documents at the start of the procurement process.

**28. AWARD PROCEDURE AND INTERNAL APPROVAL**

Award Procedure

- 28.1. Contracts must be awarded in accordance with the stated award criteria and UK Procurement Law (where the Contract Value is above the UK Procurement Threshold).

Internal Approvals below £100,000

- 28.2. For contracts values below £100,000 and within the stated budget, the Head of Service approval, in conjunction with the Chief Officer, is required and should be in writing and kept as evidence of approval, unless it has previously been decided that Cabinet approval is required.
- 28.3. Rule 28.4 must be followed if a Competitive Tendering Process has been used, regardless of contract value.

Internal Approvals in excess of £100,000

- 28.4. For contracts values in excess of £100,000 and within the stated budget, an evaluation report with a recommendation as to the Bid that should be accepted and the basis for such a recommendation, should be prepared by the appropriate Procuring Officer and the PCO and presented to the Deputy Chief Executive for approval, unless it has previously been decided that Cabinet approval is required.

- 28.5. Deputy Chief Executive approval is required in writing and kept as evidence of approval.

Internal Approvals by Cabinet

- 28.6. Where it has been decided before the procurement process that Cabinet approval is required, the Procuring Officer in conjunction with the PCO shall submit the report to Cabinet as to the bid that should be accepted and the basis for such a recommendation.
- 28.7. Where the value of the expenditure/income is greater than £250,000, then the Procuring Officer will also need to meet the deadlines required for the Key Decision process.

Internal Approvals in excess of approved budget

- 28.8. Where the Bid recommended for acceptance is for an amount in excess of the approved budgetary provision, then the appropriate Procuring Officer may:
- 28.8.1. apply to Cabinet for approval to a revised budget for the scheme, or
  - 28.8.2. in limited circumstances recommend post-Bid negotiations with the lowest Bidder, in accordance with *Rule 26*, to reduce the bid amount by value engineering to bring the cost of the work within the approved budget. The effect of such revision and negotiation shall be reported to Cabinet.
  - 28.8.3. declare the procurement exercise void, produce a new and fundamentally different specification which will ensure lower costs and commence a new procurement exercise.

**29. INFORMING BIDDERS OF CONTRACT AWARD**

Contracts awarded via Quote Process

- 29.1. The Procuring Officer must as soon as possible, following the identification of the successful Bidder, notify all Bidders simultaneously of the award of contract telling them the name of the successful Bidder and the reason for their selection.

Contracts awarded via a Competitive Tendering Process

- 29.2. Once a preferred Bidder has been identified, the PCO will, as soon as reasonably possible notify all Bidders simultaneously of the intention to award the contract to the preferred Bidder, providing the information to all Bidders as required by UK Procurement Law.

Challenge to the Contract Award

- 29.3. If the contract award decision is challenged by an unsuccessful Bidder, the Procuring Officer must not award the contract but must instead immediately seek the advice of the PCO, who in conjunction with the Head of Legal Services, shall advise further.

**CONTRACTS****30. CONTRACT APPROVAL AND SIGNING**

Also see summary *Appendix B – Contracts and Signing*

- 30.1. Every contract which is less than £25,000 (except purchase orders) shall be in writing and be signed by the appropriate Senior Officer after the Head of Legal Services has approved the terms and conditions. The Senior Officer is responsible for ensuring there is sufficient budget available.
- 30.2. All contract documents for relevant contracts which exceed £25,000 shall be subject to scrutiny by and approval of the Head of Legal Services, in consultation with the Chief Officer, prior to commencing any procurement exercise.
- 30.3. Every relevant contract which exceeds £25,000 shall be in writing, and unless under seal, shall be signed by the Deputy Chief Executive or in their absence the Head of Legal Services.
- 30.4. Where a contract to be signed under seal; The common seal shall be kept in legal services. The contract shall be signed by the Head of Legal Services identified as the proper officer for these purposes and such signature shall be witnessed by an officer or Member of the Council.
- 30.5. Bidders terms and conditions for services and works above the value of £25,000 shall be subject to scrutiny by and approval of the HoLS.,
- 30.6. Every contract in writing shall specify:
- the goods, services or works, to be provided,
  - the location, that the goods, services or works, are to be provided
  - the prices to be paid, including details of how any staged payments will be managed and a statement of discounts or other deductions and,
  - the time or times within which the contract is to be performed.
  - the Terms and Conditions which apply.
- 30.7. Each contract for the execution of works in excess of £100,000 shall contain a clause specifying the percentage deduction to be made from instalment payments to the bidder to provide a retention sum, and the period and conditions for holding and releasing such retention sum. For contracts values below this sum, the Procuring Officer is to consider whether such as clause is required.



30.8. The Procuring Officer, and if the Contract Value is above £25,000 Head of Legal Services, should also consider the following requirements in each contract, based on the nature and risk in the contract:

30.8.1. liquidated damages to be paid by the bidder in case the terms of the contract are not duly performed. Costs for liquidated damages should be pre-agreed and detailed in the Contract wherever possible.

30.8.2. additional security including performance bonds for the due performance of contract for the execution of works.

30.8.3. the provision of a parent company guarantee.

30.9. Contracts should be signed prior to commencement of services, works or delivery of goods.

## **31. CONTRACT EXTENSIONS**

### Exercising Options to Extend

31.1. Where a contract has been advertised with an option to extend beyond the initial contract period and the contract includes such an option it may only be exercised if:

- the Procuring Officer or Contract Manager is satisfied that such an extension is in the best interests of the Council in the light of the contractor's performance;
- there is sufficient budget provision

### No Option to Extend

31.2. Contracts, awarded with a value below the UK Procurement Thresholds, which do not contain any option to extend, (or a further option to extend) in the original contract, cannot be continued, unless a 'new' contract is awarded accordance with these rules. Advice from the PCO should be obtained.

31.3. Contracts, awarded with a value above the UK Procurement Thresholds, which do not contain any option to extend in the original contract cannot be extended, unless it is in accordance with these rules and UK Procurement Law. Advice from the PCO should be obtained.

31.4. *Rules 31.2 and Rule 31.3* will also have to meet the following requirements:

- there is sufficient budget provision
- there are no material changes to the scope of the contract, and
- the Procuring Officer or Contract Manager is satisfied that such an extension is in the best interests of the Council in the light of the contractor's performance;

- 31.5. Where unforeseen circumstances have delayed the delivery of the specified scope/volume of the contract, an extension may be granted after discussions with the PCO, as long as there are no material specification or contract value changes to the contract.

## **CONTRACT REGISTERS, RECORD KEEPING, CONTRACT MANAGEMENT AND FUTURE PROCUREMENT**

### **32. CENTRAL RECORDS**

#### Publication Requirements

- 32.1. In line with the Governments transparency requirements, the Council will publish on its website, on a quarterly basis, details, of all procurement exercises and contracts entered into with a value exceeding £5,000.
- 32.2. To facilitate this, the Senior Officer will ensure that the PCO receives all requested details of all contract awards above £5,000, in a form and within the time limits stated by the PCO.
- 32.3. This process will also ensure the Council is compliant with the requirement to publish a contract register and advertise all relevant contract awards as per UK Procurement Law.
- 32.4. The details contract details required *Rule 32.1* must include:
- title of contract
  - brief details of the nature of the contract
  - the name of the successful bidder
  - status of the successful bidder (Small, Medium Enterprise, Voluntary and Community (SME) etc.)
  - brief details of the nature of the contract
  - the annual value of the contract
  - the total value of the contract including extension periods
  - contract start date
  - contract end date (not including extension period)
  - duration of potential extension period (if any)
  - the process used to award the contract
  - any contract notice period for termination

### **33. RETENTION OF CONTRACTS AND TENDERS**

- 33.1. Procurement records and contracts must be kept in accordance with the Council 'Document Retention Scheme'. An accessible electronic copy stored on the Council's systems for the stated period will satisfy this requirement, unless a contract is signed under seal, where a hard copy must be kept by Legal Services.

- 33.2. Procuring Officers must send all original signed contracts to the Head of Legal Services/Legal Services.
- 33.3. The Head of Legal Services/Legal Services will send the PCO an electronic copy of the all fully signed contracts awarded under these rules that they receive.

#### **34. CONTRACT MANAGEMENT**

- 34.1. Every contract awarded by the Council should have a named contract manager, responsible for the day to day management of the contract. Depending on the risk and complexity of the contract, the Contract Manager's responsibilities may include:
  - 34.1.1. scheduling regular meetings with the contractor, alongside annual review meetings to include performance review and financial monitoring;
  - 34.1.2. obtaining, recording and monitoring, management information and KPI data, to assist discussions regarding performance and finance monitoring;
  - 34.1.3. undertaking financial monitoring to ensure expenditure is in line with that expected under the contract. The Contract Manager is to confirm to the PCO, on an annual basis, that expenditure is (or is not) in line with the contract;
  - 34.1.4. seeking advice from the PCO, before amendments are made to the contract or framework, for example to vary the scope and / or price.
  - 34.1.5. should the contractor fail to meet requirements, notifying the contractor of the issues, giving reasonable time for these to be addressed and rectified. If a contractor continually fails to meet the contract requirements, the process for managing non-compliance detailed within the terms and conditions of the contract must be followed.
  - 34.1.6. follow any Council approved Contract Management Strategy.
- 34.2. The Contract Manager is to keep written records of the above,

#### **35. FUTURE PROCUREMENT**

- 35.1. Where a Procuring Officer/Contract Manager is aware of any future required procurement activity (including the re-tendering of an existing contract), they will inform the PCO in a timely manner.
- 35.2. To ensure the PCO can plan future procurement activity, the Procuring Officer/Contract Manager should usually give the PCO at least six months'

notice before the contract is to start. Additional notice is required with complex procurement projects.

- 35.3. The PCO will publish future procurement activity requirements in compliance with UK Procurement Law.

## **SPECIAL CASES**

### **36. INFORMATION COMMUNICATIONS TECHNOLOGY**

#### New or Replacement Software / Hardware Procurement

- 36.1. The purchase of any new ICT hardware or software, whatever the value, must follow these rules.
- 36.2. All procurements of computer hardware or software should follow any advice on technical standards issued by the ICT and Business Transformation Manager or nominated representative.
- 36.3. In addition to *Rule 30* contracts should also be reviewed by the ICT and Business Transformation Manager or nominated representative before signing.

#### Existing Software

- 36.4. Decisions on existing software licensing and maintenance contracts due to expire are to follow the process below:
- A system review is to be carried by ICT at least 12-24 months before the expiry of the current software contract.
  - The system review is to be present to GMT with a recommendation of either 'maintain', 'enhance' or 'replace'.
  - If the GMT decision is to 'maintain' or 'enhance', the Council (ICT representative) shall seek proposals from the software provider to achieve this.
  - These proposals should be presented to the Executive Director and Deputy Chief Executive for consideration and further action.
  - Where any extension to software licensing and maintenance to existing software exceeds the UK Procurement Threshold, a compliant route to extending the software licensing and maintenance and internal approvals are to be sought.
  - It is the Council's preference that these contracts are of a fixed duration and not left allowed to expire or be subject to annual renewals.
  - Where the decision is 'replace', then *Rule 36.1* is to be followed.

**37. CONCESSION CONTRACTS**

- 37.1. The procurement of Concession Contracts must follow these rules.
- 37.2. Depending on the contract value, Concession Contracts may also be subject to UK Procurement Law. Procuring Officers must obtain further advice from the PCO.
- 37.3. The value of a Concession Contract, is the estimated total turnover that the supplier can generate in consideration for the works, goods and services over the duration of the contract, net of value added tax, as estimated by the Council.

**38. OUTSOURCING AND TRANSFERRING SERVICE CONTRACTS (TUPE)**

- 38.1. Where the proposed contract is to outsource work currently done “in house” the Procuring Officer must as soon as possible consult the Head of Legal Services, Human Resources and Deputy Chief Executive regarding Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) implications before any procurement process and in particular:
- the need to compile and send out with the procurement documents detailed information about the current workforce (Workforce Information);
  - issues relating to pension requirements;
  - the need to include specific reference to the possible TUPE transfer in the procurement documents; and
  - the need to include TUPE clauses in the contract conditions.
- 38.2. Where the proposed contract may involve the transfer of a service contract from one provider/contractor to another the Procuring Officer must:
- request detailed TUPE information about the current workforce (Workforce Information);
  - sense check the information provided by the current contractor to ensure it reflects the current delivery of the contract;
  - include specific reference to the possible TUPE transfer in the ITT; and
  - include TUPE clauses in the contract conditions.

**39. FINANCE OPERATING LEASES**

No operating/finance lease including those for equipment and vehicles must be entered into without the prior written consent of the Deputy Chief Executive.

**40. EXTERNALLY FUNDED PROJECTS**

- 40.1. Any procurement process using externally funded money should follow these rules in addition the following requirements in *Rule 40*:

### Officers

- 40.2. The Procuring Officer has responsibility to:
- 40.2.1. adhere strictly to the requirements set within the funding/grant conditions which may be more stringent than these rules, to avoid any reclaiming of monies;
  - 40.2.2. when seeking advice from the PCO make it clear that the funding for the project is coming from an external source;
  - 40.2.3. keep accurate records throughout any procurement process which can be accessed for external audits to check compliance.

### Competition Requirements

- 40.3. If the funding/grant conditions are less stringent than these rules, these rules take precedent.
- 40.4. If using a Framework, due diligence must be done to check the eligibility to access Frameworks and to ensure that they have been procured compliantly in accordance with the UK Procurement Law.

## **41. PUBLIC AUCTIONS**

The appropriate Senior Officer in consultation with the Deputy Chief Executive or the Chief Executive may resolve whether the acquisition or disposal of goods or materials by the Council up to an anticipated value of £150,000 should be by way of public auction. Purchases and sales of goods or materials of an anticipated value in excess of £150,000 shall only be conducted at auction with the approval of Cabinet.

## **42. ELECTRONIC REVERSE AUCTIONS**

Reverse auctions to procure goods, services or works should be conducted through the Council's e-tendering portal., where system functionality allows. Reverse auctions will be run by the Senior Officer or PCO.

## **AVOIDANCE OF CORRUPTION**

### **43. CONFLICTS OF INTEREST**

Conflicts of interest can lead to allegations of corruption. Therefore, when a Member or Officer is directly involved in the award or management of a contract to a particular organisation they must, whenever possible avoid any personal dealings with that organisation. Where that is not possible the Officer must act in accordance with *Rule 44*.

**44. DECLARATIONS OF INTEREST BY OFFICER**

Any Officer or Member who has a material interest, financial or otherwise, which may affect the procurement process at any stage must immediately they become aware of it declare it in writing the Monitoring Officer and take no further part in the procurement process unless the Monitoring Officer gives their written approval to the Officer's continued involvement in the procurement exercise.

**45. GIFTS AND REWARDS**

No Member or officer must accept any gift, fee or other material reward from any organisation in return for giving them more favourable treatment in a procurement exercise.

**46. FAILURE TO COMPLY**

A failure to comply with *Rules 44, 45 or 46* could be a criminal offence as well as being a disciplinary matter and breach the relevant Code of Conduct..

**VARIATIONS TO THE RULES AND WAIVERS****47. VARIATIONS TO THE RULES**

- 47.1. The Monitoring Officer has power to make a minor amendment to these rules but must subsequently report them to the Council.
- 47.2. Any significant amendment to these rules must be approved by Council first.
- 47.3. Anyone with suggested amendments to these rules should contact the Monitoring Officer.

**48. WAIVER TO THE RULES**

- 48.1. Officers must in the first instance comply with the requirements of these rules. Waivers are not to be seen as an alternative to a compliant procurement process.
- 48.2. Considering a waiver must be risk based and always a last resort after all other options have been considered.
- 48.3. A waiver cannot be given where the contract value exceeds the UK Procurement Threshold unless the PCO in conjunction with the HoLS and Deputy Chief Executive has confirmed in writing that an exemption is available under the UK Procurement Law.

- 48.4. Officers must not enter into contracts under waiver until confirmation of Waiver approval has been received.
- 48.5. Waivers may be considered in, but not limited to, the following circumstances:
- 48.5.1. where the purchase of supplies or the execution of works or services involve specialist or unique skills or knowledge which cannot be obtained from other providers;
  - 48.5.2. where the Council require upgrades to existing software packages or require repairs to, or parts for, existing machinery or equipment that are specific to that machinery or equipment;
  - 48.5.3. if the Council has already engaged with an organisation for a similar and related procurement provided that the Council will not be exposed to unacceptable risk and there is significant benefit to extending the scope of the contract to cover this additional requirement;
  - 48.5.4. where, after advertising in accordance with these rules, it has not been possible to obtain competitive prices for works, supplies or services;
  - 48.5.5. 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;
  - 48.5.6. if works, supplies or services are urgently needed for the immediate protection of life or property or to maintain the immediate functioning of a public service that the Council is responsible for, on the basis of an unforeseeable emergency.
  - 48.5.7. any other exceptional circumstances.
- 48.6. In such circumstances, waivers to these rules may be granted by:
- 48.6.1. Deputy Chief Executive (Directorate Waiver), if Contract Value is below £100,000 See Rules 48.7 and 48.8;
  - 48.6.2. Cabinet (Cabinet Waiver) if Contract Value is above £100,000. See Rules 48.9 to 48.11; or
  - 48.6.3. Chief Executive or duly nominated representative (Urgency Power Waiver), if Contract Value is above £100,000, in cases of urgency. See Rules 48.12 to 48.15.



Directorate Waiver

- 48.7. After consultation with the PCO, a Directorate Waiver form is to be completed by the Procuring Officer and signed by the Director of Service and approved by the Deputy Chief Executive.
- 48.8. All approved Directorate Waivers are to be sent to the PCO within two weeks of approval, by the Procuring Officer.

Cabinet Waiver

- 48.9. Any request for a Cabinet Waiver must, after consultation with relevant Chief Officer and the Chief Executive, be submitted by the Procuring Officer. The Chief Officer will report the circumstances of the waiver to the next Cabinet meeting.
- 48.10. As a minimum, the report to Cabinet shall include:
- the reasons why the waiver is being requested;
  - the reasons why these rules cannot be followed;
  - confirmation that there is an approved budget or it includes a request to approve any new or additional budget;
  - the details of the organisation due to benefit from the waiver;
  - the value of the waiver;
  - the duration/term that the waiver relates to;
  - the specific rules the waiver wishes exemption to;
  - confirmation approval of the waiver complies with UK Procurement Law, confirming consultation with the PCO and the HoLS.
- 48.11. All approved Cabinet Waivers are to be reported to the PCO within two weeks of approval, by the Procuring Officer.

Urgency Power Waiver

An Urgency Power Waiver form, shall be completed by the Procuring Officer after consultation with the PCO and Director of Service and, is to be considered by the Chief Executive as to whether their use of Urgency Powers should be used.

- 48.12. The Chief Executive, after consultation with the Leader and Leader of the Opposition (if available) can exercise use of their Urgency Powers, if appropriate, to approve an Urgency Power Waiver to them to approve.
- 48.13. The Chief Executive will retrospectively report the circumstances of the Urgency Power Waiver to Cabinet and the report shall contain the information detailed in *Rule 48.9*.
- 48.14. All approved Urgency Power Waivers are to be reported to the PCO within two weeks of approval, by the Procuring Officer.

Appendix A – Contract Values and Procurement Process

Requirement	Category	Total Contract Value (£) <i>(see Rule 11)</i>	Procurement Process	Advertising Requirements	Form of Contract
Goods, Services and Works	Very Low Value	Below £25,000	Senior Officer decides if quotes needed.	None	Standard Council Contract or Purchase Order Standard Form of Contract Bidders Terms and Conditions
Goods, Services and Works	Low Value	£25,000 to £100,000	3 quotes minimum to be requested Completion of procurement approval form and sent to PCO.	None	Standard Council Contract Standard Form of Contract
Goods, Services and Works	Medium Value	£100,001 to UK Procurement Threshold	Competitive Tendering Process Completion of procurement approval form and sent to PCO.	as dictated by UK Procurement Legislation	Standard Council Contract Standard Form of Contract
Goods, Services and Works	High Value	Above UK Procurement Threshold	Competitive Tendering Process as dictated by UK Procurement Completion of procurement approval form and sent to PCO. Legislation	as dictated by UK Procurement Legislation	Standard Council Contract Standard Form of Contract
IT Software licensing and maintenance	NA	Below UK Procurement Threshold	Completion of procurement approval form. Direct Award if not tendering out.	None	Standard Council Contract Standard Form of Contract Bidders Terms and Conditions

**Appendix B – Contracts and Signing**

	<b>Total Contract Value (£)</b> <i>(see Rule 10)</i>	<b>Contract Terms Approval Required before start of procurement process.</b>	<b>Contract Terms Approval Required before start contract.</b>	<b>Who can sign the contract?</b>	<b>Acceptable Signing Method</b>
1.	Below £25,000 (unless under seal)	None	Head of Legal Services	Senior Officer	Wet signature Electronic Signature Signature via e-signing system
2.	Above £25,000 (unless under seal)	Head of Legal Services	Head of Legal Services	Deputy Chief Executive or in their absence the Head of Legal Services	Wet signature Electronic Signature Signature via e-signing system
3.	Contracts under seal (any value)	As per rows 1 and 2 depending on value.	Head of Legal Services	Head of Legal Services	Wet signature and seal
4.	ICT Contracts	As per rows 1, 2 and 3 depending on value, with ICT approval too.	ICT in conjunction with Head of Legal Services.	As per row 1, 2 and 3 depending on value.	As per row 1, 2 and 3 depending on value.

## Appendix C – Procuring Officer / Contract Manager Responsibilities

The Procuring Officer / Contract Manager for any particular contract entered into by the Council holds a number of key responsibilities with regard to Procurement and subsequent contract management. This document is a brief outline of the relevant specific requirements. These requirements may change dependent on the nature, risk and/or value of the contract.

It is important to note that although specific tasks may be delegated, the Procuring Officer / Contract Manager retains ultimate responsibility for ensuring these requirements are met.

The Procurement and Contracts Officer ('PCO') will provide guidance and assistance during the whole procurement process.

### 1. Pre-Advert Requirements

**Procurement Approval Form** – Completion, in conjunction with the PCO, and Senior Officer sign-off of the Procurement Approval Form ('PAF').

**Data Protection Impact Assessment** – Assess to see if a Data Protection Impact Assessment ('DPIA') is required. If so, complete a DPIA. If required a draft Data Sharing or Data Processing Agreement is to be completed as part of the bid document pack.

**IR35** – If payroll status is not clear, an IR35 assessment is to be completed and sent to the Procurement and Contracts Officer. Further information available at <https://www.tax.service.gov.uk/check-employment-status-for-tax/setup>.

**Equalities Impact Assessment** – Review to see if an Equalities Impact Assessment ('EIA') is required. If so, complete an EIA. This should then feed into the specification requirements.

**TUPE** – Confirm with the current incumbent whether they think TUPE is applicable. If so, obtain and check TUPE data using the templates available from the PCO.

**Climate Change Implications** – Completion (in conjunction with the PCO) and sign-off of any Climate Change documentation/requirements.

**Documents** – Alongside the PCO, **draft, finalise and approve:**

- Suitability Questions
- Quality Questions
- Specification
- Pricing Schedule
- Evaluation Criteria
- Contract
- Any other relevant documents

**Contract** – Identify any special terms and conditions required.

**Evaluation Guidance Document** – Determine what is expected from the responses to the tender. This should inform the specification. Managed by the PCO.

**Evaluators** – Confirm who the evaluators are and what questions they are evaluating. Minimum of two evaluators per question. Evaluators must be available for moderation meetings if the evaluation process require this. Managed by the PCO.

**2. Bidding Stage Requirements**

**Clarifications** – Respond to bidder clarification queries in a timely manner. Managed by the PCO.

**3. Evaluation Stage Requirements**

**Evaluators** – Ensure evaluators are available and follow the evaluation rules and requirements.

**Moderation** – Ensure evaluators are available for moderation meetings if applicable and follow the moderation rules and requirements.

**Approval** – Approve the final bid result.

**4. Post-Award Stage Requirements (Contract Management)**

The following is a (non-exhaustive) summary of ongoing matters relating to Contract Management:

- Review need for a DPIA.
- Review IR35 status.
- Review risk assessments.
- Arrange and manage initial contract meetings/mobilisation.
- Ensure legislation, standards and contract requirements are being met.
- Arrange frequent meetings with the provider/contractor at the start of the contract. These are to be minuted and shared with the bidder.
- Assist the PCO in confirming the annual expenditure on the contract.
- Arrange annual reviews with bidder. These are to be minuted, shared with the provider/contractor and provided to the PCO on request.
- Document contract performance issues and ensure these are raised with the provider/contractor. Notify the PCO of any significant performance issues.

**Do not agree to contract changes without consulting the PCO and Legal Services.**

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## Report of the Monitoring Officer

**ANNUAL REVIEW OF THE CODE OF CONDUCT AND UPDATE ON MEMBER CODE OF CONDUCT COMPLAINTS**1. Purpose of report

To update Members on the annual review of the Code of Conduct, training provided to the Borough and Parish/Town Members and to update on Member Code of Conduct Complaints, prior to seeking the Code be adopted by full Council.

2. Recommendation

The Committee is asked to:

1. **NOTE the update on the review of the Code of Conduct, Member Code of Conduct complaints and training provided to Borough and Parish/Town Members.**
2. **RECOMMEND that the Code of Conduct at appendix 2 be adopted by full Council.**

3. Detail

The Localism Act 2011 section 27, places the Council under a duty to promote and maintain high standards of conduct. In discharging this duty, the Council is required to adopt a Code dealing with the conduct that is expected of its Members and Co-opted Members. Section 28(6) also requires the Council to have in place arrangements under which allegations can be investigated.

The Code was last reviewed in 2022 and a new Code was adopted on 13 April 2022 and came into effect on 11 May 2022. In line with the Best Practice Recommendations it was agreed that an annual review of the Borough's Code would be added to this Committee's agenda.

The review recommends making no further amendments to the Code of Conduct currently adopted, as the Borough's Code continues to be fit for purpose, provides clarity on the behaviour expected of Members and reflects public expectation.

Since adopting the new Borough Code and rolling out Code of Conduct training there has been a decrease in the number of Code of Conduct Complaints received in 2022/23, from those received in 2021/22, further detail is provided in appendix 1.

The Code will continue to be reviewed on an annually basis to ensure it remains fit for purpose.

4. Financial Implications

The comments from the Head of Finance were as follows:

There are no additional budget implications for the Council in adopting the Code of Conduct.

5. Legal Implications

The comments from the Head of Legal were as follows:

Section 37 of the Local Government Act 2000 requires local authorities operating executive arrangements to prepare and keep up to date a document which contains:

- (a) such information as the Secretary of State may direct
- (b) the authority's standing orders (i.e. rules of procedure)
- (c) the Code of Conduct for Members
- (d) such information as the authority considers appropriate.

Broxtowe Borough Council's Constitution is available on the Council's website

6. Human Resource Implications

Not applicable

7. Union Comments

Not applicable

8. Climate Change Implications

The comments from the Waste and Climate Change Manager were as follows:

N/A

9. Equality Impact Assessment

As there is no change to policy an equality impact assessment is not required.

10. Background Papers

There are no background papers.



## APPENDIX 1

Background:

The Localism Act 2011 abolished the previous national model Code and instead imposed a simple requirement that each Council put in place a Code dealing with conduct that is expected of Members & Co-opted Members, when they act in that capacity (s27(2)). Each Code must, when viewed as a whole, be consistent with the 7 Nolan Principles of Public Life and must contain “appropriate provisions” for the registration and disclosure of disclosable pecuniary interests and ‘other’ interests.

During 2018 the Committee on Standards in Public Life (“CSPL”) undertook a review of local government ethical standards to establish how effective the current arrangements were in light of the changes made by the Localism Act 2011. Also in response to rising local government concern about the increasing incidence of public, Member to-Member and officer/Member intimidation and abuse and overall behavioural standards and expectations in public debate, decision making and engagement.

The CSPL found there was considerable variation in the length, quality, and clarity of Codes of Conduct across Councils.

One of the main recommendations of the CSPL was that the Local Government Association (LGA) should create an updated, non-mandatory, Model Code of Conduct, which Councils could then consider either adopting in full or adapting according to their local circumstances.

The LGA aimed to develop a Code that benchmarks a standard for all public office and for those engaged in public discourse and debate. It aimed to set out the duties and expectations of persons in public office as well as their rights, particularly their right to be protected from abuse and intimidation resulting from their undertaking of public office.

The LGA developed and published a Model Member Code of Conduct, which was published in January 2021, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for Councils to adopt in whole and/or with local amendments. Although, there is no mandatory statutory requirement to adopt the Model Code.

In 2022, a Member and Officer Task and Finish Group extensively reviewed the Borough’s Code of Conduct, Best Practice Recommendations and the Model Code. The Task and Finish Group recommend adopting the Model Code with local amendments, removing the guidance notes contained within the Model Code, as they were considered to be ambiguous in parts, made the Model Code too lengthy and would if adopted in full dilute the clear message of the Borough’s Code of Conduct.

## **1. Code of Conduct**

This Committee is responsible for standards functions as set out in the constitution and for advising the Council on the adoption or revision of the Members' Code of Conduct. The Localism Act provides that any adoption, replacement or revision of a Code must be undertaken by Council. The Council last updated and adopted its Member Code of Conduct on 13 April 2022, to take effect from 11 May 2022.

In line with the Best Practice Recommendations it was agreed that an annual review of the Code would take place. This review's objectives were to ensure the Code was fit for purpose, provided clarity on behaviour expected of Members and reflects public expectation.

The review was conducted by the Monitoring Officer, who is the Statutory Officer responsible for considering Code of Conduct complaints, the two deputy Monitoring Officers and the two Independent Persons who, as the title suggests, perform a statutory role to both ensure the local arrangements work effectively and, also, provide constructive challenge.

The review recommends that the Borough's Code as adopted on 13 April 2022 remains fit for purpose, provides clarity on expected behaviours and reflects public expectation and no amendments are proposed. The Borough's Code of Conduct is based on the Model Code recommended by the LGA, is comprehensive and enables the Borough and the Parishes who have adopted this Code to benefit from guidance and support on training material from the LGA.

The Borough's adopted Code of Conduct was circulated to the Parish and Town Councils, with a recommendation that they adopt the Borough's Code and training was provided. Six out of nine Parish and Town Councils decided to adopt the Borough Code/Model Code since May 2022 and the remaining three have confirmed they too will be considering adopting the Borough's Code, post the elections.

It was, however, identified that the Member Declaration of Interest form needed updating, to make it simpler for Members to complete and to bring it in line with the requirements in the Interest section in the Borough's Code of Conduct. The revised Declaration of Interest form was circulated to Borough Members and Parishes who had adopted the Borough's Code or the Model Code in May 2023, in readiness for the elected Members to complete.

## **2. Training**

When the Code was adopted on 13 April 2022, it was agreed that the Monitoring Officer would provide comprehensive training to Members to ensure they had a better understanding of the standards of behaviour expected of them to raise standards and public confidence in Members decision making.

Consequently, multiple training dates have been provided to Borough Members and Parish/Town Councils, to ensure Members have a better understanding of the obligations they agree to abide by when taking office.

To ensure these training sessions were accessible to all, the timing and venue of these sessions was varied, so Members could attend in the day or evening or in person or online. Training for the Parish and Town Councils was delivered on 6 and 18 May 2022 and a further two sessions on 28 September 2022. Borough Member training was delivered on 2, 3 and 8 November 2022 and a number of individual sessions were also delivered to Members throughout the year.

The new elected Borough Members and returning Borough Members have also had training provided on 9 May 2023, where three separate sessions were run to ensure the training was again accessible to all. Only a handful of Members were unable to attend these dates and arrangement are being made for them to attend this training in June 2023.

Parish/Town Council newly elected Members and returning Members have also received training on 23, 24, 30 and 31 May 2023. A total of 44 Parish Members and some of their Clerks attended these sessions.

Feedback from the training sessions has been extremely positive from both newly elected Members and returning Members.

### **3. Code of Conduct Complaints**

Section.28(7) of the Localism Act 2011 put in place a requirement for the authority to appoint at least one Independent Person whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation against a Member that it has decided to investigate.

However, the Borough took on two Independent Persons in December 2021, in line with Best Practice Recommendations to ensure the effective and timely handling of Code of Conduct complaints and to ensure the appropriate check and challenge is in place throughout the complaints process.

The number of Member Complaints received in 2022 -2023 has shown a decrease in complaints from those received in 2021-2022. Further detail is provided in the tables below.

<b>Number of Code of Conduct Complaints</b>		
<b>Type</b>	<b>2021/22</b>	<b>2022/23</b>
<b>Borough</b>	8	2
<b>Parish</b>	16	6
<b>Total</b>	24	8

<b>Origin of Borough Code of Conduct Complaints</b>		
<b>Type</b>	<b>2021/22</b>	<b>2022/23</b>
<b>Public</b>	5	
<b>Member</b>	3	1
<b>Officer</b>		1
<b>Total</b>	8	2

<b>Origin of Parish Code of Conduct Complaints</b>		
<b>Type</b>	<b>2021/22</b>	<b>2022/23</b>
<b>Public</b>	12	1
<b>Member</b>	4	2
<b>Officer</b>		3
<b>Total</b>	16	6

<b>Type of Borough Code of Conduct Complaints (Multiple breaches can be alleged in one complaint)</b>		
<b>Type</b>	<b>2021/22</b>	<b>2022/23</b>
<b>Respect</b>	6	
<b>Bullying, Harassment &amp; Discrimination</b>	1	1
<b>Impartiality of Officers of the Council</b>		1
<b>Confidentiality &amp; Access to Information</b>		
<b>Disrepute</b>		1
<b>Use of Position</b>		1
<b>Use of Council Resources &amp; Facilities</b>		
<b>Making Decisions</b>		
<b>Complying with the Code of Conduct</b>		
<b>Interests</b>		1
<b>Gifts &amp; Hospitality</b>		
<b>Other (not an obligation under the Code)</b>	1	

<b>Type of Parish Code of Conduct Complaints (Multiple breaches can be alleged in one complaint)</b>		
<b>Type</b>	<b>2021/22</b>	<b>2022/23</b>
<b>Respect</b>	11	2
<b>Bullying, Harassment &amp; Discrimination</b>	2	5
<b>Impartiality of Officers of the Council</b>		
<b>Confidentiality &amp; Access to Information</b>		
<b>Disrepute</b>		1
<b>Use of Position</b>		
<b>Use of Council Resources &amp; Facilities</b>		

<b>Type of Parish Code of Conduct Complaints (Multiple breaches can be alleged in one complaint)</b>		
<b>Making Decisions</b>		
<b>Complying with the Code of Conduct</b>		1
<b>Interests</b>		
<b>Gifts &amp; Hospitality</b>		
<b>Other (not an obligation under the Code)</b>	11	

<b>Outcome of Complaint</b>		
<b>Type</b>	<b>2021/22</b>	<b>2022/23</b>
<b>Failed initial intake test</b>	3	1
<b>No Further Action</b>	11	2
<b>Informal Resolution</b>		2
<b>Other Action</b>		
<b>Formal Investigation</b>		
<b>Ongoing</b>		2
<b>Withdrawn</b>	2	1

The Independent Persons were involved in consideration of the Member Code of Conduct complaints, in line with the adopted arrangements for dealing with Member Code of Conduct complaints.

## APPENDIX 2

## Code of Conduct of Broxtowe Borough Council

### Part 1: General Provisions

#### Introduction

This section sets out general interpretation and background to the Code of Conduct, including definitions used within the Code, the purpose of the Code, the principles the Code is based on and when the Code applies. It does not form part of the Code of Conduct itself and consequently does not contain any obligations for you to follow, as these are contained in the 'Code of Conduct' section below.

All Councils are required to have a local Member Code of Conduct.

#### Definition

For the purposes of this Code of Conduct, a "Member" means a Member or Co-opted Member of Broxtowe Borough Council ("the Council").

A "Co-opted Member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a Member of the Council but who

- a) is a Member of any committee or sub-committee of the Council, or;
- b) is a Member of, and represents the Council on, any joint committee or joint sub-committee of the Council;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

#### Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Members, Council officers and the reputation of the Council and local government. It sets out general principles of conduct expected of all Members and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of Member and local government.

You are Member or Co-opted Member of the Council and you have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

### **Application of the Code of Conduct**

The Code of Conduct has been adopted by the Council under Section 27 of the Localism Act 2011.

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office or attend your first meeting as Member or Co-opted Member and continues to apply until you cease to be a Member.

The Code of Conduct applies to you when you are acting in your capacity as a Member or Co-opted Member of the Council and conduct the business of the Council (which, in this Code includes the business of the office to which you are elected or appointed).

Where you act as a representative of the Council on another Council, you must, when acting for that other Council, comply with that other Council's Code of Conduct.

When you act as a representative of the Council on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are expected to uphold high standards of conduct and show leadership at all times when acting as a Member.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct. It is your responsibility to comply with the provisions of this Code and to ensure all its obligations are met. You are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct, which you are unsure of. Town and Parish Members are encouraged to seek advice from their Clerk (who may refer matters to the Monitoring Officer).

## General principles of Member conduct

In accordance with the Localism Act provisions, when acting in this capacity you are committed to behaving in a manner that is consistent with the following Seven Principles of Public Life also known as the Nolan Principles set out below: These general principles underpin the obligations in the Code of Conduct that follows and aim to achieve best value for our residents and maintain public confidence in this Council:

### SEVEN PRINCIPLES OF PUBLIC LIFE:

1. **SELFLESSNESS:** Holders of public office should act solely in terms of the public interest.
2. **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.
3. **OBJECTIVITY:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. **ACCOUNTABILITY:** Holders of public office are accountable for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office internally and externally, including by local residents.
5. **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.
6. **HONESTY:** Holders of public office should be truthful.
7. **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.

## Part 2 – Member Code of Conduct

### General Obligations:

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.

#### 1. Respect

- 1.1 You must always treat all others with respect, including the organisations, staff and public you engage with and those you work alongside.
- 1.2 You must value colleagues and staff and engage with them in an appropriate manner



and one that underpins the mutual respect between you that is essential to good local government.

## **2. Bullying, harassment and discrimination**

2.1 You must not do anything which may cause the Council to breach any of the equality enactments.

- a) bully any person;
- b) harass any person;
- c) behave in an improper or offensive manner;
- d) discriminate unlawfully against any person due to their race, age, religion, gender, sexual orientation or disability and will promote equalities.

## **3. Impartiality of officer of the Council**

3.1 You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

3.2 You must deal with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.

## **4. Confidentiality and access to information**

4.1 You must not disclose information:

- a) given to you in confidence by anyone, or
- b) acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, unless:
  - i) you have the consent of a person authorised to give it;
  - ii) you are required by law to do so;
  - iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - iv) the disclosure is:
    - 1. reasonable and in the public interest; and
    - 2. made in good faith and in compliance with the reasonable requirements

of the Council.

3. you have consulted the Monitoring Officer [or Clerk] prior to its release.

4.2 You must not improperly use knowledge gained solely as a result of your role as a Councillor for the advancement of yourself, your friends, your family members, your employer or your business interests.

4.3 You must not prevent another person from gaining access to information to which that person is entitled by law.

## **5. Disrepute**

5.1 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

## **6. Use of your position**

6.1 You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

6.2 You will not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

## **7. Use of local authority resources and facilities**

7.1 You must not misuse Council resources;

7.2 You must, when using or authorising the use by others of the resource of the Council act in accordance with the Council's reasonable requirements;

7.2 You must ensure that such resources are not used improperly, including use for political and party political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which you have been elected or appointed.

## **8. Decision making**

8.1 When reaching decisions on any matter you must have regard to any relevant advice provided to you by officers of the Council acting pursuant to their statutory responsibilities (including a proper officer designated by the Council), or other professional officers of the Council, taking all relevant information into consideration, remaining objective and making decisions on merit

8.2 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.

- 8.3 You must behave in accordance with all the Council's legal obligations, alongside any requirements contained within this Council's policies, protocols and procedures.
- 8.4 You must not allow other pressures to unreasonably deter you from pursuing constituents' casework, the interests of the Council's area or the good governance of the Council in a proper manner.

## **9. Complying with the Code of Conduct**

- 9.1 You will undertake Code of Conduct training provided by your Council.
- 9.2 You will fully cooperate with any Code of Conduct investigation and/or determination.
- 9.3 You will not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings; in relation to an allegation that a Member (including yourself) has failed to comply with his or her Council's Code of Conduct;
- 9.4 You will comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.

## **Protecting your reputation and the reputation of the Council**

### **10. Interests**

- 10.1 You will register and disclose your interests in accordance with the provisions set out in Appendix A.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Members of the Council. The register is publically available and protects you by demonstrating openness and willingness to be held accountable.

You are personally responsible for deciding whether or not you should disclose an interest in a meeting which allows the public, Council employees and fellow Councillors know which of your interests gives rise to a conflict of interest. If in doubt you should always seek advice from your Monitoring Officer.

You should note that failure to register or disclose a disclosable pecuniary interest as defined in Appendix A, is a criminal offence under the Localism Act 2011.

### **11. Gifts and hospitality**

- 11.1 You will not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.

- 11.2 You will register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.
- 11.3 You will register with the Monitoring Officer any significant gift or hospitality with an estimated value of at least £25 that you have been offered but have refused to accept

## **12. Dispensations**

- 12.1 You may request a dispensation from the Monitoring Officer for one meeting only.
- 12.2 You must make the request in writing detailing what my interest is, why the dispensation is required and for what meeting.
- 12.3 You must make any request 5 days prior to the meeting at which the Dispensation is required.
- 12.4 You must make any further requests for dispensation to the Standards Sub Hearing Committee.
- 12.5 You will only be granted a Dispensation where there are reasonable grounds for doing so and where such grounds are in the public interest.

Appendix A sets out the situations where a Member's personal interest in a matter may prevent them from participating in the decision-making process. In certain circumstances, however, there may be reasonable grounds to allow a Member to participate in decision-making on that matter where it would be in the public interest to do so. Where you consider that there may be good grounds for you to continue to participate you should request a dispensation from the Monitoring Officer.

## APPENDIX A

**Disclosable Pecuniary Interests****1. Definitions**

“Disclosable Pecuniary Interest” means any interest described as such in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and includes an interest of yourself, or of your Partner (if you are aware of your Partner's interest) that falls within the descriptions set out in the following table. A Disclosable Pecuniary Interest is a Registerable Interest.

“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.

**Table of Disclosable Pecuniary Interests**

<b>Subject</b>	<b>Prescribed description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain, which you, your spouse or civil partner, undertakes. {any unpaid directorship}
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from your Council) made or provided within the previous 12-month period in respect of any expenses incurred by you in carrying out duties as a Member, or towards your 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>Any contracts</b>	Any contract which is made between you, your spouse or your civil partner or person with whom you are living with as spouse or civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and the Council under which a) goods or services are to be provided or works are to be executed; and b) which has not been fully discharged.

Subject	Prescribed description
	<p><i>For this purpose “body in which you or they have a beneficial interest” means a firm which the relevant person is a partner or a body corporate of which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest. “Director” includes a Member of the committee of management of an industrial and provident society.</i></p>
<b>Land</b>	<p>Any beneficial interest in which you, or your spouse or your civil partner, have and which is within the area of the Council.</p> <p><i>For this purpose “ Land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you, your spouse, civil partner (alone or jointly with another) to occupy the land or to receive income.</i></p>
<b>Licences</b>	<p>Any licences (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of the Council for a month or longer.</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to your knowledge) a) the landlord is the Council; and b) the tenant is a body in which you, or your spouse or your civil partner or the person with whom the Member is living with, as if they were spouse/civil partners is a partner of or a director of or has a beneficial interest in the securities of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities of a body where: (a) that body (to your knowledge) has a place of business or land in the area of the relevant 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 Member, or his/her spouse or civil</p>

Subject	Prescribed description
	<p>partner or the person with whom the Member is living as if they were spouse/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p> <p><i>For this purpose, “securities” mean 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.</i></p>

**Note - Failure to declare a Disclosable Pecuniary Interest and to take part in any discussion in or vote on any matter in which the Member has a pecuniary interest is a criminal offence, which is punishable by a fine of up to £5,000 and disqualification.**

“**Registrable Interests**” are interests that you are required to register in accordance with this Code of Conduct and include both Disclosable Pecuniary Interests and Other Registerable Interests.

“**Other Registerable Interests**” are a personal interest in any business of your Council which relates to or is likely to affect:

- a) any unpaid directorships
- b) any body of which you are in general control or management and to which you are nominated or appointed by your Council; or
- c) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a Member or in a position of general control or management.

“**Non-Registrable Interests**” are interests that you are not required to register but need to be disclosed in accordance with section 3.3.

A “**Dispensation**” is agreement that you may continue to participate in the decision-making process notwithstanding your interest as detailed at section 12 of the Code of the Conduct and this Appendix.

A “**Sensitive Interest**” is as an interest which, if disclosed, could lead to the Member, or a person connected with the Member, being subject to violence or intimidation. In any case where this Code of Conduct requires to you to disclose an interest (subject to the agreement of the Monitoring Officer in accordance with paragraph 2.4 of this Appendix regarding registration of interests), you do not have to disclose the nature of the interest, if it is a Sensitive Interest in such circumstances you just have to disclose that you have a Sensitive Interest under S32(2) of the Localism Act 2011. You must update the Monitoring Officer when the interest is no longer sensitive, so that the interest can be recorded, made available for inspection and published.

A matter “**directly relates**” to one of your interests where the matter is directly about that interest. For example the matter being discussed is an application about a particular property in which you or somebody associated with you has a financial interest.

A matter “**affects**” your interest where the matter is not directly about that interest but would still have clear implications for the interest. For example, the matter concerns a neighbouring property.

## 2. Registering Interests

- 2.1 You must, within 28 days of this Code being adopted by the Council, or taking office as a Member or appointed as a Co-opted Member, register all details of Disclosable Pecuniary Interest and Other Registerable Interests, with the Monitoring Officer.
- 2.2 You must upon your re-election as a Member or your re-appointment as a Co-opted Member, within 28 days re-register all details of Disclosable Pecuniary Interest and Other Registerable Interests, with the Monitoring Officer.
- 2.3 You must register any change to a Disclosable Pecuniary Interest or new interest within 28 days of becoming aware of it.
- 2.4 You must notify the Monitoring Officer where you have a Sensitive Interest, with the reasons why you believe it is a Sensitive Interest. If the Monitoring Officer agrees they will withhold the interest from the public register.
- 2.5 You must observe the restrictions the Council places on your involvement in matters where you have a Disclosable Pecuniary Interest or Other Registerable Interest, as defined by the Council.

## 3. Declaration at and Participation in Meetings

If you are present at a meeting and you have either a Registerable or Non-Registerable Interest in any matter to be considered or being considered, and the interest is not a Sensitive Interest, you must disclose that interest to the meeting (whether or not it is registered).



To determine whether your interest affects your ability to participate in a meeting, you must first determine what type of interest you have and, if necessary, go on to apply the tests as set out below.

### 3.1 Disclosable Pecuniary Interests

3.1.1 Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests:

#### Action to be taken

- **you must disclose the nature of the interest** at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council's register of interests of Member and Co-opted Members or for which you have made a pending notification. If it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest.
- **you must not participate in any discussion** of that particular business at the meeting, or if you become aware of a disclosable pecuniary interest during the meeting you must not participate further in any discussion of the business, including by speaking as a member of the public.
- **you must not participate in any vote** or further vote taken on the matter at the meeting and
- **you must withdraw from the room** at this point to make clear to the public that you are not influencing the meeting in anyway and to protect you from the criminal sanctions that apply should you take part, unless you have been granted a Dispensation.

### 3.2 Other Registerable Interests

3.2.1 Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests:

#### Action to be taken

Where a matter arises at any business of the Council, of its executive or any committee of the executive, or any committee, joint committee, or joint sub-committee of the Council and you have a Disclosable Pecuniary Interest relating to any business that is or will be considered at the meeting:

- **you must disclose** the interest at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council's register of interests of Member and Co-opted Members or for which you have made a pending notification. If it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest.

- **you must not take part in any discussion or vote** on the matter, but may speak on the matter only if members of the public are also allowed to speak at the meeting
- **you must withdraw from the room** unless you have been granted a Dispensation.

3.2.2. The provisions of paragraph 3.1.1 and 3.2.1 shall be applied in such a manner as to recognise that this Code should not obstruct a Member's service on more than one Council. For the avoidance of doubt, participation in discussion and decision making at one Council will not by itself normally prevent you from taking part in discussion and decision making on the same matter at another Council. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a Member's judgement of the public interest and will only regard a matter as giving rise to a Personal Interest which might lead to bias in exceptional circumstances.

### 3.3 Non-Registerable Interests

3.3.1 Where a matter arises at a meeting which **directly relates** to a financial interest or the well-being of yourself or of a friend, relative or close associate (and is not a Registerable Interest):

#### Action to be taken

- **you must** disclose the interest; if it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest.
- **you must not take part in any discussion or vote**, but may speak on the matter only if members of the public are also allowed to speak at the meeting; and
- **you must withdraw** from the room unless you have been granted a Dispensation.

3.3.2. Where a matter arises at a meeting which does not directly relate to but **affects**

- a) a financial interest or the well-being of yourself or of a friend, relative or close associate; or
- b) a financial interest or wellbeing of a body included in those you need to disclose under Other Registerable Interests

#### Action to be taken

- **you must disclose the interest** and extent of your interest including enough detail to allow a member of the public to understand its nature, at the commencement of that consideration, or when the interest becomes apparent.

In order to determine whether you can remain in the meeting after disclosing your interest the following test in paragraphs 3.3.3 and 3.3.4 should be applied.

3.3.3. Where a matter under paragraph 3.3.2 **affects** the financial interest or well-being or body:

- a) to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and
- b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

**Action to be taken**

- **you must not take part in any discussion or vote** on the matter but may speak on the matter only if members of the public are also allowed to speak at the meeting; and
- **you must withdraw from the room** unless you have been granted a Dispensation.

3.3.4. Where a matter under paragraph 3.3.2 **does not affect** the financial interest or well-being or body:

- a) to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and/or
- b) a reasonable member of the public knowing all the facts would not believe that it would affect your view of the wider public interest

**Action to be taken**

- **you may remain in the room,**
- **you may speak** if you wish to and take part in any discussion or
- **you may vote** on the matter, provided you have disclosed your interest under paragraph 3.3.2.

#### **4. Single-Member-Decision-Making**

4.1. In the event that you are making a decision as a single Member the following section applies in relation to any interests you may have.

4.1.1. Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function (i.e., Single-Member-decision-making) and the interest is:

- a) A Registrable Interest; or
- b) A Non-Registrable Interest that falls under paragraph 3.3.3 above

**Action to be taken**

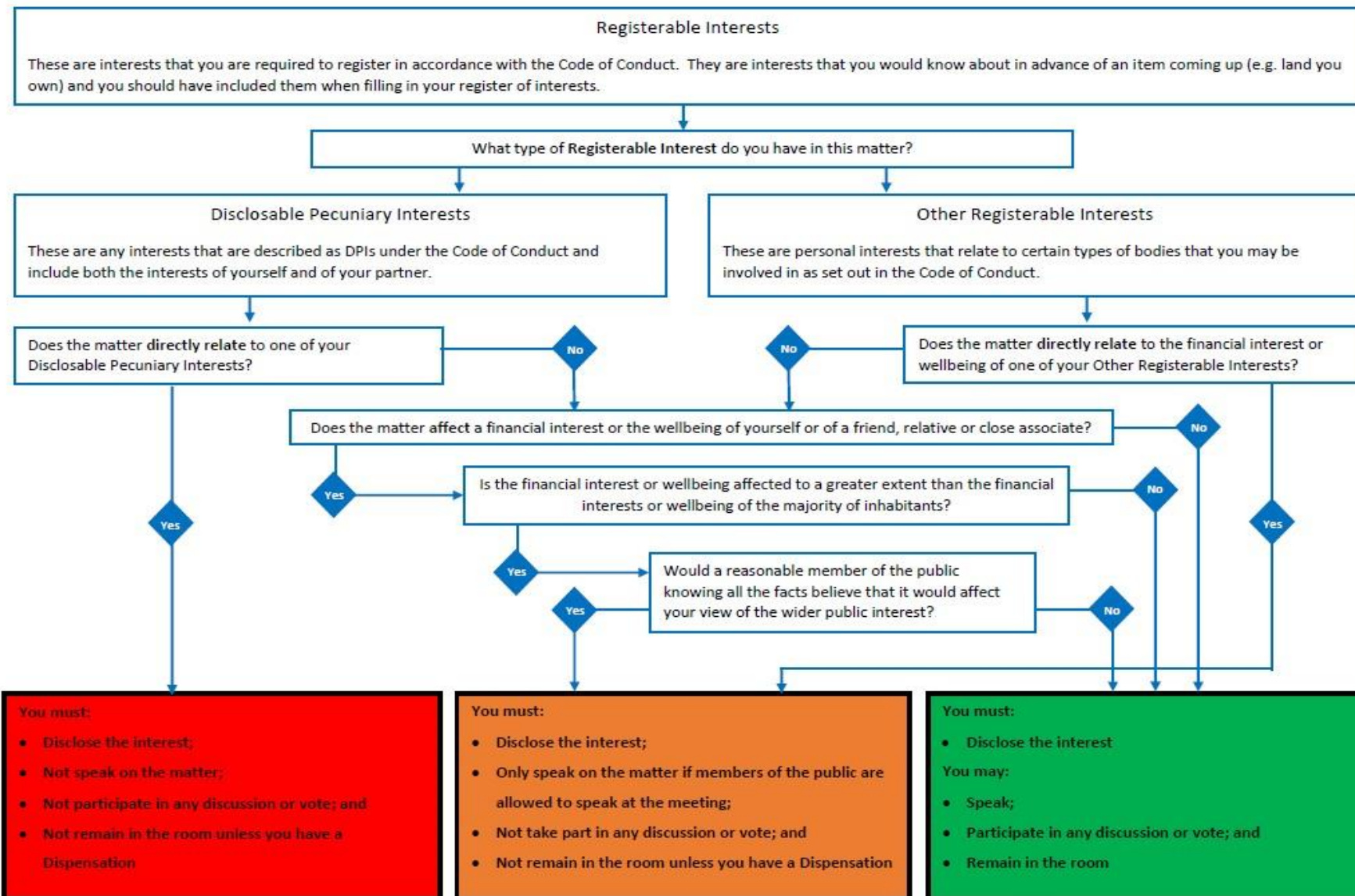
- **you must notify** the Monitoring Officer of the interest and

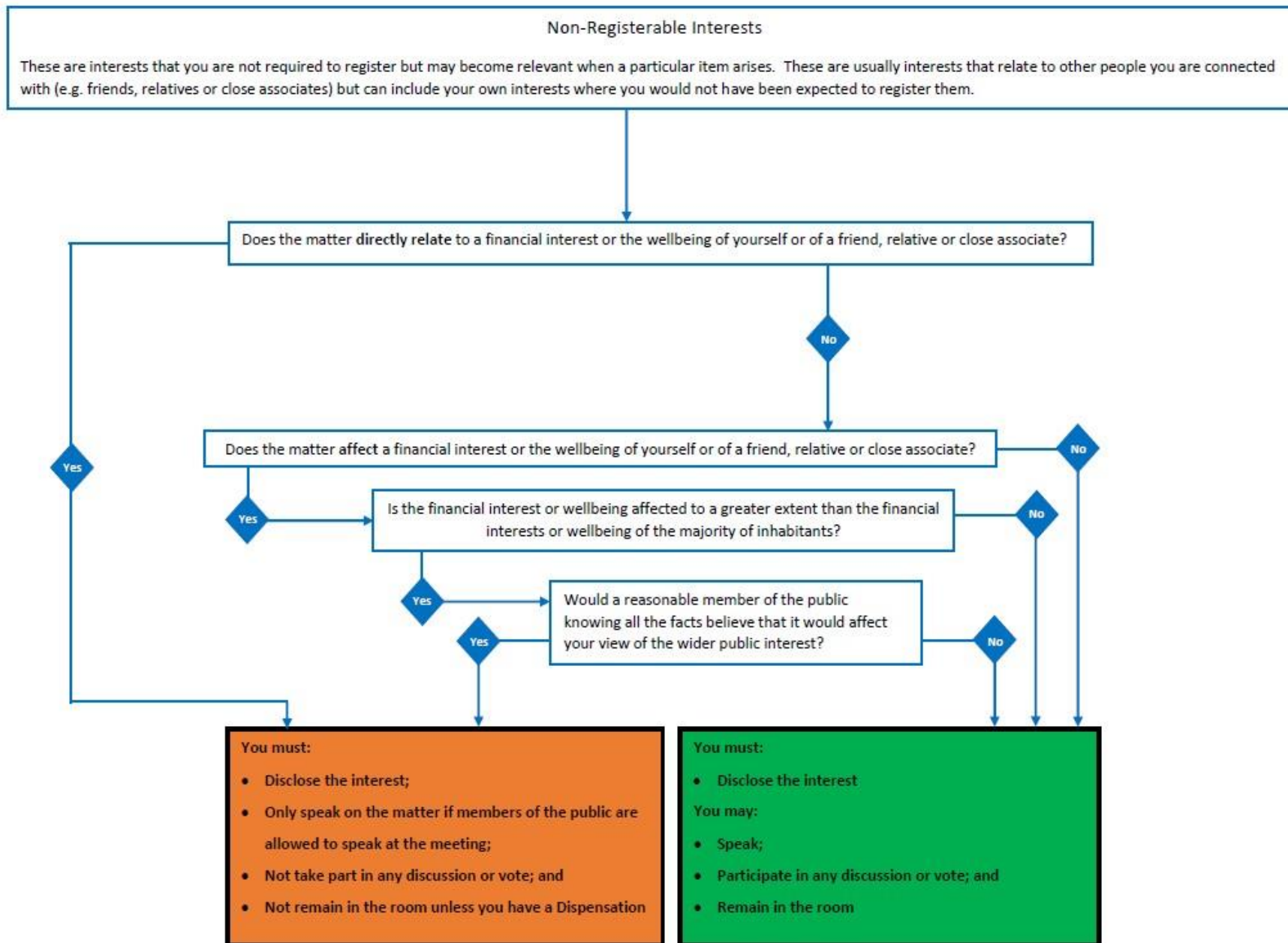
- **you must not** take any steps or further steps in the matter apart from arranging for someone else to deal with it.

4.1.2. Where you have a personal interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function (i.e. Single-Member-decision-making) and the interest is a Non-Registrable Interest that falls under paragraph 3.3.4,

**Action to be taken**

- **you must** make sure that any written statement of that decision records the existence and nature of your interest.





**Report of the Monitoring Officer**

<b>WORK PROGRAMME</b>
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1. Purpose of Report

To consider items for inclusion in the Work Programme for future meetings.

2. Recommendation

**The Committee is asked to CONSIDER the Work Programme and RESOLVE accordingly.**

3. Detail

Items which have already been suggested for inclusion in the Work Programme of future meetings are given below. Members are asked to consider any additional items that they may wish to see in the Programme.

17 July 2023	<ul style="list-style-type: none"> <li>• Audit of Accounts 2022/23 and Associated Matters</li> <li>• Statement of Accounts 2022/23 – Going Concern</li> <li>• Internal Audit Progress Report</li> <li>• Internal Audit Review 2022/23</li> <li>• Review of Strategic Risk Register</li> <li>• Review of Polling Districts and Polling Places</li> <li>• Complaints Report 2022/23</li> </ul>
18 September 2023	<ul style="list-style-type: none"> <li>• Annual Audit Letter – External Auditors Report on the Statement of Account 2022/23</li> <li>• Internal Audit Progress Report</li> <li>• Annual Counter Fraud Report 2022/23</li> <li>• Governance Dashboard – Major Projects</li> <li>• Review of Strategic Risk Register</li> <li>• Fraud and Corruption and Prevention Policy</li> <li>• Money Laundering Prevention Policy</li> </ul>
27 November 2023	<ul style="list-style-type: none"> <li>• Internal Audit Progress Report</li> <li>• Review of Strategic Risk Register</li> <li>• Review of Polling Districts and Polling Places</li> <li>• Community Governance Review</li> </ul>

4. Legal Implications

The terms of reference are set out in the Council’s constitution. It is good practice to include a work programme to help the Council manage the portfolios.

5. Background Papers

Nil.

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