

BRECKLAND DISTRICT COUNCIL

GLOSSARY OF TERMS

Throughout this Constitution the following words have the following meanings:

Definitions relating to legislation

“**the 1972 Act**” means the Local Government Act, 1972.

“**the 1989 Act**” – the Local Government and Housing Act 1989;

“**the 2000 Act**” means the Local Government Act, 2000;

“**the 2000 Regulations**” means the Local Authorities (Functions and Responsibilities) (England) Regulations, 2000;

“**the 2004 Act**” means the Planning and Compulsory Purchase Act 2004

“**the 2007 Act**” means the Local Government and Public Involvement in Health Act, 2007;

Definitions relating to staff

“**Chief Officer**” means (unless otherwise stated)

- the Head of the Paid Service
- the Monitoring Officer and the S151 Officer (also known as the section 151 officer)
- any officer for whom the Head of the Paid Service is directly responsible
- any officer who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to the Head of the Paid Service, excluding any persons whose duties are secretarial or clerical or are otherwise in the nature of support services
- any officer who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to the local authority itself, or to any committee or sub-committee of the authority

Chief Officers currently comprise the Head of the Paid Service (who is also the Chief Executive) and the Shared Executive Directors (the Monitoring Officer and the S151 Officer are both also Shared Executive Directors).

“**Deputy Chief Officer**” means (unless otherwise stated) any officer who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to one or more of the above statutory or non-statutory Chief Officers, excluding any person whose duties are solely secretarial or clerical or are otherwise in the nature of support service. Deputy Chief Officers currently comprise of Executive Managers.

“**Chief Executive**” – the Chief Executive for the time being or such person as he or she may appoint to represent him or her for the purpose of this Constitution;

“**S151 Officer**” means the officer appointed under section 151 of the 1972 Act to administer the Council’s financial affairs, currently the Shared Executive Director (Commercialisation)

“**Head of the Paid Service**” means the officer appointed in accordance with Section 4 of the 1989 Act. The Head of the Paid Service is currently the Chief Executive;

“Monitoring Officer” means the officer appointed under section 5 of the 1989 Act, currently the Shared Executive Director (Strategy and Governance) or, if he or she is unable to act owing to absence or illness, the person nominated as his or her deputy;

“Senior Legal Officer” currently means the Executive Manager for Governance

Definitions relating to the Executive

“Cabinet” – means between two and nine elected Council members appointed by the Leader and who, with the Leader, form the Cabinet.

“Call-In” – means the consideration by an Overview and Scrutiny Committee of an Executive Decision made but not yet implemented, which may result in the recommendation that the decision be reconsidered by the person or persons who made that decision or that the decision be reviewed by full Council in accordance with Section 9F (2)(a) and (4) of the 2000 Act.

“Executive” means the Leader , the Cabinet, any committee of the Cabinet, any individual Cabinet Member, any Executive joint committee, any Council officer, and any other authority collectively or individually discharging Council Executive Functions by making Executive Decisions

“Executive Decision” means a decision which must be discharged by the Executive

“Executive Function” means any function which is the responsibility of the Executive in Cabinet.

“Member” means any Cabinet Member including the Leader and Deputy Leader the Chairman and Vice Chairman of the Council cannot be Cabinet Members.

“Key Decision” means a decision which, in relation to an Executive Function, has a significant effect on communities in two or more Wards of the Council and/or is likely to result in the Authority incurring expenditure, generating income or making savings in any single financial year above the capital expenditure threshold or the revenue expenditure threshold currently laid down by the Council

“Leader” – such person as the Council shall so elect to be Leader of the Cabinet

Non-Executive Functions” means those functions specified in legislation which cannot be discharged by the Executive or, where there is a Local Choice, which the Council has decided shall not be discharged by the Executive

“Portfolio Holder” means an individual Cabinet Member with delegated authority from the Leader to make decisions on a number of matters, known as a portfolio.

Miscellaneous definitions

“Authority” – means the Breckland District Council acting by any means which it may lawfully adopt;

“Budget” means the Budget requirement of the Council (as provided for in the Local Government Finance Act 1992 or any re-enactment thereof), all the components of the Budget, such as Budgetary allocation to different services and projects, proposed taxation levels, council tax base, contingency funds (‘reserves’ and ‘balances’), any plan or strategy for the control of the local authority’s borrowing or capital expenditure including Treasury Management Policy. For the sake of certainty where an Executive Decision requires the virement of monies between budgets or from reserves and the decision maker is authorised to make such a virement under the Financial Procedure Rules within this Constitution, such decisions will be considered to be within the budget and therefore an Executive Decision

“Confidential” – information given to the Council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court Order, or by virtue of any enactment, as defined in the Access to Information Procedure Rules.

“**Council**” – the Beckland District Council;

“**Exempt**” – as defined by Schedule 12A of the 1972 Act and the Access to Information Procedure Rules of the Constitution.

“**Local Choice**” – the Council has a local choice whether to reserve a number of functions specified in the 2000 Regulations as Executive Functions, or as Non-Executive Functions. The Council also has a local choice to decide which plans and strategies should form part of the Policy Framework in addition to those plans and strategies which are required by the 2000 Regulations to be part of the Policy Framework.

“**Member**” – in relation to the Council means a member of the Council; in relation to any other body means a person appointed as a member of that body, whether or not entitled to vote;

“**Overview and Scrutiny Committees**” means a committee or committees of the Council established in accordance with Section 9F of the 2000 Act, currently being the Overview and Scrutiny Commission and any Task-Groups appointed by them;

“**Petitions Scheme**” means a scheme for receiving and if appropriate debating petitions submitted by the public – the process is managed by the Council’s Democratic Services team.

“**Policy Framework**” means all plans and strategies either (a) required by the 2000 Regulations to be approved by full Council (rather than by Cabinet) and (b) any Local Choice plans and strategies which the Council has chosen to be approved by full Council (rather than by Cabinet). Further details of the Policy Framework are set out in Article 5

“**Political Balance**” means the duty under section 15 of the 1989 Act, where the members of the Council are divided into different Political Groups, to appoint members to committees, sub-committees, Panels and certain other bodies proportionally to the number of members of each Political Group

“**Political Groups**” – a Political Group as defined in the Local Government (Committees etc) Regulations 1990 or any statutory modification or re-enactment thereof;

“**Proper Officer**” means – such officers as are designated proper officer by law, a list of which is maintained by the Senior Legal Officer

“**Regulatory Committee**” – a committee undertaking “quasi-judicial” functions of the Council (such as licensing and planning)

“**Working Day**” excludes Saturday, Sunday and bank and public holidays;

PART 1 SUMMARY AND EXPLANATION

1.0 THE COUNCIL'S CONSTITUTION

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

1.0.2 The Constitution is divided into 15 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols towards the end of the document.

1.1 What's in the Constitution?

1.1.1 Article 1 of the Constitution explains the purpose of the Constitution and commits the Council to exercise all its powers and duties in accordance with the law and this Constitution. Articles 2 – 15 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2);
- Citizens and the Council (Article 3);
- The Council meeting (Article 4);
- Chairing the Council (Article 5);
- Overview and Scrutiny of decisions (Article 6);
- The Cabinet (Article 7);
- Regulatory Committees and other committees (Article 8);
- The Audit Committee (Article 9);
- Joint arrangements (Article 10);
- Officers (Article 11);
- Decision making (Article 12);
- Finance, contracts and legal matters (Article 13);
- Review and revision of the Constitution (Article 14);
- Suspension, interpretation and publication of the Constitution (Article 15).

1.1.2 Part 3 describes how decisions are made. The Leader is responsible for making Executive Decision, but in practice delegates responsibility for much of the decision-making to Cabinet, Committees of the Cabinet, Cabinet Members and officers. In turn the Cabinet, Committees of the Cabinet and Cabinet Members may delegate responsibility further. The full Council is responsible for making Non-Executive Decisions, but again in practice delegates responsibility for much of the decision-making to Committees, Sub-Committees and officers. Part 3

explains which responsibilities are delegated to Cabinet, Committees of the Cabinet, Cabinet Members, Committees and Sub-Committees of the Council, and officers.

- 1.1.3 Part 4 contains (a) Standing Orders, which are the rules of governing how the Executive, and the full Council and its Committees and Sub-Committees, works; general issues relating to Council Business; how senior staff are appointed and dismissed; and how the Budget and Policy Framework are determined; (b) Financial Procedure Rules, which establish a framework for managing the Council's financial affairs including the procedures for awarding of contracts; (c) Access to Information Procedure Rules which set out the rights of members of meetings; the rules for making Key Decisions and publishing details of Executive Decisions; and the rights of access for members.
- 1.1.4 Part 5 contains (a) the Council Code of Conduct for members, which details behaviours expected of members, and co-opted members, of the council; and (b) a protocol on officer/member relations which encourages an atmosphere of mutual trust and respect between officers and members.
- 1.1.5 Part 6 contains the Council's approved scheme for payment of allowances to members. Part 7 contains details of the Council's current management structure.

1.2 How the Council Operates

- 1.2.1 The Council is composed of 49 Councillors elected every four years. Councillors are democratically accountable to the residents of their electoral area. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 1.2.2 The Council operates a Leader and Cabinet (Executive) structure. Some Councillors have specific responsibilities and decision-making powers for an area of the Council's activities (a portfolio).
- 1.2.3 All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Councillors decide the Council's overall policies and set the Budget each year. The Council is also responsible for appointing the Leader of the Council who then appoints a Cabinet (together formally entitled "the Executive") and for appointing committees and sub-committees, some of which are responsible for overseeing and reviewing the decisions of the Cabinet, while others discharge regulatory responsibilities or other functions which by law may not be discharged by the Cabinet, for example planning and licensing.

1.3 How Decisions are Made

- 1.3.1 The Leader is responsible for the discharge of Executive Functions. The Leader may delegate such functions to the Council's Executive, (which will in practice be called "the Cabinet") and to others. The Cabinet is made up of the Leader and up to nine other Councillors. When major decisions are to be discussed or made, these are published in the Cabinet's Key Decision Plan in so far as they can be anticipated. Where delegated, these Key Decisions are made at meetings of the Cabinet, which will generally be open for the public, or by officers, to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and Budget. If it wishes to make a decision which is outside the Budget or Policy Framework, this must be referred to the Council as a whole to decide.

1.4 Overview and Scrutiny

- 1.4.1 The Overview and Scrutiny Commission supports the work of the Cabinet and the Council as a whole.

1.4.2 The Commission allow a wider involvement in Council business by involving by invitation non-councillors from the wider public sector, voluntary and community groups to help them in their work. They may make reports and recommendations to the Cabinet and the Council as a whole on its policies, Budget and service delivery.

1.4.3 The Overview and Scrutiny Commission also monitor the decisions of the Cabinet and can “Call-In” a decision of the Cabinet which has been made but not yet implemented. The Commission may recommend that the Cabinet reconsider their decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions or the development of policy.

1.5 The Council’s Staff

1.5.1 The Council has people working for it (called “Officers”) to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol (to be found in Part 5) governs the relationships between Officers and Councillors.

1.6 Citizens’ Rights

1.6.1 Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3 and the Access to Information Procedure Rules. Some of these are legal rights, whilst others depend on the Council’s own processes. The local Citizens’ Advice Bureau can advise on individuals’ legal rights.

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

PART 2 – ARTICLES

Article 1 – The Constitution

1.0 Powers of the Council

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

1.1 The Constitution

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

1.2 Purpose of the Constitution

1.3 The purpose of the Constitution is to:

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

1.4 Interpretation and Review of the Constitution

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

1.4.2 The Council will monitor and evaluate the operation of the Constitution as set out in Article 14

Interpretation of Terms

1.4.3 Throughout this Constitution references to the masculine gender shall be taken to mean both the masculine and the feminine gender and expressions in the singular shall include, where appropriate, the plural.

Article 2 – Members of The Council

1.0 Composition and Eligibility

1.1 Composition

1.1.1 The Council will comprise 49 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State.

1.2 Eligibility

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

1.3 Election and Terms of Councillors

1.3.1 The regular election of Councillors will usually be held on the first Thursday in May every four years, 2015, 2019 etc. The Terms of Office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

1.3.2 Following an ordinary election of district councillors, it is a requirement that all Political Group appointments are reported to the Chief Executive

1.3.3 Following the election of a Leader it is a requirement that, within seven days of his/her appointment, the Leader shall appoint a Cabinet and shall report the names of the Cabinet Members to the Chief Executive.

1.4 Roles and functions of all Councillors

1.4.1 Key roles

All Councillors will:

- (a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (b) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (c) effectively represent the interests of their ward and of individual constituents;
- (d) respond to constituents' enquiries and representations, fairly and impartially;
- (e) be available to represent the Council on other bodies; and
- (f) maintain the highest standards of conduct and ethics.

1.5 Rights and Duties

1.5.1 Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

1.5.2 Councillors shall not disclose or make public any information which is confidential or exempt. If Councillors are unsure as to whether such information may be considered confidential or exempt they must seek the advice of the Monitoring Officer.

1.5.3 For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules which can be found elsewhere in this Constitution.

1.6 **Conduct**

1.6.1 Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

1.7 **Allowances**

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

ARTICLE 3 – CITIZENS AND THE COUNCIL

Citizens' have a number of rights and responsibilities. The following list is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints.

1.0 Citizens' Rights

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

1.2 Voting and petitions

1.2.1 Citizens on the electoral roll for the area have the right to:

- (a) Vote;
- (b) Sign a petition to request a referendum for an elected mayor form of Constitution;
- (c) Sign any other petition they wish to support.

1.3 Complaint

1.3.1 Citizens' have the right to complain to:

- (a) the Council itself under its Complaints Scheme;
- (b) the Local Government Ombudsman after using the Council's own complaints scheme.
- (c) the Monitoring Officer about a breach of the Councillor's Code of Conduct.

1.4 Responsibilities of Citizens

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

ARTICLE 4 – THE FULL COUNCIL

1.0 Introduction

- 1.1 The full Council is a formal meeting of all Councillors. The full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework. Full Council must take decisions on a number of specific matters.
- 1.2 The full Council provides a central forum for debate and gives the opportunity for Councillors and, at the discretion of the meeting Chairman, members of the public, to ask questions about the Council or matters affecting the Council.

2.0 The Council

2.1 Role

- 2.1.1 A meeting of the Council is one which all elected members are entitled to attend and to speak and vote. The Council is responsible for the Budget and Policy Framework of the Council and for all of the functions not the responsibility of the Cabinet. It will carry out some functions itself but others will be delegated to committees or named officers.

3.0 Plans and Budgets

- 3.1 The Council is responsible for the determination of its Budget and Policy Framework. The Council is responsible for regulatory and other non-Cabinet functions and has a role in holding the Cabinet to account.

4.0 Policy Framework

- 4.1 The Policy Framework means the following categories of plans and strategies:
- 4.2 Those required by law to be adopted by the Council
 - Licensing Authority Policy Statement (Licensing Act)
 - Plans or strategies for the control of the authority's borrowing, investments or capital expenditure or for determining the authority's minimum revenue provision (Treasury Management Policy & Strategy)
- 4.3 Those Local Choice plans and strategies which the Council has chosen to adopt as part of the Policy Framework which comprise:
 - Council's Corporate Plan
 - Gambling Policy (Gambling Act 2005) A list of those policies which require approval by Full Council will be maintained by the Monitoring Officer and made available for Inspection and can be found on the website.
 - Corporate Asset Management Strategy

5.0 Budget

Responsibility for the Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, determining the Council tax base, setting the Council tax level, decisions relating to the control of the Council's borrowing requirements,

investments, the control of its capital expenditure and the setting of expenditure limits and permitted Budget transfers.

6.0 Functions of the full Council

6.1 The functions which are exercised by the full Council are described in Part D (Delegations to Committees) of Part 3 to this Constitution. These include functions which must be exercised only by the full Council either by law or because the Council has decided to retain decision – making power, and functions which may to some extent be exercised only by full Council

7.0 Council Meetings

7.1 There are three types of Council meeting:

- the annual meeting;
- ordinary meetings; and
- extraordinary meetings,

and they will be conducted in accordance with the procedural standing orders in Part 4 of this Constitution.

ARTICLE 5 – CHAIRING THE COUNCIL

- 1.0 The Chairman of the Council will be elected and the Vice-Chairman of the Council will be appointed by the Council annually. The Chairman and in their absence the Vice-Chairman, will have the following responsibilities:-
- 1.1 to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 1.2 to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- 1.3 to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
- 1.4 to promote public involvement in the Council's activities;
- 1.5 to be the conscience of the Council;
- 1.6 to attend or be represented at such civic and ceremonial functions as he/she determines appropriate

ARTICLE 6 – OVERVIEW AND SCRUTINY

1.0 Introduction

- 1.1 The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. Overview and Scrutiny Committees should be powerful committees that can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies. The Overview and Scrutiny Committee may establish Task and Finish Groups to undertake a specific task within its terms of reference.
- 1.2 Overview and scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. Overview and Scrutiny Committees should not shy away from the need to challenge and question decisions and make constructive criticism.
- 1.3 In order to achieve this, the Council have appointed an Overview and Scrutiny Commission which will:-
- (a) review or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions whether by the Cabinet or another part of the Council or any of its Committees;
 - (b) make reports or recommendations to the Council or the Cabinet in connection with the discharge of any functions;
 - (c) consider any matter which affects the Council's area or its inhabitants; and
 - (d) exercise the right to call in for reconsideration decisions made but not yet implemented by the Cabinet and Officers.

ARTICLE 7 – THE CABINET

1.0 Introduction

1.1 The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution. Many decisions will be made by the Cabinet, rather than the full Council.

2.0 Form and Composition of the Cabinet

- (a) The Cabinet (which is also known as the Executive) will consist of:-
- (b) the Leader; and
- (c) at least two but not more than 9 Councillors appointed to the Cabinet by the Leader .

3.0 Leader

3.1 Role of the Leader

- (a) The Leader will carry out all of the Council's Executive Functions

4.0 Deputy Leader

4.1 Appointment

4.1.1 The Leader may designate up to two of the Cabinet Members as Deputy Leaders.

4.2 Duties of the Deputy Leader

4.2.1 The Deputy Leader may exercise all the functions of the Leader where the position is vacant or where the Leader is absent or is otherwise unable to act.

4.3 Removal from Office

4.3.1 The Leader may, if he/she thinks fit, remove the Deputy Leader from office at any time.

4.4 Other Cabinet Members

4.4.1 Other Cabinet Members will be Councillors appointed to the position of Cabinet Member by the Leader. Each Cabinet Member shall hold office until:-

- (b) he/she resigns from that office; or
- (c) he/she is removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate; or
- (d) he/she ceases to be a Councillor.
- (e) The Leader may at any time appoint a Cabinet Member to fill any vacancies.

4.5 Proceedings of the Cabinet

4.5.1 The proceedings of the Cabinet shall take place in accordance with the procedural standing orders in Part 4 of this Constitution.

4.6 Cabinet Support Members

4.6.1 Other Councillors may, from time to time, be designated by the Leader as Cabinet Support Members. Such Councillors will not be a Cabinet Member and will not participate in Executive Decision making, but may work closely with a Cabinet Member. He/she will not be a member of the Overview and Scrutiny Commission.

ARTICLE 8 – REGULATORY COMMITTEES AND OTHER COMMITTEES

1.0 Introduction

- 1.1 The Council will appoint standing committees to undertake a variety of regulatory and other functions that are the responsibility of the Council but which do not have to be carried out by the full Council. Details of standing committees are set out in Part 3 and Standing Order No. 32.

2.0 Other Committees and Sub-Committees including Forums

- 2.1 Where the Council appoints members to Standing Committees and where a committee appoints members to sub-committees or panels such appointments shall be subject to the right of a Political Group to make nominations for those appointments in accordance with rules on Political Balance.
- 2.2 The Council may appoint area committees or joint committees as it sees fit if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.
- 2.3 The Council will consult with relevant parish and town councils and the Chairman of relevant parish meetings when considering whether and how to establish area committees.

ARTICLE 9 – STANDARDS OF MEMBER CONDUCT

- 1.0 Responsibility for dealing with complaints about Councillors is delegated to the Audit Committee (See Part 3 D – Delegations to Committees.)

ARTICLE 10 – ARRANGEMENTS WITH OTHER PARTNERS

1.0 Introduction

- 1.1 There are a number of circumstances where the Council or the Cabinet is entitled to carry out certain functions jointly with another local authority.
- 1.2 The Council works with a number of other authorities, including operating joint management arrangements with South Holland District Council, and other joint arrangements in respect of the Anglia Revenues Partnership.

2.0 Joint Arrangements

- 2.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not Executive Functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- 2.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of joint committees with these other local authorities. Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.
- 2.3 The Cabinet may appoint members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is member for a ward contained within the area. Political Balance requirements do not apply to such appointments.

3.0 Access to Information

- 3.1 The Access to Information Procedure Rules apply.
- 3.2 If all the Members of a Joint Committee are Cabinet Members in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.
- 3.3 If the Joint Committee contains members who are not on the Cabinet of any participating authority, then the Access to Information Procedure Rules in part V of the 1972 Act (as amended) will apply.

4.0 Delegation to and from Other Local Authorities

- 4.1 The Council can delegate Non-Executive Functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.
- 4.2 The Cabinet can delegate Executive Functions to another local authority or the Executive of another local authority as set out in law.
- 4.3 The decision whether or not to accept such a delegation from another local authority is reserved to the full Council.

5.0 **Contracting Out**

- 5.1 The Council (in respect of Non-Executive Functions) and the Cabinet (in respect of Executive Functions) may contract out to another body or organisation such functions as are permitted by law.

ARTICLE 11 - OFFICERS

1.0 Management Structure

1.1 General

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

1.2 Chief Officer/Deputy Chief Officers

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

1.3 Post Functions and Areas of Responsibility

Post	Duties
Joint Chief Executive	<ul style="list-style-type: none">• Overall corporate management and operational responsibility (including overall management and responsibility for all officers)• Principal advisor to the Council on general policy• Overall responsibility for delivering the Council's policies and programmes• Provision of professional advice to all parties in the decision-making process• To act as Head of Paid Service.• Representing the Council on partnerships and external bodies (as required by statute or the Council)• Responsibility for a system of record keeping for all the Council's decisions
Shared Executive Director Strategy and Governance	Responsible for the services shown in the current portfolio list
Shared Executive Director Commercialisation	<ul style="list-style-type: none">• Responsible for the services shown in the current portfolio list
Shared Executive Director - Place	<ul style="list-style-type: none">• Responsible for the services shown in the current portfolio list

1.4 Statutory Officers

Designation	Post
Head of Paid Service	Chief Executive
Monitoring Officer	Shared Executive Director Strategy & Governance
S151 Officer (Section 151 Officer)	Shared Executive Director Commercialisation

1.4.1 The Council will designate the following statutory posts as shown:

1.4.2 Such posts will have the functions described in 11.3 to 11.4 below.

1.5 Structure

1.5.1 The Head of the Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

1.6 Functions of the Head of Paid Service

1.6.1 The Head of the Paid Service will keep under review the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

1.6.2 The Head of the Paid Service may not be the Monitoring Officer but may hold the post of S151 Officer if a qualified accountant.

1.7 Functions of the Monitoring Officer

1.7.1 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

1.7.2 After consulting with the Head of the Paid Service and S151 Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Executive Function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

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

1.7.4 Notwithstanding the duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the Council's affairs, and provide copies of any records or documents belonging to the Council to the Audit Committee, for the purposes of investigation or determination of a complaint against a Member.

1.7.5 The Monitoring Officer will conduct investigations into matters and carry out any other actions as directed by the Audit Committee and make reports or recommendations in respect of them to the Audit Committee.

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

1.7.7 The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

1.7.8 The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors. Where the Monitoring Officer considers that a Member(s) has acted contrary to their advice it is open to him/her to issue a report to the Council under s.5 and s5A of the 1989 Act, or seek judicial review, as he or she considers appropriate in the circumstances.

1.7.9 The Monitoring Officer cannot be the S151 Officer.

1.8 Functions of the S151 Officer

1.8.1 After consulting with the Head of the Paid Service and the Monitoring Officer, the S151 Officer will report to the full Council or to the Cabinet in relation to an Executive Function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

1.8.2 When the report is completed the S151 Officer shall send a copy to: (a) the current auditor of the Council's accounts; and, (b) each Member of the Council.

1.8.3 The S151 Officer will have responsibility for the administration of the financial affairs of the Council.

1.8.4 The S151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

1.8.5 The S151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

1.8.6 The S151 Officer will provide financial information to the media, members of the public and the community.

1.9 Duty to Provide Sufficient Resources to the Monitoring Officer and S151 Officer

1.9.1 The Council will provide the Monitoring Officer and S151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

1.10 Conduct

1.10.1 Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations.

1.11 Employment

1.11.1 The recruitment, selection and dismissal of officers will comply with Standing Orders and any policies that are for the time being in force.

ARTICLE 12 - DECISION MAKING

1.0 Responsibility for Decision Making

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

2.0 Principles of Decision Making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) equal opportunities for all
- (e) a presumption in favour of openness;
- (f) clarity of aims and desired outcomes;
- (g) consideration of any alternative options; and,
- (h) the giving of reasons for the decision and the proper recording of those reasons..

3.0 Type of Decision

- 3.1 Decisions reserved to full Council. Decisions relating to the functions listed in Part 3 (functions of the full Council) will be made by the full Council and will not be delegated.
- 3.2 Non-Executive Decisions that have been delegated by the Council to Committees, sub-committees or officers.
- 3.3 Key Decisions – significant Executive Decisions.
- 3.4 Other Executive Decisions
- 3.5 To involve expenditure or savings which are of **significance** having regard to the council's Budget for the service or function to which the decision relates, the amount of which is determined by the S151 Officer and approved by full council; or
- 3.6 To be **significant** in terms of its effects on communities, living or working in an area comprising two or more wards in the district.
- 3.7 In accordance with section 9Q of the 2000 Act, in determining the meaning of "significant" regard shall be had to any guidance for the time being issued by the Secretary of State.
- 3.8 A decision taker may only make a Key Decision in accordance with the requirements of the procedural standing orders set out in this constitution

4.0 Decision Making

- 4.1 Subject to the following Article, every decision making body will follow the procedural standing orders set out in Part 4 of this Constitution when considering any matter.

5.0 Decision Making by Council Bodies Acting as Tribunals or in a quasi judicial manner

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

ARTICLE 13 - FINANCE, CONTRACTS AND LEGAL MATTERS

1.0 Financial Management

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

2.0 Contracts

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

3.0 Legal Proceedings

3.1 The Head of the Paid Service, the Monitoring Officer, and the Senior Legal Officer are authorised to institute, defend, participate in or settle any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where any of these officers consider that such action is necessary to protect the Council's interests.

3.2 In addition to any other specific delegation the Head of the Paid Service, the Monitoring Officer and the Senior Legal Officer have delegated powers to authorise officers to appear in court on the Council's behalf.

4.0 Authentication of Documents

4.1 For information about authentication of documents see Standing Order no. 51.

5.0 Common Seal of the Council

5.1 For information about the Council's common seal, and the sealing and execution of documents, see Standing Order no. 50.

ARTICLE 14 - REVIEW AND REVISION OF THE CONSTITUTION

1.0 Duty to Monitor and Review the Constitution

1.1 The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The S151 Officer shall be responsible for keeping under review the Financial Procedure Rules set out in Part 4 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. He/she shall report any amendments made to Part 4 for the next available Council meeting for clarity.

2.0 Changes to the Constitution

2.1 Approval

2.1.1 Subject to 2.2 below, changes to the Constitution will only be approved by the full Council. The Council may if it considers necessary appoint a special committee to make recommendations for that purpose. Where the table of Chief Officers in Article 11 or the Management Structure section of the Constitution needs to be updated, the Senior Legal Officer may make the necessary changes upon receipt of notification from the Chief Executive that he/she has made changes to these structures following Council or relevant committee approval of such changes.

2.2 Minor Changes

2.2.1 If, in the reasonable opinion of the Monitoring Officer, a change is:

- (a) A minor variation; or
- (b) Required to be made to remove any inconsistency or ambiguity; or
- (c) Required to be made so as to put into effect any decision of the Council or its committees or the Cabinet,
- (d) Then the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect but shall be referred to full Council as soon as is reasonably possible and shall continue to have effect only if full Council agree.
- (e) Changes required to the Constitution as a result of a report already approved by Council shall come into immediate effect.

2.3 Legislative Change

2.3.1 Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be reported to the next Council meeting.

2.4 Change to a Mayoral Form of Executive

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

ARTICLE 15 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

1.0 Suspension of the Constitution

1.1 Limit to Suspension

1.1.1 The Articles of this Constitution may not be suspended. The Council Procedure Rules in Part 4 of this Constitution may be suspended by the full Council, or any committee to which they relate, to the extent permitted within those Rules and the law.

1.2 Procedure to Suspend

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

2.0 Interpretation

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

3.0 Publication

3.1 The Monitoring Officer will make available a copy of this Constitution to each member of the Council upon delivery of that individual's declaration of acceptance of office on the member first being elected to the Council.

3.2 The Monitoring Officer will ensure that this Constitution is available for inspection on the Council's website, and can be purchased on payment of a reasonable fee.

PART 3 – DELEGATIONS

SECTION A - RESPONSIBILITY FOR FUNCTIONS

1.0 EXECUTIVE AND NON-EXECUTIVE FUNCTIONS

- 1.1 The glossary contains an explanation of the meaning and Executive Functions and Non-Executive Functions. Detail in respect of such functions may be found in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which can be found at the link below:

<http://www.legislation.gov.uk/uksi/2000/2853/contents/made>

2.0 THE EXERCISE OF Executive Functions

- 2.1 Executive Decisions will be taken by the Leader unless they are delegated to Cabinet, a sub-committee of Cabinet, individual Cabinet Members, or officers, or are dealt with under joint arrangements.

- 2.2 Officer Delegations and Joint Arrangements are also contained in this part of the Constitution.

3.0 WHO MAY EXERCISE OFFICER DELEGATIONS?

- 3.1 Where a function has been delegated to an officer(s) (“delegated officers”), the decision may be taken in the name of (but not necessarily personally by) such delegated officer(s) by another officer(s) (“authorised officers(s)”) in accordance with arrangements made from time to time by such delegated officer(s) for this purpose.

SECTION B - RESPONSIBILITY FOR NON-EXECUTIVE OR COUNCIL FUNCTIONS

1.0 General Provisions

- 1.1 There shall be delegated to every Committee and Sub-Committee of the Council full powers to act in all matters covered by the Committee or Sub-Committee’s Terms of Reference, subject to compliance with Standing Orders and/or financial regulations for the time being in force.
- 1.2 Each Committee shall be authorised to appoint Sub-Committees and to delegate any part of its functions to a Sub-Committee and to any officer.
- 1.3 Members of all Sub-Committees shall be confined to members of the appointing Committee unless otherwise authorised by the Council.
- 1.4 It shall be a condition of all delegation to all Committees and Sub-Committees that they shall report all important steps taken by them in exercising their delegated powers to the extent necessary to ensure that all members of the Council are broadly aware of the progress and the problems of the Council in every sphere; this provision will be satisfied by a copy of confirmed or unconfirmed minutes from the Committee or Sub-Committee being reported to Council.
- 1.5 No general reference of a power, duty, function or other matter to a Committee or Sub-Committee shall include any matters specifically referred to another Committee or Sub-Committee

- 1.6 Every Committee and Sub-Committee shall have power to appoint delegates to attend conferences and meetings concerned with matters which come within the terms of reference of the Committee.
- 1.7 Each Committee may recommend to Council the making of bye-laws relevant to any function of the Committee.
- 1.8 Each Committee shall have the power to recommend to Council changes in its structure, constitution, membership and functions.
- 1.9 Each Committee and Sub-Committee shall, so far as the context practically and legally allows, exercise its powers in accordance with the Council's Policy Framework (in particular with the Council's Business Plan and Environment Strategy), and in accordance with the Budget as approved or as properly varied.
- 1.10 For the avoidance of doubt, the terms 'Committee' and 'Sub-Committee' do not include Tasks and Finish Groups or other informal member working groups.

SECTION C - RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

- 1.0 The Leader is responsible for the discharge of Executive Functions and may delegate those functions to:
 - a) The Cabinet
 - b) Individual Portfolio Holders
 - c) Committees of the Cabinet
 - d) Officers of the Council
 - e) Individual members to the extent that a function is exercisable in relation to the ward for which the individual member is elected and subject to the provisions of section 236 of the 2007 Act
- 1.1 The table within this section indicates how the Leader has allocated portfolios (lead responsibilities) for particular Executive Functions among individual Cabinet Members. Cabinet Support Members do not have delegated powers.
- 1.2 All decisions under Section D4 must only be taken by the Cabinet Member after consideration of a written report by a Chief Officer and must be evidenced by a form ("the blue form") signed by both Cabinet Member and the relevant officer and delivered to the Democratic Services Team

SECTION D- DELEGATIONS TO COMMITTEES

- 1.0 The quorum of each Committee and Sub-Committee shall be three or one-third (whichever is the greater) of the total number of its members not including non-voting ex-officio members or as otherwise specified in legislation or as specified below.
 - 1.1 The quorum for meetings of the Cabinet shall be three.
 - 1.2 The quorum of Joint Committees shall be 4, consisting of 2 members from Breckland Council and 2 from South Holland District Council, members of the Joint Appointments and Disciplinary Committee cannot be appointed as members of the Joint Appointments and Disciplinary Appeals Committee.

1.3 Composition of each Committee and Sub Committee shall be appointed in accordance with the local Government (Committees and Political Groups) Regulations 1990.

Council Body	Membership	Functions/Terms of Reference
Council	All Members (Quorum 17) (SO No. 37)	<ol style="list-style-type: none"> 1. The approval or adoption of the following, including any changes to them except for changes authorised elsewhere in these Terms of Reference or Standing Orders: <ol style="list-style-type: none"> a) the Constitution b) the Policy Framework insofar as this is not an Executive (see SO no. 64) c) setting Council Tax d) the Budget , insofar as this is not an Executive Function (see SO no. 65) e) Codes of Conduct for members and officers f) Members Allowance Scheme g) Appointment of representatives to joint authorities, joint committees, and other outside bodies unless the function has been delegated by the Council (Non-Executive Functions only) h) payments or other benefits relating to complaints or finding of maladministration, other than minor payments/benefits of up to £1000 2. Approval of any expenditure not provided for in the Budget, except as otherwise specifically provided elsewhere in this Constitution 3. Executive Functions, the following are reserved to full Council <ol style="list-style-type: none"> a) to exercise powers not previously exercised by the Council b) to cease to exercise any power of the Council c) action involving the exercise of any of the powers of the Council by any person or body other than the Council or a committee or officer of the Council d) To participate in the creation of, or undertake any of the responsibilities of, another body. e) action which so expands or reduces the scope of an existing service as to make it materially different as a whole from that which the Council has previously provided or approved f) the approval of any scheme or formal proposals affecting the district as a whole or any of the Council's services and the substantial variation or the revocation of any such scheme or proposals g) determining which Committees, Sub-Committees,, working parties, Boards, Panels etc. shall be established as standing committees, the terms of reference of each body, the number of members (voting and non-voting) that each

		<p>consists of and making the necessary appointments to the bodies</p> <ol style="list-style-type: none"> 4. Electing and removing the Leader 5 Duty to designate posts as the Head of Paid Service. The Monitoring Officer, the S151 Officer, the Electoral Registration Officer and the Returning Officer in association with any other Council with whom any appointments are jointly made, the appointment or dismissal of the Head of the Paid Service (as required by current regulations) the dismissal of the Monitoring Officer or S151 Officer (as required by current regulations, and the taking of any disciplinary action short of dismissal in relation to the head of paid services, Monitoring Officer or S151 Officer. Power to appoint Chief Executive as Proper Officer for any purpose (all other Proper Officer appointments will be made by the Chief Executive) 6. Appointing the Council's Independent Person under the Localism Act 2011 7. Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills 8. Delegating non-Executive Functions to Committees, Sub-Committees and officers, subject to the right to amend the Delegation Scheme from time to time as may be required 9. Receiving reports from the Leader , the Cabinet, the Governance and Audit Committee which they have referred to Council 10.Functions relating to name and status of areas and individuals as detailed in Schedule 1 of the 2000 Regulations 11.Making a request under s14A(1) of the Local Government Act 1992 for single-member electoral areas 12.Passing a resolution to change a scheme for elections under section 32(1), 37(1) or 39(1) of the 2007 Act 13.Making an order giving effect to recommendations made in a community governance review under s88 of the 2007 Act 14.Making a change in governance arrangements under paragraph 3 or 8 of Schedule 4 to the 2007 Act 15. The making of an agreement to prepare one or more joint development plan documents 16.The making of an agreement to establish a joint planning committee to act as a local planning authority etc. as detailed in Regulation 4 of the 2000 Regulations 17.The making of a request to the Secretary of State for the revocation of an order constituting a joint committee as the local planning authority 18.Power to make Standing orders, including standing orders as to contracts 19. Powers to provide staff etc. for the Head of the Paid Service and the Monitoring Officer and any person nominated by the
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		<p>Monitoring Officer</p> <p>20. Voting rights scheme for co-opted members of any Overview and Scrutiny Committee</p> <p>21. Functions relating to local government pensions</p> <p>22. As detailed in paragraph 19 of Schedule 2 of the 2000 Regulations, the appointment of any individual:</p> <p>(a) to any office other than an office in which he/she is employed by the Council where this is not an executive function ;</p> <p>(b) to any body other than the Council, a joint committee of two or more authorities; or</p> <p>(c) to any committee or sub-committee of such a body, and</p> <p>(d) the revocation of any such appointment.</p> <p>23. All other matters which, by law, must be reserved to the decision of the Council as a whole.</p>
Cabinet	<p>Cabinet Members (Quorum 3)</p> <p>Maximum 9 members (excluding the Leader)</p>	<p>EXECUTIVE POWERS</p> <p>ARRANGEMENTS BY LEADER FOR CABINET DELEGATIONS</p> <p>D1 – GENERAL PROVISIONS RELATING TO EXECUTIVE POWERS</p> <p>1. The Delegated Powers under Part 3 Section C are determined by the Leader in accordance with powers conferred by the 2000 Act.</p> <p>2. Part 3 Section C applies to Executive Functions. The terms ‘Executive’, ‘Executive Functions’, ‘Non-Executive’, ‘Policy Framework’ and ‘Budget ’ are defined in the Glossary.</p> <p>3. Executive Functions may only be exercised if</p> <p>(a) they fall within the Policy Framework and</p> <p>(b) they are within the Budget</p> <p>4. The delegations in Parts D2, D3 and D4 below may be changed by the Leader by giving notice in writing of the changes to the Chief Executive. The Chief Executive will notify all members of the Council of any changes as soon as possible</p> <p>5. Any Executive Functions not expressly delegated to the Cabinet, or a Cabinet Member under Section D or officers under Section F will be exercisable by the Leader</p> <p>6. Where either the Leader, a Cabinet Member, the Chief Executive or a Chief Officer indicates formally that a delegated power under Part D4 (Powers delegated to Cabinet Members) should not be exercised in respect of a particular matter that matter shall be referred to the Cabinet for decision</p> <p>7. All Executive Decisions (other than urgent decisions as described in the Access to Information Procedure Rules) are</p>

		<p>subject to the Call-In procedures set out later in Part 3.</p> <p>D2 – THE LEADER : POWERS AND RESPONSIBILITIES</p> <ol style="list-style-type: none"> 1. To determine the Scheme of Delegation of Cabinet Functions to Cabinet, Cabinet Members and officers in accordance with Standing Orders and Part D1 of these Terms of Reference. 2. To appoint members of the Council to the position of Cabinet Member and, if appropriate, Cabinet Support Member. Written notice of the appointment must be given to the Chief Executive and the appointment will take effect on receipt of such a notice. The Chief Executive will notify all members of the Council of any notices as soon as possible. 3. To exercise any Executive Functions not expressly delegated to Cabinet, Cabinet Members or officers. 4. To determine (as the Leader sees fit) any executive matter that is of strategic importance or which raises issues that affect more than one portfolio, or refer any such matter to the Cabinet or (in so far as the law permits) to the Full Council. 5. Delegation of an Executive Decision by the Leader shall not prevent the Leader from exercising that Executive Function provided that the Executive Decision has not already been made and implemented. 6. The Leader shall not exercise a power in respect of any matter in which he/she has a Disclosable Pecuniary or other Interest under the Code of Conduct, but shall instead refer the matter to Cabinet. <p>THE DEPUTY LEADER</p> <ol style="list-style-type: none"> 1. Power to exercise any of the powers of the Leader in the temporary absence or incapacity of the Leader. <p>D3 – DELEGATIONS TO CABINET</p> <ol style="list-style-type: none"> 1. Constitution <ul style="list-style-type: none"> • Cabinet will consist of the Leader and up to nine Cabinet Members (including the Deputy Leader) duly appointed under the provisions in Part D2. 2. Delegated Powers <ul style="list-style-type: none"> • To deal with any matters within Executive Functions which raise points of strategic importance or policy, subject to reference to Council if a decision would require an alteration to the Policy 3. Framework <ul style="list-style-type: none"> • To deal with any matter within Part D4 referred to it by the Leader, a Cabinet Member, and Chief Executive or Chief Officer
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		<ul style="list-style-type: none"> • To consider and recommend to Council: <ul style="list-style-type: none"> (a) the amount of the Council Tax to be levied; (b) a draft Budget; and (c) any policies or strategies which form part of the Policy Framework, or amendments. • To be responsible for the overall allocation and control of resources within the parts of the Budget which relate to Executive Functions. • To review, research and plan the effectiveness of all services and arrangements for implementing policies and achieving objectives. • To agree general terms and conditions or schemes relating to grants, subject to any policies within the Policy Framework • To settle any policies or strategies which fall outside the Policy Framework. • To deal with any matters relating to corporate improvement. • To deal with Executive Function matters which involve more than one Portfolio area (i.e. Cross-cutting issues), referred by the Leader. • To approve external funding programmes such as European Objective 2, Rural Priority Area, Market Towns Initiative and Single Regeneration Budget and all applications in connection with these programmes, which fall within Budget • To authorise all steps in connection with the making of Compulsory Purchase Orders. • To authorise Capital Projects within Budget • To approve Discretionary Renovation Grants (excluding Home Repairs Assistance Grants) and Disabled Facilities Grants exceeding mandatory level (£20,000). • To authorise the release of Capital Monies after consideration of a financial appraisal • To consider and respond to recommendations made by an Overview and Scrutiny Commission hearing on a Councillor Call for Action, in accordance with the protocol adopted by the Council. • The following functions, detailed at Schedule 2 of the 2000 Regulations, are reserved to Cabinet unless otherwise delegated to an officer of the Council;
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		<ul style="list-style-type: none"> ➤ Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 of the 2000 Regulations ➤ Any function relating to contaminated land ➤ The discharge of any function relating to the control of pollution or the management of air quality ➤ The service of an abatement notice in respect of a statutory nuisance • The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area • The inspection of the authority's area to detect any statutory nuisance • The obtaining of particulars of persons interested in land under section 16 of the Local Government • The following functions, detailed at Schedule 2 of the 2000 Regulations 2000, are reserved to Cabinet unless otherwise delegated to an officer of the Council • The appointment of any individual: <ul style="list-style-type: none"> (i) to any office other than an office in which he/she is employed by the Council where this is an executive function ; (ii) to any body other than: the Council, a joint committee of two or more authorities; or to any committee or sub-committee of such a body, and (iii) the revocation of any such appointment. • The making of agreements with local authorities and other bodies for the placing of staff at the disposal of those other authorities or bodies
D4 – DELEGATIONS TO CABINET MEMBERS		
<p>General provisions relating to each Cabinet Member</p> <p>Delegations</p> <ol style="list-style-type: none"> 1. Subject to paragraphs 2 to 7 of Part D1 each Cabinet Member shall have the power to make decisions within areas of responsibility determined by the Leader, ("Portfolios"). A copy of the current schedule of Portfolios shall be appended to these Delegations. 2. Power to deal with grant applications within the remit of the 		

		<p>Portfolio.</p> <ol style="list-style-type: none"> 3. Any functional area within each Portfolio includes power for the Cabinet Member to authorise the acquisition (within agreed Budget) or disposal of land or an interest in land held for that purpose (“land” to include any buildings on the land), subject to consultation with Ward Members and the appropriate Chief Officer at a price not less advantageous than a qualified valuer’s valuation. 4. No delegated powers under this Part (Delegations to Cabinet Members) shall be used where the matter in question directly affects the interests of the Ward of the Cabinet Member with delegated power to make a decision on the matter, or where the Cabinet Member has a Disclosable Pecuniary or other Interest under the Code of Conduct and such matters will be referred to Cabinet for decision. 5. Each of the powers under this Part shall include power to authorise the commencement of criminal or civil legal proceedings. [NB: This power relates only to Executive Functions]. 6. A Cabinet Member has the power to amend the scale of fees and charges for any functions falling within their Portfolio 7. All decisions under Part D4 must only be taken by the Cabinet Member after consideration of a written report by a Chief Officer and must be evidenced by a form (“the blue form”) signed by both the Cabinet Member and the relevant officer and delivered to the Democratic Services Team. 8. Where the Leader indicates formally that a delegated power under this Part should not in a particular matter be used, that matter shall be referred to Cabinet for decision.
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DELEGATIONS TO COMMITTEES (NON-EXECUTIVE FUNCTIONS)

<p>Planning Committee</p>	<p>12 Members (Quorum 4) (SO No. 37)</p>	<ol style="list-style-type: none"> 1. To carry out any of the Council’s functions under town and country planning development legislation including all town and county planning and development functions listed at Schedule 1 to the 2000 Regulations and high hedges issues listed at the said Schedule 1 other than: <ul style="list-style-type: none"> (i) those reserved to full Council, (ii) Powers reserved to the Executive as specified by legislation from time to time. 2. The following function, detailed at Schedule 2 of the 2000 Regulations, is reserved to the Planning Committee:- <ul style="list-style-type: none"> • The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land • • To consider objection to Tree Preservation Orders • To confirm or refuse to confirm opposed Tree Preservation
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		<p>orders</p> <ul style="list-style-type: none"> • • To determine applications to pollard or fell trees which are considered by the relevant Director after consultation with the relevant Cabinet Member to be of extreme public importance or likely to set a precedent for applications • Where an item included on an agenda of a meeting of the Planning Committee relates specifically to a ward of the district that a ward member although not being a member of the Committee, may nevertheless attend that meeting and take part in any debate on the item, but not vote on them.
General Purposes Committee	12 Members (Quorum 4) (SO No. 37)	<p>1. To carry out any Non-Executive Functions, including all functions detailed in Schedule 1 of the 2000 Regulations, other than:</p> <p>(i) those reserved to full Council.</p> <p>(ii) powers specifically delegated to another Committee.</p> <p>The functions of this Committee include (but are not limited to):</p> <ul style="list-style-type: none"> • Health & Safety at Work; • Elections; • Personnel (other than those retained by full Council and those delegated to Joint Appointments and Disciplinary Committee and Joint Appointments and Disciplinary Appeals Committee); • Public Footpaths, Bridleways and Highways; • Commons; and • Sex Establishments. <p>2 To receive recommendations from LJCC.</p> <p>Note: A representative of the Staff Side on the Local Joint Consultative Committee will have the right to attend and speak at General Purposes Committee on any recommendation contained in minutes of the Joint Committee which are under consideration.</p>
Appeals Committee	6 Members (Quorum– 3) (SO no. 37)	<p>1. Taxis; to deal with applications for licences for Hackney Carriages, Private Hire Vehicles, Operators and Drivers, Private Hire in so far as these are not delegated to officers.</p> <p>2. Hypnotism; to deal with applications for performances of Hypnotism.</p>

		<p>3. Drinking in Public Places Byelaws: Permits</p> <p>4. To deal with objections to applications for permits for the use of the highway for the provision of facilities for refreshments under Section 115(E) of the Highways Act 1980.</p> <p>5. Street Trading; to consider and determine applications for licences recommended for refusal, or recommendations for revocation of a licence.</p> <ul style="list-style-type: none"> • Licensing functions and alcohol restriction functions detailed in Schedule 1 of the 2000 Regulations other than those retained by the Licensing Committee or the Appeals Committee <p>6. Licensing and registration functions (including all licensing and registration functions detailed at Schedule 1 of the 2000 Regulations), including determining applications and appeals (as detailed at paragraph 2 of Schedule 2 of the 2000 Regulations), enforcement of licence conditions, prosecutions, and making recommendations to Council on levels of fees and charges</p>
<p>Joint Appointments and Disciplinary Committee</p>	<p>8 Members</p> <p>(4 Breckland Members & 4 South Holland Members in accordance with Local Government (Committees and Political Groups) Regulations 1990)</p> <p>(Quorum 4 which must comprise 2 members from each authority including at least one Cabinet Member from each authority)</p> <p>NOTE: No member of</p>	<p>Has executive powers in relation to terms of reference 2, 3, 5 and 6 below</p> <ol style="list-style-type: none"> 1. The making of recommendations to the full Councils on the appointment and dismissal of the joint Head of the Paid Service/Chief Executive, or the taking of disciplinary action against him/her; When dealing with potential dismissal, or disciplinary action the committee will carry out the necessary disciplinary hearing and the report to the full Councils will detail the opinions of each of the independent persons 2. The appointment of any other joint Chief Officer or joint Deputy Chief Officer 3. The dismissal of, or the taking of any disciplinary action against any other joint Chief Officer or joint Deputy Chief Officer except the joint S151 Officer and the joint Monitoring Officer; 4. The making of recommendations to the full Councils on the dismissal of the joint Monitoring Officer or the joint S151 Officer (Section 151 Officer), or on the taking of disciplinary action against him/her. When dealing with potential dismissal, or disciplinary action the committee will carry out the necessary disciplinary hearing and the report to the full Councils will detail the opinions of each of the independent persons. 5. Considering and reporting to each Council on any disputes submitted to it in accordance with sections 8 (termination and review of joint arrangements) or 11 (dispute resolution) of the Memorandum of Agreement dated 1 April 2011

<p>this Joint Committee shall be appointed to the Joint Appointments and Disciplinary Appeals Committee</p> <p>Substitutions: Each Council shall appoint one named member who may act as a substitute.</p>	<p>6. Approving staffing policies in respect of redundancy, early retirement and discretionary compensation.</p> <p>NOTE: In the exercise of these functions the Committee must act in accordance with the Local Authority (Standing Orders) (England) Regulations 2001 (as amended) including;</p> <p>Head of the Paid Service –</p> <p>No offer of appointment may be made until the proposed appointment has been approved by the full Councils and until notice of the proposed appointment has been given by the proper officer to each Council’s Cabinet Members and the Leaders have not objected within the time given for response. No notice of dismissal may be issued until the proposed dismissal has been approved by the full Councils, taking into account the recommendation of a joint committee which must comprise at least 2 independent persons, and until notice of the proposed dismissal has been given by the proper officer to each Council’s Cabinet Members and the Leaders have not objected within the time given for response.</p> <p>Monitoring Officer and S151 Officer (Section 151 Officer) –</p> <p>No offer of appointment may be made until notice of the proposed appointment has been given by the proper officer to each Council’s Cabinet Members and the Leaders have not objected within the time given for response. No notice of dismissal may be issued until the proposed dismissal has been approved by the full Councils, taking into account the recommendation of a joint committee which must comprise at least 2 independent persons, and until notice of the proposed dismissal has been given by the proper officer to each Council’s Cabinet Members and the Leaders have not objected within the time given for response.</p> <p>Other Chief Officers and Deputy Chief Officers –</p> <p>No offer of appointment may be made nor notice of dismissal issued until notice of the proposed appointment or dismissal has been given by the proper officer to each Council’s Cabinet Members and the Leaders have not objected within the time given for response.¹</p> <p>When the Committee meets to make recommendations to the full Councils on the proposed dismissal of the joint head of paid service, the joint S151 Officer or the joint Monitoring Officer, the Committee shall also comprise at</p>
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		<p>least 2 independent persons appointed under section 28(7) of the Localism Act 2011 in accordance with the following priority order:</p> <ol style="list-style-type: none"> 1. A person who has been appointed by the Council and who is a local government elector 2. Any other person who has been appointed by the Council 3. A person who has been appointed by another authority or authorities <p>(SHDC at its meeting on 24.6.15 and Breckland DC at its meeting on 9.7.15 agreed that the 2 independent persons should comprise, where possible, 1 independent person appointed by SHDC and 1 independent person appointed by Breckland DC</p>
<p>Joint Appointments & Disciplinary Appeals Committee</p>	<p>8 Members 4 Breckland Members & 4 South Holland Members in accordance with Local Government (Committees and Political Groups) Regulations 1990</p> <p>(Quorum 2 from each authority at least one Cabinet Member from each authority)</p> <p>No member of the Joint Appointments and Disciplinary Committee shall be appointed to this Joint Committee</p>	<p>Determining appeals from relevant persons in respect of decisions of the Joint Appointments and Disciplinary Committee relating to the appointment, dismissal or disciplinary action in respect of Chief Officers or Deputy Chief Officers (other than the head of paid service, Monitoring Officer or S151 Officer)</p> <p>Note: In the exercise of these functions the Committee must act in accordance with the Local Authority (Standing Orders) (England) Regulations 2001 (as amended)</p> <p>Joint Appointments and Disciplinary Committee - When the Committee meets to make recommendations to the full Councils on the proposed dismissal of the joint head of paid service, the joint S151 Officer or the joint Monitoring Officer, the Committee shall also comprise at least 2 independent persons appointed under section 28(7) of the Localism Act 2011 in accordance with the following priority order:</p> <ol style="list-style-type: none"> 1. A person who has been appointed by the Council and who is a local government elector 2. Any other person who has been appointed by the Council 3. A person who has been appointed by another authority or authorities <p>(SHDC at its meeting on 24.6.15 and Breckland DC at its meeting on 9.7.15 agreed that the 2 independent persons should comprise, where possible, 1 independent person appointed by SHDC and 1 independent person appointed by Breckland DC</p>

Licensing Committee	12 Members (Quorum 4) (SO no. 37)	<ol style="list-style-type: none"> 1. To deal with all matters relating to the discharge by the Council of its Licensing functions under the Licensing Act 2003 and Gambling Act 2005, except for the requirement to determine the authority's Licensing Policy under section 5 of the Licensing Act 2003 and the Licensing Authority Policy Statement under section 349 of the Gambling Act 2005 (which are both full Council functions) and matters which are delegated by legislation or otherwise to Licensing Sub-Committees. 2. The Licensing Committee may appoint such number of sub-committees as it considers necessary to discharge any of the duties under the Licensing Act 2003 or the Gambling Act 2005
Licensing Sub-Committee	3 Members (all members must attend)	<ol style="list-style-type: none"> 1. To deal with applications for grant, renewal or variations of premises licences, club certificates and personal licences under the Licensing Act 2003 and Gambling Act 2005 (or any subsequent Licensing legislation) where a hearing is required because either relevant representations, or a valid review notice or a valid objection notice has been received by the authority. 2. Any other Powers set from time to time by Licensing legislation or delegated by the Licensing Committee
		OVERVIEW AND SCRUTINY COMMISSION (INCLUDING CALL-IN PROCEDURES)
Overview and Scrutiny Commission	12 Members (Quorum 4) (SO no. 37)	<p>Rules and Regulations</p> <ol style="list-style-type: none"> 1. The Overview and Scrutiny Commission will be chaired by a Member appointed by full Council. 2. The Commission is to consist of 12 members and be Politically Balanced. 3. No Cabinet Members are allowed to serve on the Commission. 4. The Chairman of Task and Finish Groups must be members of the Overview and Scrutiny Commission. 5. The Commission shall have power to require the Leader, Cabinet Members, Chairman of a Committee and Chief Officers (or their nominated representatives) to report to the Commission on any matter properly raised before the meeting, and to invite any other persons to attend meetings of the Commission (although no persons other than the Members of the Commission will have the right to vote). <p>Role of the Commission</p> <ol style="list-style-type: none"> 6. The Overview and Scrutiny Commission may undertake any work relating to the six core functions of Scrutiny as follows:- <ul style="list-style-type: none"> • Hold the Executive to Account (Call-In) • Performance Management Assist Policy Development and

		<p>Review</p> <ul style="list-style-type: none"> • Internal scrutiny of any council function • External scrutiny of: <ul style="list-style-type: none"> ➤ the council's partners ➤ other agencies and organisations ➤ other local authorities • Issue affecting the communities of the district <p>Terms of Reference of the Commission</p> <p>7. To consider any matter included on the Commission's agenda which is relevant to the functions of the Overview and Scrutiny Commission.</p> <p>8. To review or scrutinise any decisions made, or other action taken, in connection with the discharge of any functions (this applies to both Executive Functions and Non-Executive Functions subject to certain exceptions in law). (This power includes the power of Call-In which is described below)</p> <p>9. To make reports or recommendations to the full Council or Cabinet in relation to the discharge of any functions (this applies to both Executive Functions and Non-Executive Functions)</p> <p>10. To make reports or recommendation to the full Council or Cabinet on matters which affect the authority's area or the inhabitants of the area.</p> <p>11. To determine the Annual Delivery Plan/Work Programme for the Commission and also the Task and Finish Groups.</p> <p>12. To assist policy development and reviews, including:</p> <ul style="list-style-type: none"> • To assist policy development, within the overall framework of the Council, for consideration by Cabinet • Reviewing/scrutinising existing policies of the Council and suggesting any necessary changes <p>13. To undertake performance management and monitoring, including:</p> <ul style="list-style-type: none"> • To monitor the performance management indicators of the Council on a quarterly basis and review, as appropriate, any indicators which are not performing to the required standard. • To receive and review the Annual Performance Plans/Corporate Strategies to ensure that the best service is provided for service users.
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		<ul style="list-style-type: none"> • To review or scrutinise the performance of existing services or functions of the Council including internal controls and corporate governance arrangements. • To ensure that the services/functions to be provided, as specified in the Service Team Plans, are undertaken and also to consider projected plans for the future. • To receive reports from the Ombudsman. • To consider governance arrangements in the context of the internal control environment, and to review these arrangements <p>14. To undertake internal and external scrutiny reviews in accordance with a “Scoped Document” agreed by the Commission in advance of each review.</p> <p>15. To undertake Call-Ins of Executive Decisions in accordance with the procedure detailed below.</p> <p>16. To receive and consider reports and recommendations from Task and Finish Groups and make such recommendations as the Commission sees fit to the Council, Cabinet or another Council body.</p> <p>17. To consider any matter referred under the Councillor Call for Action provisions of section 119 of the 2007 Act, in accordance with the Protocol adopted by the Council.</p> <p>18. To make recommendations to Cabinet and outside organisations, where appropriate, in accordance with the Protocol on Councillor Call for Action.</p> <p>19. To consider any relevant Petitions under the Local Democracy, Economic Development & Construction Act 2009 referred to it by Council or the Petition Organiser under the Council’s Petitions Scheme, to instigate any necessary investigations and to make appropriate recommendations.</p> <p>Call-In procedure for Executive Decisions</p> <p>20. No Executive action shall be taken to implement a decision by the Leader, a Cabinet Member or by the Cabinet, a Sub-Committee of the Cabinet or an officer for a period of five clear Working Days from the date of publication of the decision to members, and if any reference is made within this time under the paragraph below, Executive action shall be further delayed pending consideration by the Overview and Scrutiny Commission. However, Executive action can proceed at once if the action is urgent and the procedures set out in the Access to Information Procedure Rules are followed.</p> <p>21. Where either a Ward Representative (in relation to a matter in their ward) or two members of Overview and Scrutiny Commission or any three members formally request in writing</p>
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(requests for Call-In must be given on a form designed for that purpose, and must be signed by each subscriber to the Call-In) to the Senior Legal Officer (or such other officer as may be nominated by the Senior Legal Officer) before the end of the five clear Working Day period specified in the above paragraph in relation to a particular decision by the Leader, a Cabinet Member or Cabinet, a Sub-Committee of Cabinet or an officer, then that decision shall be referred to the Overview and Scrutiny Commission. Such request must contain a justifiable reason for the reference and one or more of the signatories to the reference must forward to the Senior Legal Officer at least five clear Working Days before the date of Commission which is to consider the matter a brief explanation or statement as to the concerns of the signatories in the matter, and what alternative decision(s) that member/those members consider should be taken.

Action on Call-In

22. The power of the Overview & Scrutiny Commission following Call-In to review or scrutinise a decision made but not implemented includes power

- (a) to recommend that the decision be reconsidered by the person(s) who made it, or
- (b) to refer its function to review or scrutinise the decision to full Council
- (c) take no further action.

Reference of matters to the Overview and Scrutiny Commission (Councillor call for action)

23. Any member of the Overview and Scrutiny Commission may instruct the Senior Legal Officer to include on the agenda for a meeting of the Commission any matter relevant to the function of the Commission, and that matter must be discussed at the meeting.

24. Any member of the Council may instruct the Senior Legal Officer to include on the agenda for a meeting of the Commission any matter relevant to the function of the Commission (other than any "excluded matter" set down by law), and that matter must be discussed at the meeting.

25. Any member of a sub-committee of the Commission may instruct the Senior Legal Officer to include on the agenda for a meeting of the sub-committee any matter relevant to the functions of the sub-committee, and that matter must be discussed at the meeting.

Powers

26. The Overview and Scrutiny Commission has no powers unless any are specifically delegated to it by Council

		<p>TASK AND FINISH GROUPS</p>
		<p>Rules and Regulations</p> <ol style="list-style-type: none"> 1. The Commission will appoint Chairmen to up to eight Task and Finish Groups within a year, to manage the work of a portfolio of Task and Finish Groups, which shall be allocated to them by the Overview and Scrutiny Commission 2. Task and Finish Groups shall each comprise a group of up to 10 members, appointed by the Overview and Scrutiny Commission 3. No Cabinet Members may serve on a Task and Finish Group. 4. The Chairman of Task and Finish Groups must be members of the Overview and Scrutiny Commission. <p>Terms of Reference</p> <ol style="list-style-type: none"> 5. Task and Finish Groups will be constituted by the Overview and Scrutiny Commission, which shall determine the terms of reference of each group and its membership. When a Task and Finish Group has completed the work assigned to it, it shall be dissolved and may, in any event, be dissolved at any time by a decision of the Commission. <p>Powers</p> <ol style="list-style-type: none"> 6. Task and Finish Groups have no decision making powers. 7. Each Task and Finish Group has the power to make recommendations to the Overview and Scrutiny Commission. <p><u>Note:</u> Section 9FC of the 2000 Act applies to Task and Finish Groups (reference of matters by members)..</p>
LJCC	10 Members as Specified (Quorum - 2 members and 2 Officers)	<p>The Committee shall be called the “Breckland Council and Staff Joint Consultative Committee”, hereinafter called the “Local Joint Consultative Committee”.</p> <p>Constitution and Functions -</p> <p>Representation</p> <ol style="list-style-type: none"> 1. Local Joint Consultative Committee shall comprise five members of the Breckland Council to be appointed annually by the Local Authority and five officers of the Local Authority. 3 officers are to be appointed by the trade unions or the staff organisations in proportion to the number of such officers in membership of each organisation, provided that where the number of members of any one organisation is sufficient to qualify such organisation to appoint a representative, it may combine with one or more organisations for this purpose. Two officers are to be representatives for those officers who do not

		<p>belong to a trade union or staff organisation. One member from each side will be appointed on a “floating” basis (the representative from the Staff Side to be from the Branch Executive). Two named substitute members may be appointed on each side. The members shall retire annually and shall be eligible for re-appointment.</p> <p>2. If a member of the Local Joint Consultative Committee ceases to be a member or officer of the Local Authority he shall thereupon cease to be a member of the Local Joint Consultative Committee.</p> <p>Chairman</p> <p>3. A Chairman and Vice –Chairman shall be appointed by the Local Joint Consultative Committee at their first meeting in each (Council) year. If the Chairman appointed be a member of the Local Authority, the Vice-Chairman shall be appointed from the Staff Side, and vice-versa. The Chairman of a meeting shall not have a casting vote.</p> <p>Officers</p> <p>4 The Local Joint Consultative Committee shall appoint a secretary and other necessary officers.</p> <p>Functions</p> <p>5. The functions of the Local Joint Consultative Committee subject to paragraphs (j) and (k) below shall be:-</p> <p>(a) to establish regular methods of negotiation between the Local Authority and its officers in order to prevent and raise any differences that arise; always provided that no question of individual discipline or grievance, promotion or efficiency shall be within the scope of the Joint Committee;</p> <p>(b) to consider any relevant matters referred to it by a committee of the Local Authority, or by any of the staff organisations, or by the staff representatives;</p> <p>(c) to make recommendations to the appropriate committee as to the application of the terms and conditions of service and any issues relating to human resources or the education and training of local government officers employed by the Authority;</p> <p>(d) to discharge such other functions specifically assigned to the Local Joint Consultative Committee;</p> <p>(e) the Local Joint Consultative Committee may refer any questions coming before them for consideration by and for the advice of an appropriate regional organisation;</p>
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		<p>(f) to undertake consultation to enable the Council to make and maintain arrangements so that the Council and its employees can co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees;</p> <p>(g) to keep under review the effectiveness of health and safety measures, including the hearing of grievances under health and safety;</p> <p>(h) to receive reports on terms and conditions of employment which will be affected by changes to employment statute or legislation for consideration or information;</p> <p>(i) Voting to be restricted to the ten elected members of the Local Joint Consultative Committee only.</p> <p>(j) Only matters affecting five or more employees will be considered by this Committee;</p> <p>(k) Matters which are to be considered by Cabinet shall not fall within the purview of this Committee if agreement has been reached with the staffing organisations; however, the consequences of Cabinet decisions may raise general issues relating to human resources matters within the Council which can be referred to this Committee.</p> <p>Rules and Regulations</p> <p>6. The Local Joint Consultative Committee shall meet whenever the Chairman and/or Vice Chairman determines it is necessary to conveniently discharge the Committee's functions and more particularly to secure the proper consideration of matters that fall within its remit prior to their being reported to Cabinet.</p> <p>7. The quorum of the Local Joint Consultative Committee shall be two representatives of each side.</p> <p>8. No resolution shall be regarded as carried unless it has been approved by a majority of the members present on each side of the Local Joint Consultative Committee.</p> <p>9. The proceedings of any meeting of the Local Joint Consultative Committee shall be reported to the appropriate committee or direct to the Local Authority as may be determined locally, but before submission the report shall be signed by the Chairman and Vice-Chairman of the Local Joint Consultative Committee.</p>
Audit Committee	(6 Members and 2 substitutes politically balanced) Plus 2 non	<p>1. To consider and approve the external audit fee.</p> <p>2. To consider and approve annually the Internal Audit Strategic and Annual Plans and the audit plans of the External Auditor, and to monitor subsequent performance against these plans</p> <p>3. To consider Internal and External Audit reports and letters,</p>

	<p>voting Lay Advisors</p> <p>(appointed by the Committee)</p> <p>((Quorum 3 (SO no. 37)</p> <p>Delegations 16 -19 do not apply to the Lay Advisors</p>	<p>including the Annual Letters and reports.</p> <ol style="list-style-type: none"> 4. To comment on the scope and depth of Internal and External Audit work in addressing the authority's significant risks, and reviewing the authority's programme and processes for achieving value for money. 5. To commission ad-hoc work from Internal and External Audit. 6. To satisfy itself that the system of internal control has operated effectively throughout the year. 7. To consider and comment upon the effectiveness of the system of internal and external audit. 8. To review the Council's arrangements to counter fraud and corruption. 9. To consider the extent of the Council's compliance with its own and other published financial standards and controls. 10. To review and approve the Annual Statement of Accounts. 11. To monitor the effective development and operation of Risk Management in the Council. 12. To make a formal annual report on the Committee's work and performance during the year to full Council. 13. To hold annual private discussions with the Head of Internal Audit and the External Audit to review working relationships with Auditees, etc. 14. To assess the Committee's own effectiveness on an annual basis. 15. To implement and monitor the Council's Treasury Management Strategy and Policies. <p>(The following do not apply to lay advisors)</p> <ol style="list-style-type: none"> 16. The promotion and maintenance of high standards of conduct within the Council. 17. To advise the Council on the adoption or revision of its Code of Conduct and its arrangements for dealing with complaints against Members. 18. To monitor and advise the Council on the operation of its Code of Conduct in the light of best practice or changes in legislation. 19. Functions relating to standards of conduct of members under the adopted arrangements. The Monitoring Officer will constitute a Hearing Panel comprising 3 member of the Audit Committee when necessary to deal with hearings arising from
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		standards issues under the adopted arrangements
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Certain Executive Functions and Non-Executive Functions have been delegated to officers. Details of those delegations can be found in the Tables in Part F of this section and any specific delegations contained in a list maintained by the Senior Legal Officer (to be added in due course).

The committees set out above may from time to time add to or alter those delegations, as appropriate, within their functional responsibilities, as approved by Council.

PART E – CABINET PORTFOLIOS – (as of January 2016)

Portfolio	Functions
<p>Leader of the Council</p>	
<p>Portfolio Holder for Income and Prosperity</p>	<p>Chief Accountant & 151 Officer</p> <ul style="list-style-type: none"> • Finance • Treasury Management • Budget Preparation • Management Accounts • External Audit • Capital Programme <p>Inward Investment</p> <ul style="list-style-type: none"> • Economic Development • Funding and Grants • Local Enterprise • Open for Business • Grants for Growth <p>Strategic Property Manager</p> <ul style="list-style-type: none"> • Strategic Asset Management and Delivery • Management of Council Assets (internal) • Property Investment Portfolios • Corporate Landlord • Acquisitions and Disposals • Trading of Asset Management
<p>Portfolio Holder for People & Information</p>	<p>ICT & Customer Services</p> <ul style="list-style-type: none"> • ICT Services • ICT Project Management • Web Services • Customer Services • Contact Centre • Customer Service Centre's <p>Performance</p> <ul style="list-style-type: none"> • Corporate Improvement • Corporate Performance • Corporate Planning • Corporate Risk Register • Audit (Internal) • Contract Management • Procurement • Equalities

	<ul style="list-style-type: none"> • Policy • Consultation • Business Intelligence • Commissioning <p>Communications</p> <ul style="list-style-type: none"> • Internal Communications • External Communications • PR • Media Relations • Marketing • Print Room & Reprographics <p>Human Resources</p> <p>Transformation Lead</p> <p>Digital & Customer Access</p> <ul style="list-style-type: none"> • Digitalisation • Channel Shift • Customer Services • Breckland Contact Centre • Breckland Customer Service Centres
<p>Portfolio Holder for Governance</p>	<p>Democratic Services</p> <ul style="list-style-type: none"> • Electoral Services • Committee Services • Monitoring Officer • Standards • Complaints & Compliments • Freedom of Information <p>Legal Service</p> <ul style="list-style-type: none"> • Legal Services • Commissioning • Contracts Register • Company Secretariat
<p>Portfolio Holder for Growth</p>	<p>Strategic Planning</p> <ul style="list-style-type: none"> • Planning Policy • Thetford SUE Neighbourhood • Planning <p>Strategic Housing</p>

	<ul style="list-style-type: none"> • Housing Policy • Housing Strategy & Enabling • Housing Company <p>Capita Planning Contract Housing</p>
<p>Portfolio Holder for Public Protection</p>	<p>Licensing</p> <ul style="list-style-type: none"> • Licensing & Business Support • Taxis • Events • Licensed Premises <p>Environmental Protection</p> <ul style="list-style-type: none"> • Air Quality Management • Contaminated Land • Dog Control Services • Pest Control Enforcement • Nuisance Investigations • Environmental Protection • General Public Health <p>Food Health & Safety Manager</p> <ul style="list-style-type: none"> • Food Safety/Food Law Enforcement • Food Hygiene Rating Scheme • Health & Safety Enforcement • Smoke-Free Enforcement/Provisions • Control of Food-Borne Diseases • Infectious/Communicable Diseases
<p>Portfolio Holder for Place</p>	<p>Communities</p> <ul style="list-style-type: none"> • Community Development • Community Safety • Leisure (PFI) • Anti – social behavior • Health Operational Delivery • CCTV • Community Asset Register • Safeguarding Operational Delivery • Community Funding • Parish/Town Council • Liaison Arts/Culture • Sports • Emergency Planning • Business Continuity • Environmental Services

SECTION F – OFFICER DELEGATIONS

F1 – GENERAL CLAUSES AND DELEGATIONS RELATING TO NON-EXECUTIVE AND EXECUTIVE FUNCTIONS

- 1 Any mention in these Delegated Powers to any Act shall be deemed to extend to any Act amending or replacing the same and to any regulation and Order Made thereunder
2. The powers delegated to Officers shall be exercised in accordance with:
 - (a) the Standing Orders of the Council;
 - (b) Financial Regulations; and
 - (c) the Law.
3. The powers shall be exercised in accordance with any policy or direction of the Council or of the Committee concerned (and mindful of the need to avoid any unlawful fetter of discretion) and in particular, so far as the context practically and legally allows, shall be exercised in accordance with the Council's Corporate Plan and other corporate procedures.
4. The powers delegated to officers permit them to **incur expenditure** as set out in the Finance Procedure Rules and to undertake any action that is incidental to the discharge of any function delegated.
5. Where the Officer is aware that an individual matter raises issues of strategic importance or particular political sensitivity then before exercising any delegated power the Officer must consult the relevant Chairman or Portfolio Holder, and where the Chairman of a Committee or the Portfolio Holder indicates in writing before action is carried out that an individual matter should be referred to Full Council, Cabinet (or other relevant and appropriate Committee) for decision, then the power shall not be exercised and the matter shall be referred back to the Full Council, Cabinet or Committee as appropriate.
6. Where any matter involves considerations within the professional or technical competence of another officer or officers then, unless the person making the decision (acting reasonably) considers the other officer(s) need not be consulted, the Officer taking the decision shall consult with the other officer(s) before authorising action.
7. An Officer need not exercise his/her delegated power in any particular matter and shall not do so if in his or her opinion the matter involves questions of policy as yet undecided by the Council, Cabinet, or Committee or any substantial change from previous practice.
- 8 Any specific delegations in addition to those listed in this Part 3 Section F which are authorised by any decision-making body of the Council (other than short-term temporary delegations lasting less than six months) shall be recorded by the Senior Legal Officer in a central log kept for that purpose. Any sub-delegation made by an officer and lasting more than six months in

duration shall be reported by that Officer to the Senior Legal Officer forthwith and the Senior Legal Officer shall record such sub-delegations in the central log.

- 9 The Council's Monitoring Officer is authorised to amend these delegations and the log of specific delegations as and when necessary in order to update the same in respect of staffing establishment changes (including changes to post titles) and changes to statutory references. Such amendments shall not require further authorisation.
- 10 The Council's Monitoring Officer and S151 Officer are each authorised to delegate their powers during their absence or where s/he has a conflict of interest. Such delegation may be by way of appointing a Deputy Monitoring Officer or Deputy S151 Officer.
- 11 Where a decision to be made by any Officer under delegated authority meets the definition of an Executive Decision including a Key Decision' that Officer shall be obliged to comply with all relevant rules in this Constitution relating to Key Decisions (with particular regard to publishing Key Decisions in advance, publishing decision notices and complying with Call-In).
- 12 Chief Officers are authorised to perform any function delegated to an Executive Manager or Service Manager (except where a function is delegated to any Officer in his or her role as Monitoring Officer or S151 Officer). Where any delegation to an Executive Manager or Service Manager is subject to consultation with the relevant Portfolio Holder then exercise of that delegation by a Chief Officer will also be subject to consultation with the relevant Portfolio Holder
- 13 Executive Managers are authorised to perform any of the functions delegated to an Executive Director, and Service Managers are authorised to perform any of the functions delegated to an Executive Manager (other than in either case any function of the Monitoring Officer or S151 Officer) provided that the relevant Executive Director or Executive Manager (as the case may be) has not issued instructions to the contrary
- 14 Any officer with delegated powers has power to authorise staff within his/her control to carry out powers delegated to him/her, subject to any conditions or provisos which are imposed.
15. Each Chief Officer shall have **general power**:
- (a) To undertake the **strategic management and control** of the premises and assets for which she/he is responsible. This general power is in addition to any specific powers which may be given to him/her.
 - (b) To **dispose of** vehicles, stores and equipment that have been declared surplus for the best terms obtainable, subject to consultation with the S.151 Officer
 - (c) To be the **Proper Officer** for the purposes of Section 234 of

the 1972 Act (as detailed in the list maintained by the Senior Legal Officer), to sign any notice or document which falls to be given, made or issued in the course of the exercise of any power given to him/her by the Council or by these delegations or by other specific instructions (this delegation may not be delegated further) subject to (e) below).

- (d) For Executive Directors, to exercise the powers of the other Executive Directors in their absence and (unless the Chief Executive has given instructions to the contrary) the Chief Executive in his/her absence (other than any function of the Head of the Paid Service).
- (e) To **appoint a person to act in his or her place** to exercise a specified power (including any power to act as the proper officer) for a relevant function:
 - (i) in his or her absence, or
 - (ii) when he or she is otherwise not available to exercise it at the relevant time, or
 - (iii) in accordance with any general directions given by him or her.
- (f) To authorise any officer of the Council to **enter on land** for any purpose authorised by statute.
- (g) Subject to the restrictions on incurring expenditure in the Financial Procedure Rules, to authorise **urgent action** (ie actions that are not otherwise delegated) requiring immediate decision on any matters subject to:
 - (i) consultation with the appropriate Portfolio Holder or Chairman of the Committee (where practicable);
 - (ii) a subsequent report to Cabinet or to another Committee where the matter is of strategic importance or particular political sensitivity; and
 - (iii) compliance with Standing Orders.
- (h) To serve formal Notices **requiring information** to be given as to interests in land (which shall include the obtaining of information under section 330 of the Town and Country Planning Act 1990, and the obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 as detailed at paragraphs 16 and 17 of Schedule 2 of the 2000 Regulations)
- (i) To make **planning applications** in respect of a relevant function in relation to any of the Council's land.
- (j) To authorise payments of compensation in connection with complaints (including those made to the Local Government Commissioner/Ombudsman) of up to £1000, subject to (i) the agreement of the Monitoring Officer and the appropriate Portfolio Holder or Chairman of Committee and (ii) informing the Overview and Scrutiny Committee.

(k) Subject to the above provisions and in particular to paragraph 5, to authorise enforcement action or prosecutions in relation to any legislation within the functional area of the Chief Officer.

(l) To exercise the following powers in relation to **staffing matters**.

	<u>POWER ALLOCATED</u>	<u>EXERCISABLE BY</u>
	<u>Offices</u>	
1.	Operation of the Council's offices and welfare facilities for staff.	Chief Officers.
	<u>Salaries and Wages and General Conditions of Service</u>	NOTE: Sections 2 to 11 are to be exercisable in consultation with the Human Resources Manager (and others where specified).
2.	The implementation of local and national agreements, except discretionary clauses not related to previous decisions taken by Committee.	Chief Executive.
3.	Interpretation of salary and wage awards to resolve minor anomalies.	Chief Executive.
4.	Power to amend grading or designation of employees, subject to the job evaluation process.	Chief Officers in consultation with the Chief Executive.
5.	Authority to increase the staffing establishment by the addition of a temporary fixed term post or posts, providing that costs are met from within existing Council budgets and subject to regular reporting through quarterly performance reports	Chief Officers in consultation with the S151 Officer.
6.	Authority to authorise progression within the local grades provided costs are met from existing approved Budgets within the relevant Portfolio.	Chief Officers.
7.	Authority to determine starting salaries within local grades.	Chief Officers.

	<u>POWER ALLOCATED</u>	<u>EXERCISABLE BY</u>
8.	Exercise of discretionary powers in relation to the granting of annual leave and leave for special purposes contained in the conditions of service applicable to the employee.	Chief Officers.
9.	Power to make Acting-up payments to staff fulfilling any duties of a more senior post, provided costs are met from existing approved Budgets within the relevant Portfolio.	Chief Officers, after consultation with the relevant Portfolio holder.
10.	Power to authorise overtime provided costs are met from existing approved Budgets within the relevant Portfolio.	Chief Officers.
	<u>Appointment and Dismissal of Staff</u>	
11.	Recruitment and appointment procedures for all posts with the exception of the Head of the Paid Service, Chief Officers and Deputy Chief Officers including the Monitoring Officer and the S151 Officer.	Chief Officers in consultation with Chief Executive.
12.	Appointments to posts on Local Grades 4 and below	Chief Officers
13.	Extension of service of an employee after reaching compulsory retirement age for a period of not more than six months.	Chief Executive
14.	Authority to dismiss any employee at any time during the probationary period, within the law with the exception of the Head of Paid Service, Chief Officers and Deputy Chief Officers including the Monitoring Officer and the S151 Officer.	Chief Officers in consultation with the Chief Executive and the Monitoring Officer.
15.	Disciplinary action in respect of officers below the grade of posts on local grades 3b and below in accordance with the Council's Disciplinary	Chief Officers

	<u>POWER ALLOCATED</u>	<u>EXERCISABLE BY</u>
	Procedures including hearing appeals (or authorising others to do so) and the dismissal of staff.	
16.	Termination of employment under a settlement agreement subject to the settlement figure not exceeding £30,000.	Chief Officers in consultation with the Monitoring Officer
17.	Authority to hear appeals against redundancy (so long as the Chief Officer has not been involved in the original decision).	Chief Officers
	<u>Travelling and Subsistence Allowances</u>	
18	Power to authorise the granting of car loans and car allowances, and/or to operate the Council's car schemes.	Chief Officers.
	<u>Training</u>	
19.	Power to authorise the attendance of employees on full time courses not exceeding four weeks in duration or on longer courses in accordance with previously approved arrangements.	Chief Officers.

	<u>POWER ALLOCATED</u>	<u>EXERCISABLE BY</u>
20.	Power to authorise the attendance of employees on courses, in accordance with previously agreed arrangements, and to incur expenditure on training, provided that the costs can be met from within the Training Budget.	Chief Officers.
21.	Authority to waive wholly or partly the requirement for an officer to repay in full or part the amount of financial assistance received towards training because of early resignation or redundancy, where in all the circumstances it is considered appropriate, fair and reasonable.	Chief Officers
	<u>Miscellaneous Staffing Matters</u>	
22.	Power to authorise officers to engage in additional employment, where this does not conflict with their primary employment or the interests of the Council.	Chief Officers.
23.	Authority to reimburse the cost of damage to an employee's personal property and clothing up to £200 in any one case, provided the Chief Officer is satisfied that the damage was caused as a result of the employee pursuing Council business.	Chief Officers

F2 – DELEGATIONS TO CHIEF EXECUTIVE

1. To act as the Council's Head of Paid Service.
2. To exercise any of the powers of any Chief Officer with the exception of the statutory powers conferred on the Monitoring Officer and the Section 151 Officer.
3. to be the Proper Officer of the Council in relation to:
 - (a) The following provisions of the Local Government Act 1972 (Council):

Section 13(3)	(Parish Trustee)
Section 83(1)-(4)	(Witness and receipt of declaration of acceptance of office)
Section 84	(Receipt of declaration of resignation)
Section 88	(Convening of meeting of the Council to fill vacancy in the office of Mayor)
Section 89 (1)(b)	(Receipt of notice of casual vacancy from two local government electors)
Section 100B(2)	(Exclusion from agenda papers made available to public any reports (or parts) likely to be taken in absence of public)
Section 100D(1)(a)	(Compilation of a list of background papers to a report)
Section 100D(5)(a)	(Identification of background papers on which a report is based)
Section 210(6) and (7)	(Charity functions of holders of offices with previous authorities transferred to Proper Officer, if no equivalent officer)
Section 229(5)	(Authentication of documents – certification of a photographic copy of a document in the custody of the Council)
Section 234	(Authentication of documents – signing of formal notices, orders or other documents made or issued under any enactment by the Council)
Section 238	(Authentication of documents – signing of certificate on any printed copy of the byelaws authenticating such print as a true and correct copy)
Schedule 12	(Issue and service of summons to meetings of Council and Committees, receipt of formal notification from Councillors of addresses to which such summons be sent)
Schedule 14	(Authentication of documents – certification of copy resolutions)

(b) any reference to any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October, 1972 to the Clerk of the Council which, by virtue of any provisions of the said Act, is to be construed as a reference

to the Proper Officer of the Council.

- (c) Section 41 of the Local Government (Miscellaneous Provisions) Act 1976 – authentication of documents – certification of copies of resolutions, orders, reports or minutes of the Council or any predecessor authority

- (d) Section 59 of the Public Health (Control of Diseases) Act 1984 – authentication of documents

Section 49 of the Food Safety Act 1990 – authentication of documents

- (e)

NOTES:

- some of the above functions are also specifically delegated to other officers.
- In accordance with paragraph 16(e) of part F1 above the Chief Executive, as with all other Chief Officers, has the power to appoint a person to act in his or her place to exercise any power to act as the proper officer for a relevant function (i) in his or her absence, or (ii) when he or she is otherwise not available to exercise it at the relevant time, or (iii) in accordance with any general directions given by him or her.

4. To appoint appropriate officer(s) to act as Proper Officers where necessary, except that the Chief Executive shall not have authority to appoint him or herself as a Proper Officer

5. To exercise all powers in connection with elections except where any other officer is appointed as Returning Officer and/or Electoral Registration Officer.

6. Power, after consultation with the Leader, to declare an incident to be a major incident under the Peacetime Emergency Plans and thereafter to take any necessary immediate action in respect of the incident including expenditure of money subject to obtaining the agreement of the Leader and to calling a meeting of Cabinet as quickly as possible and so far as practicable thereafter acting in consultation with Cabinet.

7. To have the power in consultation with the Leader to invest in land (to include any buildings on the land) up to £3 Million and subject always to the Financial Procedure Rules.

F3 DELEGATIONS TO EXECUTIVE DIRECTORS

1 **General**

Power to take day-to-day operational and managerial decisions within the

functional areas of the Portfolio(s) for which the Executive Director is responsible, subject to the restrictions contained in the General Clauses (Part F1) or mentioned below.

2 **Functional Areas**

The functional areas for each Directorate may be amended from time to time by the Leader (for Executive Functions) or a Committee or Council (for Non Executive Functions). A list of current functions can be obtained from the Senior Legal Officer or from the Council's Website.

3 **Specific Delegations**

Power for the **Executive Director in charge of Planning & Development Control** as follows:

Planning Applications

- i). To determine all Planning Applications (as defined below) (except Major Applications and Significant Applications as defined below) where the Executive Director considers that, on balance, and after taking into account all material considerations including Human Rights Act issues, the decision would be in compliance overall with national planning policies and guidance, and the policies contained in the Local Plan and any Neighbourhood Plans.

The above power is subject to the following:

- a) A weekly list being sent to all Members containing details of Planning Applications received.
- b) The right for a Ward Member in relation to their own or an adjoining Ward and the Chairman of Planning Committee jointly (i.e. if both are in agreement) to require a Planning Application to be referred to and decided by the Planning Committee if the following conditions are met:
 - A written notice must be received from the Ward Member by the Executive Director or Principal Planning Officer within 23 days of the publication of that application on the weekly list requesting the referral of the application to the Committee.
 - The request only to have effect if it contains proper planning reasons for consideration by Committee.
 - The Chairman of Planning Committee must agree that the proposed referral to the Committee is appropriate.
- c). "Planning Applications" for the purposes of these delegations include applications, notifications or consultations in connection with the following:
 - applications for or in connection with planning permissions (including

- those for amendments),
- advertisement consents,
- listed buildings,
- conservation area consents,
- demolitions,
- overhead power lines,
- telecommunications,
- applications or notifications from public authorities,
- agricultural notifications,
- minor amendments
- variation or removal of conditions

d) “Major Applications” for the purposes of these delegations are defined as those proposals for:

- 10 or more dwellings
- Residential development on sites of 0.5 hectares or more
- The provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more
- Development carried out on a site having an area of one hectare or more

e) “Significant Applications” will include those which

- officers may wish to approve which are contrary to policy
- those which, in the opinion of the Executive Director and Chairman of Planning Committee, are of particular sensitivity locally
- applications submitted by the Council
- all applications by Members or Officers of the Council (where the Executive Director is aware that the application is by or on behalf of a Member or Officer).

f). The Vice-Chairman of the Planning Committee can exercise the powers of the Chairman under 1B above in the absence or unavailability of the Chairman.

Power for the Executive Director to make decisions as necessary for the processing of applications, including any decision required under the Habitats Regulations and Environmental Impact Assessment Regulations.

ii) **Data Protection**

The –**Senior Legal Officer** is the Data Protection Officer

Regulation of Investigatory Powers

Chief Officers are appointed as Authorising Officers for the purpose of authorising directed surveillance or the use of Covert Human Intelligence Sources for the purposes of the Regulation of Investigatory Powers Act 2000.

Information

The **Senior Legal Officer** is authorised to make all determinations on exemptions and fees under the Freedom of Information Act 2000.

The **Senior Legal Officer** is the Senior Reporting Officer (SRO) for the purposes of managing information risks generally and for monitoring authorisations granted under the Regulation of Investigatory Powers Act 2000.

iii) **Delegations to the S151 Officer**

- a). To be the responsible officer for the proper administration of the financial affairs of the Council in accordance with Section 151 of the Local Government Act 1972.
- b). To be the Proper Officer of the Council in relation to certain financial matters as detailed in the list of Proper Officers maintained by the Senior Legal Officer.
- c). To operate the Council's bank account including:
 - (a) the arranging of overdraft facilities as and when necessary and within such limit as may be approved by the Cabinet from time to time;
 - (b) arrangements for the opening, operation and closure of subsidiary bank accounts deemed necessary for the control of and accounting of Council monies;
 - (c) the management of day to day resources of the Council and the arrangements of such borrowing and investment of surplus monies deemed necessary.
- d). Subject to the scheme of Treasury Management approved by the Council:
 - (a) to undertake the negotiation and receipt of or repayment of loans in accordance with such policy as may be laid down from time to time by the Cabinet and subject to the receipt of the necessary Government sanctions and consents;
 - (b) to make suitable arrangements for the investment and realisation of monies surplus to the Council's requirements;
 - (c) the execution and administration of Treasury Management decisions of Council or Audit Committee.
- e). To pay all sums due to creditors.
- f). To deal, within the general policy laid down, with the Council's insurances.
- g). Power to write off debts or authorise disposal of obsolete stores or equipment subject to the Council's approval to reporting procedures.

- h). To be responsible for the system of Internal Audit in compliance with the Accounts and Audit Regulations.
- i) To take or to authorise any action necessary to recover monies owed to the Council.
- j). To exercise all functions relating to the billing, collection and recovery of Council Tax, National Non-Domestic Rates including taking or authorising any action necessary to recover any such monies owed to the Council and the operation of Council Tax Benefit.
- k). To operate housing benefits in accordance with regulations and the policies of the Council, to take appropriate steps to recover overpayments and prosecute claimants for fraud in appropriate circumstances and to exercise local authority discretion in appropriate cases.

<p>F4 – Delegations to Senior Legal Officer, Solicitor to the Council and the Legal Services Manager</p>

- a). To determine, after consultation with the Executive Director applications for Certificates of Lawfulness of existing or proposed use or development.
- b). To make Orders for the stopping up, diversion or creation of public rights of way arising from proposals for development or change of use. (Development Control)
- c). To grant applications for the premature discharge of mortgage where an estate is to be settled or when satisfied that hardship would be caused.
- d). To deal with the sale of repossessed property.
- e). To deal with any applications for the sub-letting of property in mortgage to the Council, in accordance with established policy.
- f). To approve applications for permission to sell land forming part of properties in mortgage to the Council where he/she is satisfied that adequate security will remain.
- g). Power to institute or defend any civil or criminal proceedings in accordance with Article 13.3
- h) Power to vary or discharge a covenant or term affecting land previously sold or leased by the Council where there is little or no value to the Council subject to consultation with the ward representative and Portfolio Holder.
- i) Power to complete all necessary paperwork for release of such terms and covenants, or to discharge any charges (registered land, unregistered land and local land charges) that are no longer effective or in force

- j) Authentication of documents for legal proceedings.

F5 Delegations to the Executive Manager Growth

- a) Authority to vary or discharge a covenant or term affecting land previously sold or leased by the Council where there is a value to the Council, subject to consultation with the ward representative and Portfolio Holder.

In addition to the delegations set out in this part of the Constitution please also refer to (i) the log of Specific Delegations maintained by the Senior Legal Officer ; (ii) Contract Standing Orders; and (iii) Financial Procedure Rules.

PART 4 – RULES OF PROCEDURE

4A - PROCEDURAL STANDING ORDERS

PART 1 – PROCEEDINGS IN COUNCIL

Standing Order No 1

Meetings of the Council

- 1.1 The annual meeting of the Council and other meetings of the Council shall be held at such places, on such dates and at such times as may be fixed by the Council.
- 1.2 Extraordinary meetings of the Council may be called at any time by the Chairman of the Council; or alternatively by the Chief Executive if he/she receives request in writing for one to be held from five or more members of the Council.
- 1.3 Those listed below may call a special meeting of the Council after consultation with the Chairman of the Council, or instruct the Chief Executive or in his/her absence the Chief Officer responsible for Democratic Services after consultation with the Chairman of the Council, to call a special meeting of the Council:
 - (a) The Council by resolution;
 - (b) The Head of the Paid Service;
 - (c) The Monitoring Officer;
 - (d) The S151 Officer.
 - (e) The Leader

Standing Order No 2

Election of Chairman and Vice-Chairman

- 2.1 The Chairman of the Council shall be elected and the Vice-Chairman of the Council shall be appointed at the annual meeting.
- 2.2 At a meeting of the Council the Chairman, if present, shall preside. If the Chairman is absent from a meeting of the Council, then the Vice-Chairman, if present, shall preside. If both the Chairman and the Vice-Chairman are absent, another member of the Council chosen by the members of the Council present shall preside.

Standing Order No 3

Chairman of Meeting

- 3.1 Any power or duty of the Chairman in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

Standing Order No 4

Quorum

- 4.1 The quorum of the Council shall be one-third of the total number of its members. Where more than one-third of the members of the Council become disqualified at the same time, then, until the number of members of is increased to two-thirds of the whole number of members of the

authority, the quorum shall be determined by reference to the number of members remaining qualified instead of by reference to the whole number of members of the authority.

- 4.2 If during any meeting of the Council the Chairman after counting the number of members present declares that there is not a quorum present the meeting, shall stand adjourned
- 4.3 The consideration of any business not transacted shall be adjourned to a time fixed by the Chairman at the time the meeting is adjourned, or, if he does not fix a time, to the next ordinary meeting of the Council.

Standing Order No 5

Order of Business

- 5.1 Except as otherwise provided by the following paragraph (variation of order of business) of this Standing Order, the order of business at every ordinary or annual meeting of the Council shall be:
- a) Elect a person to preside if the Chairman and Vice-Chairman are not present.
 - b) To deal with any business required by statute to be done before any other business.
 - c) Approve and sign the minutes of the last meeting;
 - d) To deal with any business expressly required by statute to be done.
 - e) Receive any announcement from the Chairman,
 - f) Leaders Announcements
 - f) To receive any declarations of interests from members.
 - g) To receive reports from the Cabinet and minutes and reports from the Council's committees and Panels.
 - h) On reports of the Cabinet or committees, a member of the Council may ask the Leader or Portfolio Holder any question without notice upon an item of the report of the Cabinet or the chairman of a committee or Panel, any question upon a committee minute or report when that item is being received or is under consideration by the Council.
 - g) Answer any questions on Notice.
 - h) Answer any questions without Notice
 - i) To consider motions in the order in which notice has been received under Standing Order no. 6
 - j) Receive any petitions in accordance with the current Petitions Scheme agreed by Council.
 - k) Other business, if any, specifically referred to in the summons.

5.2 Leader's Announcements

- (a) The Leader's announcements will be in the form of a verbal report to Council.
- (b) All Members may ask questions of the Leader on the content of the Leader's announcements
- (c) Questions and answers on the Leader's announcements will be limited to a period of 30 minutes in total.
- (d) The Leader may invite Members of the Council's Executive to respond to questions on the Leader's behalf.
- (e) The Leader has the right to respond to questions raised after the meeting. This will be in writing and to all Members of the Council.

5.3 Variation of order of business

5.3.1. Business falling under items (a), (b), or (c) of the above paragraph shall not be displaced, but the order of the remaining business may be varied:

- (b) By the Chairman at his/her discretion, or
- (c) By a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

5.4 Questions on notice

(i) Questions on notice at an ordinary or annual meeting of full Council.

Subject to Paragraph (iii) a member of the Council may, at a meeting of the full Council, ask:

- (c) The Chairman of the Council;
- (d) A Cabinet Member; or
- (e) The chairman of any committee, sub-committee or Panel

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

(ii) Questions on notice at committees, sub-committees and panel meetings

Subject to paragraph (iii) a member of a committee, sub-committee or panel may, at a meeting of that committee, sub-committee or panel, ask the chairman a question on any matter in relation to which the Council has powers or duties or which affect the district and which falls within the terms of reference of that committee, sub-committee or panel.

(iii) Notice of questions.

(This rule **cannot** be suspended).

A member may only ask a question under paragraph (i) or (ii) if either:

- (a) he/she has given notice in writing of the question to the Chief Executive which must be received not later than 9.00 am three clear Working Days before the day of the meeting (which shall not include the day of receipt or the day of the meeting); or
- (b) the question relates to urgent matters, he/she has the consent of the chairman or Cabinet Member to whom the question is to be put and the content of the question is given to the Chief Executive by midday on the day of the meeting and the Chief Executive does not consider the question to be out of order...

(iv) Response

An answer to a question under paragraph (i) or (ii) may take the following form:

- (a) Where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (b) A written answer circulated at the meeting or within 5 Working Days of the meeting to the questioner and all members. The answer may also be read out at the meeting in addition to a circulated written reply.

The question shall be put and answered without discussion,

(v) Supplementary question

A member asking a question under paragraph (i) or (ii) may ask one supplementary question, without notice, of the member to whom the first question was put or by whom it was answered. The supplemental question must arise directly out of the original question or the reply.

(vi) Response to Supplementary question

If the Chief Executive considers the supplementary question to be out of order no response will be necessary. Otherwise an answer to a supplementary question under paragraph (v) may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated within 5 Working Days of the meeting where practicable to the questioner and all other members.

The question shall be put and answered without discussion,.

5.5 Questions without notice

(Except for paragraph (viii) below this Rule **cannot** be suspended.)

- (i) A member of the Council may ask the Leader or appropriate portfolio holder any question without notice on any matter within the Leader's or portfolio holder's area of responsibility. When asking the question the member shall state why he/she believes the particular portfolio holder is responsible for answering it.
- (ii) The Cabinet Member to whom a question is put may, with the consent of the chairman of the meeting, ask that another Cabinet Member answers the question if it is considered that the

other Cabinet Member is the appropriate portfolio holder to answer it but reasons must be given.

- (iii) If the Portfolio Holder to whom the question is put is unable to answer the question a reply may be given by the Leader or in their absence the Deputy Leader.
- (iv) A member asking a question under this Standing Order may ask one supplementary question, without notice, of the Portfolio Holder who answered the original question. The supplementary question must arise directly out of the original question or the reply.
- (v) Answers to questions or supplementary questions under this Standing Order shall take the form of:
 - (i) a direct oral reply; or
 - (ii) with the consent of the chairman of the meeting, a written answer where it is of a technical nature. Answers given in writing shall be given within 5 Working Days of the meeting and shall be sent to all members.
- (vi) Questions and supplementary questions shall be put and answered without discussion.
- (vii) Members wishing to ask a question under this Standing Order shall indicate such a wish by raising their hand. The chairman of the meeting shall determine the order for asking questions subject to the leader of the opposition group (or in their absence the deputy leader) being afforded the right to ask the first question. Where there is more than one opposition/minority group the leader of each group shall be afforded the right to ask a question at each meeting and the order shall be determined by the size of the group, the leader of largest group being given priority. Subject to (viii) below, there shall be no limit on the number of questions that any member, including the leader of the opposition or minority groups, shall be permitted to ask.
- (viii) The period for questions under this Standing Order shall be limited to not more than 30 minutes per meeting, subject to the right for the Council to suspend this in accordance with Standing Orders

STANDING ORDER NO.6

.Notice of Motion

- 6.1 Notice of every motion other than a motion which may be moved without notice under Standing Order 7 shall be given in writing, signed by the member or members of the Council giving notice, and delivered, at least nine clear Working Days before the next meeting of the Council, at the office of the Chief Executive by whom it shall be dated, numbered in the order in which it is received, and entered in a book which shall be open to the inspection of every member of the Council

Motions to be set out in summons

- 6.2 The Chief Executive shall set out in the summons for every meeting of the Council all motions of which notice has been duly given in the order in which they have been received, unless the member or members giving the notice intimated in writing, when giving the notice, that he/she proposed to move it at some later meeting, or it has since been withdrawn in writing by all those giving it.

Motion not moved

- 6.3 If a motion set out in the summons is not moved either by a member who gave notice of it or by some other member on their behalf it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

Automatic reference to Committee

- 6.4 If the subject matter of any motion of which notice has been duly given comes within the province of any Sub-Committee, Committee or Committees, it shall, upon being moved and seconded, stand referred without discussion to such Sub-Committee, Committee or Committees, or to such other Sub-Committee, Committee or Committees as the Council may determine, for consideration and report.
- 6.5 Provided that the Chairman may, if he considers it convenient and conducive to the despatch of business, allow the motion to be dealt with at the meeting at which it is brought forward.

Scope of motions

- 6.6 Every motion shall be relevant to some matter in relation to which the Council has powers or duties or which affects the district

STANDING ORDER NO.7

Motions and amendments which may be proposed without notice

- 7.1 The following motions and amendments may be proposed without notice:-
- (a) appointment of a Chairman of the meeting at which the motion is made.
 - (b) motions relating to the accuracy of the minutes.
 - (c) of business specified in the summons has precedence.
 - (d) remission to a Committee or Cabinet of a matter properly before the Council.
 - (e) reference back to Committee or Cabinet for further consideration of an item of report of that Committee
 - (f) appointment of a Committee or members thereof or working group, occasioned by an item mentioned in the summons to the meeting.
 - (g) adoption of reports and recommendations of Committees or Cabinet or officers and any consequent resolutions.
 - (h) that leave be given to withdraw a motion.
 - (l) extending the time limit for speeches.
 - (j) amendments to motions
 - (k) that the Council proceed to the next business
 - (l) that the Council postpone consideration of an item until later in the meeting or to a later meeting ..
 - (m) that the question be now put.
 - (n) that the debate be now adjourned.
 - (o) that the Council do now adjourn.
 - (p) suspending Standing Orders, in accordance with Standing Order No.55.
 - (q) Motion under Section 100(A)(4) of the 1972 Act to exclude the press and public.

- (r) that a member named under Standing Order 11 be not further heard or do leave the meeting
 - (s) giving consent of the Council where the consent of the Council is required by these Standing Orders.
 - (t) where the position of Leader has fallen vacant, to elect a new Leader .
- 7.2 If on the passing of any motion or amendment under paragraph 1(e) of this Standing Order (reference back to Committee or Cabinet), action has previously been taken pursuant to the delegated powers of the Committee or Cabinet to an extent which makes it impracticable to deal with the item in the manner desired by the Council the motion or amendment shall have effect as requiring the Committee or Cabinet to re-examine the policy involved and report to the Council thereon before taking any further decisions or implementing decisions already taken involving the same question of policy.
- 7.3 A motion by the Chairman under paragraph 1(q) of this Standing Order (exclusion of press and public) shall take precedence over any other motion and shall without the need of a seconder be put forthwith without discussion or question. Provided that after the withdrawal of the press and public pursuant to any such motion a member may, notwithstanding any other provision of these Standing Orders, move that the press and public be re-admitted and upon that motion being seconded it may be discussed and voted upon.

STANDING ORDER NO.8

Minutes

8.1 Signing the Minutes:

The Chairman will sign the minutes of the proceedings at the next suitable meeting (including the annual meeting of the Council). The Chairman will invite a member to 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.

9.2 No requirement to sign minutes of previous meeting at extraordinary or special 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 1972 Act (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.

STANDING ORDER NO.9

Rules of debate for Council meetings

Presentation of Committee or Cabinet reports

- 9.1 (a) When the Chairman calls an agenda item consisting of the report of a Committee or the Cabinet, the Chairman of that Committee or the Leader shall present the report.
- (b) The Chairman shall then ask if any member wishes to speak.
- (c) If no member wishes to speak, the Chairman of the Committee or the Leader shall move the report and the Chairman shall put the report to the Council to be received and adopted.
- (d) If a member wishes to speak, the Chairman shall put the report to the Council page by page or paragraph by paragraph, and it shall be open to members to speak to items in

the report, to raise questions thereon and to propose motions or to move amendments in respect thereof as the relevant page or paragraph is called.

- (e) If a report contains a paragraph the effect of which is to submit to the Council for its consideration a recommendation, when the number of that page or paragraph is called, the Chairman of the Committee or the Leader shall move the recommendation and the Chairman shall put the recommendation to the Council.
- (f) When all pages or paragraphs have been dealt with, the Chairman of the Committee or The Leader shall move the report and the Chairman shall put the report to the Council to be received and adopted with the exception of, or subject to the amendment of, or other changes, as may be required by the course of the debate and any approved motions

Only one member to speak at a time

9.2 A member shall only address the Council when the Chairman calls upon him to speak. While a member is speaking, the other members shall remain silent but may indicate to the Chairman a request to speak on a point of order or in personal explanation.

Content and length of speeches

- 9.3 (a) A member shall direct a speech to the question under discussion or to a personal explanation or to a point of order
- (b) No speech shall exceed five minutes in the case of the mover of a motion, and three minutes in all other cases except by consent of the Council.

Motions and amendments

9.4 A motion (other than a motion that the report of a Committee or Cabinet be received and/or adopted) or an amendment shall not be discussed unless it has been proposed and seconded, and unless notice has already been given in accordance with Standing Order 6 it shall, if required by the Chairman, be put into writing and handed to the Chairman or the Chief Executive before it is further discussed or put to the meeting

Secunder's speech

9.5 A member seconding a motion or amendment may reserve a speech until a later period of the debate if this is declared at the time.

When a member may speak

- 9.6 A member may speak as follows
- (a) Once when proposing a motion (see paragraph 3(b) above
 - (b) once on an amendment moved by another member;
 - (c) if the motion has been amended since he last spoke, to move a further amendment;
 - (d) if their first speech was on an amendment moved by another member, to speak on the main issue, whether or not the amendment on which he spoke was carried;
 - (e) in exercise of a right of reply given in paragraph 12 or 14 of this Standing Order;
 - (f) on a point of order;
 - (g) by way of personal explanation.

Amendments to motions

- 9.7 An amendment shall be relevant to the motion and shall be either:-
- (a) to refer a subject of debate to a Committee or Cabinet for consideration or reconsideration
 - (b) to leave out words;

- (c) to leave out words and insert or add others;
- (d) to insert or add words;

but such omission, insertion or addition of words shall not have the effect of negating the motion before the Council.

- 9.8 Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of.
- 9.9 If an amendment be lost, other amendments may be moved on the original motion. If an amendment be carried, the motion as amended shall take the place of the original motion and shall become the motion upon which further amendment may be moved.
- 9.10 After an amendment has been carried, the chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

Alteration to motion

9.11 A member may with the consent of the Council signified without discussion:-

- (a) alter a motion of which he has given notice, or
 - (b) with the further consent of his/her seconder alter a motion which he has *moved*
- if (in either case) the alteration is one which could be made as an amendment to the motion.

Withdrawal of motion

9.12 A motion or amendment may be withdrawn by the mover with the consent of their seconder and of the Council, which shall be signified without discussion, and no member may speak upon it after the mover has asked permission for its withdrawal, unless the permission has been refused

Right of reply

9.13 The mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is proposed, the mover of the original motion shall also have a right of reply at the close of the debate on the amendment, and shall not otherwise speak on the amendment. The mover of the amendment shall have no right of reply to the debate on their amendment.

A member exercising a right of reply shall confine this to points raised by previous speakers and shall not introduce fresh matter

Motions which may be moved during debate

9.14 When a motion is under debate no other motion shall be moved except the following

- (a) to amend the motion
- (b) to adjourn the meeting;
- (c) to adjourn the debate;
- (d) to postpone consideration of the motion;
- (e) to proceed to the next business;
- (f) that the question be now put;
- (g) that a member be not further heard;
- (h) a motion by the Chairman under Standing Order 11 that a member do leave the meeting;
- (i) a motion under section 100A(4) of the 1972 Act to exclude the press and public;
- (j) that the subject of debate
 - (i) be remitted to a Committee or Cabinet or working group for consideration;

- (ii) be referred back to a Committee or Cabinet for further consideration.

Closure motions

9.15 A member may propose without comment at the conclusion of a speech of another member:-

- (a) that the Council proceed to the next business,
- (b) that the subject of debate be remitted to a Committee or Cabinet,
- (c) that the subject of debate be referred back to a Committee/Cabinet for further consideration
- (d) that the question be now put,
- (e) that the debate be now adjourned, or
- (f) that the Council do now adjourn.

9.16 On the seconding of a closure motion the Chairman shall proceed as follows:-

- (a) on a motion to proceed to next business or to remit or refer back to a Committee or Cabinet

Unless in the Chairman's opinion the matter before the meeting has been insufficiently discussed he/she shall first give the mover of the original motion their right of reply (under paragraph 12 of this Standing Order) and then put to the vote the closure motion;

- (b) on a motion that the question be now put.

Unless in the Chairman's opinion the matter before the meeting has been insufficiently discussed, he/she shall first put to the vote the motion that the question be now put, and if it is passed then give the mover of the original motion their right of reply under paragraph 12 of this Standing Order before putting their motion to the vote;

- (c) on a motion to postpone consideration of a motion or to adjourn the debate or the meeting.

If in the Chairman's opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion he/she shall put the postponement or adjournment motion to the vote without giving the mover of the original motion their right of reply on that occasion.

Points of order

9.17 A member may indicate a wish to speak on a point of order or in personal explanation, and shall be entitled to be heard forthwith. A point of order shall relate only to an alleged breach of a standing order or statutory provision and the member shall specify the standing order or statutory provision and the way in which he considers it has been broken. A personal explanation shall be confined to some material part of a former speech by him which may appear to have been misunderstood in the present debate

9.18 The ruling of the Chairman on a point of order or on the admissibility of a personal explanation shall not be open to discussion.

STANDING ORDER NO.10

Motions affecting persons employed by the Council

10.1 If any question arises at a meeting of the Council or at a Committee or Sub-Committee or Cabinet as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council, Committee, Sub-Committee or Cabinet, as the

case may be, has decided whether or not the power of exclusion under section 100A(4) of the 1972 Act shall be exercised.

STANDING ORDER NO.11

Conduct

Disorderly Conduct

11.1 If at a meeting any member of the Council, in the opinion of the Chairman notified to the Council, misconducts himself by persistently disregarding the rules of the Chairman, or by behaving irregularly, improperly, or offensively, or by wilfully obstructing the business of the Council, the Chairman or any other member may propose "That the member named be not further heard", and the motion if seconded shall be put and determined without discussion.

Continuing misconduct by a named member

11.2. If the member named continues their misconduct after a motion under the previous paragraph has been carried the Chairman shall either:-

- (a) move "That the member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or
- (b) adjourn the meeting of the Council for such period as they in their discretion shall consider expedient.

If, after such a motion has been carried, the member named fails to observe the Council's decision, the Chairman may give such direction as he shall consider appropriate for the removal of the member and the restoration of order.

General disturbance

11.3. In the event of general disturbance which in the opinion of the Chairman renders the due and orderly dispatch of business impossible, the Chairman in addition to any other power vested in him/her may, without the question being put, adjourn the meeting of the Council for such period as they in their discretion shall consider expedient.

STANDING ORDER NO.12

Disturbance by member of the public

If a member of the public interrupts the proceedings at any meeting the Chairman shall warn him. If he continues the interruption the Chairman shall order their removal from the Council Chamber. In case of general disturbance in any part of the chamber open to the public the Chairman shall order that part to be cleared.

STANDING ORDER NO.13

Rescission of previous resolution (full Council only)

13.1. No motion to rescind any resolution passed within the preceding six months, and no motion or amendment to the same effect as one which has been rejected within the preceding six months, shall be proposed unless the notice thereof given in pursuance of Standing Order 6 bears the names of at least one third of the members

of the Council.

- 13.2. When any such motion or amendment has been disposed of by the Council, it shall not be open to any member to propose a similar motion within a further period of six months.
- 13.3. The ruling of the Chairman as to whether any motion or amendment comes within the terms of this Standing Order shall be final and accepted without question.
- 13.4. This Standing Order shall not apply to motions moved in pursuance of a recommendation of a Committee or Cabinet or Chief Officer.

STANDING ORDER NO.14

Voting

- 14.1. All questions coming or arising before the Council shall be decided by a majority of the members of the authority present and voting thereon. In the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.
- 14.2. The method of voting at meetings of the Council shall be by show of hands. If in the opinion of the Chairman the result is uncertain he shall call upon the Council to determine the question by a recorded vote, in which case the names of all members voting for and against the motion or amendment shall be taken down and recorded in the minutes.
- 14.3. On the requisition of any member of the Council made before the vote is taken and supported by twelve other members who signify their support by rising in their places the voting on any question shall be taken by a recorded vote as above.
- 14.4. Where at a meeting any member so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that member voted for the question, against the question or abstained from voting.
- 14.5. The Chairman may, at their discretion, ask that the number of members voting for and against a motion or amendment be recorded in the minutes.

STANDING ORDER NO.15

Voting on appointments

- 15.1. Subject to paragraph 4 of this Standing Order where there are more than two persons nominated for any single position or vacancy to be filled by the Council, the person having the greatest number of votes given in accordance with paragraph 2 of this Standing Order shall fill such position or vacancy.
- 15.2. The Chairman may at their discretion call upon the Council to vote:
 - (a) by each member, when called upon, announcing to the Council the name of the person for whom he votes;
 - (b) by each member entering that name upon a voting paper to be signed by him and delivered to the Chief Executive;

Provided that any member may demand that method (b) be employed and if one third of other members signify their support by rising in their places the vote shall be taken.

- 15.3. Subject to paragraph 4 of this Standing Order where appointments to more than one position or vacancy is involved and the number of persons nominated exceeds the number of positions or vacancies by more than one, voting papers shall be distributed and a vote shall be taken:-
- (a) by each member writing on a voting paper the names of no greater number of the persons nominated than would be required to fill the positions or vacancies under consideration;
 - (b) the names of the number of persons having the greatest number of votes in descending order shall be declared by the Chairman to be the names of the persons appointed to fill the required number of positions or vacancies.
- 15.4. In the event of there being an equality of votes for the only position or vacancy or the last position or vacancy the vote shall be taken again between those persons who received an equality of votes, and if there remains an equality of votes the Chairman shall have a second and casting vote.
- 15.5. Where the number of persons nominated does not exceed the number of positions or vacancies by more than one, the appointment may be determined on a motion.

STANDING ORDER NO.16

Record of attendances

- 16.1. There shall at the beginning of each meeting of the Council, be a roll call of members. At all other committee meetings 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. The names of members present at a meeting of part of a meeting will be recorded in the minutes.

STANDING ORDER NO.17

Interpretation of Standing Orders

- 17.1 The ruling of the Chairman as to the construction or application of any of these Standing Orders, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council.

Part II - Council and The Executive

STANDING ORDER NO.18

Form of Executive

- 18.1 The form of the Executive shall be Leader and Cabinet.

STANDING ORDER NO.19

Appointment of Leader and Deputy Leader

- 19.1. The Leader will be elected by Full Council at the first Annual Meeting after the

election by simple majority, and their term of office will extend, subject to below, until the Annual Meeting after the next election (usually four years).

- 19.2. The Leader's appointment will terminate at any time on the passing in Full Council of a vote of no confidence, provided that the vote is on a formal motion under Standing Order 6 or on their resignation or disqualification during their term.
- 19.3. Should the position of Leader become vacant at any time, a new Leader shall be elected for the remainder of the term at the next Council meeting or at a special Council meeting called for this purpose.
- 19.4. The Leader may appoint up to two Deputy Leader (s), who shall remain in office (unless removed by the Leader until the end of the term of office of the Leader .

STANDING ORDER NO.20

Delegation of Executive Functions

- 20.1. The Leader shall have the power to determine any delegations of Executive Functions to Cabinet, Committees of the Cabinet, Executive areas committees Cabinet Members and officers. The delegations and the procedures relating to them shall be included in the Constitution.
- 20.2. The Leader shall have the power to appoint up to eight Cabinet Members (including the Deputy Leader) (s)
Any of these appointments or changes will become effective on receipt of formal notification in writing by the Chief Executive.
- 20.3. Appointment as an Cabinet Member will automatically debar that member from sitting on any Scrutiny Committees or Scrutiny Panels.
- 20.4. **Delegation by the Leader**
 - (a) Where the Leader delegates any functions he/she will prepare a record of the delegations. This record will contain the following information about Executive Functions in relation to the term of office of the Cabinet:-
 - (i) the names, addresses and wards of the people appointed to the Cabinet by the Leader ;
 - (ii) the extent of any authority delegated to individual Portfolio Holders, including details of any limitation on their authority;
 - (iii) the terms of reference and constitution of such committees of the Cabinet as the Leader may appoint and the names of Cabinet Members appointed to them;
 - (iv) the nature and extent of any delegation to any other authority under joint arrangements and the names of those Executive members appointed to any joint committee for the coming year; and
 - (v) the nature and extent of any delegation to officers with details of

any limitation on that delegation, and the title of the officer to whom the delegation is made.

- (b) The Leader may amend the scheme of delegation relating to Executive Functions at any time during the term of office of the Cabinet. To do so, the Leader must give written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole.
- (c) Where the Leader seeks to withdraw delegation from a committee of the Cabinet, notice will be deemed to be served on that committee when he/she has served it on the chairman of that committee.

NOTE. The Council is also responsible for a scheme of delegation to officers which is set out in Part 3, Officer delegation by the Cabinet also appears in this list. However, the Cabinet is not responsible for other delegations contained in the Schedule (which are the responsibility of other decision making bodies such as the Council, Planning Committee, Licensing Panel, etc).

STANDING ORDER NO.21

Constitution of the Cabinet

- 21.1 The Cabinet shall consist of the Leader and the Cabinet Members.

STANDING ORDER NO.22

Incapacity of Leader

- 22.1 In the temporary absence or incapacity of the Leader, their powers will be exercisable by the Deputy Leader (s)

STANDING ORDER NO.23

Responsibilities of the Executive

- 23.1. The Executive will have overall responsibility for proposing to Full Council, after reference to the Overview and Scrutiny Commission
- (a) the Policy Framework or any element of or amendment to it; and
 - (b) the draft Budget and Council Tax.
- 23.2. The Cabinet will carry out all Executive Functions in accordance with the Policy Framework, and have primary responsibility for implementing the Policy Framework.
- 23.3. The Executive will be responsible for spending or overseeing the spending of the Budget , subject to these Standing Orders and Financial Regulations in accordance with the Finance Procedure Rules in Part 4 of this Constitution.

STANDING ORDER NO.24

Urgent Action

- 24.1 Subject to the advice of the Chief Executive, the Monitoring Office and the S151 Officer (or their representatives) The Executive can authorise action which either involves expenditure not wholly in accordance with the Budget or is contrary to the Policy Framework in accordance with the Finance Procedure Rules.

STANDING ORDER NO.25

Minor Amendments to Policy Framework

- 25.1. The Cabinet can make minor amendments to any plan or policy approved by Council if:
- (i) the previous wording was impracticable or incorrect; and
 - (ii) the amendment has little or no effect on the Community.
- 25.2. The matter must be reported to the next Council meeting.

STANDING ORDER NO.26

Recording of Executive Decisions

- 26.1 All executive decisions shall be recorded in writing together with reference to the reasons for such decisions and shall be taken after all appropriate professional advice has been considered. All executive decisions shall comply with the relevant Access to Information Procedure Rules and relevant legislation

STANDING ORDER NO.27

Conflict between Council and Executive

- 27.1 Where the full Council has any objections to the Cabinet's proposals in respect of the Policy Framework or any element or amendment to it or the Budget (including the Council Tax setting), then before amending, approving or adopting the proposals:
- (a) Full Council will advise the Leader of the objections and require the Cabinet to reconsider the proposals within a specified period of at least 5 Working Days from receipt of the requirement by the Leader.
 - (b) The Leader may within the specified period submit a revision with reasons or state the Cabinet's disagreement with the Council's objections with reasons.
 - (c) The Council will take the revision or statement of disagreements from the Cabinet into account before approving determining the proposals if they are received within the specified period.
 - (d) The Council will not reconsider the proposals until after the specified period.

Part III - Non-Executive Functions

Standing Orders Relating to Committees

STANDING ORDER NO.28

Appointment of Committees for Non-Executive Functions

- 28.1 The Council shall at the Annual Meeting appoint such Committees as they are required to appoint by or under any statute), and may at any time appoint such other Committees as are necessary to carry out the Non-Executive Functions of the Council, but, subject to any statutory provision in that behalf:-
- (a) shall not appoint any member of a Committee so as to hold office later than the next annual meeting of the Council;
 - (b) may at any time dissolve a Committee or alter its membership.

STANDING ORDER NO.29

Proceedings to be confidential

- 29.1 All **draft** agenda, reports and other documents and all proceedings of Committees and Sub-Committees shall be treated as confidential unless and until they become public in the ordinary course of the Council's business or at the direction of a Committee exercising delegated powers.

STANDING ORDER NO.30

Ex-officio members of Committees

- 30.1 Except where otherwise provided by statute or a scheme made under statutory authority, the Chairman and Vice-Chairman of the Council shall be ex-officio members of every Standing Committee unless they have been appointed to such Committees by name, or unless they signify to the Chief Executive that they do not wish to serve, provided that:-
- (a) they shall have no rights to vote except on such of those Committees to which they have been specifically appointed by name; and
 - (b) this provision does not apply to Licensing Committee, Joint Appointments and Disciplinary Committee and Joint Appointments and Disciplinary Appeals Committee.

STANDING ORDER NO.31

Information to be sent to Members

- 31.1. The agenda of each Committee and Cabinet shall be made available to every member of the Council for information.
- 31.2. A summary of all decisions or the unconfirmed minutes made by the Executive shall be sent to all members as soon as possible and normally within 3 working days of the decision or as soon as possible thereafter.

STANDING ORDER NO.32

Election of Chairmen and Vice-Chairmen of Committees

- 32.1. Every Committee shall continue in being until its successor is appointed.
- 32.2. At the Annual Meeting of the Council or as soon as possible thereafter and from time to time as necessary, the Council shall appoint the Chairman and Vice-Chairman of each Standing Committee.
- 32.3. In the absence from a meeting of the Chairman and Vice-Chairman, a Chairman for that meeting shall be appointed by the Committee.

STANDING ORDER NO.33

Postponement or Cancellation of Committee Meeting

- 33.1 The Chairman of a Committee may postpone or cancel a meeting of the Committee at any time after consultation with the Vice-Chairman of that Committee and the Chief Executive, provided that any such cancellation should, if possible, be at least seven days before the scheduled date of the meeting.

STANDING ORDER NO.34

Special meetings of Committees

- 34.1 The Chairman of a Committee or the Chairman of the Council or Chief Executive may call a special meeting of the Committee at any time.
- 34.2 A special meeting shall also be called on the requisition of a quarter of the whole number of the Committee, delivered in writing to the Chief Executive and signed personally by each of the members requisitioning the meeting. The summons to the special meeting shall set out the business to be considered thereat, and no business other than that set out in the summons (save urgent business pursuant to section 100(B) (4)(b) of the 1972 Act) shall be considered at that meeting.

STANDING ORDER NO.35

Sub-Committees

- 35.1. Every Committee appointed by the Council may appoint Sub-Committees for purposes to be specified by the Committee.
- 35.2. The Chairman and the Vice-Chairman of the Committee shall be ex-officio members of every Sub-Committee appointed by that Committee, unless they signify to the Chief Executive that they do not wish to serve. This provision does not apply to Licensing Committee the Joint Appointments and Disciplinary Committee and the Joint Appointments and Disciplinary Appeals Committee.

STANDING ORDER NO.36

Quorum of Committees and Sub-Committees

- 36.1. The quorum of each Committee and Sub-Committee shall be three or one-third whichever is the greater, of the total number of its members not including non-voting ex-officio members or as otherwise specified in legislation or as specified below.
- 36.2. The quorum for meetings of the Cabinet shall be three.
- 36.3. The quorum of Joint Appointments and Disciplinary Committee and of Joint Appointments and Disciplinary Appeals Committee shall be 4, consisting of 2 members from Breckland Council and 2 from South Holland District Council.

STANDING ORDER NO.37

Voting in Committees and Sub-Committees

- 37.4 Voting at a meeting of a Committee or Sub-Committee shall be by show of hands.
- 37.5 A member may request that their own name be recorded in the minutes as voting for or against or abstaining when voting on a motion or amendment.
- 37.6 The Chairman or any member of the Committee or Sub-Committee may, at their discretion, ask that the numbers voting for and against a motion or amendment be recorded in the minutes.

STANDING ORDER NO.38

Standing Orders to apply to Committees and Sub-Committees

- 38.1. The following Standing Orders shall, with any necessary modification, apply to Committee and Sub-Committee meetings.

Rules of Debate (except the parts relating to standing and to speaking more than once)

Motions affecting persons employed by the Council

Recording Votes

Record of Attendances

Proceedings to be confidential

Information to be sent to Members

Rights of other members to attend Committee or Sub-Committee

Interest of members in contract and other matters

suspension of standing orders

Appointment of other joint chief officers and deputy chief officers

Disciplinary Action:protected officers

Dismissal/Disciplinary Action: Non-Protected Staff (ie all other Joint Chief Officers and Deputy Chief Officers

STANDING ORDER NO.39

Public Speaking

- 39.1. A Committee, Sub-Committee or Working Party of the Council may, if it resolves to do so, allow members of the public to address it at a meeting. In this case, that body may set rules and procedures under which such a scheme will operate. Additionally the Chairman may at any time invite a person to speak where he/she considers it to be appropriate.

STANDING ORDER NO.40

Rights of other members to attend Committee or Sub-Committee

- 40.1. Any member of the Council shall be entitled to attend any meeting of a Committee or Sub-Committee to which he has not been appointed, subject to (2) and (5) below.
- 40.2. Subject to any other rules contained in this Constitution any member shall be allowed to address a Committee or Sub-Committee of which he is not a member (but not to vote) on any matter on an agenda other than one in which he has a Disclosable Pecuniary Interest.
- 40.3. A member of the Council who has moved a motion which has been referred to any Committee or Sub-Committee by the Council shall have notice of the meeting of the Committee or Sub-Committee at which it is proposed to consider the motion.
- 40.4. A member of the Council shall have the right to attend any public meeting arranged by an officer or any meeting of a Committee or Sub-Committee called to make any inspection of any site or works within their electoral ward or which is to consider the making of any Compulsory Purchase Order of land or buildings within such ward. He shall have notice of any such meeting and if he attends shall have the right to give their views.
- 40.5. (a) Any member of the council who attends any meeting of a Committee or Sub-Committee shall be entitled to remain at any such meeting notwithstanding the exclusion of the public and the press and regardless of the item under consideration provided that he does not have a Disclosable Pecuniary Interest.
- (b) This right shall not apply to meetings of Hearings Panels of Audit Committee, Licensing Committee, Appeals Committee, Joint Appointments and Disciplinary Committee and Joint Appointments and Disciplinary Appeals Committee when the Committee is considering its decision in the absence of the parties to the matter.
- 40.6. No co-opted member (or their named substitute) of any Committee or Sub-Committee of the Council shall be entitled to attend or speak at meetings of the Council or any of its Committees or Sub-Committees in respect of any matter of exempt or confidential business unless the Council (or, as the case may be, a Committee or Sub-Committee) resolves that they may be present for that part of the meeting.

STANDING ORDER NO.41

Consideration of Matters by Overview and Scrutiny Commission

- 41.1 Where a matter has been considered and debated by the Overview and Scrutiny Commission and the outcome has subsequently been reported to Council, the matter shall not again be the subject of debate at the Overview and Scrutiny Commission at any time during the next six months from the date of the report to Council unless:
- (a) a majority of members of the Overview and Scrutiny Commission formally so request in writing to the Chief Executive; or
 - (b) the matter is referred back to the Overview and Scrutiny Commission for further consideration by Council, Cabinet or any other committee to sub-committee; or
 - (c) the matter has been deferred to a subsequent meeting by the Overview and Scrutiny Commission.

STANDING ORDER NO.42

Ad Hoc Bodies

- 42.1 Where a working party or other “ad hoc” Committee is appointed by the Council or by a Committee or Sub-Committee to carry out investigations into a matter and report back to the appointing body, in every case the working party shall include with their conclusions and recommendations a written report which refers to all relevant information taken into account and either involves the data itself or indicates where the data may be inspected.
- 42.2 Reports must include a summary of findings, the relevant background information or a list of information taken into account and where the information may be inspected, their conclusions and (where appropriate) their recommendations.

PART IV – GENERAL REGULATION OF BUSINESS

STANDING ORDER NO.43

Interest of members in contracts and other matters

- 43.1 The Council’s Code of Conduct will apply where a member has a Disclosable Pecuniary Interest and the term ‘Disclosable Pecuniary Interest’ in these Standing Orders has the same meaning as defined in regulations.
- 43.2 Where a member has a Disclosable Pecuniary Interest the member must declare the interest to the meeting, and leave the room without participating in any discussion or making a statement on the item, except where a member is permitted to remain as a result of the grant of a dispensation.

STANDING ORDER NO.44

Interest of officers

- 44.1 The Monitoring Officer shall record in a book to be kept for the purpose particulars of any notice given by an officer of the Council under section 117 of the 1972 Act, of a pecuniary interest, and the book shall be open during office hours to the inspection of any member of the Council.

STANDING ORDER NO.45

Employment - Canvassing of and recommendations by members

- 45.1. Canvassing of members of the Council or any Committee of the Council directly or indirectly for any appointment under the Council shall disqualify the candidate concerned for that appointment. The purport of this paragraph of this Standing Order shall be included in any particulars relating to appointments or in any form of application.
- 45.2. A member of the Council shall not solicit for any person any appointment under the Council, but this shall not preclude a member from giving a written testimonial of a candidate's ability, experience, or character for submission to the Council with an application for appointment.

STANDING ORDER NO.46

Employment - Relatives of members or officers

- 46.1. A candidate for any appointment under the Council who knows that he/she is related to any member or Chief Officer or Deputy Chief Officer of the Council shall when making application disclose that relationship to the Officer named in the advertisement. A candidate who fails to disclose such a relationship shall be disqualified for the appointment and if appointed shall be liable to dismissal without notice. Every member and Chief Officer or Deputy Chief Officer of the Council shall disclose to the Chief Executive any relationship known to him to exist between himself and any person whom he/she knows is a candidate for an appointment under the Council.
- 46.2. The purport of this Standing Order shall be included in any particulars relating to appointments or in any form of application.
- 46.3. For the purpose of this Standing Order persons shall be deemed to be related if they are husband and wife or partner or if either of them or the spouse/partner of either of them is the son or daughter or grandson or granddaughter or brother or sister or nephew or niece of the other, or of the spouse/partner of the other.

STANDING ORDER NO.47

Common Seal and Signing of Documents

- 47.1. The Common Seal of the Council shall be kept by the Monitoring Officer in some safe place, and an entry of the sealing of every deed and document to which the Common Seal shall have been affixed shall be made by the Monitoring Officer or any officer authorised by the Monitoring Officer and consecutively numbered in a book to be provided for that purpose.
- 47.2. The Common Seal shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council or of a Committee or Sub-Committee or Cabinet passed in the exercise of powers with which it is endowed by statute or which have been delegated to it in relation to the subject matter of the document or is authorised by an Cabinet Member or by a Chief Officer or Deputy Chief Officer in pursuance of powers properly delegated to him; but the authorisation of any act which should or may be recorded or effected by means of a document under seal shall be sufficient authority for sealing any document necessary to record or give

effect to the authorisation.

- 47.3. The affixing of the Common Seal to any document shall be in the presence of and attested by the Chief Executive or Monitoring Officer or Senior Legal Officer or other person authorised by the Chief Executive, Monitoring Officer, or Senior Legal Officer. Or any Chief Officer acting as a Proper Officer, under paragraph 6c of part f delegations to officers.
- 47.4. A proper authorisation for the doing of any act which should or may be recorded or affected by means of a document under hand shall be sufficient authority for the signing of such document by the appropriate officers specified in Contract Standing Orders. Any contract entered into on behalf of the Council shall be made in writing. Subject to the Contracts Procedure Rules, such contracts must be signed or sealed in accordance with the Contract Procedural Rules.

STANDING ORDER NO.48

Authentication of documents for legal proceedings

- 48.1 In addition to any other person who may be authorised by resolution of the Council, the proper officer for the purposes of authentication of documents under the Local Government Acts shall be:
- (a) The Chief Executive;
 - (b) The Monitoring Officer;
 - (c) The Senior Legal Officer;
 - (d) Any Chief Officer of the Council concerned with the matter to which the document relates; or,
 - (e) Any officer authorised in writing by such Chief Officer or by the Monitoring Officer.

STANDING ORDER NO.49

Inspection of documents

- 49.1. A member of the Council may inspect any document which is in the possession or control of the Council in accordance with statute and common law.
- 49.2. A member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he has a Disclosable Pecuniary Interest in so far as that document is not open to public inspection.
- 49.3. Except so far as a Sub-Committee, Committee or the Council shall have made the matter public, a member who has inspected a document or minute shall not communicate the contents thereof to any member whose inspection thereof would be barred by paragraph 2 above nor to any person other than a member of the Council.
- 49.4. All reports made or minutes kept by any Committee or working group shall, as soon as the Committee has concluded action on the matter to which such reports or

minutes relate, be open for the inspection of any member of the Council, subject to paragraph 3 above.

STANDING ORDER NO.50

Inspection of lands, premises, etc.

- 50.1 Unless specifically authorised to do so, a member of the Council shall not issue any order regarding any works or services which are being carried out by or on behalf of the Council or claim by virtue of their membership of the Council any right to inspect or to enter upon any land or premises which the Council have the power or duty to inspect or enter.

STANDING ORDER NO.51

Variation and revocation of Standing Orders

- 51.1 Any motion to add to, vary or revoke these Standing Orders shall when proposed and seconded stand adjourned without discussion to the next ordinary meeting of the Council. This requirement shall not apply to any report designed to amend the constitution and which has been approved by the Monitoring Officer.

STANDING ORDER NO.52

Suspension of Standing Orders

- 52.1. Subject to paragraph 2 of this Standing Order, any of the preceding Standing Orders may be suspended by full Council or a Committee in relation to any business at the meeting where its suspension is moved.
- 52.2. A motion to suspend Standing Orders shall not be moved without notice (i.e. under Standing Order No.7) unless there shall be present at least one-half of the whole number of the members of the Council. or Committee as appropriate.

STANDING ORDER NO.53

Standing Orders to be given to members

- 53.1 A copy of the Standing Orders, and of such statutory provisions as regulate the proceedings and business of the Council, shall be made available to each member of the Council by the Chief Executive upon delivery to him of the member's declaration of acceptance of office on the member being first elected to the Council.

STANDING ORDER NO.54

Vacation of Office by failure to attend Meetings

- 54.1. If a member, for a period of four consecutive months, fails to attend any meeting of the Council, Cabinet, Committee or Sub-Committee, or joint committee, or any other body as a representative of the Council the Chief Executive should notify the member, in writing, of the period of their absence and the implications of Section 85 of the 1972 Act.

If a member for a period of six consecutive months fails to attend any meeting of the Council, Cabinet, Committee or Sub-Committee or joint committee the member shall cease to be a member of the Council unless the failure was due to some reason approved by the Council before the expiry of that period (in accordance with section 85 of the 1972 Act)

PART V – STANDING ORDERS RELATING TO STAFF

STANDING ORDER NO.55

In Standing Orders nos. 55 to 59

–“Councils” means both Breckland District Council and South Holland District Council

“Joint” means appointed jointly for both the Breckland District Council and South Holland District Council

Recruitment of Joint Chief Officers and Joint Deputy Chief Officers

55.1 Where the Councils propose to appoint a Joint Chief Officer or a Joint Deputy Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Councils will:

- (a) draw up a statement specifying:
 - (i) the duties of the officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

Where a post has been so advertised a committee or sub-committee of the Councils shall—

- a) interview all qualified applicants for the post, or
- b) select a short list of such qualified applicants and interview those included on the short list.
- c) Where no qualified person has applied, the Councils shall make further arrangements for advertisement in accordance with Standing Order 58(1) (b).

STANDING ORDER NO.56

See definitions at Standing Order No. 55

Appointment of Joint Head of Paid Service

- 56.1 Appointment of the Joint Head of the Paid Service is subject to approval by the full Councils following consideration of the recommendation of such an appointment by a Joint committee or sub-committee of the Councils. That committee or sub-committee must include at least one Cabinet Member of Breckland Council and at least one Cabinet Member of South Holland District Council.
- 56.2. The full Councils may only make or approve the appointment of the Joint Head of Paid Service where no material or well-founded objection has been made by any Cabinet Member or Cabinets of the Councils in accordance with current regulations.

STANDING ORDER NO.57

See definitions at Standing Order No. 55

Appointment of other Joint Chief Officers and Deputy Chief Officers

- 57.1. A joint committee or sub-committee of the Councils will appoint all other Joint Chief Officers and Joint Deputy Chief Officers. That Joint committee or sub-committee must include at least one Cabinet Member of Breckland District Council and at least one Cabinet Member of South Holland District Council.
- 57.2. An offer of employment as a Joint Chief Officer or Joint Deputy Chief Officer shall only be made after notice of the proposed appointment has been circulated to all Cabinet Members of Breckland District Council and all Cabinet Members of South Holland District Council and where no material or well-founded objection from any Cabinet Member or Cabinet has been received in accordance with current regulations.

STANDING ORDER NO.59

See definitions at Standing Order No. 55

Disciplinary Action: Protected Officers (ie Head of Paid Service, Monitoring Officer and S151 Officer (S151 Officer))

- 59.1. **Suspension** The Joint Head of Paid Service, Joint Monitoring Officer and Joint S151 Officer may be suspended by a Joint committee or sub-committee of the Councils without approval of the full Councils whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- 59.2. **Disciplinary action short of dismissal** – A Joint committee or sub-committee of the Councils will make recommendations to each full Council on any proposed disciplinary action, including issues relating to capability, against the Joint Head of Paid Service, Joint Monitoring Officer and Joint S151 Officer and both full Councils must approve any action before it is taken. Where dismissal is proposed Standing Order 61(3) will apply.
- 59.3. **Dismissal**
- The Joint head of paid service, Joint Monitoring Officer and Joint S151 Officer may not be dismissed unless the following procedure has been complied with as required by current regulations:

- (i) the Councils must invite relevant independent persons to be considered for appointment to a Joint panel appointed for the purposes of advising the Councils on such matters;
- (ii) The Councils must appoint to the panel such relevant independent persons who have accepted an invitation in accordance with the following priority order :
 - a relevant independent person who has been appointed by the authority and who is a local government elector;
 - any other relevant independent person who has been appointed by the authority;
 - a relevant independent person who has been appointed by another authority or authorities.
- (iii) The Councils must appoint the panel at least 20 working days before the first of the two Council meetings which consider whether or not to approve a proposal to dismiss.
- (iv) Before the taking of a vote at the Councils' meetings on whether or not to approve such a dismissal (by a simple majority vote of those members present), each authority must take into account, in particular :
 - any advice, views or recommendations of the panel;
 - the conclusions of any investigation into the proposed dismissal; and
 - any representations from the Head of the Paid Service, S151 Officer or Monitoring Officer.

Notice of dismissal may only be made where no material or well-founded objection from any Cabinet Member of Breckland District Council or the Cabinet of South Holland District Council has been received in accordance with current regulations.

STANDING ORDER NO.59

See definitions at Standing Order No. 55

Dismissal/Disciplinary Action: Non-Protected Staff (ie all other Joint Chief Officers and Deputy Chief Officers)

- 59.1 A Joint committee or sub-committee of the Councils will be responsible for taking disciplinary action, including dismissal where appropriate against any other Joint Chief Officers or Joint Deputy Chief Officers. Those Joint Chief Officers and Joint Deputy Chief Officers have a right of appeal against such action to a joint appeal panel (excluding any member who was a member of the Committee whose decision is appealed)
- 59.2 Notice of dismissal may not be made until details of the proposed dismissal have been circulated to all Cabinet Members of Breckland District Council and the Cabinet of South Holland District Council and no well-founded objection from any Cabinet Member or Cabinet has been received in accordance with current regulations.
- 59.3. Councillors will not be involved in the dismissal of any officer below the grade of Deputy Chief Officer) except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

STANDING ORDER NO.60

Assistants for Political Groups

- 60.1. No appointment to any post for an assistant to a political group which falls within Section 9 of the 1989 Act or any re-enactment thereof shall be made until an equivalent post has been allocated to each of the Political Groups which qualify for one.
- 60.2. No assistant for a political group shall be allocated to a group which does not qualify for one under the 1989 Act.
- 60.3. No more than one post shall be allocated to any one political group.
- 60.4. An appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

**PART VI – STANDING ORDERS RELATING TO POLICY
FRAMEWORK AND BUDGET**

STANDING ORDER NO.61

Procedure for approval of plans and strategies

- 61.1. In this Standing Order—

“plan or strategy” means the plans and strategies comprising the Council’s Policy Framework, and any plan or strategy for the control of the Council’s borrowing or capital expenditure.

- 61.2. Where the Cabinet has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph 3.

- 61.3. Before the authority—

- (a) amends the draft plan or strategy;
- (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- (c) adopts (with or without modification) the plan or strategy,

it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

- 61.4. Where the authority gives instructions in accordance with paragraph 3, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the

instructions on behalf of the Cabinet within which the Leader may—

(a) submit a revision of the draft plan or strategy as amended by the Cabinet (the “revised draft plan or strategy”), with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the authority for the authority's consideration; or

(b) inform the authority of any disagreement that the Cabinet has with any of the authority's objections and the Cabinet's reasons for any such disagreement.

61.5 When the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when—

(a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;

(b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

(c) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the authority's objections and the Cabinet's reasons for that disagreement, which the Leader submitted to the authority, or informed the authority of, within the period specified.

STANDING ORDER NO.62

Procedure for approval of Council Tax/Budget

62.1 where, before 8th February

in any financial year, the authority's Cabinet submits to the authority for its consideration in relation to the following financial year—

(a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ, of the Local Government Finance Act 1992 (council tax calculations);

(b) estimates of other amounts to be used for the purposes of such a calculation;

(c) estimates of such a calculation; or

(d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the

authority has any objections to them, it must take the action set out in paragraph 2.

62.2. Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 1(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.

62.3 Where the authority gives instructions in accordance with paragraph 2, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may

(a) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or

(b) inform the authority of any disagreement that the Cabinet has with any of the authority's objections and the Cabinet's reasons for any such disagreement.

62.4 When the period specified by the authority, referred to in paragraph 3, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 1(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account—

(a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;

(b) the Cabinet's reasons for those amendments;

(c) any disagreement that the Cabinet has with any of the authority's objections; and

(d) the Cabinet's reasons for that disagreement,

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

STANDING ORDER NO.63

Recording of Budget decisions

63.1 Immediately after any vote is taken at a Budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from Voting

Filming/Audio Recording of meetings

- 64.1 People attending may record meetings of the Council, Cabinet and Committees using what every non-disruptive methods that they consider appropriate, including filming, photographing, audio recording and use of social media.
- 64.2 Anyone filming a meeting is asked to only focus on those actively participating.
- 64.3 All attendees should be made aware that they may be filmed or recorded whilst attending a meeting and that attendance at the meeting signifies consent to this.
- 64.4 The Chairman of the meeting has the discretion to halt any recording for a number of reasons including disruption caused by the filming or the nature of the business being conducted.
- 64.5 Questions should be addressed to the Senior Legal Officer (members of the press should contact the Press Office).

4B - FINANCIAL PROCEDURE RULES

1. INTRODUCTION

1.1 What are Financial Procedure Rules?

- 1.1.1 Section 151 of the Local Government Act 1972 states that “every 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.
- 1.1.2 Financial Procedures provide the framework for managing the Council’s financial affairs. Financial Procedures are supported by more detailed Financial Management Standards which set out how the procedures will be implemented. These are listed in Part 4C

1.1.3 The procedures identify the financial responsibilities of the full Council, the Cabinet and officers.

1.1.4 To avoid the need for regular amendment due to changes in post

(a) titles generic terms are included for officers as follows:

1.2 **S151 Officer_Why are they important?**

1.2.1 To conduct its business effectively, the Council needs to ensure that sound financial management arrangements are in place and that they are strictly adhered to in practice. Part of this process is the establishment of Financial Procedures which set out the financial responsibilities of the Council. These procedures have been devised as a control to help the Council manage its financial matters properly in compliance with all necessary requirements.

1.2.2 Good, sound financial management is a key element of Corporate Governance which helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.

1.2.3 Good financial management secures value for money, controls spending, ensures due probity of transactions and allows decisions to be informed by accurate accounting information.

1.2.4 Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.

1.2.5 Financial Procedures should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in this Constitution.

1.3 **Who do Financial Procedures apply to?**

1.3.1 Financial Procedures apply to every member and officer of the Council and anyone acting on its behalf. Members and officers have a general responsibility for taking reasonable action to provide for the security and use of the resources and assets under their control, and for ensuring that the use of such resources and assets is legal, is consistent with Council policies and priorities, is properly authorised, provides value for money and achieves best value.

1.3.2 These Financial Procedures shall apply in relation to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise.

1.3.3 Failure to observe Financial Procedures may result in action under the Council's disciplinary procedures.

1.4 **Who is responsible for ensuring that they are applied?**

1.4.1 Chief Officer/Deputy Chief Officers are ultimately responsible to the Council for ensuring that Financial Procedures are applied and observed by their staff and contractors providing services on the Council's behalf and for reporting to the S151 Officer any known or suspected breaches of the procedures.

1.4.2 The S151 Officer is responsible for maintaining a continuous review of the Financial Procedures and submitting any additions or changes necessary to the

Council for approval. The S151 Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedures to the Council and/or to the Cabinet Members.

- 1.4.3 The S151 Officer is responsible for issuing advice and guidance to underpin the Financial Procedures which Members, Chief Officers/Deputy Chief Officers and others acting on behalf of the Council are required to follow.
- 1.4.4 Any person charged with the use or care of the Council's resources and assets should inform him or herself of the Council's requirements under these Financial Procedure Rules. If anyone is in any doubt as to their obligations, then they should seek advice.
- 1.4.5 Where any Chief Officer/Deputy Chief Officer considers that complying with Financial Procedures in a particular situation might conflict with the achievement of value for money or the principles of Best Value or the best interests of the Council, he/she shall raise the issue with the S151 Officer who will, if he/she considers necessary and appropriate, seek formal approval from the Council for a specific waiver of the procedures, or an amendment to the procedures themselves.

2. FINANCIAL MANAGEMENT – GENERAL ROLES AND RESPONSIBILITIES

2.1 The Role of the Full Council

The Council is responsible for:

- 2.1.1 The adoption and revision of these Financial Procedure Rules;
- 2.1.2 The determination of the Policy Framework and Budget within which the Cabinet works;
- 2.1.3 Providing the S151 Officer with sufficient staff, accommodation and other resources to carry out their or their duties; and
- 2.1.4 approving and monitoring compliance with the Council's overall framework of accountability and control.

2.2 The Role of the Cabinet

The Cabinet is responsible for:

- 2.2.1 controlling the Council's financial resources;
- 2.2.2 proposing the Budget and Policy Framework to full Council; and
- 2.2.3 for discharging Executive Functions in accordance with the Budget and Policy Framework.

2.3 The Role of the S151 Officer

- 2.3.1 The S151 Officer is accountable to the Chief Executive and the Council and has statutory duties that provide overall responsibility for the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. These statutory duties arise from:

- (a) Section 151 of the 1972 Act

- (b) The Local Government Finance Act 1988
- (c) The 1989 Act
- (d) The Accounts and Audit Regulations 2011.

2.3.2 The S151 Officer is the Council's professional adviser on financial matters and is responsible for:

- (a) The proper administration of the Council's financial affairs.
- (b) Maintaining a continuous review of Financial Procedures and submitting any additions or changes as necessary to the full Council for approval.
- (c) Reviewing, updating, and monitoring compliance with financial management standards.
- (d) Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- (e) Providing training for Members and officers on Financial Procedures and Financial Management Standards.
- (f) Determining accounting policies and ensuring that they are applied consistently.
- (g) Determining accounting procedures and records of the Council.
- (h) Reporting, where appropriate, breaches of the Financial Procedures to the Council and/or Cabinet.
- (i) Preparing and monitoring the revenue Budget, capital programme and Medium Term Financial Plan.
- (j) Ensuring the provision of an effective Internal Audit Function.
- (k) Ensuring the provision of an effective Treasury Management Function.
- (l) Advising on financial risk management.
- (m) Ensuring the Council complies with the CIPFA Prudential Code for Capital Finance in Local Authorities.
- (n) Ensuring that Council spending plans and council tax calculations, identified in the medium term financial plan, are based upon robust estimates.
- (o) Ensuring that the level of Council reserves is adequate to meet the known financial risks facing the Council over the medium term.
- (p) Ensuring that the annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the UK: A Statement of Recommended Practice.
- (q) Ensuring that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

- (r) Ensuring that proper professional practices, standards and ethics are adhered to.
- (s) Acting as head of profession in relation to the standards, performance and development of finance staff including the training and professional development of all staff employed in posts designated as requiring a qualified accountant, accounting technician, or auditor, wherever located.
- (t) The appointment of all finance staff and will be consulted on any proposal to create or delete a post requiring such a qualification for appointment.

2.3.3 Section 114 of the Local Government Finance Act 1988 requires the S151 Officer to report to the full Council and to the External Auditors if the Council or one of its officers:

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

2.3.4 Section 114 of the 1988 Act also requires:

- (a) The S151 Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally.
- (b) The Council to provide the S151 Officer with sufficient staff, accommodation and other resources, including legal advice where necessary, to carry out the duties under section 114, as determined by the S151 Officer .

2.3.5 The S151 Officer ,

- (a) is required to approve all financial procedures, records, systems and accounts throughout the Council which are necessary to ensure that the tasks defined in these procedures are properly carried out. The Council will also ensure that the S151 Officer is consulted and given the opportunity to advise upon all financial management arrangements and notes of detailed advice and guidance on financial systems and procedures necessary to ensure a satisfactory standard of accuracy, reliability, probity and regularity.
- (b) shall be given access to any information as is necessary to comply with their statutory duties and with the requirements and instructions of the Council.
- (c) shall be entitled to attend and report on financial matters directly to the Council, the Cabinet, and any committees or working groups the Council may establish.
- (d) shall be sent prior notice of all meetings of the Cabinet and all Council bodies together with full agendas and reports and shall have authority to attend all meetings and take part in the discussion if he/she so desires

2.4 The Role of Chief Officer/Deputy Chief Officers

- 2.4.1 Chief Officer/Deputy Chief Officers are each accountable to the Council for the financial management and administration of those services and activities allocated to them in accordance with Council policy.
- 2.4.2 Chief Officer/Deputy Chief Officers are responsible for:
- (a) Ensuring that adequate and effective systems of internal control are operated to ensure the accuracy, legitimacy and proper processing of transactions and the management of activities, having regard to advice and guidance from the S151 Officer .
 - (b) Ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the S151 Officer.
 - (c) Consulting with the S151 Officer in seeking approval regarding any matters which may affect the Council's finances materially, before any commitments are incurred.
 - (d) Consulting with each other on any issue with corporate financial implications before submitting policy options or recommendations to Members.
 - (e) Inform immediately the S151 Officer of failures of financial control resulting in additional expenditure or liability, or loss of income or assets.

3. FINANCIAL PLANNING

3.1 Strategic Planning

- 3.1.1 The full Council is responsible for agreeing the Council's Budget and Policy Framework which will be proposed by Cabinet.
- 3.1.2 The preparation of the medium term financial plan is part of the strategic Policy Framework of the Council and aims to ensure that the Council's spending plans are prudent, affordable, and sustainable and reflect Council priorities.
- 3.1.3 The full Council is responsible for approving procedures for agreeing variations to approved Budgets, plans and strategies forming the Policy Framework and for determining the circumstances in which a decision will be deemed to be contrary to the Budget or Policy Framework. Under the Constitution, the Monitoring Officer has a duty to advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.
- 3.1.4 Chief Officer/Deputy Chief Officers are responsible for the preparation and monitoring of service improvement plans within their service areas. Service improvement plans should align with Council values and priorities and be consistent with and based upon the Budget allocated by the Council to the service.

3.2 Budget Preparation

- 3.2.1 The Cabinet, in consultation with the S151 Officer is responsible for determining the general Budget strategy and issuing annual guidelines to Members and Chief Officer/Deputy Chief Officers on:

- (a) Preparing a detailed revenue Budget for the following year
- (b) Preparing the medium term financial plan (5 yrs)
- (c) Preparing the capital programme
- (d) The timetable for preparing and agreeing the Council's revenue and capital Budget .

3.2.2 The guidelines will take account of:

- (a) Council priorities as reflected in the Council plan
- (b) Spending pressures
- (c) What future funding is available
- (d) What level of reserves are available
- (e) The affordability, sustainability and prudence of capital investment plans
- (f) Legal requirements
- (g) Value for money and other relevant government guidelines
- (h) Other internal policy documents
- (i) Cross-cutting issues (where relevant).

3.2.3 The S151 Officer is responsible for developing and maintaining a resource allocation process that ensures the consideration of the full Council's Policy Framework.

3.2.4 The S151 Officer is responsible for ensuring that a detailed revenue Budget is prepared on an annual basis and a general revenue plan on a five yearly basis (medium term financial plan) for consideration by Cabinet before submission to full Council.

3.2.5 The S151 Officer is responsible for ensuring a capital programme is prepared on an annual basis for consideration by Cabinet before submission to the full Council.

3.2.6 It is the responsibility of the S151 Officer to advise the Cabinet and/or the full Council on prudent levels of reserves for the Council.

3.2.7 Chief Officer/Deputy Chief Officers are responsible for ensuring that Budget estimates are prepared in accordance with guidance issued by Cabinet and reflect agreed service performance plans.

3.3 **Budget Approval**

3.3.1 The full Council is responsible for agreeing the Council's Budget (including Prudential Indicators) and Policy Framework. The Policy Framework comprises of a number of statutory plans and strategies.

3.3.2 The Council's revenue and capital Budget will be proposed by the Cabinet, (on the advice of the S151 Officer), and will be approved by the full Council.

- 3.3.3 The full Council may amend the proposed Budget or ask the Cabinet to reconsider it before approving it.

3.4 Budget Transfers (Virements)

- 3.4.1 During the year the Cabinet and Chief Officer/Deputy Chief Officers may need to transfer Budgets from one service area to another to reflect changed service needs or priorities in order to deliver the Budget Policy Framework within the financial limits set by the Council.
- 3.4.2 The full Council is responsible for approving procedures for agreeing variations to approved Budgets, plans and strategies forming the Policy Framework and for determining the circumstances in which a decision will be deemed to be contrary to the Budget or Policy Framework. Decisions should be referred to the full council by the Monitoring Officer.
- 3.4.3 The full Council is responsible for setting the level at which the Cabinet may reallocate Budget funds from service to another.
- 3.4.4 The following limits have been approved for the authorisation of Budget transfers(virements):

Chief Officer/Deputy Chief Officers

- (a) Up to £20,000.00, between any one Budget head to another (Standard groupings) for which they are responsible, during the financial year after notification to the S151 Officer
- (b) Up to £68,000.00, between any one Budget head to another (Standard groupings) for which they are responsible, during the financial year with written approval of the S151 Officer .
- (c) Up to £68,000.00 in relation to grant funding, where the Chief Officer/Deputy Chief Officer will have the power, subject to consultation with The S151 Officer and any directions given by the Cabinet Member, to agree to any terms or restrictions applied by the grant funding to approve the receipt and spend of grant funding.
- (d) Up to £68,000.00 in relation to expenditure which generates additional income, where the Chief Officer/Deputy Chief Officer will have the power, subject to consultation with The S151 Officer and any directions given by the relevant Cabinet Members, approve additional expenditure that leads to the generation of a net surplus within the financial year.

Cabinet

- (e) Individual transfers between Budget heads in excess of £68,001.00 following a joint report by the S151 Officer and the responsible Chief Officer/Deputy Chief Officer. The joint report must explain the implications in the current and future financial year.
- (f) To agree to any terms or restrictions applied by the funder and to approve the receipt and spend of any grant funding between £68,000.01 and £100,000.00.

Full Council

(g) To agree to any terms or restrictions applied by the funder and to approve the receipt and spend of grant funding above £100,000,00.

(h) Any transfer which results in an excess of 30% of a directorate gross Budget .

3.4.5 It is the responsibility of the Chief Officer/Deputy Chief Officers to:

(a) Notify the S151 Officer of any Budget transfer agreed under delegated powers as set out above;

(b) Give prior notice to Budget holders of any Budget transfer affecting their service area and provide an explanation of the reason for the Budget transfer.

3.4.6 Council approval is required for any Budget transfer, of whatever amount, where the proposed transfer will result in a change of policy, the introduction of a new Service or the termination of an existing Service.

3.4.7 A Capital Budget cannot be transferred to a revenue Budget head.

3.5 **Budget Monitoring and the Control of Income and Expenditure**

3.5.1 The S151 Officer is responsible for:

(a) Developing an effective framework of Budgetary management and control.

(b) Providing appropriate financial information to enable Budgets to be monitored effectively.

(c) Reporting to the Cabinet on the overall Council Budget monitoring position on a quarterly basis.

(d) Ensuring that suitable controls are in place covering all payments to employees, Members and creditors.

(e) Maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

(f) Advising Chief Officer/Deputy Chief Officers on all taxation issues that affect the Council.

(g) Ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

(h) Agreeing arrangements for the collection of income due to the Council.

(i) Agreeing banking, borrowing and other credit requirements e.g. leasing.

(j) Agreeing the write-off of bad debts in accordance with the Council's Debt Recovery Policy.

3.5.2 The Cabinet is responsible for approving contractual arrangements for any work for third parties or external bodies unless the responsible Chief Officer/Deputy Chief Officer is authorised in this respect under the Scheme of Delegations in this Constitution.

- 3.5.3 It is the responsibility of Chief Officer/Deputy Chief Officers to:
- (a) Control income and expenditure within their service area.
 - (b) Monitor performance in conjunction with the Budget taking account of financial information provided by the S151 Officer .
 - (c) Report on spending variances within their own areas.
 - (d) Take any corrective action necessary to avoid exceeding their Budget allocation and alert the S151 Officer to any problems

3.6 Reporting Council Spending at Year End

- 3.6.1 The Governance and Audit Committee is responsible for approving the annual Statements of Accounts.
- 3.6.2 The S151 Office is responsible for:
- (a) Publishing a timetable for the closure of the accounts annually
 - (b) Ensuring that the Council's annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority in the United Kingdom: A Statement of Recommended Practice CIPFA/LASAAC, the Accounts and Audit Regulations 2011 and any other relevant guidelines.
- 3.6.3 It is the responsibility of Chief Officer/Deputy Chief Officers to ensure that arrangements are put in place each year to deliver the Council's closure timetable.

3.7 Use of Council Reserves

- 3.7.1 The S151 Officer is responsible for advising the Cabinet and/or the full Council on levels of reserves for the Council. The advice will be based upon an annual risk assessment of the prudent levels of reserves the Council should maintain.
- 3.7.2 The S151 Officer will manage the Council reserves in accordance with decisions taken by the Cabinet and full Council.
- 3.7.3 The following limits be approved for the authorisation of transfers between reserves and Budgets:

Chief Officer/Deputy Chief Officers

The Corporate Management Team shall, subject to the prior approval by or on behalf of the S151 Officer and to any written directions given by the Leader , have power to approve the re-allocation of un-allocated reserve balances up to £68,000.00

Cabinet

To approve the re-allocation of un-allocated reserve balances between £68,000.01 and £100,000.00

Full Council

To approve the re-allocation of un-allocated reserve balances greater than £100,000.01

4. RISK MANAGEMENT AND CONTROL OF RESOURCES

4.1 Risk Management

- 4.1.1 It is essential that robust, integrated systems are developed and maintained for identifying, evaluating and managing all significant Strategic and Operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
- 4.1.2 The Governance and Audit Committee is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management.
- 4.1.3 The Executive Management Team is responsible for preparing the Council's risk management policy statement and for promoting it throughout the Council.
- 4.1.4 The Chief Officer/Deputy Chief Officers are responsible for reviewing strategic risks and reporting progress on the management of strategic risk to the Cabinet.
- 4.1.5 It is the responsibility of Chief Officer/Deputy Chief Officer to ensure there are regular reviews of risk within their areas of responsibility having regard to advice from the Council's Corporate Risk Manager and other specialist officers (e.g. crime prevention, fire prevention, Health & Safety).

4.2 Internal Control

- 4.2.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 4.2.2 The Chief Internal Auditor, in consultation with the S151 Officer, is responsible for advising on effective systems of internal control. Effective systems of internal control should ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should also ensure that public funds are properly safeguarded and used economically, efficiently and in accordance with the statutory and other authorities that govern their use.
- 4.2.3 It is the responsibility of Chief Officer/Deputy Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, value for money, effective use of resources and achieving their financial performance targets.
- 4.2.4 The Council is required to provide an Annual Governance Statement in accordance with the Accounts and Audit Regulations 2011. As part of this statement, the Chief Executive and the Leader are required to comment on the effectiveness of the entire internal control environment within the Council as this is a key indicator of good governance.

4.3 Insurance

- 4.3.1 Insurance provision is a way of managing risk.
- 4.3.2 The S151 Officer is responsible for:

- (a) Effecting insurance cover and dealing with all claims in consultation with other Chief Officer/Deputy Chief Officers where necessary.
- (b) Reviewing, at least annually, all insurances in consultation with Chief Officer/Deputy Chief Officers where necessary.

4.3.3 It is the responsibility of Chief Officer/Deputy Chief Officers to:

- (a) Advise the S151 Officer of all new risks, properties, vehicles or potential liabilities for which insurance may be required; and of any changes affecting existing risks or insurance cover required.
- (b) Notify the S151 Officer in writing without delay of any loss, liability or damage or any event likely to lead to a claim, and shall provide such information and explanations required by the S151 Officer or the Council's insurers
- (c) Consult with the Monitoring Officer on the terms of any indemnity which they are requested to give on behalf of the Council.
- (d) Ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

4.4 **Audit Requirements**

- 4.4.1 The requirement for an internal audit function for local authorities is implied by section 151 of the 1972 Act, and section 112 of the Local Government Finance Act 1988, which require that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations 2011 require that a, "relevant body must undertake an adequate and effective internal audit of its accounting records and of its systems of internal control" and must "at least once in each year conduct a review of the effectiveness of its internal audit."
- 4.4.2 The S151 Officer, as determined by the Council, will ensure that the Council has appropriate arrangements in place to maintain an adequate and effective internal audit.
- 4.4.3 The strategy and terms of reference for Internal Audit are reviewed and approved by the Governance and Audit Committee.
- 4.4.4 An external auditor is appointed to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998. They are also required to follow the current Audit Code of Practice. The duties include reviewing the work of the internal auditors.
- 4.4.5 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.
- 4.4.6 The S151 Officer is responsible for reporting to Governance and Audit Committee and/or Cabinet, where appropriate, the findings of these inspections and taking relevant action to implement recommendations and action required.

4.5 Preventing Fraud and Corruption

- 4.5.1 The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.
- 4.5.2 The S151 Officer is responsible for the development maintenance and review of an anti-fraud and anti-corruption policy.
- 4.5.3 It is the responsibility of Chief Officer/Deputy Chief Officers to promote the Anti-fraud and Anti corruption policy within their Service areas and ensure that all suspected irregularities are reported to the Chief Internal Auditor.
- 4.5.4 The Chief Internal Auditor will take whatever steps are considered necessary, on behalf of the S151 Officer , to investigate and report upon the matter. Chief Officer/Deputy Chief Officers are responsible for taking any appropriate action to prevent further loss and to secure records and documentation against removal or alteration.
- 4.5.5 It is the responsibility of the Governance and Audit Committee to approve policies and strategies relating to fraud and whistle-blowing arrangements and to receive reports on any detected internal frauds.

4.6 Use of and Disposal of Assets

- 4.6.1 The S151 Officer is responsible for issuing procedures to safeguard the use and disposal of Council assets.
- 4.6.2 Chief Officer/Deputy Chief Officers are responsible for ensuring that adequate and effective arrangements are in place for the care and custody all assets within their Service area and ensuring that assets are disposed of in accordance with procedures approved by the S151 Officer .

4.7 Treasury Management

- 4.7.1 The Council has adopted the key recommendations of CIPFA's Treasury Management in the Public Service Code of Practice.
- 4.7.2 Accordingly, the full Council is responsible for approving a Treasury Management Policy Statement, on an annual basis, stating the policies and objectives of its treasury management activities.
- 4.7.3 The full Council is also responsible for approving Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 4.7.4 The Council will receive reports on its Treasury Management policies practices and activities, including as a minimum, an annual strategy and plan for the coming financial year at or before the start of each financial year and an annual report after its close, in the form prescribed in the TMPs.
- 4.7.5 The Council has delegated its responsibility for the implementation and monitoring of its Treasury Management polices and practices to the Governance and Audit Committee.
- 4.7.6 Responsibility for the execution and administration of its Treasury Management decisions, including decisions on borrowing, investment and financing, have

been delegated to the S151 Officer , who will act in accordance with the Council's policy statements and TMPs.

4.8 Banking

- 4.8.1 All arrangements concerning banking services, including the opening, closing and operation of the Council's bank accounts shall be made solely upon direction of the S151 Officer.
- 4.8.2 The S151 Officer is responsible for the reconciliation of the Council's bank accounts with the Council's financial accounts.
- 4.8.3 Chief Officer/Deputy Chief Officer are responsible for ensuring that all banking arrangements determined by the S151 Office are observed and to advise him or her of any changes in their Services that may require a change in these arrangements.

4.9 Income Collection

- 4.9.1 The S151 Officer is responsible for approving all methods of income collection, records and systems.
- 4.9.2 The Council has a statutory responsibility to conform to the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007 (as amended).
- 4.9.3 Accordingly, the Governance and Audit Committee is responsible for the approving the Council's' Money Laundering Policy.
- 4.9.4 Responsibility for the implementation and administration of the Council's Money Laundering Policy has been delegated to the S151 Officer who is responsible for nominating an officer (and deputy) to act as the Council's Money Laundering Reporting Officer.
- 4.9.5 Chief Officer/Deputy Chief Officers are responsible for:
 - (a) Ensuring all income is held securely
 - (b) Ensuring for compliance with income and banking arrangements specified by the S151 Officer
 - (c) In consultation with the S151 Officer reviewing fees and charges, at least annually.

4.10 External Funding

- 4.10.1 Chief Officer/Deputy Chief Officers are responsible for ensuring that any bids for external funding are made in consultation with the S151 Officer .
- 4.10.2 Chief Officer/Deputy Chief Officers must ensure that any project to be funded by external funding does not commence until proper approval has been obtained and the source of external funding confirmed.
- 4.10.3 The S151 Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. Chief Officer/Deputy Chief Officers are responsible for providing all necessary information to enable this to be achieved.

4.11 Debt Collection

- 4.11.1 The Cabinet is responsible for approving the Council's debt recovery policy.
- 4.11.2 The S151 Officer is responsible for maintaining records of debts and the implementation of the Council's debt recovery policy.
- 4.11.3 Chief Officer/Deputy Chief Officers are responsible for:
 - (a) Ensuring effective systems are in place to allow sums due to the Council to be easily identified
 - (b) Ensuring debtor accounts are raised accurately and promptly and that adequate records are maintained to support the raising of the debt and any recovery action taken.
 - (c) Assisting in the collection of debt by providing any further information necessary to pursue the debt or monitoring debts on the Council's behalf as requested by the S151 Officer .
 - (d) Ensuring that the appropriate approval, as specified in the debt recovery policy, is obtained to write off debts

5. PARTNERSHIPS

- 5.1 The Cabinet is the focus for forming partnerships with other local, public, private, voluntary and community sector organisations. The Cabinet is responsible for approving any delegations of its powers, to address local needs.
- 5.2 The Council or the Cabinet can delegate its functions, including those relating to partnerships to officers. Details are set out in the Scheme of Delegation that forms part of this Constitution. Where its functions are delegated, the Cabinet remains accountable for them to the full Council.
- 5.3 The Chief Executive or the appropriate Chief Officer/Deputy Chief Officer or senior officer nominated by the Chief Officer/Deputy Chief Officer may represent the Council on partnership and external bodies, in accordance with the respective decisions of the Council and the Cabinet.
- 5.4 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct in partnerships that apply throughout the Council.
- 5.5 The S151 Officer is responsible for ensuring that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must also ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- 5.6 Chief Officer/Deputy Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

CONTRACT PROCEDURE RULES

BASIC PRINCIPLES

- 5.7 All procurement procedures must:
 - 5.7.1 realise value for money by achieving the optimum combination of whole life costs, and quality of outcome,
 - 5.7.2 be consistent with the highest standards of integrity,
 - 5.7.3 operate in a transparent manner,
 - 5.7.4 ensure fairness in allocating public contracts,
 - 5.7.5 comply with all legal requirements including European Union (EU) treaty principles,

- 5.7.6 ensure that non-commercial considerations do not influence any contracting decision,
- 5.7.7 support all relevant Council priorities and policies, including the Medium Term Financial Plan, and
- 5.7.8 comply with the Procurement Guidance for Officers.

NB These Rules shall be applied to the contracting activities of any partnership for which the Council is the accountable body unless the Council expressly agrees otherwise.

6. OFFICER RESPONSIBILITIES

6.1 Officers

6.1.1 Officers will comply with:

- (a) these Contract Procedure Rules (CPRs),
- (b) the Council's Constitution, and
- (c) with all UK and EU legal requirements.

Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply.

6.1.2 Officers will:

- (a) keep the records required by Rule 5 of these Contract Procedure Rules,
- (b) take all necessary procurement, legal, financial and professional advice, taking into account the requirements of these Contract Procedure Rules,
- (c) prior to letting a contract on behalf of the Council, check whether:
 - (i) the Council already has an appropriate contract in place in the Contracts Register, or:
 - (ii) an appropriate national, regional or other collaborative contract is already in place.

Where the Council already has an appropriate contract in place, then this must be used unless it can be established that the contract does not fully meet the Council's specific requirements in this particular case, and this is agreed following consultation with Corporate Improvement and Performance team.

Where an appropriate national, regional or collaborative contract is available, consideration should be given to using this, provided the contract offers value for money.

- (d) ensure that when any employee, either of the Council or of a service provider, may be affected by any transfer arrangement, then any Transfer of Undertaking (Protection of Employment) issues are considered and legal and HR advice from within the Council is obtained prior to proceeding with the procurement exercise.

- 6.1.3 Failure to comply with any of the provisions of these Contract Procedure Rules the Council's Constitution or UK or EU legal requirements may be brought to the attention of the Monitoring Officer, Head of Internal Audit, or relevant Officer as appropriate. Depending on the nature of the non-compliance this may result in disciplinary action being taken.
- 6.1.4 A contract may, where considered expedient by a Chief Officer/Deputy Chief Officer, be let through any framework agreement to which the Council has access. Where the contract to be let is subject to the EU Procurement Rules, use of such framework agreement shall be subject to compliance with EU Procurement Rules

6.2 Chief Officer/Deputy Chief Officers

- 6.2.1 Chief Officer/Deputy Chief Officers will:
- (a) ensure their Service Grouping complies fully and are familiar with the requirements of these Contract Procedure Rules,
 - (b) ensure contracts are recorded in the Contracts Register as held and maintained by Corporate Improvement and Performance team,
 - (c) ensure compliance with English Law, U.K. and EU legislation and Council policy;
 - (d) ensure value for money and optimise risk allocation in all procurement matters;
 - (e) ensure compliance with any guidelines issued in respect of these Contract Procedure Rules
 - (f) take immediate action in the event of a breach of the Contract Procedure Rules or any Code of Practice within their directorate or service area;
 - (g) ensure that all existing and new contracts anticipated during the forthcoming financial year are clearly itemized in the Budget supporting documentation;
 - (h) make appropriate arrangements for the opening of tenders and their secure retention;
 - (i) submit to the Corporate Improvement and Performance team tender forms as required by these Contract Procedure Rules;
 - (j) ensure original contract documents are forwarded to Shared Executive Manager (Governance) for safekeeping;
 - (k) ensure effective contract management, contract reviews and monitoring during the lifetime of all contracts in their areas;
 - (l) seek and act upon advice from the Corporate Improvement and Performance team where necessary to ensure compliance with these responsibilities; and
 - (m) keep records of waivers/variations of any provision of these Contract Procedure Rules.

- 6.2.2 Chief Officer/Deputy Chief Officers must keep a register of
- (a) contracts entered into by or on behalf of the Council, and
 - (b) exemptions recorded under Rule 3 and satisfy themselves that the use of exemptions has been monitored by the Corporate Improvement and Performance team.

7. VARIATIONS AND EXEMPTIONS

- 7.1 Except where the Public Contracts Regulations 2006 apply, the Cabinet has the power to waive any requirements within these Contract Procedure Rules for specific projects. An exemption under this Rule 3 allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with Rule 9.
- 7.2 Additionally, these Contract Procedure Rules may be waived or varied where the circumstances are certified by the Corporate Improvement and Performance team as meeting any of the following criteria:
- 7.2.1 for works, supplies or services which are either patented or of such special character that it is not possible to obtain competitive prices;
 - 7.2.2 for supplies purchased or sold in a public market or auction;
 - 7.2.3 for the execution of works or services or the purchase of supplies involving specialist or unique knowledge or skills;
 - 7.2.4 with an organisation which has won a contract for an earlier phase of work via a competitive process and where the work forms part of a serial programme and has previously been identified as such;
 - 7.2.5 with an organisation already engaged by the Council for a similar and related procurement and where there is significant benefit to extending the contract to cover this additional requirement, without exposing the Council to unacceptable risk;
 - 7.2.6 for works, supplies or services which are only available from one organisation;
 - 7.2.7 involving such urgency that it is not possible to comply with the Contract Procedure Rules;
 - 7.2.8 for the purchase of a work of art or museum specimen, or to meet the specific requirements of an arts or cultural event which cannot be procured competitively due to the nature of the requirement;
 - 7.2.9 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;
 - 7.2.10 where relevant UK or EU legislation not otherwise referred to in these Contract Procedure Rules prevents the usual procurement process from being followed;
or
- 7.3 In addition to approval by the Corporate Improvement and Performance team:
- 7.3.1 the Monitoring Officer must be consulted where purchases are to be made using standing arrangements with another local authority, government

department, health authority, primary care trust, statutory undertaker or public service purchasing consortium.

- 7.3.2 The Monitoring Officer must be consulted where the contract is an extension to an existing contract and a change of supplier would cause:
- (a) Disproportionate technical difficulties
 - (b) Diseconomies
 - (c) Significant disruption to the delivery of Council services.
- 7.4 Every variation/exemption form will be recorded on a master register to be maintained by the Corporate Improvement and Performance team.
- 7.5 Where a variation/exemption is being applied for by the Corporate Improvement and Performance team, it must also be scrutinised by the Monitoring or S151 Officer, to ensure the robustness of the procedure.
- 7.6 The use of e-procurement does not negate the requirement to comply with all elements of these Contract Procedure Rules. The circumstances under which an exemption to the use of e-procurement can be requested are detailed in Rule 11.
- 7.7 Where a variation/exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services, Chief Officer/Deputy Chief Officer may approve the exemption but must prepare a report for the next meeting of the Cabinet to support the action taken.
- 7.8 Any exemption granted for more than one year must be reviewed annually and either reconfirmed or amended.
- 7.9 Where grant conditions require expenditure to be incurred within a financial year, and notification of grant is received so late as to prevent compliance with CPR 9, an exemption may be approved by the Corporate Management Team on receipt of a report from the Chief Officer/Deputy Chief Officer
- 7.10 The Corporate Improvement and Performance team must monitor the use of all exemptions.

8. RELEVANT CONTRACTS

- 8.1 All Relevant Contracts must comply with these Contract Procedure Rules. A Relevant Contract is any arrangement made by, or on behalf of, the Council for the carrying out of works, supplies, goods, materials or services. These include arrangements for:
- 8.1.1 the supply or disposal of goods or materials,
 - 8.1.2 the hire, rental or lease of goods or equipment,
 - 8.1.3 execution of works,
 - 8.1.4 the delivery of services, including (but not limited to) those related to:
 - (a) the recruitment of staff
 - (b) land and property transactions

(c) financial and consultancy services

(d) the supply of staff by employment agents, consultants or any other companies

8.2 Relevant Contracts do not include:

8.2.1 contracts of employment which make an individual a direct employee of the authority,

8.2.2 agreements regarding the acquisition, disposal, or transfer of land (to which the Financial Procedure Rules apply), or:

8.2.3 the payment of grants to third parties.

NB While grants are not covered by these Contract Procedure Rules, there are rules on the awarding of grants which do need to be observed. The Council cannot simply choose to treat procurement as a grant in order to avoid conducting a competitive process.

9. RECORDS

9.1 The Public Contracts Regulations 2006 require contracting authorities to maintain the following comprehensive records of procurement activities:

9.1.1 contract details including value

9.1.2 selection decision

9.1.3 justification for use of the selected procedure

9.1.4 names of bidding organisations, both successful and unsuccessful

9.1.5 reasons for selection

9.1.6 reasons for abandoning a procedure

The outcome of any competitive procurement process must be recorded in a Report and submitted to the Corporate Improvement and Performance team. The Corporate Improvement and Performance team will maintain a register of all such Reports. Information from these Reports will also be used for the tracking of procurement savings, sustainability benefits, and other data.

9.2 Where the total value is less than £75,000.00 for works and £75,000.00 for supplies of goods materials or services, the following documents must be kept;

9.2.1 invitations to quote;

9.2.2 a written record of:

(a) any exemptions and reasons for it; and

(b) the reasons if the lowest price is not accepted

9.2.3 written records of communications with the successful contractor.

- 9.3 Where the total value exceeds £75,000.00 for works and £75,000.00 for supplies of goods, materials or services, the Officer must record:
- 9.3.1 pre-tender market research;
 - 9.3.2 the method of obtaining bids
 - 9.3.3 any contracting decision and the reason for it
 - 9.3.4 any exemption under Rule 3 together with the reasons for it
 - 9.3.5 the award criteria
 - 9.3.6 tender documents sent to and received from candidates
 - 9.3.7 the contract documents
 - 9.3.8 clarification and post-tender negotiation (to include minutes of meetings)
 - 9.3.9 written records of communications with candidates and with the successful contractor throughout the period of the contract
- 9.4 Written records required by this Rule 5 must be kept for six years (twelve years if the contract is under seal) after the final settlement of the contract. However, documents which relate to unsuccessful candidates may be microfilmed or electronically scanned or stored by some suitable method after twelve months from award of contract, provided there is no dispute about the award.
- 9.5 Prospective candidates must be notified simultaneously in writing and as soon as possible of any contracting decision. If a candidate requests in writing the reasons for a contracting decision, the officer must give the reasons in writing within 15 days of the request.
- 9.6 The Freedom of Information Act 2000 gives a general right of public access to all types of 'recorded' information held by public authorities, sets out exemptions from that general right, and places a number of obligations on public authorities with regard to the disclosures of information. The Council will, as a general rule, allow public access to recorded information where possible and the contractor shall agree to the Council making any disclosures in accordance with the Act.

10. RISK ASSESSMENT

- 10.1 All procurements via Invitation to Tender, and Requests for Quotation where appropriate, must be supported by a risk assessment. This risk assessment must be carried out at the start of the procurement process.
- 10.2 The risk assessment process will identify where further specialist advice should be sought.
- 10.3 Full details of the process to be followed, including the approved risk log and matrix, are available in the Procurement Guidance for Officers.

11. ADVERTISING

The Procurement Officer will ensure that the minimum advertising requirements, in line with EU treaty principles and as outlined in the Procurement Guidance for Officers, are met.

12. APPROVED LISTS AND FRAMEWORK AGREEMENTS

12.1 Approved Lists

- 12.1.1 Approved lists must not be used where they are prohibited under the Public Contracts Regulations 2006.
- 12.1.2 This Rule shall have effect where the Council has determined that a Standing List or Lists shall be kept of persons suitable for undertaking contracts for the execution of specified categories of work or for the supply of specified categories of goods, materials or services within such values or amounts as may be specified.
- 12.1.3 Standing Lists should be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. Standing Lists cannot be used where the EU Procedure applies.
- 12.1.4 Standing Lists shall:
- (a) be compiled following the procedure stipulated in this Rule 8
 - (b) contain the names and addressees of all persons whose requests to be included have been approved by the Deputy Chief Officer in consultation with the Corporate Improvement and Performance team.
 - (c) no persons may be entered on a Standing List until there has been an adequate investigation into both their financial and technical ability to perform the contract, unless such matters will be investigated each time tenders are invited from that list.
 - (d) no persons shall be precluded from inclusion on a Standing List other than for good reasons.
 - (e) indicate whether a person whose name is included is approved for contracts of all or only some of the specified categories, values or amounts.
 - (f) be kept by the relevant Deputy Chief Officer who will co-ordinate all enquires in respect of the list.
 - (g) Standing Lists must be drawn up after an advertisement inviting applications for inclusion on the list. The advertisement must be placed to secure widest publicity amongst relevant suppliers and not less than four weeks before the list is first compiled. Persons may be entered on a list between the initial advertisement and re-advertisement provided the requirements of Rule 8.1.4 are met.
- 12.1.5 Standing Lists and shortlisting criteria must be reviewed at least annually and re-advertised at least every three years, Review means:
- 12.1.6 the reassessment of the financial, technical ability and performance of those persons on the list unless such matters will be investigated each time Candidates are invited from that list, and
- (a) the deletion of those persons no longer qualified, with a written record kept justifying the deletion.

12.1.7 On re-advertisement, a copy of the advertisement must be sent to each person on the list, inviting them to apply at least four weeks before each review.

12.1.8 All Standing Lists must be open to public inspection.

(a) Where invitation to tender for a contract is limited to persons whose names appear on a Standing List maintained under this Rule 8, an invitation to tender for that contract shall be sent to at least four of those persons. Each person invited to tender must be approved for a contract for the category, value or amount selected. If there are insufficient suitably qualified persons to meet the competition requirement, all suitably qualified persons must be invited.

12.2 Framework Agreements

12.2.1 Framework Agreements are agreements between the Council and one, or three or more suppliers for the provision of goods, works or services on agreed terms for a specific period, for estimated quantities against which orders may be placed if and when required during the contract period.

12.2.2 The term of a Framework Agreement must not exceed four years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number.

12.2.3 Where Frameworks are awarded to several organisations, contracts based on Framework Agreements may be awarded in one of two ways, as follows:

(a) where the terms of the agreement are sufficiently precise to cover the particular call-off, by applying the terms laid down in the Framework Agreement without re-opening competition, or

(b) where the terms laid down in the Framework Agreement are not precise or complete enough for the particular call-off, by holding a further competition in accordance with the following procedure:

(i) inviting the organisations within the Framework Agreement, that are capable of executing the subject of the contract, to submit bids, with an appropriate time limit for responses, taking into account factors such as the complexity of the subject of the contract,

(ii) awarding each contract to the bidding organisation who has submitted the best bid on the basis of the relevant Award Criteria set out in the Framework Agreement.

13. COMPETITION REQUIREMENTS / ASSETS FOR DISPOSAL

13.1 Competition Requirements

13.1.1 The Procurement Officer must establish the total value of the procurement including whole life costs and incorporating any potential extension periods which may be awarded. Where EU Procurement rules apply, Chief Officers/Deputy Chief Officers must also ascertain the value of a contract in accordance with those rules.

13.1.2 Contracts must not be artificially under or over estimated or divided into two or more separate contracts where the effect is to avoid the application of Contract Procedure Rules/EU Regulations and UK legislation.

13.1.3 Where the estimated total value for a purchase is within the values in the first, second and third columns of the table below, the tendering procedure in the fourth column must be followed.

Works	Supply of Goods, Materials and Services	Consultants	Tendering Procedure
up to £4,999	up to £4,999	up to £4,999	One quote this should be a local provider unless not appropriate. This should be done on a purchase card where possible.
£5,000 to £24,999	£5,000 to £24,999	£5,000 to £24,999	At least three quotes shall be sought. Local providers must have been given an opportunity to provide a quote
£25,000 to £74,999	£25,000 to £74,999	£25,000 to £74,999	At least five written quotations shall be sought. Local providers must have been given a n opportunity to provide a quote
£75,000 up to EU Procurement Threshold	£75,000 up to EU Procurement Threshold	£75,000 up to EU Procurement Threshold	Open tender including Contracts Finder a social value clause must be built into the specification and contract
Above £4,322,012 (EU threshold*)	Above £172,514 (EU threshold)	Above £172,514 (EU threshold)	EU Procedure – OJEU notice. Local social value clause must be built into the specification of the contract.

* Latest published EU Procurement thresholds January 2014. These amounts will need to be updated as and when EU thresholds change

- 13.1.4 Where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirements, all suitably qualified candidates must be invited.
- 13.1.5 An officer must not enter into separate contracts nor select a method of calculating the total value in order to minimize the application of the Contract Procedure Rules.
- 13.1.6 Where services are currently purchased internally, i.e. from within the Council, for internal provision, the requirement to obtain other quotations or tenders does not apply. However, the purchaser may choose to seek alternative quotations/tenders for the purpose of market testing.
- 13.1.7 Where the Public Contracts Regulations 2006 apply, the procuring Officer shall consult the Corporate Improvement and Performance team to determine the procedure for conducting the procurement exercise.
- 13.1.8 External consultants and other professional advisers shall only be appointed if the process of tendering as prescribed for contracts in Parts B or C above has been followed except
- (a) where the nature of the work is deemed by a Chief Officer/Deputy Chief Officer/Assistant Director to be so specialised as to preclude quotations or tenders being received from more than one source; or
 - (b) where the advice or work of a consultant is in the opinion of the Chief Officer/Deputy Chief Officer/Assistant Director required as a matter of urgency; or
 - (c) the appointment is made from a list approved by the relevant Cabinet Member and the fee involved does not exceed £10,000
- 13.1.9 After the exercise of this power a report shall be made to the relevant Cabinet Member and if they so require a further report shall be made to the Cabinet

13.2 Assets for Disposal

- 13.2.1 Assets for disposal must be dealt with in accordance with the Council's Financial Procedure Rules.
- 13.2.2 Assets for disposal must be sent to Public Sale except where better value for money is likely to be obtained by inviting quotations and tenders. In the latter event, the method for disposal of surplus or obsolete stocks/stores or assets other than land must be determined as follows:

Total Value	Procedure
Up to £5,000	Two written quotations or public sale
£5,000.01 and above	At least three written quotations or public sale, or an invitation to

	tender
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14. PRE-TENDER MARKET TESTING AND CONSULTATION

- 14.1 The Council may consult potential suppliers, prior to the issue of the Invitation to Tender or Request for Quotation, in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential organisation,
- 14.2 When engaging with potential suppliers, the Council must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, and where this may prejudice the equal treatment of all potential bidding organisations or distort competition,
- 14.3 In undertaking any market testing activities, the Officer responsible should refer to any guidance contained in the Procurement Guidance for Officers.

15. EVALUATION CRITERIA AND STANDARDS

15.1 Evaluation Criteria

15.1.1 In any procurement exercise the successful bid should be the one which:

- (a) offers the lowest price where payment is to be made by the Council, or offers the highest price if payment is to be received, or:
- (b) offers the most economically advantageous balance between quality and price.

In the latter case, the Council will use criteria linked to the subject matter of the contract to determine that an offer is the most economically advantageous, for example: price, service, quality, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost effectiveness, safety, after-sales service, technical assistance, delivery date, delivery period and period of completion.

15.1.2 Issues that are important to the Council in terms of meeting its corporate objectives can be used to evaluate bids. The criteria can include, for example sustainability considerations, support for the local economy, or the use of sub-contractors. The bidding organisations' approaches to continuous improvement and setting targets for service improvement or future savings could also be included. All criteria must relate to the subject matter of the contract, be in line with the Council's corporate objectives and must be objectively quantifiable and non-discriminatory.

15.1.3 The procurement documentation should clearly explain the basis of the decision to bidding organisations, making clear how the evaluation criteria specified in the process will be applied, the overall weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.

15.1.4 The evaluation criteria must not include:

- (a) Non-commercial considerations
- (b) Matters which discriminate against suppliers from the *European Economic Area* or signatories to the *Government Procurement Agreement*.
- (c) Matters which are anti-competitive within the meaning of the Local Government Act 1988.

15.2 Standards

- 15.2.1 Relevant British, EU and International standards which apply to the subject matter of the contract and which are necessary to properly describe the required quality must be included with the contract. The Monitoring Officer must be consulted if the officer proposes to use standards other than European standards.
- 15.2.2 Officers should refer to any further guidance outlined in the Procurement Guidance for Officers.

16. INVITATION TO TENDER / REQUEST FOR QUOTATION

- 16.1 Invitations to Tender/Requests for Quotation must be issued in accordance with the requirements of these Contract Procedure Rules, with particular attention to Rule 7, Rule 9 and Rule 17.
- 16.2 The Invitation to Tender shall state that no tender will be considered unless it is received by the date and time stipulated in the Invitation to Tender. No tender delivered in contravention of this Rule 12 shall be considered.
- 16.3 all Invitations to Tender shall include the following:
 - 16.3.1 A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers, together with the terms and conditions of contract that will apply.
 - 16.3.2 A requirement for candidates to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the candidate to any other party (except where such disclosure is made in confidence for a necessary purpose).
 - 16.3.3 A requirement for candidates to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion.
 - 16.3.4 Notification that tenders are submitted to the Council on the basis that they are compiled at the candidates expense.
 - 16.3.5 A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and if possible in descending order of importance.
 - 16.3.6 The method by which arithmetical errors discovered in the submitted tenders are to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice versa.
- 16.4 The Invitation to Tender or Requests for Quotation must state that the Council is not bound to accept any tender or quotation.

- 16.5 All candidates invited to tender or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

17. **SHORTLISTING**

Any shortlisting (i.e. supplier selection or pre-qualification) must have regard to the economic, financial and technical standards relevant to the contract and the Evaluation Criteria. Special rules apply to contracts covered by the Public Contracts Regulations 2006.

18. **SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS**

18.1 **Tenders**

- 18.1.1 Bidding organisations must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirements. Where the Public Contract Regulations 2015 apply, Part 3 of the Regulations lays down specific minimum time periods for tenders.

18.1.2 Tender Contents:

Each tender must contain:

- (a) An undertaking signed by the tenderer that to the best of their knowledge and belief they have complied with all the relevant provisions of the Health and Safety at Work Act 1974 and regulations made under it;
- (b) A statement that the tenderer will comply with all current relevant British Standard Specification or Code of Practice or equivalent European Union or international standards offering guarantees of safety, reliability and fitness for purpose;
- (c) A statement by the tenderer that they will not try to obtain or receive by whatever means any information which gives or is intended to give the tenderer or another party any unfair advantage over any other tenderer (including the Council's own workforce) in relation to the tendering for and award of any works/services contract;
- (d) A statement that the Council shall not be liable for expenses incurred in the preparation of tenders; nor shall the Council be bound to accept the lowest or any tenders submitted; nor shall the Council have to give reasons for the rejection of any tender and shall have reserved to them the right to invite fresh tenders should they consider that course desirable.

18.2 **Electronic Arrangements**

- 18.2.1 Quotations, Further Competition bids and Pre-Qualification Questionnaires which are received electronically will be opened by the Corporate Improvement and Performance team. The system will not allow any quotations to be opened until the allocated return date / time has passed.

- 18.2.2 Tenders which are received electronically via the e-tendering system will be opened by a representative from the Authorised officer of relevant team.

18.3 Hard Copy Arrangements

- 18.3.1 In the event that 'hard copy' tenders are to be accepted these must be submitted, sealed, in the envelope provided with the procurement documents and addressed to the Monitoring Officer without any mark revealing the bidding organisation's identity.
- 18.3.2 All hard copy tenders will be held by the Monitoring Officer until the tender opening date/time has been reached. The Monitoring Officer must not disclose the names of candidates to any staff involved in the receipt, custody or opening of tenders. Receipt of each tender must be
- (a) Date stamped;
 - (b) Initialled by the receiving officer or the Monitoring Officer; and
 - (c) Logged immediately upon receipt in the tender register.
 - (d) All hard copy tenders for the same contract will be opened at the same time by a representative of the Chief Officer/Deputy Chief Officer who invited the tenders and a representative from the Authorised officer of relevant team. A register of tenders received will be kept by the Authorised officer of relevant team and will be initialled on each occasion by the officers who are present at the opening of the tenders.
- 18.3.3 In the event that hard copy quotations are to be accepted these must be submitted in a plain envelope marked 'Quotation for....' followed by a description of the goods, works or services being procured.
- 18.3.4 Hard copy quotations will be received directly by Service staff. All quotations must be opened together once the official return date / time has been passed in the presence of at least two persons who shall comprise the Chief Officer/Deputy Chief Officer or their authorised representative (on Principal Officer grade or above) and in the presence of at least one other officer.

19. CLARIFICATION PROCEDURES AND POST TENDER NEGOTIATIONS

- 19.1 Providing clarification of an Invitation to Tender to potential or actual candidates or seeking clarification of a tender whether in writing or by way of a meeting is permitted. However, any such clarification must not involve changes to the basic features of the bidding organisation's submission.
- 19.2 Post tender negotiation means negotiations with any tenderer after submission of a tender and before the award of the contract with a view to obtaining an adjustment in price, delivery or content. It must not be conducted in an *EU Procedure* where this might distort competition particularly with regard to price. Where post tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.
- 19.3 If post tender negotiations are necessary after a single stage tender or after the second stage of a two stage tender, then such negotiations shall only be undertaken with the tenderer who has previously been identified as submitting the best tender. Tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the tender documents. Officers appointed by the Chief Officer/Deputy Chief Officer to carry out post tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.

- 19.4 Post tender negotiation must only be conducted in accordance with guidance given by the Monitoring Officer and Corporate Improvement and Performance team.
- 19.5 The Monitoring Officer and Corporate Improvement and Performance team must be consulted:
 - 19.5.1 Wherever it is proposed to enter into post tender negotiation
 - 19.5.2 About whether negotiation is with all tenderers.
- 19.6 Negotiations must be conducted by a team of at least two officers, one of whom must be from a section independent to that leading negotiations.

20. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING OF ORGANISATIONS

20.1 Evaluation

- 20.1.1 The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the procurement documents provided to bidding organisations, and in line with any guidance detailed in the Procurement Guidance for Officers.
- 20.1.2 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the Invitation to Tender as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.
- 20.1.3 Deputy Chief Officers must ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.

20.2 Award of Contract

- 20.2.1 The Council is required to notify successful and unsuccessful bidders of the outcome of a procurement process, in writing, in as timely a fashion as possible.
- 20.2.2 Where procurement has been subject to the Public Contract Regulations 2015, the Alcatel Standstill (a 10 day standstill period before a contract can be awarded to allow an unsuccessful bidding organisation an opportunity to challenge the proposed contract award) will need to be included in the procurement timetable before the contract can be awarded.
- 20.2.3 Decisions on award of contract must be made in accordance with the scheme of delegations in Part 3 of the Constitution.

20.3 Debriefing

- 20.3.1 The debriefing of organisations must be carried out in line with any guidance detailed in the Procurement Guidance for Officers.

21. NOMINATED SUB CONTRACTS

- 21.1 The following provision shall have effect where the Council proposes to enter into a contract for the execution of work with a person ("the main contractor") and also proposes to nominate the main contractor one or more sub-contractors or suppliers for the execution of work or the supply of goods, materials or services within the main contract.

21.2 Tenders for the nomination shall be invited in accordance with the relevant provisions of Rule 9.

21.2.1 The terms of the invitation shall require an undertaking by the tenderer that if selected they will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main contract in relation to the work or goods, materials or services in the sub-contract;

21.2.2 The Chief Officer/Deputy Chief Officer concerned or their authorised representative shall nominate to the main contractor a person whose tender is in their opinion most suitable. Provided that where the tender is other than the lowest received, the circumstances shall be reported appropriately.

21.3 Tenders received under this Rule 17 must comply with Rules 12 and 14.

22. CONTRACT DOCUMENTS

22.1 Format of Contract Documents

22.1.1 Every formal written contract for the supply of goods or materials shall provide that should the contractor fail to deliver the goods or materials or any portion thereof within the time or times specified in the contract, The Council, without prejudice to any other remedy for breach of contract, shall determine the contract either wholly or to the extent of such default and to purchase other goods, or materials, as the case may be, of the same or similar description to make good:

(a) such default; or

(b) in the event of the contract being wholly determined the goods or materials remaining to be delivered.

The clause shall further secure that the amount by which the cost of so purchasing other goods or materials exceeds the amount which would have been payable to the contractor in respect of the goods or materials, if they had been delivered in accordance with the contract, shall be recoverable from the contractor.

22.1.2 Every Relevant Contract/must be in writing and must state clearly:

(a) what is to be supplied (description and quality)

(b) payment provisions (amount and timing)

(c) when the Council will have the right to terminate the contract

(d) that the contract is subject to the law as to prevention of corruption

The Council's standard terms and conditions must be used where possible.

22.1.3 In addition, every Relevant Contract for purchases over £25,001.00 for works, £25,001.00 for supplies of goods, materials or services and £10,000.00 for consultants must also as a minimum state clearly:

(a) that the contractor may not assign or sub-contract without prior written consent

- (b) any insurance requirements
- (c) health and safety requirements
- (d) ombudsman requirements
- (e) data protection requirements if relevant
- (f) that charter standards are to be met if relevant
- (g) race relations requirements
- (h) a right of access to relevant documentation and records of the contractor for monitoring and audit purposes

22.1.4 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Monitoring Officer. An award letter is insufficient.

22.1.5 All contracts must include the following paragraph:

‘The Contractor recognises that the Council is under a duty to act in a manner which is compatible with the Convention rights as defined by Section 1(1) of the Human Rights Act 1998 (‘Convention Rights’). This duty includes a positive obligation on the Council to ensure that contractors providing services on the Council’s behalf act in a way which is compatible with the Convention Rights. The Contractor therefore agrees to provide the Services and comply with its other obligations under this contract in a manner which is compatible with the Convention Rights.’

22.1.6 The Officer responsible for securing the signature of the contractor must ensure) that the person signing for the contracting party has authority to bind it.

22.2 **Contract Signature**

22.2.1 A contract entered into by or on behalf of the Council must:

- (a) Where the contract is in the form of a deed, be made under the Council’s seal and attested as required by the Constitution, or:
- (b) Where the contract is in the form of an agreement, either:
 - (i) be signed by at least two officers of the Council authorised as required by the Constitution, or:
 - (ii) be formalised by the sending of an award letter and the subsequent issuing of a purchase order.

22.2.2 A contract must be sealed where;

- (a) The Council wishes to enforce the contract for more than six years after it ends
- (b) The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services

- (c) Where there is any doubt about the authority of the person signing for the contracting party
- (d) Where the total value is expected to exceed £75,000.00.

22.3 Legal Services Review of Tenders and Contracts

22.3.1 To ensure the integrity of the procurement process:

- (a) All proposed Invitations to Tender, where they are not in compliance with the Council's harmonised contract documentation or standard terms and conditions issued by a relevant professional body, will be reviewed by the Deputy Chief Officer.
- (b) Any proposed Invitations to Tender which are subject to the Public Contracts Regulations 2006, or which are deemed to be of high risk, must be reviewed by the Deputy Chief Officer.
- (c) Any proposed contract where there is any deviation from the contract terms included in the invitation to tender must be reviewed by the Deputy Chief Officer

23. DIRECT EMPLOYMENT OF LABOUR

Every formal written contract for the execution of work shall incorporate the following conditions:

- 23.1 The Contractor shall be responsible for ensuring that all person employed by the, and by any Sub-Contractor, in the work are in the Contractor's or Sub-Contractor's direct employment and it is expressly agreed between the parties hereto that the Contractor and Sub-Contractor shall not use 'lump labour' on or about the work.
- 23.2 The expression 'lump labour' shall mean the practice of individual workpeople or groups of workpeople contracting as independent labour only sub-contracts and not being in the direct employment of the Contractor or Sub-Contractor.
- 23.3 The Contractor will use their best endeavours, utilising the appropriate Government employment agencies if necessary, to employ local persons in the execution of the work.

24. LIQUIDATED DAMAGES, BONDS AND PARENT COMPANY GUARANTEES

- 24.1 Every formal written contract which exceeds £75,000.00 in value or amount and is for the execution of works shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed.
- 24.2 The Officer must consult the Deputy Chief Officer when a tenderer is a subsidiary of a parent company and the officer does not think that a parent company guarantor is necessary, and:
 - 24.2.1 The total value exceeds £75,000.00.
 - 24.2.2 Award is based on evaluation of the parent company, or
 - 24.2.3 There is some concern about the stability of the tenderer.
- 24.3 The officer must consult the Deputy Chief Officer about whether a bond is needed:
 - 24.3.1 Where the total value exceeds £75,000.00.

- 24.3.2 Where it is proposed to make stage payments or other payments in advance of receiving the whole of the subject matter of the contract.

25. PREVENTION OF CORRUPTION

- 25.1 Rules and regulations pertaining to the prevention of corruption are outlined in the Council's Financial Procedure Rules and must be adhered to.

- 25.2 The following clauses must be put in every written Council contract:

'The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:

- 25.2.1 Offer, give or agree to give anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or

- 25.2.2 Commit an offence under the Bribery Act 2010 or Section 117(2) of the 1972 Act; or

- 25.2.3 Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.

Any clause limiting the Contractor's liability shall not apply to this cause.'

- 25.3 Any suspected irregularity shall be referred to the Audit Manager who shall notify the Monitoring Officer where necessary. Any examination of contractors' or tenderers' books and records as a result of any such suspected irregularity shall be conducted by the Audit Manager. If, in the investigation of any irregularity, the Monitoring Officer considers that disciplinary procedures may need to be invoked, the appropriate Chief Officer/Deputy Chief Officer shall also be notified.

26. DECLARATION OF INTERESTS

Rules and regulations pertaining to the Declaration of Interests are outlined in the Code of Conduct for Employees within the Constitution and must be adhered to.

27. CONTRACT MANAGEMENT / MONITORING

- 27.1 All contracts must have an appointed Contract Manager for the entirety of the contract. The responsible Deputy Chief Officer must ensure a Contract Manager is designated prior to award.

- 27.2 Contract management, monitoring, evaluation and review must be conducted in line with any guidance detailed in the Procurement Guidance for Officers.

28. POST CONTRACT MONITORING AND EVALUATION

- 28.1 During the life of the contract the Officer must monitor in respect of:

28.1.1 performance

28.1.2 compliance with specification and contract

28.1.3 cost

28.1.4 any Best Value requirements

28.1.5 user satisfaction and risk management

- 28.2 Where the Total Value of the contract exceeds £75,000.00 the Officer must make a written report evaluating the extent to which the purchasing need and contract objectives were met by the contract. This should be done normally when the contract is completed. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

29. INTERNAL PROVIDERS

Where an in-house Service is bidding in competition for the provision of goods, works or services, care must be taken to ensure a fair process between the in-house provider Service and external bidding organisations.

30. EXTERNAL BODY GRANT FUNDING

- 30.1 Where a procurement process is funded, in whole or part, by grant funding which has been awarded to the Council by an external funding body, the Procurement Officer must ensure that any rules or conditions imposed by the funding body are adhered to, in addition to the requirements of these Contract Procedure Rules.
- 30.2 Where there is any conflict between these Contract Procedure Rules and the rules or conditions imposed by the funding body, the stricter requirement should be followed.

31. APPOINTMENT OF CONSULTANTS

- 31.1 The engagement of consultant architects, engineers and surveyors or other professional consultants including Counsel shall be subject to completion of a formal letter, contract of appointment or brief.
- 31.2 Consultants shall be required to provide evidence of and maintain professional indemnity policies to the satisfaction of the relevant Deputy Chief Officer for the periods specified in the respective agreement. The excess for any one claim shall be no more than £1,000.00.
- 31.3 Consultants shall be selected and commissions awarded in accordance with the values and procedures recorded in the table in Rule 9.1.3 above.
- 31.4 Records of consultancy appointments shall be maintained in accordance with Rule 5.

32. REVIEW AND AMENDMENT OF CPRS

These Contract Procedure Rules shall be reviewed and updated, as necessary, on an annual basis as part of the annual review of the Constitution.

4C - FINANCIAL MANAGEMENT STANDARDS

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1.0 FINANCIAL MANAGEMENT

1.1 Financial Management Standards

1.1.1 All staff and members have a duty to be honest when dealing with financial issues.

1.1.2 Chief Officers/Deputy Chief Officers shall ask the advice of the S151 Officer on any matters within his/her scope which could materially affect the finances of the council before any provisional or other commitment is incurred or before reporting on it to the Cabinet.

1.1.3 The S151 Officer shall be authorised to increase the financial limits contained within the following sections of these procedures by RPI-x (the retail prices index excluding mortgage interest payments) subject to all increases being notified to all Chief Officers/Deputy Chief Officers and members of the council.

Key Controls:

- To ensure the promotion of financial management standards throughout the council.
- To have a system in place to review compliance with financial standards.
- To undertake regular comparisons of performance indicators and benchmark standards and report these to the Cabinet and full Council.

Responsibilities of the S151 Officer

- To ensure the proper administration of the financial affairs of the council.
- To set the financial management standards and to monitor compliance with them.
- To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards of finance staff throughout the council.
- To advise on the key strategic controls necessary to secure sound financial management.

- To ensure that financial information is available to enable accurate and timely monitoring and reporting.

Responsibilities of Executive Managers

- To promote the financial management standards set by the S151 Officer in their service units and to monitor adherence to the standards and practices, liaising as necessary with the S151 Officer .
- To promote sound financial practices in relation to the standards, performance and development of staff in their service units.

1.2 Local Government Legislation

1.2.1 Nothing in these procedures shall affect any powers, duties or obligations of any officer created by the 1972 Act or any other legislation (including subordinate legislation) amending, substituting or replacing that Act or any other legislation (including subordinate legislation) regulating or governing the conduct of business or financial affairs of the Council or local authorities generally.

1.3 UNLAWFUL EXPENDITURE

1.3.1 If any officer of the council becomes aware that he or any other officer or the cabinet, a Cabinet Member, committee or other person or body making any decision on or recommendation on behalf of the Council:

- has made or is about to make a decision which involves or would involve the council incurring expenditure which is unlawful
- has taken or is about to take a course of action which, if followed through would be unlawful and likely to cause a loss to the council, or is about to enter into the council's accounts an item which should not lawfully be entered into those accounts.

Then he or she shall immediately inform the S151 Officer and Monitoring Officer and give them the information relating to the matter.

1.4 EMERGENCY PROCEDURES

1.4.1 Where there is no cost provided for in the Budget and/or emergency

action is required such that it is not reasonably practicable to go through the normal

procedures, Chief Officers/Deputy Chief Officers shall have power to spend up to an estimated value of £20,000; and to spend over £20,000 with the approval of the Leader , in each case subject to the expenditure subsequently being vired in accordance with the Budget transfer rules contained in the constitution.

1.5 MANAGING EXPENDITURE

1.5.1 The Council will set revenue and capital Budget s each year and the cabinet and officers may incur expenditure as allowed in the Budget and Policy Framework Procedure Rules.

Key Controls:

- To ensure the Budget and Policy Framework Procedure Rules are adhered to.

- To set in place monitoring and reporting systems.

Responsibilities of the S151 Officer

- Once capital and revenue Budgets have been approved by the Council, the S151 Officer will submit quarterly financial monitoring reports to the Corporate Management Team and the Cabinet.
- After the Council has approved the revenue Budget and allocation of resources, and before the start of the financial year, the S151 Officer will issue to each Chief Officer/Deputy Chief Officer an approved revenue Budget statement for the services under their control.
- The S151 Officer is responsible for co-ordinating, preparing and submitting a draft five year revenue Budget and a draft five year capital Budget to the Cabinet each year.

Responsibilities of the Executive Manager

- Executive Managers are responsible for preparing and submitting draft revenue and capital Budgets and related reports in consultation with the relevant Portfolio Holder to the Cabinet in accordance with the financial strategy timetable.
- Any report submitted to a committee, panel, the cabinet or a Cabinet Member which has direct financial implications shall contain a statement indicating the sufficiency or otherwise of the financial provision contained in the revenue Budget/capital Budget.

1.6 BUDGET TRANSFERS (VIREMENTS) AND ADDITIONAL EXPENDITURE

The Full Council is responsible for agreeing procedures for virement of expenditure between Budget headings and procedures for incurring additional expenditure above the set Budget. Virement rules (which include reference to additional expenditure) are detailed in Part 4 of Section 6 of the Constitution.

1.7 YEAR END BALANCES

1.7.1 Approvals for carrying Budget over at year end are in line with rules on transferring funds between reserves.

1.8 ACCOUNTING POLICIES

1.8.1 The accounting policies are set out in the statement of accounts, in accordance with proper practices as set out in the format required by the relevant codes of practice *on local authority accounting in the United Kingdom*.

Key controls

- Systems of internal control are in place that ensure that financial transactions are lawful.
- Suitable accounting policies are selected and applied consistently.
- Proper accounting records are maintained.
- Financial statements are prepared which present fairly the financial position of the council and its expenditure and income.

Responsibilities of the S151 Officer

To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31st March each year.

Responsibilities of Chief Officers/Chief Officers

- To comply with accounting policies and guidelines as approved by the S151 Officer .

1.9 ACCOUNTING RECORDS AND RETURNS

1.9.1 Maintaining proper accounting records and returns is important because it demonstrates the way we discharge our responsibility for public funds. It also ensures that we are fairly stating the financial position of the Council at any one point of time.

Key Controls

- All Portfolio Holders, Executive Managers, directors, finance staff and Budget managers operate within the required accounting standards and timetables.
- All the Council's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis.
- Reconciliation procedures are carried out to ensure transactions are correctly recorded.
- Prime documents are retained in accordance with legislative and other requirements.

Responsibilities of the S151 Officer

- To determine the accounting procedures and records for the council.
- To arrange for the compilation of all accounts and accounting records under his or her direction.
- To comply with the following principles when allocating accounting duties:
- separating the duties of providing information about sums due to or from the council and calculating, checking and recording these sums from the duty of collecting or disbursing them
- officers with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- To make proper arrangements for the audit of the Council's accounts in accordance with the Accounts and Audit Regulations 2011.
- To ensure that all claims for funds including grants, for which he or she is responsible for, are made by the due date.
- To prepare and publish the audited accounts of the council for each financial year, in accordance with the statutory timetable.
- To issue guidance on the retention of financial documents relating to minimum periods for retention and ensure that these timescales are complied with.

Responsibilities of Chief Officers/Deputy Chief Officers

- To consult and obtain approval from the S151 Officer before making changes to accounting records and procedures.
- To comply with the following principles:
- the duties of providing information concerning amounts due to or from the council and of calculating, checking and recording these amounts shall be separated as completely as possible from the duty of collecting or paying them. Officers who are responsible for

checking and examining the accounts of cash transactions shall not be involved in any of these transactions.

- To ensure the proper retention of financial documents in accordance the document retention policy.
- To ensure grant claims are submitted on time and to comply with grant conditions.
- To maintain adequate records to provide an audit trail leading from the source of income/expenditure through to the accounting statements.
- To exercise continuous Budgetary control throughout the financial year.
- To nominate accountable Budget holders for services under their control.
- To submit in consultation with the S151 Officer regular Budget monitoring statements to the Cabinet in respect of revenue and capital expenditure and income.

1.10 THE ANNUAL STATEMENT OF ACCOUNTS

1.10.1 The Council has a statutory responsibility to prepare its own accounts to present fairly its operations during the year.

Key controls

The Council is required to make arrangements for the proper administration of its financial affairs and to ensure that one of its officers has the responsibility for The administration of these affairs. In this council, that officer is the S151 Officer.

The Council's statement of accounts must be prepared in accordance with proper practices as set out in the relevant codes of practice on local authority accounting in the United Kingdom.

Responsibilities of S151 Officer

To select suitable accounting policies and to apply them consistently.

To make judgements and estimates that are reasonable and prudent.

To comply with the CIPFA Code of Practice on Local Authority Accounting in the United Kingdom.

To sign and date the statement of accounts, stating that it presents fairly the financial position of the council at the accounting date and it's income and expenditure for the year ended 31st March.

To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

Responsibilities of Chief Officers/Deputy Chief Officers

To comply with accounting guidance and to provide information to enable the statement of accounts to be prepared.

To comply with closedown timetables.

2.0 FINANCIAL PLANNING

2.1 BUDGETING

2.1.1 Setting a Budget

2.1.1(a) The Council must set a Budget, which is a realistic statement of its estimated income and expenditure for the coming year based upon information currently available to it. It has a duty to take into account the demand for its services, and the effect upon council taxpayers of meeting those demands at varying levels of services. The council has to ensure that its medium term financial plans are robust. Under Part 11 of the Local Government Act 2003 members must:

- Review the Budget 'from time to time' during the year.
- Consider the impact of any overspend on the forecast reserves position.
- Decide on any appropriate action - reduce spending, increase income or utilise reserves.

2.1.1(b) The format of the Budget determines the level of detail to which financial control and management will be exercised.

Key Controls:

- The format complies with all legal requirements.
- The format complies with CIPFA's Service Reporting Code of Practice.
- The format reflects the accountabilities of service delivery.
- Each service code must have a nominated accountable Budget holder.
- Council approval, must be obtained if a Executive Manager wishes to approve a proposal which would increase ongoing commitments into future years.

Responsibilities of the S151 Officer

- To advise the Cabinet on the format of the Budget that is approved by the full Council.
- To ensure that:
 - the format complies with all legal requirements
 - the format complies with CIPFA's Service Reporting Code of Practice
 - the format reflects accountabilities of service delivery.

2.1.2 Revenue Budget preparation, monitoring and control

2.1.2(a) The revenue Budget will be prepared each year in accordance with the financial strategy, procedures and guidance set by the Cabinet.

2.1.2(b) Council approval must be obtained if an Executive Manager wishes to approve a proposal which would increase ongoing commitments into future years.

Key controls

Budget managers should be responsible only for income and expenditure that they can influence.

There is a nominated Budget manager for each Budget heading.

Budget managers accept accountability for their Budgets and the level of service to be delivered and understand their financial responsibilities.

Budget managers follow an approved certification process for all expenditure.

Income and expenditure are properly recorded and accounted for.

Performance levels/levels of service are monitored in conjunction with the Budget and necessary action is taken to align service outputs and Budget.

Specific Budget approval is given for all expenditure.

Budget managers are appropriately trained to carry out their Budgetary control responsibilities.

Detailed work sheets are prepared for every Budget heading by the Budget manager.

Responsibilities of the S151 Officer

To establish an appropriate framework of Budgetary management and control that ensures that:

- Budget management is exercised within annual cash limits unless the full Council agrees otherwise
- each Chief Officer has available timely information on expenditure and income on each Budget which is sufficiently detailed to enable managers to fulfil their Budgetary responsibilities
- expenditure is committed only against an approved Budget head
- officers responsible for committing expenditure comply with relevant guidance and financial regulations
- each cost centre has a single named Budget manager, determined by the relevant Executive Manager. As a general principle, Budget responsibility should be aligned as closely as possible to the decision making processes that commits expenditure
- significant variances from approved Budgets are investigated and reported by Budget managers regularly
- Budget Managers should consider at regular intervals whether additional revenue can be generated and/or new sources of revenue funding can be found and must report once a year to Cabinet and appropriate panels to recommend policies for fees and charges.

Responsibilities of Chief Officers/Deputy Chief Officers

To be responsible for maintaining Budgetary control within their sections by:

- ensuring expenditure is committed only against an approved Budget head
- investigating significant variances and reporting to the S151 Officer on a monthly basis
- exercising management within annual cash limits.

Before placing orders or entering into any other sort of commitment to expenditure, Budget managers must be satisfied that there is enough Budget provision in the overall revenue Budget under their control and that the order or commitment will not result in an overspending.

To nominate Budget managers for each item of service income and expenditure under the control of the Executive Manager.

2.1.3 Budgets and Medium Term Planning

The Budget is the financial representation of the Council's policies and is the most visible and public outcome of its financial planning processes: it represents choices made in the allocation of scarce

resources and as such represents the Council's priorities.

Key Controls

Monitor compliance against the Financial Strategy.

Responsibilities of the S151 Officer

To draft the Financial Strategy.

Responsibilities of Chief Officers/Deputy Chief Officers

To comply with the Financial Strategy.

2.1.4 Resource Allocation

We need to prioritise resource allocation to ensure that resources are used effectively and directed at our priorities. Resources may include staff, money, equipment, goods and materials.

Key Controls

- resources are acquired in accordance with the law and using an approved authorisation process
- resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for
- resources are securely held for use when required
- resources are used with the minimum level of waste, inefficiency, or loss for other reasons.

Responsibilities of the S151 Officer

- To advise on methods available for the funding of resources, such as grants from Central Government and borrowing requirements.
- To advise on the suitability of proposals to introduce/modify financial procedures to control resources (e.g. stock control systems).
- To assist in the allocation of resources to Budget managers.

2.1.5 Capital Programme

Capital expenditure involves acquiring or enhancing fixed assets with a long term value to the council such as land, buildings, equipment and vehicles. The Council's capital programme is developed by the S151 Officer in consultation with EMT and Cabinet Members, who consider capital expenditure proposals submitted. These proposals are evaluated, appraised and prioritised by EMT before being considered by the Cabinet who will then make recommendations to full Council. Under the Prudential Code councils now have a duty to decide and keep under review the amount they can afford to borrow.

Key controls

The key controls for capital programmes are:

- specific approval by the full Council for the programme of capital expenditure
- a scheme and estimate, including project plan, progress targets and associated revenue

expenditure is prepared for each capital project, for approval by CMT before projects commence

- development and maintenance of asset management plans
- accountability for each proposal is accepted by a named officer
- progress and expenditure is monitored and compared to the approved Budget.
- ensuring the scheme links to the council's corporate objectives
- proposals for improvements and alterations to buildings must be approved by the Asset and Property Manager.

Responsibilities of the S151 Officer

To issue guidance relating to the strategy and controls for capital schemes. The definition of 'capital' will be determined by the S151 Officer , having regard to Government regulations and accounting requirements.

To collate capital estimates jointly with Executive Managers and the Chief Executive and to submit them to the Cabinet for approval. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to the full Council. Cabinet approval is required where a chief officer/deputy Chief Officer proposes to bid for, or exercise additional borrowing approval, not anticipated in the capital programme.

To prepare and submit global monitoring reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates and to recommend action where necessary to ensure that capital expenditure is fully funded.

To administer the Council's scheme of virement.

Responsibility of the Executive Managers

To brief the appropriate technical officer so that an accurate estimate and outline of the scheme can be prepared.

To consult with residents and service users.

To consult with other relevant Directors about any land acquisitions and disposals, planning and highway issues.

To prepare and submit to the S151 Officer the estimate and outline scheme, together with a report on the outcome of consultations, and a project plan for implementation of the scheme.

To ensure the scheme links to the council's corporate objectives.

All proposals to incur capital expenditure must include a standard expenditure form, and must comply with all other requirements, as specified by the S151 Officer . The form will include the immediate and long term revenue effects for each capital project. Possible VAT implications will also need identifying.

The Executive Manager, with the agreement of the S151 Officer, can approve an estimate and outline scheme provided that the estimate does not exceed the sum included for the scheme in the approved capital Budget.

The Executive Manager must seek the approval of the Cabinet to proceed with a scheme where the estimate exceeds the sum included in the approved capital Budget. If this happens, an appropriate method of financing the additional expenditure must be clearly identified. Unless otherwise

approved by the Financial Procedure Rules, approval will be sought from Full Council.

2.2 MAINTENANCE OF RESERVES

2.2.1 A local authority must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. Reserves for specific purposes may also be maintained.

Key controls

- To maintain reserves in accordance with the relevant codes of practice on local authority accounting in the United Kingdom and agreed accounting policies.
- For each reserve established, the purpose, usage and basis of transactions should be clearly identified. All requests for reserves to be set up need to be in writing stating the purpose, value and likely draw down dates.
- The establishment of reserves and incurring of expenditure from reserves should be authorised by the S151 Officer.
- An annual review of reserves undertaken by the Cabinet.

Responsibilities of the S151 Officer

- To advise the Cabinet and/or the full Council on prudent levels of reserves for the authority, and to take account of the advice of the external auditor in this matter.

Responsibilities of Chief Officers /Deputy Chief Officers

- to ensure that resources are only used for the purposes of which they were intended.

3.0 RISK MANAGEMENT AND CONTROL OF RESOURCES

3.1 Risk Management and Insurance.

3.1.1 The diversity of services offered by the Council presents a vast potential for risk in all its different forms. The risks facing the council fall into two categories: strategic and operational. CMT will facilitate the risk management process at corporate and service level.

3.1.2 It is the responsibility of the Cabinet to approve the authority's risk management strategy and to promote a culture of risk management awareness throughout the authority.

Key controls

- The key controls for risk management are:

- There is a corporate risk strategy with procedures in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Council.
- A monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls.
- Managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management.
- Provision is made for losses that might result from the risks that remain.
- Risk management is incorporated into service business plans.
- Acceptable levels of risk are determined and insured against where appropriate.

Responsibilities of the Monitoring Officer

- To prepare and promote the Authority's risk strategy.
- To develop risk management controls in conjunction with other Executive Managers.

Responsibilities of the S151 Officer

- To effect corporate insurance cover, through external insurance and internal funding, and to arrange for the negotiation of claims in consultation with other officers.
- All employees of the Council shall be included in suitable fidelity guarantee insurance.

Responsibility of the Chief Internal Auditor

- To report annually to the authority an opinion on the overall adequacy and effectiveness of the authority's internal control environment, providing details of any weaknesses that qualify this opinion and bringing to the attention of the authority any issues particularly relevant to the preparation of the Annual Governance Statement.

Responsibilities of Executive Managers

- To notify the S151 Officer immediately in writing any loss, liability or damage that may lead to a claim by or against the Authority, together with any information or explanation required by the S151 Officer or the Authority's insurers.
- If any assets covered by insurance are damaged or stolen, Executive Managers must not order replacements, remedial repairs or other work - except for emergency measures to prevent further damage or loss occurring - until the S151 Officer has been consulted. Damage or loss arising from malicious acts should be reported to the police.
- To notify the S151 Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurance.
- To comply with any relevant procedures, protocols and timescales relating to handling claims as laid down in the Financial Handbook.
- To notify the S151 Officer promptly of any significant acquisitions or disposals of assets or any alteration to the scope or level of services provided, particularly where the risk of accident, injury, loss or damage is likely to increase.
- On a regular basis, the S151 Officer will forward to Executive Managers schedules of assets covered by insurance. Executive Managers must examine the schedules and ensure that the details of those assets are correctly recorded and that the scope and level of insurance cover are adequate, consistent with the Authority's corporate insurance arrangements.
- To provide the S151 Officer with any information that he or she needs and in the timescale that he or she sets, to enable him or her to manage the Authority's insurances effectively.
- To take responsibility for risk management within their areas of responsibility, having regard to advice from the Monitoring Officer and the S151 Officer and other specialist officers (e.g. health and safety).
- To ensure that risk action plans for their areas of responsibility are up to date.
- To consult with the S151 Officer and the appropriate Director on the terms of any indemnity that the Authority is requested to give.
- To ensure that officers, or anyone covered by the Authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

3.2 INTERNAL CONTROLS

3.2.1 Internal control refers to the whole system of controls established in order to provide reasonable assurance of effective and efficient operations, reliable financial information and reporting and compliance with laws and regulations.

Key controls

The key controls and control objectives for internal control systems are:

- key controls should be reviewed on a regular basis and the council should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively
- managerial control systems should be in place, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
- financial and operational control systems and procedures should include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems
- the existence of an effective internal audit function that is properly resourced. It should operate in accordance with the standards of practice applicable to Internal Audit (particularly CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom) and with any other statutory obligations and regulations.

Responsibilities of the S151 Officer

- To assist the Authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
- To ensure the integrity of the postage procedures as follows:

Except in an emergency, all postal packets, other than official registered envelopes, shall be franked with the correct charge by means of postal franking machines in accordance with the Regulations of the Post Office. The S151 Officer shall ensure that such records as are necessary are kept:

- to record all operations on the machines
- to ensure that the cost of all postages is allocated over the accounts properly chargeable to the Council.
- the machines shall be kept securely to prevent unauthorised use.

Responsibilities of Executive Managers

- To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- To review existing controls in the light of changes affecting the council and to establish and implement new ones in line with guidance from the S151 Officer. Executive Managers should also be responsible for removing controls that are unnecessary or not cost or risk effective, for example, because of duplication.
- To ensure staff have a clear understanding of the consequences of lack of control.
- To ensure the integrity of the post opening procedures, whereby at least two employees are present when post is opened so that money received by post is properly identified and recorded.

3.3 INTERNAL AUDIT

3.3.1 Internal audit is an independent appraisal function established by the management of an organisation for the review of the internal control system as a service to the organisation. It objectively examines, evaluates and reports on the adequacy of internal control as a contribution to

the proper, economic and effective use of resources. The Council shall maintain an adequate and effective system of internal audit of the accounting records and control systems. The S151 Officer is the responsible officer for the purposes of this requirement (Account and Audit Regulations 2003, Section 6).

3.3.2 A Strategic Audit Plan outlining areas of future audit cover over a period of three years will be prepared after consultation with the Executive Managers. In addition an annual audit programme will be agreed with the Corporate Management Team and approved by Governance and Audit Committee prior to the commencement of each financial year.

3.3.3 Copies of completed internal audit reports shall normally be passed to the S151 Officer, and Relevant Executive Manager for comment and appropriate action to be taken. Executive Managers must respond in writing to any recommendations contained in audit reports. A log will be kept of outstanding actions which will be signed off by the relevant Executive Manager.

Key controls

The key controls for internal audit are:

- that it is independent in its planning and operation
- the Chief Internal Auditor has direct access to the Chief Executive, all levels of management and directly to elected members
- internal auditors comply with the CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom
- unrestricted range of coverage of the organisation's operations
- internal audit will have the freedom to determine the priorities for internal audit, in consultation with management.

Responsibilities of the S151 Officer

To ensure that internal auditors have the authority to:

- access authority premises at reasonable times
- access all assets, records, documents, correspondence and control systems
- receive any information and explanation considered necessary concerning any matter under consideration
- require any officer of the Authority to account for cash, stores or any other authority asset under his or her control
- access records belonging to third parties, such as contractors, when required
- directly access the Chief Executive, the Cabinet, and the Governance and Audit Committee.
- To approve the strategic and annual audit plans prepared by the Chief Internal Auditor, which take account of the characteristics and relative risks of the activities involved.
- To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.
- To evaluate the adequacy and effectiveness of internal controls designed to secure assets and data and to assist management in preventing and deterring fraud and abuse and to examine the whole system of internal controls and not just the financial controls.
- To submit a report detailing the activities of internal audit to the Governance and Audit Committee annually as soon as practicable after the end of each financial year together with a summary of findings from each of the audits undertaken.
- To be responsible for deciding on the action to be taken to investigate suspected financial irregularities, including referring the matter to the police.
- To assist management in the pursuit of value for money.

Responsibilities of Executive Managers

- To ensure that auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- To consider and respond promptly to recommendations in audit reports.
- To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- To notify the S151 Officer immediately of any suspected fraud, irregularity, improper use or misappropriation of the Authority's property or resources. Pending investigation and reporting, the Chief Officer/Deputy Chief Officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Chief Internal Auditor prior to implementation.

3.4 EXTERNAL AUDIT

3.4.1 The authority may be subject to external audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue who have statutory rights.

3.4.2 The authority's accounts are scrutinised by the external auditors who must be satisfied that the statement of accounts presents fairly the financial position of the authority.

Key Controls

External auditors are appointed by the Audit Commission normally for a minimum period of five years.

Responsibilities of the S151 Officer

To ensure that external auditors have the authority to:

- access authority premises at reasonable times
- access all assets, records, documents, correspondence and control systems

To ensure there is effective liaison between external and internal audit.

Responsibilities of the Chief Officer/Deputy Chief Officers

- To ensure that external auditors have the authority to:

- access authority premises at reasonable times
- access all assets, records, documents, correspondence and control systems.

3.5 PREVENTING FRAUD AND CORRUPTION

3.5.1 Fraud is an irregularity deliberately carried out with the intention to deceive. Fraud occurs where a person unlawfully converts to their own use, the property or assets (including cash) of another person or persons, or attempts to do so, by the falsification of records. As a deliberate act, fraud is quite distinct from and cannot include negligence and accidental error.

3.5.2 All staff and members are required to comply with:

- Anti-Fraud and Anti-Corruption Policy.
- Codes of Conduct for Members and Officers as contained in the Constitution.
- Whistleblowing Policy.

Key controls

The key controls regarding the prevention of financial irregularities are that:

- the Authority has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption
- all members and staff act with integrity and lead by example
- senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Authority or who are corrupt
- high standards of conduct are promoted amongst members by the Standards Committee
- the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded
- whistle blowing procedures are in place and operate effectively
- legislation, including the Public Interest Disclosure Act 1998, is adhered to.

Responsibilities of the S151 Officer

- In conjunction with the Chief Executive to develop and maintain an anti-fraud and anti-corruption policy.
- To maintain adequate and effective internal control arrangements.
- To ensure that all suspected financial irregularities are reported to the S151 Officer , and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in by the Chief Internal Auditor to determine with the Crown Prosecution Service whether any prosecution will take place.

Responsibilities of the Executive Managers

- To ensure that all suspected financial irregularities are reported to the Chief Internal Auditor.
- To instigate the Authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- To ensure that where financial impropriety is discovered, the S151 Officer is informed.

3.6 ASSETS

3.6.1 Management of Assets

3.6.1(a) For the purpose of these Financial Procedures an asset is any item which has an intrinsic value and includes land, buildings, vehicles, plant, machinery, apparatus, furniture, computers, equipment, stock, materials, cash and securities. It is important that assets are safeguarded and used effectively in service delivery.

3.6.1(b) An employee of the Council must not use Council property, assets or materials for any

purposes other than the work of the Council unless approval has been sought from and given by the Chief Officer/Deputy Chief Officer. The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the appropriate officer concerned. Council property provided to individual officers or Members (e.g. Laptops and PC's for home use) must be controlled in a manner approved by the appropriate Director and inventories noted accordingly.

3.6.1(c) All property where practicable must be permanently marked to show that it is owned by the District Council and leased property should be marked in accordance with any agreement reached between the S151 Officer and lease companies.

Key controls

- The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:

- resources are used only for the purposes of the Authority and are properly accounted for
- resources are available for use when required
- resources no longer required are disposed of in accordance with the law and the regulations of the Authority so as to maximise benefits
- an asset register is maintained for the Authority - assets are recorded when they are acquired by the Authority and this record is updated as changes occur with respect to the location and condition of the asset
- procedures for the disposal of land
- all staff are aware of their responsibilities with regard to safeguarding the Authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation
- all staff are aware of their responsibilities with regard to safeguarding the security of the Authority's computer systems, including maintaining restricted access to the information held on them and compliance with the Authority's information security and internet security policies.

Responsibilities of the S151 Officer

- To ensure that an asset register is maintained in accordance with good practice for all fixed assets.
- To receive the information required for accounting, costing and financial records from each Chief Officer/Deputy Chief Officer.
- To calculate capital charges and depreciation for all properties and maintain the asset management revenue account.
- To ensure that assets are valued in accordance with the relevant codes of practice on local authority accounting in the United Kingdom. This is the responsibility of the Asset and Property Manager.
- The valuation of all of the major assets of the Council. A five year rolling programme of assets to be valued must be maintained, having been agreed with the S151 Officer. Information on asset valuations, purchases and sales must be provided to the S151 Officer for inclusion in the asset register in accordance with the timetable set by the S151 Officer. These valuations must include the estimated lives of assets.

Responsibilities of Norfolk County Council

To be responsible for the security of the Council's Information Technology facilities in accordance with Data Protection Regulations.

Responsibilities of the officer in charge of Council Land and Property Assets

To be responsible for keeping a register of all land and buildings owned by the Council. The register will hold information about: the purpose for which the land/building is held; description; location and OS map reference; purchase details; the nature of the Council's interest; rents and any other charges payable; restrictive covenants; and any tenancies or other interests granted. Council House lettings are excluded.

To keep a register of all land and buildings owned by the Authority and made available for letting. The register will hold information about: the purpose for which the land/building is held; description; location and ordnance survey map reference; purchase details; the nature of the Authority's interest; rents and any other charges payable; restrictive covenants; and any tenancies or other interests granted. To undertake or commission appropriate Land and Property valuation.

Responsibilities of the Monitoring Officer

To be responsible for the safe custody of title deeds.

Responsibilities of Chief Officer/Deputy Chief Officers

To be responsible for assets held by their service units and to make sure that buildings, fittings, furniture, equipment, plant, stores, cash or other goods are kept secure.

To keep a record of all assets held by their departments as outlined in the Financial Handbook.

To pay particular attention to the security of keys to alarm systems, safe and any other places where valuable assets are kept. Unless an exception is agreed by the appropriate Director, specified officers who hold individual keys, will keep such keys in their possession at all times and will be responsible for the security of such keys. The Asset and Property Manager must keep a list of the officers who hold keys.

To be responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc., under their control. To consult the Asset and Property Manager in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

To be responsible for ensuring that any office keys, identity cards, keys and the like are obtained from any employee leaving the employment of his service unit at or before the time of leaving.

To be responsible for maintaining standards of security of computer held information as laid down by legislation and the appropriate Director and Norfolk County Council from time to time.

To nominate officers who will be responsible for the issue of passwords for access to computer systems under their control. Records, approved by the appropriate Director, of officers with access to systems must be maintained.

On leaving the Authority, an officer's password/access must be inhibited promptly. Appropriate officers shall ensure that passwords are regularly changed and never shared.

Where land or property is disposed of, to ensure that, where appropriate, the District Council obtains the best financial terms for disposal. The Monitoring Officer and the S151 Officer will advise on where this is not felt to be appropriate. Financial proceeds from disposals must be utilised in accordance with policies and procedures approved by the Cabinet and guidance provided by the

S151 Officer.

3.6.2 Cash

3.6.2 (a) To work to the various Guidance Notes relating to cash handling or to other arrangements approved by the S151 Officer . Cash held in any safe must not exceed the amount of the insurance limit for that safe.

3.6.2(b) If any cash is stolen the S151 Officer must be notified immediately. Stolen cash which is not covered by insurance must be written off with the agreement of the S151 Officer.

3.6.2(c) Under no circumstances may personal cheques be cashed out of monies held on behalf of the council.

3.6.3 Furniture, Equipment, Vehicles and Plant

3.6.3(a) All items which have a value of more than £10,000 must be listed on an inventory. Budget managers should add items to the inventory as soon as they are received. The S151 Officer will decide on the form in which inventories will be kept, this will be detailed in the Financial Handbook.

3.6.3(b) If an item is lost, stolen or disposed of this must be recorded against the entry in the inventory and the item should be written-off. The S151 Officer is authorised to write-off or dispose of obsolete, unrequired or deficient inventory items, up to a limit of £2,000 per annum. Sums in excess of this amount shall require the approval of the Finance Portfolio Holder.

3.6.3(c) Council property should only be moved from Council premises for official purposes with the permission of an authorised officer and a record should be kept of authorised removals.

3.6.3(d) The S151 Officer will provide general guidance to Directors and Executive Managers about insurance arrangements for vehicles, plant and equipment. The S151 Officer must be consulted when insurance cover is needed for any specific item of Council property which is to be used away from Council premises. The District Council's insurance arrangements do not generally cover private use of District Council property. Such property - vehicles, plant or equipment - must not be used for private purposes unless approval has been given by the Chief Executive.

3.6.3(e) Any surplus plant, vehicles, furniture or equipment must be sold by public tender or auction unless the financial interest of the Council would be better served by disposal in some other way. Goods must not be sold to an employee of the District Council unless the S151 Officer has given written approval. Before disposal the Chief Officer/Deputy Chief Officer must check if the asset is subject to leasing arrangements. If the asset is leased, disposal must be in accordance with the terms of the lease.

3.8 Asset Disposal

3.8.1 All sales of land and buildings must comply with the Council's policy on land sales, contained in the Asset Management Plan.

3.8.2 The appropriate officer, with the approval of the S151 Officer, is authorised to dispose of by competitive tender or public auction or write-off obsolete stores and equipment or surplus scrap up to a value of £10,000. Disposals or write-offs in excess of this amount are subject to the approval of the Cabinet Member with responsibility for Finance.

Key controls

- Assets for disposal are identified and disposed of at the most appropriate time, and only when it is in the best interests of the Authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.
- Procedures should protect staff involved in the disposal of assets from accusations of personal gain.

Responsibilities of the S151 Officer

- To ensure appropriate accounting entries are made to remove the value of disposed assets from the Authority's records and to include the sale proceeds if appropriate.

3.9 Lost Property

3.9.1 Any property left on Council premises and regarded as lost must be disposed of in accordance with any procedures approved by the S151 Officer and after consultation with the Monitoring Officer.

3.10 Treasury Management

Key Controls

The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities. A Treasury Management policy statement setting out the matters detailed in paragraph 15 of CIPFA's Code of Practice for Treasury Management in Local Authorities has been adopted by the Council. Implementation and monitoring of the policy is delegated to the S151 Officer.

All Council monies shall be under the control of the S151 Officer and shall be effected in the name of the Council.

At or before the start of the financial year the S151 Officer shall report to the Cabinet on the strategy for treasury management it is proposed to adopt for the coming financial year.

All Executive Decisions on borrowing, investment or financing shall be delegated to the S151 Officer who shall be required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.

The S151 Officer shall issues reports in accordance with the reporting requirements identified each year in the Treasury Management Strategy approved by Council.

3.10.1 Banking arrangements and cheques

3.10.1(a) All arrangements with the Council's bankers shall be made by or under arrangements approved by the S151 Officer who shall be authorised to operate such banking accounts, as he/she may consider necessary.

3.10.1(b) All cheques shall be ordered only on the authority of the S151 Officer , who shall make proper arrangements for their safe custody.

3.10.1(c) Cheques drawn on the Council's main banking accounts shall bear the facsimile signature of an approved bank signatory or be signed by an approved bank signatories.

3.10.1(d) Supplier payments in excess of £50,000 shall be countersigned by an approved bank

signatory. Prime documents must be produced for checking at the time of countersigning.

3.10.1(e) All arrangements with the council's bankers shall be made by or under arrangement approved by the S151 Officer . The S151 Officer shall be authorised to operate such bank accounts as he/she may consider necessary.

3.10.1(f) Unless specifically agreed by the Cabinet, all cheques must have the facsimile signature of the appropriate Director and be crossed 'account payee only'.

3.10.1(g) Cheques shall be ordered only on the authority of the S151 Officer . Cheques on the council's bank account shall bear the facsimile signature of the appropriate Director.

3.10.1(h) Any monies received must be paid without delay to the S151 Officer , to the Council's bank, or as the S151 Officer directs. Unless there is specific written authority from the S151 Officer, no deductions can be made from monies received. Under no circumstances may personal cheques be cashed out of monies held on behalf of the Council.

3.10.1(i) Where a customer does not have a bank account this matter must be referred to the S151 Officer .

3.10.1(j) The S151 Officer shall make such safeguards as are necessary to ensure a proper division of duties in the ordering, custody and issue of cheques and the reconciliation of bank accounts.

3.10.2 Imprest Accounts

3.10.2(a) The S151 Officer shall provide such Imprest Accounts as he/she considers appropriate for such officers of the Council as may need them for purposes of defraying petty cash and other expenses. These Imprest Accounts shall be kept on a full reimbursement basis. The level of Imprest Account shall be determined by the S151 Officer, after consultation with the Executive Manager. All payments must wherever possible be supported by VAT receipts and certified by the appropriate officer. No income received on behalf of the authority may be paid into an imprest account but must be banked or paid to the authority as provided elsewhere in these procedures.

Key controls

- Many millions of pounds pass through the Authority's books each year. This resulted in the establishment of a CIPFA Treasury Management Code of Practice. This aims to provide assurances that the Authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Authority's capital sum.
- That the Authority's borrowings and investments comply with the CIPFA Code of Practice on Treasury Management, and with the Authority's Treasury Management policy statement and strategy.

Responsibilities of the S151 Officer - treasury management

- To arrange borrowings and investments for the authority in such a manner as to comply with the CIPFA Code of Practice on Treasury Management, and the Authority's Treasury Management policy statement and treasury strategy and approved investment strategy
- The S151 Officer shall issue reports in accordance with the Treasury Management Strategy approved annually by Council.
- To open and operate bank accounts as are considered necessary. All accounts must be in the name of the Authority.

- To order, store and control all cheques drawn on the Authority's main bank accounts.

Responsibilities of the S151 Officer - investments and borrowing

- To ensure that all investments of money are made in the name of the Authority or in the name of nominees approved by the full Council.
- To ensure that all securities that are the property of the Authority or its nominees and the title deeds of all property in the Authority's ownership are held in the custody of the appropriate Chief Officer/Deputy Chief Officer.
- To effect all borrowings in the name of the Authority.
- To act as the Authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Authority.

Responsibilities of the Executive Managers - investments and borrowing

- To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Cabinet (or if contrary to the Budget & Policy Framework the approval of full Council).

3.11 STAFFING

3.11.1 It is the collective responsibility of the Executive Managers to ensure that the salary Budget and targets are monitored and to ensure adequate control over such costs as sickness, overtime, training and temporary staff. The staffing Budget must not be exceeded without the approval of the Corporate Management Team.

3.11.2 It is the responsibility of the Human Resources Manager to act as advisor to Executive Managers on areas such as National Insurance and pension contributions as appropriate.

3.11.3 It is the responsibility of Directors and Executive Managers to ensure that controls are in place to ensure staff do not carry out private work in council time.

Key controls

The key controls for staffing are:

- an appropriate staffing strategy and policy exists, in which staffing requirements and Budget allocation are matched
- procedures are in place for forecasting staffing requirements and cost.

Responsibilities of the S151 Officer

- To act as an advisor to Executive Managers on areas such as actuarial valuations on the pension fund.

Responsibilities of the Executive Managers

- To ensure that the staffing Budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- To control total staff numbers by adjusting the staffing, to a level that can be funded within the approved Budget, varying the provision as necessary within that constraint in order to meet changing operational needs.
- To ensure that the S151 Officer is immediately informed if the staffing Budget is likely to be materially over or under spent.

- To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

Responsibilities of the Human Resources Manager

- To act as an advisor to Executive Managers on areas such as national insurance and pension contributions, as appropriate.
- To ensure that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

3.12 Money Laundering

Money Laundering is concerned with concealing the proceeds of crime in seemingly innocuous transactions and investments. Although the UK Money Laundering Regulations 2003 is not intended to include local authorities, it is seen as good practice to introduce procedures.

Procedures for monitoring large receipts of cash Council are included in the Treasury Management Practices approved annually by Council.

If staff are involved in the acceptance of cash payments in excess of £12,500 for a single transaction they must obtain evidence of the customers' identity, report the transaction to the S151 Officer and hold the records for at least 5 years.

3.13 FINANCIAL CONTROLS

3.13.1 The S151 Officer will also specify reporting procedures on main systems in order to provide positive assurance that systems of internal financial controls are both adequate and effective in practice. The major systems are:

- Creditors
- Payroll
- Housing Benefits
- Cash
- Rents
- Council Tax
- NNDR
- Debtors
- Capital
- Loans and Investments

4.0 FINANCIAL SYSTEMS AND PROCEDURES

4.1 SYSTEMS

4.1.1 All financial transactions of the Council may be the subject of detailed systems notes issued from time to time by the S151 Officer, following consultation with the Corporate Management Team, and which shall be complied with by the appropriate officers.

4.1.2 It is the responsibility of the Community Manager and the appropriate Director to ensure that there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of interruption.

4.1.3 It is the responsibility of Norfolk County Council to ensure adequate backup procedures are in place for computer systems.

Key controls

The key controls for systems and procedures are:

- basic data exists to enable the Authority's objectives, targets, Budgets and plans to be formulated
- performance is communicated to the appropriate managers on an accurate, complete and timely basis
- early warning is provided of deviations from target, plans and Budgets that require management attention
- operating systems and procedures are secure
- data is backed up on a regular basis.

Responsibilities of the S151 Officer

- To make arrangements for the proper administration of the Authority's financial affairs, including to:
- issue advice, guidance and procedures for officers and others acting on the Authority's behalf
- determine the accounting systems, form of accounts and supporting financial records
- establish arrangements for audit of the Authority's financial affairs
- approve in advance any new financial systems to be introduced
- approve in advance any changes to be made to existing financial systems.

4.2 INCOME AND EXPENDITURE

4.2.1 Income

4.2.1(a) The collection and recording of monies due to the Council shall be carried out in accordance with arrangements made or agreed by the S151 Officer. Each appropriate officer shall furnish the S151 Officer with such particulars in connection with work done, goods supplied, or services rendered, and of all other amounts due, as may be required by him or her to record correctly all sums due to the Council.

4.2.1(b) The S151 Officer shall be notified promptly of all money due to the Council under contracts, leases, and other agreements and arrangements entered into which involve receipt of money by the Council, and the S151 Officer shall have the right to inspect any documents or other evidence in this connection as he/she may decide.

4.2.1(c) All receipt forms, books, tickets and other such items, shall be ordered and supplied by the S151 Officer, or provided under arrangements approved by him, and he/she shall satisfy himself as to the arrangements for their safe control. Every issue of such documents shall be acknowledged by the signature of the officer to whom the issue is made.

4.2.1(d) All money received by an officer on behalf of the Council shall be properly safeguarded and be paid in full to the S151 Officer or, as he/she may direct, to the Council's bank account, on the next working day or as approved by the S151 Officer .

4.2.1(e) No deduction may be made from any such money.

4.2.1(f) Cheques shall not be cashed out of money collected on behalf of the Council.

4.2.1(g) Receipts shall be issued for all cash transactions.

4.2.1(h) Officers shall use official receipt forms or alternatively agree procedures with the Chief Internal Auditor for money received on behalf of the Council.

The following records need to be kept when paying in money:-

Every officer of the Council who pays money into a banking account of the Council shall enter on a paying-in slip, and on the counterfoil or duplicate thereof, particulars of such payment, including in the case of each cheque paid in:

- the amount of the cheque, and
- reference (such as the number of the receipt given or the name of the debtor) which will connect the cheque with the debt or debts in discharge or partial discharge of which it was received.

Where any cheque paid in as mentioned above was not received in discharge or partial discharge of a debt due to the Council, the officer shall note the fact on the counterfoil or duplicate of the paying-in slip."

4.2.1(i) No new charges or changes in existing charges shall be made, except upon a report by the appropriate officer, prepared in conjunction with the S151 Officer recommended by the Cabinet or appropriate committee.

4.2.1(j) Any sums deemed irrecoverable may be written off in accordance with the debt recovery policy.

Key controls

The key controls for income are:

- all income due to the Authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
- all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
- all money received by an officer on behalf of the Authority is paid without delay to the S151 Officer or, as he or she directs, to the Authority's bank account, and is properly recorded. The responsibility for cash collection should be separated from that for identifying the amount due, and that for reconciling the amount due to the amount received
- effective action is taken to pursue non-payment within defined timescales
- formal approval for debt write-off is obtained
- appropriate write-off action is taken within defined timescales
- appropriate accounting adjustments are made following write-off action
- all appropriate income documents are retained and stored for the defined period in accordance with guidance issued by the S151 Officer
- money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

Responsibilities of the S151 Officer

- To agree arrangements for the collection of all income due to the Authority and to approve the procedures, systems and documentation for its collection and accounting for VAT.
- To approve the format of official receipts (receipt books, tickets and similar items) and procedures for the control and supply of these to service units.
- To use debt recovery procedures to collect any income due to the Authority which has not been paid within specified time limits.
- To approve the arrangements for the writing-off of irrecoverable debts by Executive

Managers.

- To ensure that appropriate accounting adjustments are made following any write-off action.

4.2.2 Ordering and paying for work, goods and services

4.2.2(a) Official orders shall be issued for all work to be done or goods or services to be supplied, except where:

- a written contract is required, or
- for periodical payments such as rents and rates.
- For petty cash purchases, or
- such other expenditure as the S151 Officer may approve, in addition to Contract Procedure Rules
- verbal orders shall only be given in cases of emergency and these shall always be confirmed by **an official order** not later than the next working day and marked accordingly. All orders shall prescribe quantities, adequate description and price, or basis of price
- official orders raised shall be in the form approved by the S151 Officer . Each appropriate officer shall be responsible for the official orders issued from his/her section
- each appropriate officer shall notify the S151 Officer of the names of those members of his/her staff authorised to initiate official orders in the computerised ordering system

4.2.2(b) The S151 Officer shall be notified by each appropriate officer of the names of those members of staff authorised to approve the order requisitions, together with specimen signatures and initials. No officer shall sign any name other than his/her own, and facsimile signatures shall not be used.

4.2.2(c) An officer must not seek or receive any gift or personal inducement, including the possibility of lavish or excessive hospitality, in connection with the placing of any order.

4.2.2(d) Officers may not place orders with any individual or organisation with whom they have a family, personal or financial relationship. If an officer's work involves contact with any individual with whom they have a family, personal or financial relationship, that officer must notify the Monitoring Officer in writing.

4.2.2(e) Before placing orders or entering into any other sort of commitment to expenditure, officers must be satisfied that there is provision for the cost within the approved estimates and will not result in an overspending.

4.2.2(f) Directors and the Executive Managers are responsible for ensuring that orders comply with Financial Regulations and Contract Procedure Rules and Guidance notes.

4.2.2(g) The generation of order forms shall be provided under arrangements approved by the S151 Officer .

4.2.2(h) All accounts passed for payment shall be recorded in the computerised orders and payments system.

4.2.2(i) The S151 Officer and Compass Point Business Services (East Coast) Ltd will be responsible for ensuring processes are in place to maintain the security and integrity of data for transacting business electronically.

4.2.2.1 Certification of Invoices

4.2.2.1(a) An appropriate officer issuing an order shall be responsible for examining and verifying the relevant invoice. All accounts shall be certified by the respective Executive Manager, or

authorised officer as agreed with the S151 Officer except where the invoice relates to an approved order requisition and is within the set tolerance limits.

4.2.2.1(b) The certification of the invoice, goods received note, voucher or certificate shall mean that the appropriate officer is satisfied. There must be a clear separation of duties in relation to ordering and certification of invoices.

4.2.2.1(c) That, where an official order has been issued the goods received or services provided are in accordance with it that the goods, services etc have been inspected and found to be satisfactory. This will form part of the electronic authorisation process.

4.2.2.1(d) That the prices, extensions, calculations, all discounts, credits and tax are correct and in conformity with any tender, quotation, or contract or in the absence of any of these, that the prices are otherwise reasonable.

4.2.2.1(e) That the account in part or whole has not previously been passed for payment and the payment has been recorded on the order within the computerised ordering system.

4.2.2.1(f) That the appropriate entries have been made in inventories or stores records.

4.2.2.1(g) That the arithmetic and coding is correct.

4.2.2.1(h) That the expenditure is legal and has been duly authorised and is within the estimates.

4.2.2.1(i) That the Contract Procedure Rules, Financial Regulations and Resolutions of the council relevant to the payment have been complied with.

4.2.2.1(j) All invoices, accounts and certificates due for payment shall be in the name of the District Council except where by agreement the Council is acting as paymaster for an authorised agent of the Council. Where an invoice carries VAT this is only recoverable by the Council if a proper VAT invoice is made out in the name of the Council or where VAT rules allow for special treatment e.g. employee expenses.

4.2.2.1(k) Any amendments to an account shall be made in ink and initialled by the officer making it, stating the reasons where they are not self-evident.

4.2.2.1(l) Payments should not be made on a photocopied or faxed invoice any instances of these being rendered should be referred to the Chief Internal Auditor.

4.2.2.1(m) Each Director or Executive Manager shall notify as soon as possible after 31 March and not later than 12 April each year the S151 Officer of all outstanding expenditure relating to the previous financial year.

4.2.2.2 Contract Payments

4.2.2.2(a) Payments are only made for goods, services and the carrying out of works received at the correct price, quantity and quality standards.

4.2.2.2(b) Payments to contractors on account shall only be made on a certificate issued by the Chief Officer/Deputy Chief Officer concerned.

4.2.2.2(c) Actual contract costs of schemes shall be monitored by the appropriate Chief Officer/Deputy Chief Officer, and the S151 Officer notified if the approved contract sum is likely to

be exceeded.

4.2.2.2(d) The final certificate of completion of any contract shall not be issued until the appropriate officer, private architect, engineer or consultant has produced a detailed statement of account, together with relevant supporting documents to the Chief Officer.

4.2.2.2(e) The S151 Officer shall as they consider necessary examine final accounts for contracts and shall be entitled to make all such enquiries and receive such information and explanations as he/she may require in order to be satisfied as to the accuracy of the accounts.

Key controls

The key controls for ordering and paying for work, goods and services are:

- all goods and services are ordered only by appropriate persons and are correctly recorded
- all goods and services shall be ordered in accordance with the Authority's contract and procurement rules unless they are purchased from sources within the Authority
- goods and services received are checked to ensure they are in accordance with the order
- payments are not made unless goods have been received by the Authority, to the correct price, quantity and quality standards
- all payments are made to the correct person/supplier, for the correct amount and are properly recorded, regardless of the payment method
- all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with Data Retention guidance
- all expenditure is accurately recorded against the right Budget, any exceptions are corrected and VAT is correctly recorded
- in addition, the use of e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.
- Any use of Council purchasing cards will be in accordance with the Council's P-card policy. All cardholders must sign up to the policy prior to card use.

Responsibilities of the S151 Officer

- To ensure that all the Authority's financial systems and procedures are sound and properly administered.
- To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- To approve the form of official orders and associated terms and conditions.
- To make payments from the Authority's funds on the Chief Officer's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- To make payments to contractors, which must include details of the value of work, retention money, amounts previously certified and amounts now certified. These payments to be made to contractors using authenticated receipts raised by service units.
- To provide advice and on making payments by the most economical means.

Responsibility of Compass Point Business Services (East Coast) Ltd

- To enter into agreements for the supply of telephone exchanges, telephone equipment, answering machines, photocopiers, facsimile machines, cell phones, pagers etc. on behalf of the Authority.
- To enter into agreements for the supply of computer equipment and software on behalf of

the Authority.

4.2.3 PAYMENTS TO EMPLOYEES AND MEMBERS

Members' allowances are authorised in accordance with the scheme adopted by full Council.

Staff costs are one of the largest items of expenditure therefore it is important that payments are accurate.

Key controls

The key controls for payments to employees and members are:

- proper authorisation procedures are in place and appointments shall be made in accordance with the regulations of the Council, approved establishment, grades and rates of pay
- frequent reconciliations of payroll expenditure against approved Budgets and bank accounts
- all appropriate payroll documents are retained and stored for the defined period, in accordance with guidance document retention guidelines
- all expenditure, including VAT, is accurately recorded against the right service unit and any exceptions are corrected
- that Inland Revenue regulations are complied with.

Responsibilities of the Human Resources Manager

- To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- To implement any relevant pay awards and changes in conditions of employment as may be agreed at national level.
- To record and make arrangements for the accurate and timely payment of tax, national insurance, superannuation and other deductions.
- To make arrangements for payment of all travel and subsistence claims.
- To make arrangements for paying members' allowances, travel, and subsistence upon receiving the prescribed form, duly completed and authorised.
- To provide advice and encouragement to secure payment of salaries and wages by the most economical means.

Responsibility of the Chief Executive Officer

To approve officers' and members' claims submitted more than three months after the expenses were incurred.

To prescribe the format and certification methods for all time records and other payment documents.

Responsibilities of the Executive Managers

To notify the Human Resources Manager as soon as possible and in the form prescribed by him or her of all matters affecting the payment of emoluments, and in particular:

- Appointments, resignations, dismissals, suspensions, secondments and transfers.
- Changes in remuneration other than normal increments.
- Sickness forms.
- It is the responsibility of Directors and Executive Managers to ensure that controls are in place to ensure staff do not carry out private work in Council time.
- To send to the S151 Officer the names of officers authorised to sign documentation together

with specimen signatures.

4.2.3.1 Travelling, subsistence and member claims

Key Controls

- The certification by, or on behalf of the appropriate officer, shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred, and that the allowances are properly payable by the Council. Appropriate officers may authorise the casual use of officers' cars for official purposes, having confirmed that the officer's insurance covers use of their vehicle for business purposes, in such circumstances as they deem necessary.
- Frequent reconciliation of payments against approved Budgets and bank accounts.

Responsibilities of the Monitoring Officer

To make payments in respect of Travelling and Subsistence to Members of the Council Service upon receipt of the prescribed form, duly certified by the Member. Claims should be made within one month of the event giving rise to the claim, within seven days thereof. The payment of Standard and Special Responsibility Allowances will be made monthly by the Monitoring Officer directly into the Members bank account. This will occur automatically unless the Member renounces claim to the Allowances.

Responsibilities of the Chief Executive Officer

To approve Officers and members claims submitted more than three months after the expenses were incurred.

Responsibilities of Chief Officers

To submit all claims for the payment of car allowances, subsistence allowances, travelling and incidental expenses of officers of the Council should be submitted monthly within seven days of the end of the month to the Monitoring Officer for payment on a form approved by him, duly signed and certified by the appropriate officer.

4.2.4 Taxation

Tax issues can often be complex. It is important that the Authority's tax affairs are kept in order.

Key Controls

- Regular reconciliations.
- Guidance kept up to date.
- Returns are made according to statutory requirements.
- all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
- records are maintained in accordance with instructions

Responsibility of the S151 Officer

- To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.
- To provide details to the Inland Revenue regarding the construction industry tax deduction scheme and the return of company payments and interest (CT61).

- To maintain guidance in the Financial Handbook.

Responsibility of the Human Resources Manager

- To complete all Inland Revenue returns regarding Pay As You Earn (PAYE).
- To complete all returns required by the Pension Fund

Responsibility of Chief Officers/Deputy Chief Officers

- to ensure the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations
- to ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements
- to ensure that all persons employed by the authority are added to the authority's payroll
- to follow guidance on taxation issued by the S151 Officer and the Monitoring Officer and in the Financial Handbook.

4.2.5 Trading Accounts

The CIPFA Service Reporting Code of Practice contains guidance on the operation of trading accounts.

Key Controls

Regular monitoring of performance.

Responsibility of the S151 Officer

To advise on the establishment and operation of trading units.

Responsibility of Chief Officers/Deputy Chief Officers

To seek guidance from the S151 Officer before new trading operations are established.

5.0 EXTERNAL ARRANGEMENTS

5.1 PARTNERSHIPS

Partnerships play a major role in the delivery of council services.

"A partnership is a co-operative relationship between two or more free and independent parties which is designed to secure some shared objective. It can take all sorts of forms, but is generally assumed to exclude the familiar relationships between client and contractor, and between employer and staff."

Key Controls

Before the authority enters into a partnership the Cabinet shall agree and accept formally the roles and responsibilities of each of the partners. Full Council's approval will be required to enter into a partnership if the authority is to make a financial contribution which is outside the existing Budget provision.

Responsibility of the S151 Officer

To advise on the key elements of funding a project including:

- scheme appraisal for financial viability
- risk appraisal
- resourcing including taxation
- audit, security and control
- carry forward arrangements.

Responsibility of the Monitoring Officer

To ensure the authority has clear powers to enter into the partnership proposed.

Responsibility of Chief Officers

- maintain a register of all partnerships entered into with external bodies in accordance with procedures specified by the S151 Officer
- ensure appropriate taxation issues have been considered
- ensure all agreements and arrangements are properly documented
- ensure that before entering into agreements with external bodies, a risk management appraisal has been prepared for the S151 Officer and Corporate Management Team
- the partnership template has been completed (where the authority is contributing financially).
- Ensure that appropriate and proportional governance arrangements are put in place, including arrangements for the dissolution of the partnership

5.2 EXTERNAL FUNDING

External Funding can be an important source of income for the Authority. However, careful consideration needs to be given to the conditions attached to external funding and the capacity of the Authority to absorb any residual or ongoing costs when the funding stream has ceased.

Key Controls

Before any arrangements for external funding are entered into. A report to the S151 Officer and Corporate Management Team must be prepared outlining:

- The key conditions of funding
- Statutory requirements
- Responsibilities of the accountable body
- Any match funding requirements and the impact on future revenue Budgets.

If funding is for an amount in excess of the current Budget provision then a report must be prepared for the Cabinet and Full Council.

External funding will only be acquired where it meets the priorities approved in the Corporate Plan.

Responsibilities of the S151 Officer

- To ensure that all funding notified by external bodies is received and properly recorded in the Authority's accounts.
- To ensure that audit requirements are met.
- Where he or she is specifically responsible for submitting grant claims, to ensure that all

claims for funds are made by the due date.

Responsibility of Chief Officers/Deputy Chief Officers

- Must ensure that all claims for funds are made by the due date and grant conditions are complied with.
- To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue Budgets reflect these requirements.

5.3 WORK FOR THIRD PARTIES

Current legislation enables the authority to provide a range of services to other bodies. Arrangements should be in place to ensure that any risks associated with this work is minimised and the work is intra vires.

Key controls

Proposals are costed and approved by the Cabinet.

Responsibilities of the S151 Officer

- To advise on effective controls that will ensure resources are not wasted.
- To issue guidance as appropriate with regard to the financial aspects of third party work, and to set up appropriate accounting arrangements to effectively monitor the activity.

Responsibilities of Chief Officers/Deputy Chief Officers

- To ensure approval is obtained from the Cabinet before any negotiations are concluded to work for third parties.
- To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Monitoring Officer.
- To ensure the authority is not put at risk from any bad debts.
- To ensure that no contract is subsidised by the authority.
- To ensure the section has the appropriate expertise to undertake the contract and a full risk assessment has been undertaken.
- To ensure that such contracts do not impact adversely upon the services provided by the authority.
- To ensure all contracts are properly documented.
- To provide appropriate information to the S151 Officer to enable a note to be entered into the statement of accounts.

5.4 GROUP ACCOUNTS

Before the authority enters into any condition of any partnerships where the authority has an interest in another entity the S151 Officer must be satisfied that:

- Governance arrangements meet specified minimum standards
- The authority will have access to the information and explanations it needs for group accounts purposes (and other aspects relating to control over its financial interests)
- Consolidation data will be provided in a specified format and by a deadline
- Arrangements are in place for timely audit of the financial statements
- Directors appointed to the authority are fully briefed on group accounting requirements
- Finance representatives are encouraged to attend board meetings to outline the importance of group accounting information.

PART 4 D - ACCESS TO INFORMATION PROCEDURE RULES

1.0 **THESE RULES APPLY TO THE FOLLOWING:**

- (a) Rules 2-10 apply to all meetings of:
 - (i) the Council
 - (ii) the Cabinet
 - (iii) the Overview and Scrutiny Committees
 - (iv) Joint Executive Committees
 - (v) Non-Executive Joint Committees; and
 - (vi) All other Panels and Committees which may be established with decision making powers (together called meetings)
- (b) Rules 6, 7 and 10 also apply to decisions made by officers and Cabinet Members.
- (c) Rules 11-18 apply to Cabinet, Committees of the Cabinet, Cabinet Members, officers making Executive Decisions, and any Executive joint committees
- (d) Rules 14 and 17 also apply to the Overview and Scrutiny Committees

2.0 **OTHER RIGHTS TO INFORMATION**

- 2.1 The rights of members of the public explained in these Rules are in addition to any other legal rights and any other rights contained in this Constitution.

3.0 **RIGHTS TO ATTEND AND RECORD MEETINGS**

- 3.1 Members of the public may attend all meetings to which these Rules apply, unless they are asked to leave a meeting, or part of a meeting, because the meeting needs to discuss exempt or confidential items. This is explained in more detail in Rule 10 below.
- 3.2 Members of the public attending a meeting may also film or record the meeting, but if they are asked to leave the meeting they may also be asked to stop filming or recording the meeting.

4.0 **NOTICES OF MEETINGS**

- 4.1 If the Cabinet, any committee of the Cabinet, (including any area committee), or any Executive joint committee or sub-committee, is likely to ask members of the public to leave a meeting, or part of a meeting, because
- 4.2 they need to discuss exempt or confidential items (see Rule 10 below) the Council must post a notice at the Council Offices, Priory Road, Spalding, and on the Council's website, at least 28 clear days before the meeting, and again at least 5 clear days before the meeting, of its intention to hold the meeting in private. If it is not possible to do this then members of the public may only be asked to leave the meeting where the Chairman of the Overview and Scrutiny Committee(s) or, where not available, the Chairman of the Council(s) or, where none, the vice-Chairman of the Council(s) has agreed that the meeting may be held in private. The Council(s) must then post a notice explaining why the meeting is so urgent that the usual procedure cannot be followed

- 4.3 A list of all meetings will be uploaded to the Council's website. Alternatively, you can visit the Council Offices
- 4.4 The Council will normally give at least five clear Working Days' notice of any meeting by posting details of the meeting at the Council Offices, and on the Council's website.
- 4.5 If the meeting is a joint committee, details of the meeting will be posted at the offices of each of the Councils who have members on that joint committee.
- 4.6 a committee meeting will be held at a location other than the Council Offices the Council will normally also post a notice at the premises at which the meeting will be held

5.0 **ACCESS TO AGENDAS AND REPORTS BEFORE THE MEETING**

- 5.1 Unless Rule 11 below applies, the Council will make copies of agendas and reports available for the public to view at the Council Offices at least five clear Working Days before a meeting. The Council will at the same time also upload copies to the Council's website.
- 5.2 Sometimes the Council will not be able to meet this deadline, as follows:
 - (a) If an agenda item is added later, the revised agenda will be available to view from the time the item is added to the agenda.
 - (b) When a meeting is called at shorter notice copies of the agenda and reports will be available to view from the time the meeting is called.
 - (c) When a report is prepared after the agenda has been sent out, the Council will make the report available for the public to view as soon as the report is completed and sent to councillors.

6.0 **MEMBERS OF THE PUBLIC CAN ASK FOR COPIES OF AGENDAS AND REPORTS**

- 6.1 The Council will supply to any person, on payment of postage and other relevant costs, any copies of:
 - (a) any agenda and reports which are available for the public to view;
 - (b) if the proper officer thinks fit, any other documents supplied to councillors in connection with an item.

7.0 **ACCESS TO MINUTES, AGENDAS, REPORTS, DECISION NOTICES ETC AFTER A MEETING/DECISION**

- 7.1 The Council will make available copies of the following for at least six years after a meeting/decision:
 - (a) agendas, reports and records of decisions (minutes) made by the Cabinet, any committee of the Cabinet, and any Executive joint committees
 - (b) reports and notices of Executive Decisions made by individual Cabinet Members and officers
 - (c) agendas, reports and minutes of all other meetings to which these Rules apply

- (d) written records of decisions made by officers under a specific express delegated power, or under a general delegated power where the effect of the decision:
 - (i) is to grant a permission or licence or
 - (ii) affects the rights of an individual or
 - (iii) awards a contract or incurs expenditure which materially affects the Council's financial position.

7.2 Where any meeting is not open to the public (see Rule 10 below) the Council will make available a summary of any decision.

7.3 The Council will not make available any report which contains exempt or confidential information or where members of the public are likely to be asked to leave the meeting when the report is considered. When this applies the reports will be marked "Not for publication" and will state which of the categories detailed in Rule 10 below apply.

8.0 **BACKGROUND PAPERS**

8.1 **List of background papers**

8.1.1 The proper officer will set out in every report a list of those documents (called background papers) which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report
- (c) The following need not be listed:
 - (i) Published works (ie books, magazines, consultation papers)
 - (ii) Documents which disclose exempt or confidential information as defined in Rule 10 below
 - (iii) The advice of a political adviser

8.2 **PUBLIC INSPECTION OF BACKGROUND PAPERS**

8.2.1 The Council will make available for the public to view for at least four years after the date of the meeting one copy of each of the documents on the list of background papers.

9.0 **SUMMARY OF PUBLIC'S RIGHTS**

9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept, and be made available for members of the public to view, at the Council Offices.

10. **EXCLUSION OF PUBLIC ACCESS TO MEETINGS**

10.1 **Disorderly Conduct and Misbehaviour**

10.1.1 The public may be excluded from a meeting if this is necessary in order to maintain order or prevent misbehaviour.

10.2 Confidential information - requirement to exclude the public

10.2.1 The public **must** be asked to leave a meeting whenever it is likely that confidential information will be disclosed. This is a legal requirement under section 100A (3) of the Local Government Act 1972.

10.3 Meaning Of Confidential Information

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

10.4 Exempt information - discretion to exclude the public

10.4.1 The public may be asked to leave a meeting whenever it is likely that exempt information will be disclosed.

Where the meeting will make a decision about any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 ensures that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6, i.e. in the interests of protecting morals, public order, national security, juveniles, protection of private life and in special circumstances where publicity would prejudice the interests of justice.

10.5 Meaning of exempt information

10.5.1 Exempt information means information falling within the following categories 1 to 7C as described in Part I of Schedule 12A of the Local Government Act 1972.

Category	Qualification
1. Information relating to any individual	Information is exempt if and so long as in all the circumstances of the case the public interest* in maintaining the exemption outweighs the public interest in disclosing the information. Information is not exempt if it relates to proposed development for which the Council being the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.
2. Information which is likely to reveal the identity of an individual	Information is exempt if and so long as in all the circumstances of the case the public interest* in maintaining the exemption outweighs the public interest in disclosing the information. Information is not exempt if it relates to proposed development for which the Council being the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that	Information is exempt if and so long as in all the circumstances of the case the public interest* in maintaining the exemption outweighs the public interest in disclosing the information. Information is not exempt if it relates to proposed development for which the Council being the local planning authority may

information)	<p>grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992, or if it is required to be registered under:-</p> <p>(a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993.</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority	<p>Information is exempt if and so long as in all the circumstances of the case the public interest* in maintaining the exemption outweighs the public interest in disclosing the information. Information is not exempt if it relates to proposed development for which the Council being the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.</p>
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	<p>Information is exempt if and so long as in all the circumstances of the case the public interest* in maintaining the exemption outweighs the public interest in disclosing the information. Information is not exempt if it relates to proposed development for which the Council being the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.</p>
6. Information which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	<p>Information is exempt if and so long as in all the circumstances of the case the public interest* in maintaining the exemption outweighs the public interest in disclosing the information. Information is not exempt if it relates to proposed development for which the Council being the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.</p>
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	<p>Information is exempt if and so long as in all the circumstances of the case the public interest* in maintaining the exemption outweighs the public interest in disclosing the information. Information is not exempt if it relates to proposed development for which the Council being the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.</p>

* There is no definition of "public interest" but see the Information Commissioner's guidance note on the public interest test under the Freedom of Information Act 2000.

10.5 Cabinet, Committees Of The Cabinet, Individual Cabinet Members, Officers And Executive Joint Committees

10.5.1 Rules 11-18 apply to Cabinet, Committees of the Cabinet, Individual Cabinet Members, Officers and any Joint Arrangements.

11.0 PROCEDURE BEFORE TAKING KEY DECISIONS

11.1 A Key Decision may not be taken unless:

- (a) a notice has been published by the Council stating:
 - (i) What the Key Decision relates to,
 - (ii) who will be making the decision,
 - (iii) the date on/period within which the decision is expected to be made,
 - (iv) a list of documents (including reports) submitted to the decision maker
 - (v) the address from which copies or extracts from any document on the list is available (unless confidential or exempt)
 - (vi) that other documents may be submitted to the decision maker, and the procedure for requesting details of those documents; and
- (b) at least 28 clear days have passed since the notice was published; and
- (c) where the decision is to be taken at a meeting of the Cabinet or a Committee of the Cabinet, notice of the meeting has been given in accordance with Rule 4 (notice of meetings); or
- (d) the decision is subject to Rule 12 (General Exception) or Rule 13 (Special Urgency) below.

(The time periods resulting from compliance with (b) and (c) are not cumulative.)

12.0 General Exception - Key Decisions Not Subject To Notice

12.1 When Rule 11 cannot be complied with then, unless Rule 13 (Special urgency) applies, the Key Decision may only be made if:

- (a) the Proper Officer has informed the chairman of the Overview and Scrutiny Committee (or if there is no such person, each member of that Committee) in writing of the matter to which the decision relates;
- (b) the Proper Officer has made copies of that notice available for the public to view at the offices of the Council and on the Council's website; and
- (c) at least 5 clear days have passed since the Proper Officer complied with (a) and (b).

12.2 When this Rule 12 applies the Proper Officer must, as soon as possible after complying with the above paragraphs, make available at the Council Offices and on the website a notice stating why Rule 11 cannot be complied with.

12.3 Where a Key Decision is taken at a meeting, it must be taken in public, unless the item is exempt or confidential as defined in Rule 10 above.

12.4 (Call-In does not apply to key decisions taken under Rule 12)

13.0 **SPECIAL URGENCY - KEY DECISIONS NOT SUBJECT TO A RULE 12 NOTICE**

13.1 If a Key Decision is so urgent that Rule 12 (general exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the chairman of the body making the decision, obtains the agreement of the chairman of the Overview and Scrutiny Committee. If there is no chairman of the Committee or if the chairman is unable to act, then the agreement of the chairman of the Council, or in his/her absence, the vice chairman of the Council, will suffice.

13.2 When this rule applies the decision maker must, as soon as possible after complying with the above procedure, make available at the Council Offices and on the website a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred.

13.3 (Call-In does not apply to Key Decisions taken under Rule 13)

14.0 **REPORTS TO COUNCIL**

14.1 **Key Decisions - When the Overview and Scrutiny Committee can require a report**

14.1.1 If the Overview and Scrutiny Committee thinks that a decision has been taken which it considers was a Key Decision but which was not treated as a Key Decision then unless the decision was:

- (a) the subject of Rule 12 (general exception); or
- (b) the subject of Rule 13 (special urgency);

14.1.2 The Committee may require the decision maker to submit a report to the Council explaining why it was not treated as a Key Decision. A report may be requested:

- (a) by notice in writing submitted to the Senior Legal Officer by the Chairman of the Overview and Scrutiny Committee, or by a minimum of 5 members of the Committee
- (b) by the Overview and Scrutiny Committee by resolution passed at a meeting of the Committee.

14.1.3 The decision maker will submit a report to the next available meeting of the Council detailing the decision, and if the Leader considers that it was not a Key Decision, the reasons for that opinion.

15.0 **RECORD OF DECISIONS**

15.1 **Cabinet, Committees of the Cabinet, Executive Joint Committees and Sub-Committees**

15.1.1 After any meeting, the Proper Officer or, where the Proper Officer was not present, the person presiding at the meeting, will as soon as possible but normally within 3 Working Days, produce a record of every decision taken at the meeting, and make the record available for the public to view at the offices of the Council and on the website. The record will include:

- (a) a statement of the reasons for each decision;
- (b) any alternative options considered and rejected at that meeting;
- (c) a statement of any personal/prejudicial interests;
- (d) a note of any dispensation granted by the Head of the Paid Service;
- (e) the date on which the decision was made; and
- (f) a statement (where this applies) that the decision was urgent.

15.2 Individual Cabinet Members and officers

15.2.1 As soon as possible, but normally within 3 Working Days, after a decision has been made by a Cabinet Member or an officer the Proper Officer (where a Cabinet Member decision) or the officer (where an officer decision) will produce a record of that decision, including the details shown above, and make the record available for the public to view at the offices of the Council and on the website.

16.0 MEETINGS OF THE CABINET AND ITS COMMITTEES TO BE OPEN TO THE PUBLIC

16.1 The Cabinet and any Committee of the Cabinet will meet in public for all its decisions whether key or non-key, except when considering any documents which contain exempt or confidential information as set out in Rule 10 above.

17.0 ACCESS TO DOCUMENTS BY MEMBERS OF THE OVERVIEW AND SCRUTINY COMMITTEE(S)

17.1 Rights To Copies

17.1.1 Subject to Rule 17.2 below, a member of the Overview and Scrutiny Committee(s) (including their task-groups) is entitled to copies of any document which is in the possession or control of the Cabinet or a Committee of the Cabinet and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or a Committee of the Cabinet;
- (b) any decision taken by an individual Cabinet Member; or
- (c) any Executive Decision made by an officer.

17.2 Limit on Rights

17.2.1 The Overview and Scrutiny Committees are not entitled to:

- (a) any document that is in draft form; or
- (b) any document or part document containing the advice of a political adviser.

18.0 **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

18.1 All members of the Council are entitled to inspect any document which is in the possession or under the control of the Cabinet or a Committee of the Cabinet and contains material relating to:

- (a) any business to be transacted at a public meeting – the information must be available for inspection at least 5 clear days before the meeting unless the meeting is called at shorter notice or an item is added at shorter notice when the document must be made available immediately;
- (b) any business transacted at a private meeting; any decision made by a Cabinet Member; and any Executive Decision made by an officer – the information must be available for inspection immediately after the decision has been made but in any event within 24 hours of the conclusion of the meeting or the decision being made.

18.2 unless:

- (a) the member has a disclosable pecuniary interest in the matter; or
- (b) it contains the advice of a political adviser.

18.3 **Additional rights**

18.3.1 The rights of a member set out in these rules are additional to other rights he/she may have in statute or common law. Common law rights give members the right to inspect Council documents insofar as this is reasonably necessary to enable a member to perform his/her duties as a councillor.(i.e. on a “need to know” basis) but does not give a member a right to a roving commission through the Council’s documents. The Freedom of Information Act 2000 generally makes non-personal information freely available to all, with only limited exceptions. The Data Protection Act 1998 protects personal information which is generally not available except in certain circumstances.

5A - MEMBERS' CODE OF CONDUCT

1. Expected behaviours

- 1.1 Breckland Council have adopted this Code setting out the expected behaviours required of its members or co-opted members, acknowledging that they each 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.
- 1.2 In accordance with the Localism Act provisions, when acting in this capacity all Councillors must be committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this Authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

- 1.3 As a Member of Breckland Council, your conduct will in particular address the statutory principles of the code of conduct by:
- I. Championing the needs of residents – the whole community and in a special way your constituents, including those who did not vote for you - and putting their interests first.
 - II.
 - III. Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.

- IV. Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Breckland area or the good governance of the Authority in a proper manner.
- V. Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a member/co-opted member of this Authority.
- VI. Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- VII. Being accountable for your decisions and co-operating when scrutinised internally and externally, including by local residents.
- VIII. Contributing to making this Authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other members to account but restricting access to information when the wider public interest or the law requires it
- IX. Behaving in accordance with all your legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources.
- X. Valuing your colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between you that is essential to good local government.
- XI. Always treating people with respect, including the organisations and public you engage with and those you work alongside.
- XII. Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

2. Declaration of Interests

- 2.1 The Localism Act 2011 provides for registration and disclosure of interests and in Breckland Council this will be done as follows:

- On taking up office a member or co-opted member must, within 28 days of becoming such, notify the Monitoring Officer of any ‘disclosable pecuniary interests’, as prescribed by the Secretary of State.
- On re-election or re-appointments, a member or co-opted member must, within 28 days, notify the Monitoring Officer of any ‘disclosable pecuniary interests not already included in his or her register of interests.
- If a member or co-opted member is aware that they have a ‘disclosable pecuniary interest’ in a matter they must not participate in any discussion or vote on the matter at a meeting.
- If a member or co-opted member is aware of a ‘disclosable pecuniary interest’ in a matter under consideration at a meeting but such interest is not already on the Council’s register of interests or in the process of entry onto the register having been notified to the Monitoring Officer, the member or co-opted member must disclose the ‘disclosable pecuniary interest’ to the meeting and register it within 28 days of the meeting at which it is first disclosed.

2.2 Disclosable Pecuniary Interests

The duties to register, disclose and not to participate for the entire consideration of the matter, in respect of any matter in which a member has a disclosable pecuniary interest are set out in Chapter 7 of the Localism Act 2011. Members are also required to withdraw from the meeting room as stated in the Standing Orders of this Council.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Personal Interests) Regulations 2012 No.1464 as follows:

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the member in carrying out duties as a member, or towards the election expenses of the member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1).

<i>Subject</i>	<i>Prescribed description</i>
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Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to the member's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to the member's knowledge) has a place of business or land in the area of the relevant authority; 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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

2.3 Gifts and Hospitality

- 2.3.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the Authority.
- 2.3.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 2.3.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose

1. Introduction and Principles

- 1.1 Mutual trust and respect between members and officers is at the heart of good governance. They are essential if the partnership necessary for the effective running of a local authority is to succeed. The purpose of this Protocol is to guide Members and Officers of Breckland Council (hereinafter called “the Council”) in their relations with one another in such a way as to ensure the achievement of that objective.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or exhaustive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- 1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 It also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.5 This Protocol is a local extension of the Members’ and Employees’ Codes of Conduct. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 1.6 This Protocol should be read in conjunction with the Members’ and Employees’ Codes of Local Government Conduct, the Council’s Constitution and any guidance issued by the Monitoring Officer.

2. Allegations of Member or Officer Misconduct: Responses by Members or Officers as appropriate

- 2.1 In a situation where a Member identifies that an Officer may have committed a breach of the Council’s disciplinary rules and procedures, he shall draw the issue to the attention of the Chief Executive (Head of Paid Service) who, following consultation with the HR Manager, will ensure that the appropriate action is taken.
- 2.2 In respect of a situation where there is an alleged breach of the Council’s Code of Conduct by a Member, the Code places an obligation on other Members to draw such breaches to the attention of the Monitoring Officer.
- 2.3 An Officer who believes a Member has breached the Members’ Code of Conduct should:
 - a. not offer any opinion or judgement upon that conduct to the Member;
 - b. advise the Monitoring Officer in writing immediately of the circumstances, facts, his belief and the rationale behind it, including supplying all and any documentation; and

- c. not comment further on the issue to any other Officer or Member without the prior consent of the Monitoring Officer.

These provisions are to protect both the Member and Officer, avoid Officers from becoming unduly involved in allegations of Member misconduct at an inappropriate level and to ensure that any investigation that may need to be carried out by the Monitoring Officer or other agency is not in any way fettered or damaged.

3. The Relationship: General Points

- 3.1 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council and to carry out the Council's work under the direction and control of the Council, the Executive, their committees and sub-committees.
- 3.2 At the heart of the Code, and this Protocol, is the importance of mutual respect. Member / Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.
- 3.3 Inappropriate relationships can be inferred from language / style. To protect both Members and Officers, at full Council and other public meetings Officers should address Members as "Councillor XX / Mr or Madam Chairman". In other circumstances, e.g. a one to one between an Operations Manager and their corresponding Executive Member, a level of informality may be appropriate.
- 3.4 A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. An Officer has no means of responding to such criticisms in public. If a Member feels he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, he should raise the matter with the respective Service/Executive Manager, who will then look into the facts and report back to the Member. If the Member continues to feel concern, then he should report the facts to the Executive Director who heads the Portfolio concerned, or if, after doing so, is still dissatisfied, should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 3.5 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Service Area or Portfolio in a manner that is incompatible with the overall objectives of this Protocol.
- 3.6 Where an Officer feels that he has not been properly treated with respect and courtesy by a Member, he should raise the matter with his Service/Executive Manager, Executive Director or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Service/Executive Manager, Executive Director or Chief Executive will take appropriate action either by approaching the individual Member and/or group leader or by referring the matter to the Monitoring Officer.

4. The Relationship: Officer Support to Members: General Points

- 4.1 Officers are responsible for day-to-day managerial and operational decisions within the authority and will provide support to both the Executive and all Councillors in their several areas.
- 4.2 Certain statutory officers – the Chief Executive, the Monitoring Officer and the Section 151 Officer – have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members.
- 4.3 The following key principles reflect the way in which the officer corps generally relates to Members:
- ◆ all officers are employed by, and accountable to, the authority as a whole;
 - ◆ support from officers is needed for all the authority's functions including Full Council, Overview and Scrutiny, the Executive, individual Members representing their communities, etc;
 - ◆ day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other officers;
 - ◆ the authority will seek to avoid potential conflicts of interest for officers arising from the separation of the Executive and Overview and Scrutiny role; and
 - ◆ all officers will be provided with training and development to help them support the various Member roles effectively and to understand the political structure.
- 4.4 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It must be recognised that it is the Officer, rather than the Member or Members, who takes the action and it is the Officer who is accountable for it.
- 4.5 Finally, it must be remembered that Officers within a Service Area or Portfolio are accountable to their Service/Executive Manager and Executive Director and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Service/Executive Manager or Executive Director.
- 4.6 If the time a Member spends in the office is disproportionate to the benefit of his attendance, the Chief Executive should draw this to the attention of the Leader of the Group in question.

5. The Relationship: Officer Support: Members and Party Groups

- 5.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.
- 5.2 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but

must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner. (NB. This would not apply to assistants to political groups appointed in accordance with the Council's Standing Orders. At the time of adoption of this protocol, no such appointments had been made.)

- 5.3 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups
- 5.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
 - 5.4.1 Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;
 - 5.4.2 political group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
 - 5.4.3 similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- 5.5 Officers should not attend or provide information and advice to a party group meeting which includes persons who are not Members of the Council and who are not bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality).
- 5.6 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- 5.7 Whilst any Member may ask a relevant Head of Service, Executive Director or the Chief Executive for written factual information about a Portfolio or service, such requests must be reasonable and not seek information relating, for instance, to case work of a similar nature. Requests will be met subject to any overriding legal considerations (which will be determined by the Monitoring Officer), or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a Member requesting such information is dissatisfied by such a response, he should raise the matter in the first place with the relevant Executive Director and if still dissatisfied should raise the matter with the Chief Executive who will discuss the issue with the relevant Group Leader(s).
- 5.8 In relation to budget proposals:
 - a. the Administration shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of Committee / Council meetings, whichever is the earlier; and

- b. the opposition groups shall also be entitled to confidential discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee / Council meetings, whichever is the earlier.
- 5.9 As part of the Budget process, Officers may be called upon to give advice on budgetary proposals, wherever they may emanate from (once political confidentiality has been lifted). This is in addition to the "normal" rights that any Member has to seek advice "in confidence" from Officers. In addition, Officers may feel it appropriate to offer advice to individuals, groups or all Members. In doing so, they should be aware of the need to remain impartial. It is appropriate and indeed, in certain circumstances, necessary that as a matter of professional judgement, if a proposed course of action is imprudent, that Officers should advise the Members of the Authority that this is so. It would, however, be for the Officer to decide how and when to do so. This is without prejudice to issues of legality and financial administration which are covered by specific duties placed on the Section 151 Officer and Monitoring Officer.
- 5.10 The overriding obligation will be to ensure that the integrity of the administration of public affairs is maintained. The prime responsibility of Officers in the matter of any challengeable decision arises in advising Members of the Council before decisions are reached. It is incumbent, in these circumstances, for Councillors to be fully advised on the legal and financial consequences of any proposed course of action.
- 5.11 It must not be assumed by any party group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- 5.12 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

6. *The Relationship: Officer Support: The Executive*

- 6.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups.
- 6.2 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, a Head of Service or other senior Officer will always be fully responsible for the contents of any report submitted in his name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between an Executive Member and a Head of Service in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 6.3 The Executive and its members have wide ranging leadership roles. They will:

- ◆ lead the community planning process and the search for Best Value, with input and advice from the Overview and Scrutiny Commission, area committees and any other persons as appropriate;
 - ◆ lead the preparation of the local authority's policies and budget;
 - ◆ take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and
 - ◆ be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 6.4 Where functions which are the responsibility of the Executive are delegated to Officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council, through the Overview and Scrutiny Commission, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out.
- 6.5 Under Executive Arrangements, individual Members of the Executive may formally take decisions. The Executive and Cabinet members must satisfy themselves that they are clear what exactly they can and cannot do.
- 6.6 The Council has put in place mechanisms / protocols which ensure that (as with the Council and its Committees and Sub-Committees, and the Executive and its Committees) an individual Executive Member seeks advice from relevant Officers before taking a decision within his delegated authority. This includes taking legal advice, financial advice and professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about vires.
- 6.7 Decisions taken by individual Members of the Executive give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Members of the Executive should always be aware of legal and financial liabilities (consulting the Monitoring Officer and Section 151 Officer as appropriate) which will arise from their decisions. To ensure effective leadership for the local authority and the communities it serves, there are arrangements to ensure co-ordination of and sharing responsibility for Executive decisions including those made by individuals.
- 6.8 Officers will continue to work for and serve the local authority as a whole. Nevertheless, as the majority of functions will be the responsibility of the Executive, it is likely that in practice many Officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly supporting the Executive, that their political neutrality is not compromised.
- 6.9 Support for the Executive presents the potential for tension between Chief Officers and Members with portfolios. All Members and Officers need to be constantly aware of the possibility of such tensions arising and both Officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

7. The Relationship: Officer Support: Overview and Scrutiny

- 7.1 Overview and Scrutiny is an important constituent part of effective democracy and the Council's constitutional arrangements. Officers have lead and significant roles in making it effective. However, it is not Overview and Scrutiny's role to act as a disciplinary tribunal in relation to the actions of Members or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on a Panel's behalf. This is the Chief Executive's function alone in relation to staff, the Monitoring Officer's and the Hearings Panel of the Audit Committee as regards the conduct of Members. This means:

- ◆ Overview and Scrutiny's questioning should *not* be directed to the conduct of individuals, not in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, but with the implication of allocating criticism or blame;
- ◆ in these circumstances, it is for the Chief Executive to institute a formal enquiry, and Overview and Scrutiny may ask (but not require) him/her to do so

7.2 Overview and Scrutiny should not act as a "court of appeal" against decisions or to pursue complaints by individuals (Councillors, Officers or members of the public) as other procedures exist for this. These are internal, e.g. the Corporate Complaints Procedure, and external / statutory, e.g. Local Government Ombudsman or appeal to the Courts. That said,

- ◆ Overview and Scrutiny may investigate the manner in which decisions are made but should not pass judgements on the merits of a decision in individual cases;
- ◆ It may comment, however, on the merits of a particular policy affecting individuals.

7.3 It would be unfair to invite someone to appear before a Panel without telling them in general terms what they will be asked, or not giving them adequate time to prepare. Overview and Scrutiny ought to provide written questions ("Indicative Topics") beforehand, so that the answers can form the basis of the questioning and discussion. In addition, speakers ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Panel had previously indicated.

7.4 Overview and Scrutiny are, however, entitled to the following:

- a. the level and extent of questioning, and the depth to which Overview and Scrutiny Members may probe Officers is dependent upon the seniority of the Officers present – accordingly when calling Officers to give evidence, Members may wish to consider the level and nature of the Officer they wish to have before them in the light of the line of questioning they wish to follow;
- b. Officers may be asked to give a professional opinion, and Officers may be asked to give options. Officers may not confine themselves solely to justifying either the position of or the advice that they gave to the Executive, although in giving options, it is to be expected that they will explain the rationale for the advice that they gave and if the advice given to the Executive reflects, in their professional opinion, the best option, to justify that;
- c. it is appropriate for Members of Overview and Scrutiny to ask Officers to explain and justify advice given to Members, whether on the Executive or otherwise, prior to decisions being taken, and to justify decisions Officers have taken under delegated powers;

7.5 Officers are expected:

- a. to maintain political impartiality at all times when commenting on the Cabinet's / Council's policies and actions;
- b. to be prepared to explain and justify advice given to Members, including members of the Executive and the Council prior to decisions being taken and to justify decisions they themselves have taken under the Scheme of Delegation;

- c. to ensure that an Officer of sufficient seniority appears before the relevant meeting in the light of the indicative topics supplied by Overview and Scrutiny in advance;
- d. where requested to provide information to Scrutiny, e.g. on alternative courses of action, to provide that information in as comprehensive and timely a fashion as if the request had come from the Executive.
- e. to respond to questions from Members in an open, constructive and helpful manner;
- f. not to mislead or be economical with the truth.

8. Support Services to Members and Party Groups

- 8.1 The only basis on which the Council can lawfully provide support services (e.g., stationery, typing, printing, photo-copying, transport etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

9. Members' Access to Information and to Council Documents

- 9.1 Members have the ability to ask for information pursuant to their legal rights to information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Head of Service or another senior Officer of the Portfolio concerned. In cases of doubt, Members should approach the Monitoring Officer for assistance.
- 9.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 9.3 Members will find set out in Appendix B guidance on their rights to obtain information. The law in this area is complex; legislation including the Access to Information provisions of the Local Government Act 1972, the Data Protection Act 1998 as well as the Local Government Act 2000, have all had an impact. However, the Freedom of Information Act 2000 has an even greater impact, potentially providing Members with a single route through which to obtain information in support of their work, whatever their role within the authority. The guidance note set out in Appendix B maps the hierarchy of rights of Members to information, but should be read in combination with the contents of the Constitution, most particularly the authority's statutory obligations on Access to Information and its relationship with the decision-making process.
- 9.4 In relation to business of the Executive, by virtue of Regulation 17 of the Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006:
 - i. where there is a meeting (e.g. Cabinet) and there is a document which is in the possession / under the control of the Executive relating to the business to be conducted at that meeting, that document shall be available for inspection;
 - ii. where the decision is made at a private meeting by a Cabinet Member or is a Key Decision delegated to an Officer, the document shall be available either after the meeting closes or when the decision is made;

- iii. there are exceptions for exempt and confidential material and any document that contains advice provided by a political adviser or assistant.

9.5 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of his duties as a Member of the Council. Therefore, for example, early drafts of Committee reports / briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. This point is emphasised in paragraph 3 of the Code of Local Government Conduct:

“A Member:

- a. *must not disclose information given to him in confidence by anyone without the consent of a person authorised to give it, or unless he is required by law to do so; and*
- b. *must not prevent another person from gaining access to information to which that person is entitled by law.”*

10. Correspondence and Advice

- 10.1 Members seeking advice from officers shall be entitled to assume that such advice is given under the “Chatham House Rule” in terms of disclosure to other Members, unless otherwise agreed with the officer(s) concerned. This rule, which is used widely as an aid to free discussion, says: “When a meeting or part thereof is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed”.
- 10.2 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. In other words, a system of “hidden copies” should not be employed.
- 10.3 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain limited circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Cabinet Member or the Leader or the Leaders of all political groups represented on the Council by agreement, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise.
- 10.4 Correspondence received by Democratic Services from the public with a request that it is either copied to Members and/or forwarded to Members will, subject to any over-riding legal considerations, be forwarded / copied.

11. Publicity and Press Releases

- 11.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council’s activities is, in the words of the Government, to be welcomed.

- 11.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. It is appended to this Officer / Member Protocol (Appendix A). The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as he thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity.
- 11.3 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Members should initially seek advice from the Head of Marketing and Communications who will refer the matter to the Monitoring Officer, if necessary / appropriate. Particular care should be paid to any publicity used by the Council around the time of an election. Particular advice will be given on this by the Monitoring Officer as appropriate.
- 11.4 Publicity should also accord with Breckland Council's Communications Strategy, as set out in the Council's website, www.breckland.gov.uk

12. Involvement of Ward Councillors

- 12.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member, should be discussed with relevant Ward Members. Officers should seek the views of the appropriate Executive Member(s) as to with whom and when this might be done.

13. Conclusion

- 13.1 Mutual trust, openness, fairness and honesty are the greatest safeguard of the integrity of the Council, its Members and Officers and this Protocol is designed to
- establish some ground rules
 - define roles
 - secure compliance with the law, codes of conduct and the Council's own practices
 - lay down procedures for dealing with concerns by members and officers.
- 13.2 The Protocol is a central element of the Council's corporate governance and should be recognised as a commitment to upholding standards of conduct in public life and a demonstration to the public that the Council is serious about protecting and enhancing its integrity and reputation.

14. Officer / Member Protocol: Observation and Interpretation

- 14.1 This Protocol was drafted by the Democratic Services Manager and this version was approved by the Council as part of the Constitution on 30th March 2006.
- 14.2 Copies of the Protocol will be issued to all existing Members and staff, and new Members on election, as part of the Constitution.
- 14.3 The Protocol must be observed at all times.
- 14.4 The definition of “Members” covers both elected and co-opted Members of the Council.
- 14.5 Questions of interpretation of this Protocol will be determined by the Monitoring Officer.
- 14.6 The Protocol is subject to annual review.

6 - MEMBERS' ALLOWANCES SCHEME

1. The new scheme of allowances will be effective from 1 April 2015 until 31 March 2016.
2. The basic allowance payable is as shown at Appendix A.
3. Special responsibilities are payable for the posts indicated and the rates shown in Appendix A.
4. Co-opted members, specialist advisers to Audit Committee and the 'Independent Person' in support of the Standards requirements, will be paid as shown in Appendix A.
5. Childcare and dependent carers' allowances will be paid at the rates shown in Appendix A.
6. Travel and subsistence will be payable at the same rates as those applicable to officers under the National Conditions of Service as shown in Appendix B.
7. Travel and subsistence will be paid in respect of the approved duties currently authorised as shown in Appendix C.
8. No Members to be admitted to the Local Government Pension Scheme.
9. The Council has the right to withdraw allowances from a fully or partially suspended councillor and to require the repayment of any allowances paid during the period of suspension, such provision to be applicable to all allowances except those for dependents' carers (which may not be withheld).

APPENDIX A

BRECKLAND COUNCIL ALLOWANCES WITH EFFECT FROM 1 APRIL 2015	
Responsibility	Allowance
Basic Allowance (Payable to all 49 members)	£5,200 pa
Special Responsibility Allowances	
Leader	£20,800 pa
Deputy Leader	£13,650 pa
Executive Members	£11,050 pa
Chairman of Overview and Scrutiny Commission	£10,814 pa
Chairman of Planning	£10,814 pa
Chairman of Licensing	£2,600 pa
Chairman of Audit	£5,200 pa
Chairman of General Purposes	£5,200 pa
Chairman of Appeals	£2,600 pa
Chairman of the Council	£2,600 pa
Chairman of Scrutiny Task and Finish Groups	£115 per meeting chaired
Chairman of Licensing Sub-Committees	£235 per meeting chaired
Leader of Main Opposition Group (to be shared if more than one Opposition Group at the same time)	£2,600 pa
Leader of other Political Groups (with ten or more members)	£1,850 pa
Independent person in support of Standards requirements	£25 per hour
Specialist Advisers to the Audit Committee	£200 per session
Vice Chairman (appointed or otherwise deputising)	
Overview & Scrutiny	£235 per meeting chaired
Planning	£235 per meeting chaired
General Purposes	£115 per meeting chaired
Audit	£115 per meeting chaired
Council	£58 per meeting chaired
Appeals	£58 per meeting chaired
Scrutiny Task and Finish Groups	£58 per meeting chaired
Executive Support Members	£1,850 pa
Carer's Allowance	
Child Care: £7.50 per hour, normally subject to a maximum of £75 per authorised duty	

Proven or qualified specialist care: To be considered upon application

NOTE:

Only **one** Special Responsibility Allowance payable per member,
Special Responsibility Allowance are payable in addition to the basic allowance.

No Allowance to be paid to any suspended Councillor

There is an option for members not to claim allowances, in part or in full

Motor Car Allowance Rates - National Joint Council Car Allowances

Miles per Annum	451 – 999cc	1000-1199cc	1200cc +
Per mile, first 8,500 miles	46.9p	52.2p	65.0p
Per mile, after 8,500 miles	13.7p	14.4p	16.4p

Other Allowances	Passenger Allowance: An extra 2p per mile for each passenger taken		
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Subsistence Allowances – Locally Agreed Revised Rates

Breakfast	£6.07	If leave home before 7:30am
Lunch	£8.39	Payable if you are necessarily absent from base between 12 noon and 2:30pm
Tea*	£3.31	Payable only when you are required to work after 6:30pm
Evening Meal*	£10.38	Payable only when you are required to work after 8:30pm
	*Either Tea or Evening Meal can be claimed – NOT Both	

Training Subsistence	Where subsidised canteen facilities are available, lunch allowance will be restricted to £5.77, and tea allowance to £2.26
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Please obtain receipts and attach to claim form -

APPENDIX C

<p style="text-align: center;">MEMBERS' TRAVELLING AND SUBSISTENCE ALLOWANCES: Approved Duties</p>

Travelling and subsistence allowances are paid at present for the following:

- Council Meetings
- Committee/Cabinet Meetings (for members of Committee)
- Ward Representatives attending Committee as such
- Official Committee site visits
- Members attending Committee as proposer of motion referred by Council
- Members attending Committee at the request of the Chairman
- Members attending Committee to report back on the proceedings of an outside body
- Tender opening
- Local Authority Association meetings
- Representation on outside bodies (where travel or subsistence is not paid by that body)
- Executives' meetings with officers
- Party leaders' meetings with officers
- Joint Executive/Group Leader meetings called by the officers
- Conferences where representing, or with the authorisation of, the Council
- Overnight allowance for members attending conferences
- Ombudsman interviews
- Members attending Committees or working groups where invited or allowed to speak

- Attendance of Chairman of Cabinet at any authorised meeting
- Attendance at Portfolio meetings
- Attendance of Members at any official meetings called by officers, or an Executive Member with officers
- Attendance of Overview and Scrutiny Commission Chairman, Executive and Executive Support Members at Scrutiny Task and Finish Groups
- Attendance at Overview and Scrutiny Commission by members who have referred items to the Commission which are on the agenda under consideration
- Authorised training and development
- Required attendance at public inquiries
- Attendance of Executive Support Members at Executive meetings
- Attendance of a member at Town or Parish Council meetings within the ward he or she represents, in the capacity of ward representative
- Chairman and Vice-Chairman of the Council on civic duties