



**Rushcliffe**  
**Borough Council**

**RUSHCLIFFE BOROUGH  
COUNCIL  
CONSTITUTION**

# Rushcliffe Borough Council Constitution

## Part 1

### Introduction to the Council and Constitution

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## Introduction

Rushcliffe Borough Council is a district council which provides essential services to the public and as a democratic organization is committed to openness in how it operates. It has 44 Councillors elected on a four-year cycle.

This introduction sets out the basic principles of how the council works and what decisions can be made and by whom. It is a summary and does not try to be comprehensive. You will need to look at the separate parts of the constitution for full details of decision-making procedures.

Rushcliffe Borough Council has adopted the 'Leader and Cabinet' Model of Executive Governance as set out in the provisions of the Local Government Act 2000 (as amended). Decisions are taken by meetings of Full Council, the Leader, Cabinet and Committees and by Officers.

The Cabinet currently comprises the Leader and five Councillors who have portfolios of responsibilities (it can contain up to ten Councillors). It is responsible for major (executive) decisions about service delivery. The Cabinet is not empowered to make certain decisions, (sometimes referred to as 'non-executive' decisions) e.g. decisions about planning or licensing matters. These non-executive decisions are taken by committees of councillors or by officers.

Councillors who are not in the Cabinet are responsible for keeping an overview of Council business and scrutinising areas of particular interest or concern, holding the Executive to account and assisting in the development and review of Council policy. These Overview and Scrutiny Councillors can make recommendations for improvement to executive matters, to the whole Council, or to outside organisations.

Full Council comprises all 44 Councillors. One of its functions is to agree the major policies, the 'Policy Framework', which govern the way services are provided. Legislation prescribes that, in addition to the budget and setting of Council Tax, the Full Council must adopt this overall policy framework which comprises various plans and strategies.

## Roles of Local Authorities in the Borough

Within the Borough of Rushcliffe three tiers of local authorities provide services: the County Council, the Borough Council ('the Council'), and the Parish/Town Councils. The chart set out below, shows who provides what services.

## Main Functions of Local Authorities in Rushcliffe

Function	County	Borough	Town/Parish
Allotments, Arts and Recreation	✓	✓	✓

Births, Deaths and Marriage Registration	✓		
Building Regulations		✓	
Burials and Cremations		✓	✓
Children's Services	✓		
Community Safety		✓	
Concessionary Travel	✓		
Consumer Protection	✓		
Council Tax and Business Rates Collection		✓	
Economic Development	✓	✓	
Education including: Special Educational Needs, Adult Education, Pre-School	✓		
Elections and Electoral Registration		✓	
Emergency Planning	✓	✓	
Environmental Health		✓	
Highways (not trunk roads), Street Lighting and Traffic Management	✓		
Housing		✓	
Libraries	✓		
Licensing		✓	
Markets and Fairs		✓	
Minerals and Waste Planning	✓		
Museums and Galleries	✓	✓	✓
Parking	✓	✓	✓
Passenger Transport (Buses) and Transport Planning	✓		
Planning	✓	✓	
Public Conveniences		✓	✓
Public Health	✓		

Social Services including Care for the Elderly and Community Care	✓		
Sports Centres, Parks, Playing Fields	✓	✓	✓
Street Cleaning		✓	
Tourism	✓	✓	✓
Trading Standards	✓		
Waste Collection and Recycling		✓	
Waste Disposal	✓		

In addition to providing these services the Council has a duty to exercise community leadership. This means that Councillors should be:

- Enablers of the community – standing up for, learning from and empowering local citizens, including the most vulnerable members of the community;
- Champions of the area – representing their constituents, building a vision, setting a clear direction, and ensuring this is delivered;
- Challengers and scrutinisers – of public services provided by the Borough Council and more generally;
- Shapers of services around the citizen – forging local partnerships to marshal resources in a way that best meets community needs;
- Decision-makers – setting priorities and being accountable for tough choices in balancing competing demands and interests.

## Purpose of the Constitution

The Constitution is part of the Council's corporate governance framework which defines the systems and processes by which the Council leads, directs and controls its functions and relates to its communities and partners. The purpose of the Constitution is to set out how the Council conducts its business, how decisions are made and the procedures that are followed to ensure that these decisions are effective, efficient and transparent so that the Council remains accountable to local people. Many of these procedures are required by law, while others are a matter for the Council to determine. The Council will exercise all its powers and duties in accordance with the law and its Constitution.

In addition to viewing the Constitution on our [website](#) you can access a hard copy in person, at Rushcliffe Customer Service Centre:

Rushcliffe Customer Service Centre

Fountain Court  
Gordon Road  
West Bridgford  
Nottingham  
NG2 5LN

## Citizens' Rights

Citizens have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes.

Citizens have the right to:

- Vote at local elections if they are registered for that purpose;
- Contact their councillor about any relevant matters of concern to them;
- Obtain a copy of the Constitution;
- Attend meetings of the Council and its committees and the Cabinet, except where exempt or confidential matters are being, or to be, discussed;
- Petition for referendum on a mayoral form of executive;
- Request councillors to present other petitions to Full Council;
- Find out from the Notice of Key Decisions and Private Meetings of the Executive, what major decisions are to be taken by the Cabinet, when those decisions will be taken and if they will be taken in public or in private;
- Request to see reports and background papers, and any record of decisions made by Council, the Cabinet and by committees;
- [Complain to the Council](#) - the Council operates a complaints system which is accessible to all residents online or by contacting:

Performance and Reputation  
Rushcliffe Borough Council  
Rushcliffe Arena  
Rugby Road  
West Bridgford  
Nottingham  
NG2 7YG

- Complain to the Local Government and Social Care Ombudsman if not satisfied with the Council's administration of, and provision of, services.

## **Executive Arrangements**

The Local Government Act 2000 and Statutory Instruments describe the provisions which a Council's executive arrangements (i.e. the structure within which the Leader and Cabinet Model of Executive Governance sits) should contain. These provisions are contained in the following parts of the Constitution:

- The Overview and Scrutiny Standing Orders in Part 4
- The Cabinet Standing Orders in Part 4
- Any Area Arrangements in Part 3 (N.B. the council does not currently operate Area Committees)
- The Joint Arrangements in Part 3
- The Rules and Standing Orders concerning decision making in Parts 3 and 4 and the Access to Information Procedure Rules in Part 4

The Constitution has six parts and a brief introduction to each part follows:

### **Introduction (Part 1)**

This introduction provides an overview of the content and purpose of the Constitution.

### **Political Leadership Management Structure (Part 2)**

This part details the political and senior officer management structure of the Council.

### **Responsibility for Functions and Scheme of Delegation (Part 3)**

This part of the Constitution explains who is responsible for the various functions of the Council. It describes the decision-making framework of the Council, the purpose of which is to discharge its responsibilities and functions in a transparent, effective and legal manner, and includes a Scheme of Delegation identifying which body or officer is empowered to carry out what function.

This part also details the roles and responsibilities of individual formal positions within the Council that are either statutory or occupy a significant role in respect of the executive, scrutiny or civic and ceremonial infrastructure of the Council.

### **Standing Orders, Rules and Financial Regulations (Part 4)**

This part details procedures to be followed in respect of:

- The Budget and Policy Framework

- Cabinet
- Overview and Scrutiny
- Access to information
- Officer Employment
- Standing Orders

Much of this part reflects the complex statutory framework within which the Council operates.

Part 4 also contains the Council's financial regulations.

Financial Regulations provide the framework for managing the Council's financial affairs and set out the rules and processes that underpin the day to day management of public funds.

The Financial Regulations include Contract Procedure rules that govern the way in which goods, materials and services are procured by the Council.

Financial Regulations apply to every councillor and officer of the Council and anyone acting on its behalf, and they are required to abide by them in all circumstances. These responsibilities also apply when councillors or officers represent the Council on Outside Bodies.

## **Codes of Conduct and Protocols (Part 5)**

Part 5 contains several Codes of Conduct and Protocols including a Code of Conduct for Councillors to ensure high standards of probity in the discharge of their responsibilities. The Council has a Standards Committee that oversees this Code of Conduct and other governance matters. Part 5 also contains other Codes and Protocols concerning gifts and hospitality, involvement in planning matters, and councillor/officer relations.

Officers also have to observe codes and Protocols that set guidelines on behaviour and standards of conduct at work. These do not form part of the constitution but are accessible through the following links:

## **Members' Allowances Scheme (Part 6)**

Councillors are paid a basic allowance and some may have an additional allowance linked to the level of responsibility they have within the Council. The Independent Remuneration Panel (IRP), which includes independent members of the public, reviews remuneration for Councillors and makes recommendations to full Council on the level at which allowances should be set. Full Council must take the recommendations of the IRP into consideration in taking decisions about allowances but is not bound by these recommendations.

Updated: June 2021

# **Rushcliffe Borough Council Constitution**

## **Part 2**

### **Political Leadership and Management Structure**

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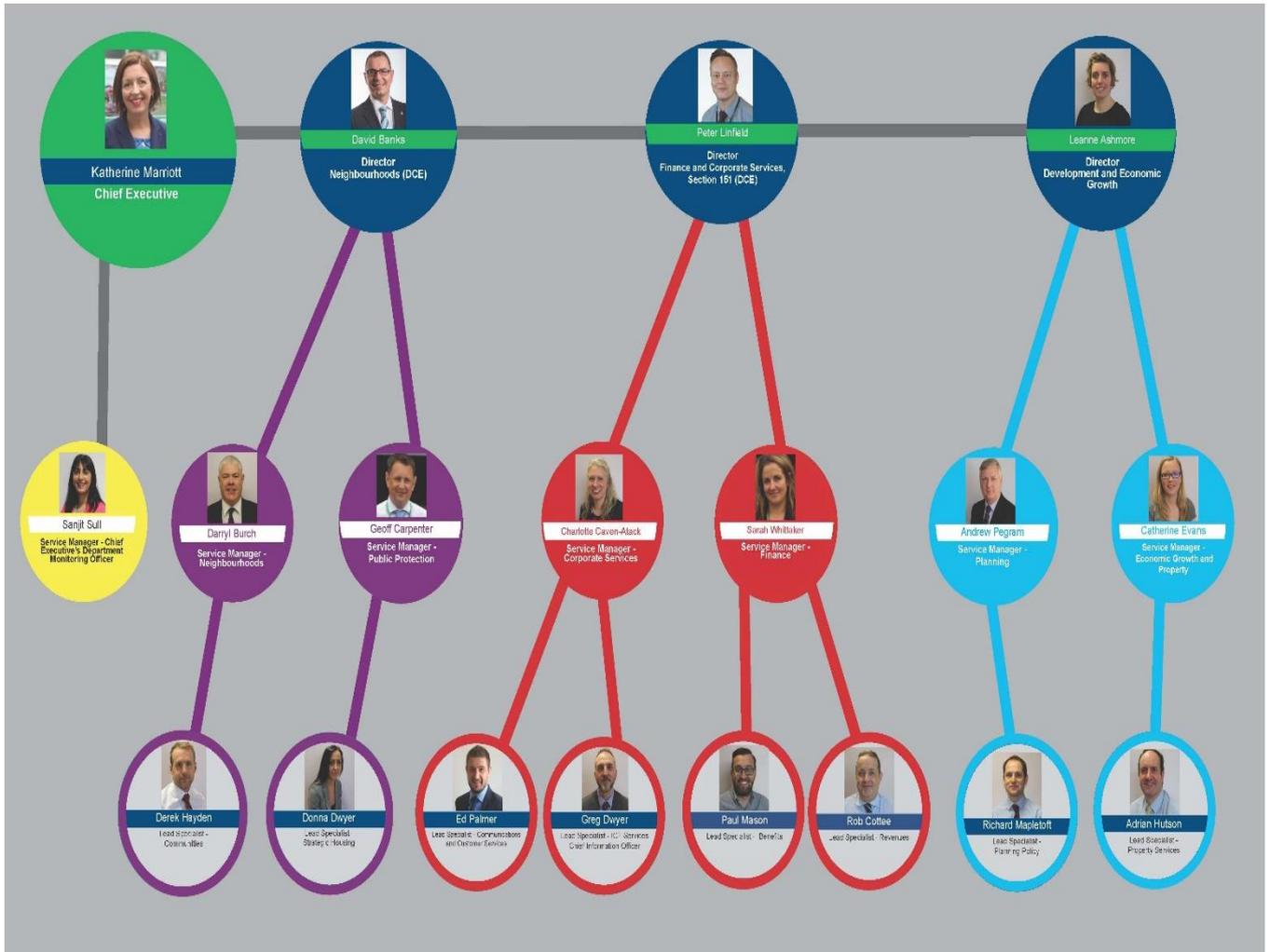
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# Management Structure



# MANAGEMENT TEAM

Service delivery structure from May 2021



# Cabinet Structure



# Cabinet Structure



**Cllr Simon Robinson**  
Leader of the Council

- Strategic and Borough Wide Leadership**
- Overall direction, focus and vision
  - Corporate Strategy
  - Medium Term Financial Strategy (MTFS)
  - Budgetary Policy (Linked to MTFS and 4 yr plan)
  - Strategic Economic and Business Growth
  - Collaboration/Partnerships/ Combined Authorities/Devolution
  - Development Corporation/LEP



**Cllr Andy Edyvean**  
Deputy Leader of the Council

- Cabinet portfolio holder**  
**Business and Growth**
- Growth Boards
  - Property Development/Investment projects (inc Bingham Leisure centre)
  - Localised Economic and Business Growth delivery
  - Asset Management
  - Business recovery following COVID-19
  - Planning Policy (inc Local Plan)
  - Development Management
  - Building Control
  - Planning Enforcement



**Cllr Abby Brennan**

**Cabinet portfolio holder**  
**Communities and Climate Change**

- Leisure Strategy and leisure contract
- Health and Wellbeing
- Cultural Services and Community Engagement
- Young People
- Environment, Energy and Carbon Reduction
- Armed forces
- Equality and diversity lead



**Cllr Rob Inglis**

**Cabinet portfolio holder**  
**Environment and Safety**

- Community Safety
- Environmental Health
- Licensing
- Waste and Recycling
- Fleet Maintenance
- Community Emergency Planning
- Streetwise and Car Parking contracts
- Strategic Housing Policy
- Private Sector Housing and Empty Homes



**Cllr Gordon Moore**

**Cabinet portfolio holder**  
**Finance and Customer Access**

- Finance (Budget and Debt Management)
- Business Rates (NNDR)
- Investment strategy
- ICT
- Member Development
- Housing Benefits
- Procurement Strategy
- Transformation
- Customer Access and Communications



# Scrutiny Structure



## Scrutiny Groups

### Corporate Overview Group



Cllr Tina Combellack  
CHAIRMAN

### Governance Scrutiny Group



Cllr Davinder Viridi  
CHAIRMAN



Cllr Benjamin Gray  
VICE CHAIRMAN

### Communities Scrutiny Group



Cllr Jonathan Wheeler  
CHAIRMAN



Cllr Bal Basnal  
VICE CHAIRMAN

### Growth and Development Scrutiny Group



Cllr Neil Clarke  
CHAIRMAN



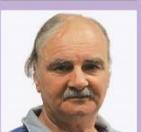
Cllr Richard Butler  
VICE CHAIRMAN

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# Know your Councillor 2019-2023

## Councillors 2019-2023

For further contact details, visit [rushcliffe.gov.uk/councillors/councillorsbyname](http://rushcliffe.gov.uk/councillors/councillorsbyname)

 <b>Brian Buschman</b> Abbey 0115 981 5472 Conservative	 <b>Penny Gowland</b> Abbey 07903 522 105 Labour	 <b>Lizzie Howitt</b> Bingham East 07775 921 141 Liberal Democrat	 <b>Gareth Williams</b> Bingham East 07557 763 868 Conservative	 <b>John Stockwood</b> Bingham West 07894 442 294 Conservative	 <b>Francis Purdue-Horan</b> Bingham West 07505 461 002 Conservative	 <b>Reg Adair</b> Bunny 0115 984 7412 Conservative	 <b>Alan Phillips</b> Compton Acres 07973 617 047 Conservative	 <b>Gordon Wheeler</b> Compton Acres 07917 240 415 Conservative	 <b>Richard Butler</b> Cotgrave 0115 989 2504 Conservative	 <b>Leo Healy</b> Cotgrave 07838 339 506 Conservative
 <b>Christine Jeffreys</b> Cotgrave 0115 989 2829 Conservative	 <b>Maureen Stockwood</b> Cranmer 01949 875 778 Conservative	 <b>Gordon Moore</b> Cropwell 0115 933 5141 Conservative	 <b>David Simms</b> East Bridgford 07904 874 928 Conservative	 <b>Kevin Beardsall</b> Edwalton 0115 933 6336 Conservative	 <b>Simon Robinson</b> Edwalton 0115 914 8277 Conservative	 <b>Jonathan Wheeler</b> Gamston North 07725 655 328 Conservative	 <b>Davinder Virdi</b> Gamston South 07841 235 805 Conservative	 <b>Rex Walker</b> Gotham 07812 146 386 Conservative	 <b>John Cottee</b> Keyworth and Wolds 0115 783 9052 Conservative	 <b>Andy Edyvean</b> Keyworth and Wolds 01509 881 476 Conservative
 <b>Rob Inglis</b> Keyworth and Wolds 0115 822 4502 Conservative	 <b>Sue Mallender</b> Lady Bay 07788 736 468 Green	 <b>Richard Mallender</b> Lady Bay 07976 775 619 Green	 <b>Carys Thomas</b> Leake 01509 853 975 Independent	 <b>Kevin Shaw</b> Leake 07948 839 048 Independent	 <b>Lesley Way</b> Leake 01509 820 298 Independent	 <b>Naz Begum</b> Lutterell 07477 085 179 Labour	 <b>Benjamin Gray</b> Lutterell 07396 558 791 Labour	 <b>Rod Jones</b> Musters 07775 638 299 Liberal Democrat	 <b>Annie Major</b> Musters 07340 488 672 Liberal Democrat	 <b>Tina Combella</b> Neville and Langar 01664 823 105 Conservative
 <b>Abby Brennan</b> Radcliffe on Trent 07802 633 743 Conservative	 <b>Neil Clarke</b> Radcliffe on Trent 01664 823 105 Conservative	 <b>Roger Upton</b> Radcliffe on Trent 0115 933 3881 Conservative	 <b>Gary Dickman</b> Ruddington 0115 984 7830 Conservative	 <b>Mike Gaunt</b> Ruddington 07811 955 290 Labour	 <b>Jen Walker</b> Ruddington 07812 555 896 Labour	 <b>Matt Barney</b> Sutton Bonington 07788 682696 Conservative	 <b>Sarah Bailey</b> Thoroton 01664 820 470 Conservative	 <b>Debbie Mason</b> Tollerton 0115 937 7293 Conservative	 <b>Bal Bansal</b> Trent Bridge 07976 595 144 Labour	 <b>Jenny Murray</b> Trent Bridge 0115 981 0253 Labour

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# **Rushcliffe Borough Council Constitution**

## **Part 3**

### **Responsibility for Functions and Scheme of Delegation**

# **RESPONSIBILITY FOR FUNCTIONS**

## **1.1 Responsibility for Local Choice Functions – Full Council**

### **(a) Policy Framework**

The following strategies and plans are in the Policy Framework which is the responsibility of the Full Council

- (a) Corporate Strategy
- (b) Crime and Disorder Reduction Strategy
- (c) Local Plan Documents
- (d) Licensing Statement of Policy
- (e) Gambling Statement of Policy

### **(b) Budget**

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

## **1.2 Functions of the full Council**

Only the Council will exercise the following functions

- (a) adopting and changing the constitution (other than minor changes made by the Monitoring Officer under delegated authority and decisions on executive matters)
- (b) approving or adopting the policy framework and the budget
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of the Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget
- (d) electing the Leader
- (e) approving the delegation scheme other than for executive functions
- (f) agreeing and/or amending the terms of reference for non-executive committees, deciding on their composition and making appointments to them
- (g) appointing representatives to outside bodies
- (h) adopting a scheme for Members' Allowances
- (i) changing the name of the area, conferring the title of honorary alderman or freedom of the Borough
- (j) confirming the appointment of the Head of Paid Service; the Section 151 Officer and the Monitoring Officer in line with the Officer Employment Procedure Rules
- (k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills
- (l) all local choice functions set out in part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet
- (m) all other matters which, by law, must be reserved to Council

- (n) approval of carry forward of unspent revenue budget provisions, recommended by the Section 151 Officer, that are sufficiently committed, but cannot be accounted for in the original year and cannot be absorbed in the new year's budget.

### **1.3 Delegation of Responsibility for Council Functions by Full Council**

The following Committees have been appointed by the Council, with the terms of reference set out in Appendix 2:

Corporate Overview Group  
Governance Scrutiny Group  
Growth and Development Scrutiny Group  
Communities Scrutiny Group  
Planning Committee  
Licensing Committee  
Employment Appeals Committee  
Interviewing Committee  
Standards Committee

The following member groups have also been appointed;

Civic Hospitality Panel  
Local Development Framework Group  
Rushcliffe Strategic Growth Board  
Member Development Group  
**Oversight Board, wholly owned companies**

The Council has the power to appoint Area Committees but has not exercised this power. Notwithstanding the powers delegated, here, to Committees, etc, and later, to officers, the Council retains the right to exercise such powers.

### **1.4 Responsibility for Executive Functions – Leader and Cabinet**

The Leader and the Cabinet have responsibility for all executive functions, as set out below

- (a) Executive powers have not been granted to individual members of the Cabinet, with the following exceptions:
- the Cabinet Portfolio holder for Resources has been given delegated authority to approve capital grants in accordance with policy approved by the Council from time to time
- (b) The Leader has the powers allocated to him/her under the Local Government Act 2000.
- (c) To take decisions as required as the member of a company not wholly owned by the council**
- (d) Individual Portfolios have been allocated to Cabinet members as follows:

Responsibility	Function
Strategic and Borough Wide Leadership (Leader)	<ul style="list-style-type: none"> <li>• Overall direction focus and vision</li> <li>• Corporate Strategy</li> <li>• Medium Term Financial Strategy (MTFS)</li> <li>• Budgetary policy (linking with MTFS and four year plan)</li> <li>• Strategic Economic and Business Growth</li> <li>• Collaboration/Partnerships/Combined Authorities/Devolution/Companies both owned and not owned by the Council</li> <li>• Property Development/Investment Projects</li> </ul>
Business and Growth (Deputy Leader)	<ul style="list-style-type: none"> <li>• Growth Boards</li> <li>• Property Developments/Investment projects</li> <li>• Localised Economic and Business Growth delivery</li> <li>• Asset Management</li> <li>• Business recovery following COVID-19</li> <li>• Planning Policy</li> <li>• Development Management</li> <li>• Building Control</li> <li>• Planning Enforcement</li> </ul>

Communities and Climate Change Housing & Planning	<ul style="list-style-type: none"> <li>• Leisure Strategy and leisure contract</li> <li>• Health and Wellbeing</li> <li>• Cultural Services and Community Engagement</li> <li>• Young People</li> <li>• Environment, Energy and Carob Reduction</li> <li>• Armed Forces</li> <li>• Equality and Diversity Lead</li> </ul>
Finance and Customer Access	<ul style="list-style-type: none"> <li>• Finance (Budget and Debt Management)</li> <li>• Business Rates (NNDR)</li> <li>• Investment Strategy</li> <li>• ICT</li> <li>• Member Development</li> <li>• Housing Benefits</li> <li>• Procurement Strategy</li> <li>• Transformation</li> <li>• Customer Access and communications</li> </ul>
Environmental and Safety	<ul style="list-style-type: none"> <li>• Community Safety</li> <li>• Environmental Health</li> <li>• Licensing</li> <li>• Waste and Recycling</li> <li>• Fleet Maintenance</li> <li>• Community Emergency Planning</li> </ul>

	<ul style="list-style-type: none"><li>• Streetwise and Car Parking Contracts</li><li>• Strategic Housing Policy</li><li>• Private Sector Housing and Empty Homes</li></ul>
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The Leader is responsible for choosing Cabinet members, its size and the content of portfolios allocated. The Leader is also expected to conduct relationships with other political groups in a business-like fashion and will respond reasonably to requests for meetings to discuss emerging issues on the Council's policies and procedures from the Leader of the main opposition group.

## 1.5 Responsibility for Joint Arrangements

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

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

### Joint Arrangements, etc

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions, which are not Cabinet functions in any of the participating authorities or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions, which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may appoint only Cabinet members to a joint committee and those members need not reflect the political composition of the Council as a whole.
- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances;
  - i) the joint committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the Council by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a ward, which is wholly or partly contained within the area;
  - ii) the joint committee is between a county council and a single district council and relates to functions of the executive of the County Council. In such cases, the executive of the County Council may appoint to the joint committee any Councillor who is a member for an electoral division, which is wholly or partly contained within the area.

In both of these cases the political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegation in part 3 of this Constitution.

### **Appointments to joint committees**

Appointments to joint committees will be made by;

- (a) The Council, where all the functions of the joint committee are the responsibility of the Council
- (b) The Council with the agreement of the Cabinet, where some of the functions of the joint committee are the responsibility of the Council and some are the responsibility of the Cabinet
- (c) The Cabinet, where all of the functions of the joint committee are the responsibility of the Cabinet.

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

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

### **Appointments to companies not wholly owned by the Council**

Appointments to companies not wholly owned by the Council will be made by:

- (a) The Council, where all of the functions of the company are the responsibility of the Council
- (b) The Council with the agreement of the Cabinet, where some of the functions of the company are the responsibility of the Council and some are the responsibility of the Cabinet
- (c) The Cabinet, where all of the functions of the company are the responsibility of the Cabinet.

## **1.6 Budget and Policy Framework**

Any action taken by the Leader and/or Cabinet must either fall within the budget and policy framework, or it must be the subject of a recommendation to the Council to amend the budget and/or policy framework.

Notwithstanding the powers relating to executive functions which are delegated to officers, the Leader and Cabinet retain the right to exercise such power.

## **Scheme of Delegation**

### **General**

Pursuant to Section 101 of the Local Government Act 1972 and Section 9E of the Local Government Act 2000, the Council, in respect of nonexecutive matters, and the Leader, in respect of the delegation of executive functions to officers, delegate the following functions:

- to each committee of the Council, full powers to act in all matters covered by the Committee's Terms of Reference
- to each officer (see paragraph below), full powers to act in all matters within their area of responsibility (unless delegated solely to a Committee), including responsibility for all day to day management, staffing and operational decisions.

For the purposes of the scheme of delegation reference to delegation to an officer shall mean one of the following officers unless specifically indicated otherwise:

- Chief Executive (Head of Paid Service)
- Director – Development and Economic Growth
- Director, Deputy Chief Executive – Neighbourhoods
- Director, Deputy Chief Executive - Finance and Corporate Services

The exercise of such powers shall be subject always to the provisions of any Standing Order or Financial Regulation for the time being in force, except where such Order or Regulation has been specifically waived by resolution of the Council or as otherwise provided for in this Constitution or by law.

The areas of responsibility of each Director are set out (but not by way of limitation) in the relevant sections of Appendices 1 to 4 to this scheme of delegation, but subject to any qualification, requirement to consult others or to refer a matter to a committee or to the Council for consideration, as may be specified.

### **Chief Executive, Directors and Statutory Officers**

#### **Functions and areas of responsibility**

##### **Chief Executive**

- Overall corporate management and operational responsibility (and Head of Paid Service) including overall management responsibility for all officers
- Provision of professional advice to all parties in the decision-making process
- Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions
- Representing the Council on partnership and external bodies
- Chief advisor to the Council and principal advisor in all professional matters
- Other duties as required by statute or the Council.

- To respond reasonably to requests for meetings to discuss emerging issues on the Council's policies and procedures from the Leader of the main opposition group.

## Functions of the Chief Executive as Head of Paid Service

The Chief Executive, as Head of the Paid Service, shall be authorised to:

- deal with all matters relating to the recruitment, appointment, remuneration, conditions of service, discipline, dismissal, superannuation, qualifications, training, promotion, safety and provision of welfare facilities of all employees of the Council (save herself) which have not been delegated to a Committee, except that:
  - a committee of Council will recommend the appointment of the Head of Paid Service (Chief Executive), and Directors
  - appointment and dismissal of the roles of:
    - Monitoring Officer as appointed pursuant to Section 5 of the Local Government and Housing Act 1989; and
    - the officer having responsibility for the Council's financial affairs pursuant to Section 151 of the Local Government Act 1972, shall be reserved to the Council.

NOTE: In exercising these powers the Chief Executive shall have regard to any procedures, code of practice or guidance approved by the Council in relation to the matter concerned.

- to settle any claims against the Council in consultation with the Monitoring Officer and the Section 151 Officer
- to make such arrangements as may be necessary or appropriate to facilitate management consultation with employees or employee representatives in respect of employment related issues
- to make appointments to committees, including scrutiny committees, in respect of seats allocated to the respective political groups in accordance with the requirements of Section 16 of the Local Government and Housing Act 1989
- to make appointments to other member groups in respect of seats allocated by the Council to the respective political groups in accordance with the wishes of those respective groups
- to agree member nominations for conferences after consultation with the leaders of any political groups that would be entitled to nominate members for attendance if political proportionality principles are applied
- to make any Order requested by the Chief Constable and authorised by the Home Office prohibiting the holding of public processions, and in the absence of the Chief Executive, the Directors shall be so authorised
- in respect of any Order made above, the Chief Executive or other officers indicated above are authorised to affix the seal of the Council, such sealing to be witnessed solely by the officer concerned

- to consent to police requests for authorisation under Section 30 of the Anti-Social Behaviour Act 2003 after consultation with the appropriate Cabinet portfolio holder
- in consultation with the Leader and the appropriate Cabinet member with responsibility for the service area concerned, to authorise the taking or carrying out of action, notwithstanding anything in the Council's Standing Orders or Financial Regulations, where he/she considers that circumstances exist that make it expedient or necessary for action to be taken prior to the time when such action could be approved through normal Council procedures. A report on such action, and the circumstances justifying the exercise of the delegated powers, shall be made to the next meeting of the Cabinet or the Council as appropriate
- The Head of Paid Service will on request report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers. The Head of Paid Service also has a statutory function to make such a report under section 4 of the Local Government and Housing Act 1989 should circumstances warrant it.
- To act as the Council's representative, and to make orders associated with being the said representative of a company not wholly owned by the Council as authorised by Council or Cabinet.
- AND provided that where an urgent decision is required in relation to any matter which falls outside the budget or policy framework, the procedure set out in the Budget and Policy Framework Standing Orders (order 9) shall be followed.

## Directors

- Together with the Chief Executive and other Directors, ensure that the Council's objectives are achieved and contribute to the development and implementation of strategic policy.
- At the direction of the Chief Executive, to oversee the delivery and development of services in line with the Council's scheme of delegation.
- At the direction of the Chief Executive, to act as lead sponsor for specific service areas and projects which contribute to the development and implementation of strategic policy.

## Functions of the Monitoring Officer

- Maintaining the Constitution – Maintain an up-to-date version of the Constitution and ensure that it is widely available for consultation by Councillors, officers and citizens.
- Ensuring lawfulness and fairness of decision making – After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to any Council or Cabinet 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.

- Supporting the Standards Committee – Contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- Conducting investigations – Conduct investigations into standards matters and make reports or recommendations in respect of them to the Standards Committee.
- Proper Officer for access to information – 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.
- Advising whether Cabinet decisions are within the budget and policy framework – Together with the Chief Executive and Section 151 Officer, advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- Providing advice - Together with the Chief Executive and Section 151 Officer, provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, and budget and policy framework issues to all Councillors.
- Complaints - Co-ordinating the response to complaints referred to the Local Ombudsman and to act as principal advisor on ethical standards issues and Councillor conduct.
- The Monitoring Officer shall be authorised:
  - to exercise the required discretion whether or not to prosecute or defend legal proceedings on behalf of the Council.
  - to take all necessary steps in legal proceedings against any person or body authorised by the Council.
  - to take all necessary steps to defend the Council in legal proceedings against the Council brought by any person or body.
  - to certify resolutions and documents as being true copies and authorize other officers to do so.
  - to obtain Counsel's Opinion or instruct Counsel to appear on behalf of the Council whenever he/she considers such action advisable.
  - to sign on behalf of the Council and authorise other officers to do so any deed or other document authorised by the Council or which it is necessary or desirable to give effect to any decision of the Council, unless any enactment otherwise requires or authorises or the Council has authorised some other person for some specific purpose.
  - to amend the Council's constitution in response to changes in compliance with legislation and to make other minor amendments.

#### Functions of the Section 151 Officer

- Ensuring lawfulness and financial prudence of decision making – After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Council or to the Cabinet in relation to any Cabinet 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.

- Administration of financial affairs – He or she will have responsibility for the administration of the financial affairs of the Council without prejudice to the generality of the above.
  - to make arrangements for the provision and operation of any treasury management, banking and insurance services including the authorisation of any transaction; signing of cheques or other financial instrument; provision of indemnities; agreement of terms for the raising, repayment or cancellation of loans, investments and leases; and at the Section 151 Officer's absolute discretion to authorise other officers of the Council to perform all or any of the above.
  - to take any action to recover debts due to the Council and to write off debts considered to be irrecoverable for any proper reason.
  - to authorise arrangements for the disposal of surplus or obsolete assets and consequential accounting entries.
  - to determine all financial matters specified within statutory provisions and not reserved therein to the Council.
  - to allocate budgetary provision from approved contingencies and earmarked reserves.
  - to make arrangements or the provision of an Internal Audit service to the Council.
- Contributing to corporate management – Contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- Providing advice – Together with the Chief Executive and the Monitoring Officer provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and support and advise Councillors and officers in their respective roles.
- Give financial information – Provide financial information to the media, members of the public and the community.

## **Delegation to Officers – General**

- In cases of doubt as to which officer has responsibility for a matter, the Chief Executive shall decide.
- The delegation to officers shall include the power:
  - to authorise the exercise of the delegated powers of decision by such other officers as may be deemed appropriate for the proper and efficient performance of the work.
  - to designate particular officers as "appropriate" or "proper" officers for the purposes of any statutory provisions, including where necessary or convenient having regard to any professional or technical requirements, an officer who is not an employee of the Council.
  - following consultation with the Chief Executive to authorise particular officers in accordance with Section 223 of the Local Government Act 1972 and Section 60(2) of the County Courts Act 1984 (conduct of court proceedings by officers who are not solicitors).

- to make any determination, serve any notice or make any Order under statutory provisions.
- to authorise the Monitoring Officer/ Borough Solicitor to prosecute in respect of any offence under any statute, order regulation or byelaw, subject to the Monitoring Officer/ Borough Solicitor being satisfied as to the evidence.
- to sign cards of identity and cards of authorisation which, in the opinion of the officer, are required to enable an officer to enter premises for the proper performance of their duties.
- Every officer may take any necessary emergency action for the safety of the public or the protection of the property of the Council.
- Other officers, as designated by the Chief Executive, may act in place of the officer concerned in exercise of any power conferred on an officer by this Scheme of Delegation whenever a post is vacant, or the officer is for any reason unable to act.

## Appendix 1 – Directors – Areas of Responsibility

### Director – Development and Economic Growth

Building Control  
Conservation and design  
Contract management  
Dangerous structures  
Demolition Control  
Determine Planning Applications (subject to Appendix 4)  
Development Control (subject to Appendix 4)  
Hedgerow regulation and protection  
Land availability – housing and employment  
Listed buildings  
Local land charges and local searches  
Planning Policy  
Planning and Transportation Policy  
Street naming and numbering  
Capital works schemes and planned maintenance  
Construction and design  
Executive support  
Economic growth  
Estates management  
Markets  
Management of footpath and bridleway diversions and creation orders under  
Property (acquisitions and disposals)  
Performance of Buildings Directive  
Strategic asset management  
Statutory compliance in respect of asbestos, legionella, DDA, Energy  
T&CPA Public Rights of Way  
Transformation and Projects  
Tree advice and landscaping  
Tree Preservation Orders  
Valuations and impairment review

### Note: Director Development and Economic Growth

- Ward Member(s) shall be consulted before commenting on proposals for diversions and other alterations to public rights of way.
- Ward Member(s) shall be consulted before making any order relating to a public right of way and, in the event of any such Ward Members objecting, to consult the Cabinet before deciding whether to make the order.
- The delegation in relation to the acquisition or disposal of land excludes the following:

- where the consideration to be paid or received by the Council exceeds £25,000 in amount or value; and
- in the case of disposal, where the consent of the Secretary of State would be required (unless a general consent applies), or where there is a requirement to advertise the disposal of open space land under Section 123(2A) of the Local Government Act 1972.

## **Director – Development and Economic Growth**

### **Development Management**

Applications made under the following statutory provisions shall be referred to Planning Committee for decision or to make observations, as may be required, in the circumstances set out below:

- where, following consultation in accordance with the codes and protocols – guidance on planning application procedures, the Director – **Development and Economic Growth** and ward Councillor(s) have different views.
- where the application has been submitted by the Council.
- where the application has been submitted by the County Council; except minor development relating to existing operational premises (eg school classrooms, fences, etc).
- where the Council is being consulted by an adjoining authority on an application (except where a response is required prior to the next meeting of the Planning Committee).
- where the application involves any Councillor or senior officer\* as applicant or agent in consultation with the Chairman of Planning Committee.
- where a ward Councillor declares an interest and has made a request for referral to Planning Committee in accordance with 2 below.
- where a Section 106 planning agreement is required, unless the agreement relates to standard drainage requirements or the proposed agreement complies with the Council's Supplementary Planning Guidance.

A valid request that the application be referred to the Plans Committee for determination has been made by a ward Councillor(s) in accordance with this referral procedure.

- Following a planning application being registered and made valid, officers will write to:
  - the ward Councillors of the ward where the application is,
  - ward Councillors where part of the application site is in their ward
  - ward Councillors where the application site is immediately adjacent to or within 15 metres of the boundary of their ward.
- Ward Councillors where the application site is wholly or partly within the boundary of their ward may request that the application be referred to Planning Committee which would otherwise have been determined by the Director – **Development and Economic Growth** under delegated authority.

To consult ward Councillor(s) before making a Tree Preservation Order or serving a Building Preservation Notice, except where immediate action is required.

To refer to Planning Committee any Tree Preservation Order where a valid objection has been received following the service of notice in accordance with the relevant Regulations.

To refer to Planning Committee for decision any application to lop, top or fell trees included in a Tree Preservation Order where compensation may be payable if the application is refused.

To refer to the Monitoring Officer/Borough Solicitor for determination applications for Certificates of Lawful Use or Development arising under section 191 of the Town and County Planning Act 1990.

To consult ward Councillors before commenting on proposed traffic regulation orders.

To consult the relevant Cabinet portfolio holder before approving the expenditure of Section 106 agreement monies where such expenditure exceeds £20,000.

In consultation with the relevant Cabinet member and ward Councillor(s) to exercise the power necessary to implement or amend conservation area boundaries as set out within Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

\* Senior officer shall mean any officer of the Council at Grade LS11 or above and shall also include any other post specified in the Officers' Code of Conduct for this purpose.

## **Director – Neighbourhoods**

Abandoned shopping and luggage trolleys - (Schedule 4 Environmental Protection Act)

Authorisation of surveillance under RIPA

Affordable homes

Air quality management

Animal welfare

Anti-social behaviour

**Arena facilities management**

Car parks and parking enforcement

Choice Based Lettings

Civil Contingency

Community safety

**Community partnership and development**

Contaminated land

Contract Management

Corporate Health and Safety

Dog control  
Domestic violence  
Environment  
Environment improvements  
Emergency Planning and flood risk and prevention  
Fleet management  
Food safety  
Gambling functions (as set out in Appendix 3)  
Health and safety at work enforcement)  
Highway matters other than agency  
Houses in Multiple Occupation  
Housing advice and assistance  
Housing strategy  
Halls, pavilions and other facilities  
**Health development and promotion**  
Home energy, conservation, arts and events  
Infectious diseases and food poisoning  
Land drainage  
Leisure facilities (partnerships)  
**Leisure policy**  
Licensing and registration functions (as set out in Appendix 2)  
Nuisances  
Overcrowding  
Client function in relation to park maintenance, grass cutting and horticulture  
Pest control  
Pollution control  
Private sector housing (including Disabled Facilities Grants and Discretionary Grants)  
Public Health Statutory  
Parks and playing fields  
Rushcliffe Country Park  
Sport development  
Street trading consents including mobile snack bars on trunk roads  
Client function in relation to street sweeping and litter collection  
Waste management  
Water quality  
**To approve community grants in consultation with the Cabinet Portfolio Holder for Resources**

## **Director – Neighbourhoods (Licensing)**

Licensing and Registration Functions  
Acupuncture, tattooing, ear piercing and electrolysis  
Alcohol and Entertainments (Licensing Act 2003)  
**Animal welfare licensing**  
Caravan and camping  
Dangerous wild animals  
Establishments for massage and special treatment

Food premises  
Food registration  
Gambling Act 2005  
Hackney carriage/private hire drivers and vehicles (see following \*note and table 1)  
House to house collections  
Houses in multiple occupation  
Lotteries  
Mobile home sites  
Pavement licences  
Pet animals  
Private water supplies  
Processes subject to control under Part 1 of the Environmental Protection Act  
Riding establishments  
Scrap metal dealers act 2013  
Sex establishments  
Societies  
Street collections  
Street trading  
Zoos

## **Director – Finance and Corporate Services**

Administration of Housing and Council Tax Benefits  
Action to recover debts and to write off debts considered to be irrecoverable  
Collection and recovery of Business Rates  
Collection and recovery of Council Tax  
Communications  
Contract Management  
Data Protection  
Democratic Services  
Elections  
Electoral registration  
ICT infrastructure and software development  
ICT security and procurement  
Information systems strategy  
Mayor's Office  
Payment of Housing and Council Tax Benefits  
Performance and Reputation  
Procurement  
Risk Management  
Strategic Finance  
Customer services

### **Note: Director – Finance and Corporate Services**

- In consultation with the Cabinet Portfolio holder for Finance and Customer Services approve hardship relief from rates and Discretionary Rate Relief for categories of relief falling outside of the Council's policy on Discretionary Rate

Relief and determine applications for a reduction of council tax under section 13A of Local Government Finance Act 1992.

## **Monitoring Officer / Chief Executive's Department**

Complaints and Ombudsman liaison

Constitution

Ethical Standards

Business Support Unit

Freedom of information Act

Legal Services, and advocacy

Strategic Human Resources

Delivery of elections

Corporate mail (incoming/outgoing)





### **Terms of Reference and Membership of Committees, Groups, Panels and Boards**

#### **Scrutiny Committees:**

##### **1. Terms of Reference**

The Council has appointed the following scrutiny committees under Section 21 of the Local Government Act 2000, with the terms of reference set out in paragraphs below;

- Corporate Overview Group
- Governance Scrutiny Group
- Growth and Development Group
- Communities Scrutiny Group

General terms of reference and functions for these scrutiny committees are set out at the end of this appendix and specific terms of reference and membership for each committee immediately follow this paragraph.

##### **2. Corporate Overview Group**

#### **Membership**

- Chairman of the Group to be an independent councillor (not involved in another Scrutiny Group or the Executive)
- Group to comprise of seven Councillors (the Chairman as detailed above and the six Chairmen and Vice Chairmen of the three scrutiny groups)

#### **Terms of Reference**

The purpose of this Group is to positively and proactively contribute to the ongoing success and good management of Rushcliffe Borough Council

The Group will achieve this by:

- Implementing identified improvements to scrutiny throughout the transitional period including training of scrutiny members, construction of new work programmes and reporting methods;
- Creating and receiving feedback on work programmes for Growth and Development, Communities and Governance Scrutiny Groups based on the Cabinet Forward Plan, Corporate Strategy, Medium Term Financial Strategy, Investment Strategy and Transformation Plan;
- Scrutinising financial and performance management reports on a quarterly basis to ensure the smooth running of the Council and delegate any necessary investigations into concerning elements of this report to the most appropriate scrutiny group via their work programme;
- Reviewing reports in respect of health and safety, diversity and customer feedback to ensure the Council is meeting its statutory duties.

## Support and Resources

- The Group will be supported by Service Manager for Finance and Corporate Services; Service Manager for Neighbourhoods; and the Chief Executive or **Director of Finance and Corporate Services**.
- Scrutiny investigations need to be resourced within the existing budgetary framework.

Membership to be cross-party and representative of the Council based on the principals of proportionality.

## 3. Governance Scrutiny Group

### Membership

- Chairman of the Group to be a member of the Conservative Group.
- Group to comprise of nine Councillors
- Membership to be cross-party and representative of the Council based on the principles of proportionality

### Terms of Reference

The purpose of this Group is to positively and proactively contribute to the ongoing success and good management of Rushcliffe Borough Council **and its wholly owned companies (Streetwise)**.

The Group will achieve this by:

- Reviewing the outcomes of both internal and external audit investigations to ensure the Council is compliant with legislation and best practice;
- Monitoring the Annual Governance Statement to ensure compliance with the Council's [Code of Corporate Governance](#);
- Scrutinising and approving the Statement of Accounts
- Considering the Council's Risk Management Framework annually to ensure current risks are being monitored, and effective controls and mitigating actions are in place;
- Considering regular reports on Asset and Investment Management to ensure prudent use of Council resources is being made to fulfil the objectives of the Investment Strategy and Annual Capital Programme;
- Monitoring the operation of the Council's constitution to ensure that it is being upheld and to recommend to Council any necessary fundamental changes.
- **Receive reports on the performance of the Council's wholly owned companies (Streetwise)**.

## Support and Resources

- The Group will be supported by **Director of Finance and Corporate Services** and **Director of Development and Economic Growth** Scrutiny investigations need to be resourced within the existing budgetary framework.

#### **4. Growth and Development Scrutiny Group**

##### **Membership**

- Chairman of the Group to be a member of the Conservative Group.
- Group to comprise of nine Councillors
- Membership to be cross-party and representative of the Council based on the principles of proportionality

##### **Terms of Reference**

The purpose of this group is to positively and proactively contribute to the ongoing success and good management of Rushcliffe Borough Council.

The Group will achieve this by:

- Overseeing significant projects contributing towards growth in the Borough to ensure deliverables are met and growth-related outcomes achieved;
- Scrutinising infrastructure development which acts as a catalyst for growth in the Borough to ensure such developments progress in a timely fashion and any obstructive barriers are removed or negotiated
- Reviewing the growth in demand for Council services ensuring all residents can access the services they need in a timely and cost-efficient manner
- Considering projects and initiatives to promote economic vibrancy, local democracy and community leadership within local towns and villages contributing towards the overall Council goal of creating Great Place and Great Lifestyle

##### **Support and Resources**

- The Group will be supported by **Director of Development and Economic Growth** and Service Manager for Transformation.
- Scrutiny investigations need to be resourced within the existing budgetary framework

#### **5. Communities Scrutiny Group**

##### **Membership**

- Chairman of the Group to be a member of the Conservative Group
- Group to comprise of nine Councillors
- Membership to be cross-party and representative of the Council based on the principles of proportionality

##### **Terms of Reference**

The purpose of this Group is to positively and proactively contribute to the ongoing success and good management of Rushcliffe Borough Council.

The Group will achieve this by:

- Reviewing the Council's partnerships to ensure that community needs are being met and the partnership is providing good value for money
- Identifying areas of community concern, exploring how this can be met and making recommendations to that effect
- Considering concerns specific to the local area in terms of health and wellbeing and making recommendations to improve the health and wellbeing of local residents
- Considering projects and initiatives to further the Council's efforts to protect the environment of the Borough and promote environmental sustainability to our residents

### **Support and Resources**

- The Group will be supported by Director **of Neighbourhoods**, and Service **Manager for Public Protection**.
- Scrutiny investigations need to be resourced within the existing budgetary framework.

## **6. General Role**

Within their terms of reference, scrutiny committees will:

- (i) review and/or scrutinise decisions made, or actions taken in connection with the discharge of any of the Council's functions
- (ii) make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions
- (iii) consider any matter affecting the area or its inhabitants
- (iv) exercise the right to call-in decisions made but not yet implemented by the Cabinet as set out within the Call-in section of the Overview and Scrutiny Standing Orders in Part 4 of this Constitution.

## **7. Specific functions**

### **(a) Policy development and review**

Scrutiny committees may:

- (i) Assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues

- (ii) establish Member Panels focusing on particular areas of policy development and review with a view to making recommendations to the Cabinet when necessary
- (iii) conduct research, community and other consultation in the analysis of policy issues and possible options
- (iv) consider and implement mechanisms to encourage and enhance community participation in the development of policy options
- (v) question members of the Cabinet and/or committees and senior managers about their views on issues and proposals affecting the area; and
- (vi) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

## **(b) Scrutiny**

Scrutiny committees may:

- (i) review and scrutinise the decisions made by and performance of the Cabinet and/or committees and Council officers both in relation to individual decisions and over time
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
- (iii) question members of the Cabinet and/or committees and senior managers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects
- (iv) make recommendations to the Cabinet and/or appropriate committee and/or Council arising from the outcome of the scrutiny process
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the scrutiny committee and local people about their activities and performance
- (vi) question and gather evidence from any person (with their permission)
- (vii) deliver the 'Councillor Call for Action (CCFA)' process in line with the CCFA protocol.

## **8. Proceedings of Scrutiny Committees**

Scrutiny committees will conduct their proceedings in accordance with the Overview and Scrutiny Standing Orders set out in part 4 of this Constitution.

## **Regulatory and Other Committees and member Groups**

The Council has appointed the following committees with the terms of reference indicated:

### **9. Planning Committee**

Make decisions or observations, as may be required, in respect of any planning application or matter, which must be referred to the committee by the **Director of Development and Economic Growth** in accordance with the scheme of delegation or where the **Director of Development and Economic Growth** considers that such application or matter should be considered by the committee;

PROVIDED THAT

- (i) The **Director of Development and Economic Growth** may refer to Council for decision any proposed decision of the committee that is contrary to his/her recommendation
- (ii) Any planning application which is refused or approved subject to conditions and which in the opinion of the **Director of Development and Economic Growth** and Borough Solicitor would be likely to lead to the serving of a purchase notice or attract a claim for compensation, shall be referred to Council for decision.

Membership to be cross-party and representative of the Council based on the principals of proportionality. Appropriately trained substitutes are permitted.

### **10. Licensing Committee**

- (a) Responsible for all those functions for which the Council is responsible relating to licensing and registration
- (b) To recommend to Council the approval or revision to the Statement of Licensing Policy and the Statement of Licensing Principles
- (c) To consider and determine applications as set out below (i-ix) where a relevant representation has been received from the police, fire authority or any other statutory consultee, to discharge the Council's responsibility under the Licensing Act 2003 and the Gambling Act 2005 and where it is considered that the granting of the application would be contrary to an approved policy of the Council in respect of that licensing function; or if the relevant Director considers that for other reasons the application should be determined by the committee:
  - (i) application for a personal licence where there are relevant unspent convictions;
  - (ii) review of a premises licence or club premises certificate;
  - (iii) application for a provisional statement;

- (iv) application for variation to a premises licence or club premises certificate; (v) application to grant or vary the licence so as to specify the designated premises supervisor;
  - (vi) application for transfer of a premises licence;
  - (vii) application for interim authority;
  - (viii) a police objection to a temporary event notice
  - (ix) decision to object where the local authority is the consultee and not the relevant authority considering the application;
- (d) Consider and determine appeals in respect of proposed decisions by the **Director – Neighbourhoods** in relation to hackney carriage and private hire licensing matters where an applicant or licensed driver has exercised a right of appeal against the proposed decision of the Director – Neighbourhoods under the scheme of delegation.
- (e) To act as the Council's Licensing Committee under the Licensing Act 2003 and the Gambling Act 2005.
- (f) To determine discretionary licensing fees where objections to the proposed fees have been made, and these have not been withdrawn and are not considered frivolous or vexatious by the Director of Neighbourhoods, and provide for objectors to speak for up to five minutes at meetings of the Sub-committee.

Membership to be cross-party and representative of the Council based on the principals of proportionality. Appropriately trained substitutes are permitted.

### **10.1 Licensing Sub Committee**

Items c, d and f are delegated to the Licensing Sub-committee. The Licensing Sub-committee when considering premises licences and associated functions under the Licensing Act 2003 will comprise three members selected by the Service Manager Finance and Commercial, Performance, Reputation and Constitutional Services the basis of availability from the members of the Committee so that it includes either the Chair or Vice-chair of the Committee where possible.

The Licensing Sub-committee When considering matters Relating to Hackney Carriage and Private Hire Licensing will comprise four members (with a minimum of three members needing to be present for the meeting to be quorate) chosen by Monitoring Officer on the basis of availability from the members of the Committee. Best endeavours will be used to ensure the inclusion of either the Chair or Vice Chair of the Committee where possible. In the event of a tied vote the chair will have the casting vote.

### **11. NOT IN USE**

### **12. Employment Appeals Committee**

Hear and determine appeals in accordance with the Council's procedures in respect of dismissal arising from misconduct, absence and capability only.

Membership to be cross-party and representative of the Council based on the principals of proportionality. Appropriately trained substitutes are permitted.

### **13. Interviewing Committee**

Make appointments to the posts of:

- Chief Executive
- **Directors**

Membership to be cross-party and representative of the Council based on the principals of proportionality. Appropriately trained substitutes are permitted.

### **Other Member Groups**

### **14. Civic Hospitality Panel**

Consider civic hospitality matters and the organisation of civic functions.

Membership to be cross-party and representative of the Council based on the principals of proportionality.

### **15. Local Development Framework Group**

The Local Development Framework Group shall consider and make recommendations to Council on all Development Plan documents and shall consider and make recommendations to Cabinet on all Supplementary Development Plan documents and any other relevant documents.

Membership to be cross-party and representative of the Council based on the principals of proportionality.

### **16. Standards Committee**

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted members
- (b) assisting the Councillors and co-opted members to observe the Councillor Code of Conduct
- (c) advising the Council on the adoption or revision of the Councillor Code of Conduct
- (d) monitoring the operation of the Councillor Code of Conduct
- (e) advising, training or arranging to train the Councillors and co-opted members on matters relating to the Councillor Code of Conduct
- (f) dealing with complaints about Councillors in accordance with the Council's published Councillors' complaints procedure approved under Section 28(6) of the Localism Act 2011

- (g) the exercising of (a) to (f) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils
- (h) granting dispensations to Councillors and co-opted members from requirements relating to disclosable pecuniary interests
- (i) considering any reference to the committee by the Chief Executive pursuant to paragraph 10 of the Councillors' Allowance scheme relating to the failure of a Councillor to attend any meeting during a period of three months, with power to suspend the payment of allowances under the scheme to the Councillor concerned, unless the reasons for non-attendance are approved by the Committee.

Membership will be cross-party, and representative of the Council based on the principals of proportionality.

### **Chairing the Committee**

A member of the Cabinet may not chair the committee.

## **Member working groups**

### **West Bridgford Special Expenses Group**

#### **Membership**

- Chairman of the Group to be the Finance Portfolio Holder
- Group to comprise of nine Councillors, the Chairman as detailed above, and 8 other councillors allocated according to the principles of proportionality across the council. Members will be West Bridgford ward members, subject to proportionality across all committees and groups being maintained.

Substitutes are permitted

#### **Terms of Reference**

#### **Group Purpose**

The purpose of this Group is to make recommendations in relation to both Special Expenses and the neighbourhood portion of Community Infrastructure Levy (CIL) in relation to the non-parished West Bridgford area, that are forwarded to both Cabinet and/or Full Council for approval.

The Group will achieve this by:

- Recommending a draft budget for approval by Full Council (to work within the parameters of the existing MTFS, for example council tax referendum limits);
- Reviewing the progress of the budget; and

- Approving the actual allocation of the neighbourhood portion of CIL relating to West Bridgford – which will be subject to public consultation.

### **Support and Resources**

The Group will be supported by officers from Finance, Legal Services and Democratic Services.

Group to meet at least every 6 months (subject to the need of any extraordinary meetings in relation to CIL).

### **Oversight Board, wholly owned companies (Streetwise)**

#### **Membership**

- Chairman of the group to be the Leader and Portfolio Holder for strategic and Borough wide Leadership
- Group to comprise of Leader, Deputy Leader, Cabinet Member, Chief Executive, Director of Finance and Corporate Services and Monitoring Officer.

Substitutes are not permitted.

### **Terms of Reference**

#### **Group purpose**

The purpose of this group is to maintain and oversight of the Council's wholly owned companies (Streetwise) and report on the matters below to Cabinet decision.

The Group will achieve this by:

- Consideration of the business plan and supporting budget and assumptions.
- Receive updates on delivery progress against the business plan.
- Consideration of the appointment/dismissal of Managing Directors.
- Consideration of the appointment of non-Executive Director(s).
- Consideration of the remuneration (by payment of fees, the provision of benefits- in kind or otherwise) where such payments exceed £10,000 per annum or to increase the remuneration of any such persons where the rate exceeds £20,000 per annum.
- Consideration of and approval of, the entering in or varying contracts of employment where such contracts (including pension and other benefits) exceeds the rate of £100,000 per annum or increasing the remuneration of any staff (including pension and other benefits) where that rate exceeds £100,000 per annum.
- Monitor summary financial performance.
- Receive and review final accounts.
- Consideration and approval of entering into commitments with any person/individuals other than the Council for financial facilities or arrangements exceeding £100,000.
- Consideration and approval of loans exceeding 5% of the previous year's turnover.
- Consideration and approval of the making of loans above the value of £20,000.
- Consideration and approval of the acquisition or disposal of any assets (including companies) that do not form part of the approved business plan previously approved.

#### **Support and Resources**

The Group will be supported by officers from The Chief Executive, Finance, Legal Services and Democratic Services.

Group to meet at least every 6 months (subject to the need of any extraordinary meetings in relation to urgent matters).

## **Appointment and Termination of Membership of Committees and Sub – Committees and use of Substitutes**

1. Whenever an appointment of a member of a committee or member group is made in accordance with the wishes of a political group to whom the seat has been allocated, and whenever such an appointment falls to be terminated in accordance with such wishes, then the Chief Executive shall make or terminate such appointment accordingly. The wishes of the political group shall be given in writing to the Chief Executive.

Provided that the Chief Executive shall not be required to give effect to a request to terminate an appointment for any particular committee, unless the wishes of the group are notified in writing to him/her no later than the starting time of that meeting of the committee.

2. Substitute members are permitted in line with the following protocol which sets out:
  - (a) meetings when substitute members are not permitted
  - (b) meetings when they are permitted
  - (c) how to decide if substitutes are permitted at newly established committees, groups or panels
  - (d) the requirements of the group leaders or whips
  - (e) the requirements of the Monitoring Officer and the Performance, Reputation and Constitutional Services Manager
  - (f) the process for replacement members.
3. Substitutes are not permitted at:
  - (a) Council
  - (b) Cabinet
  - (c) Standards Committee
  - (d) Corporate Overview Group
4. Substitutes are permitted at:
  - (a) Governance Scrutiny Group
  - (b) Growth and Development Group
  - (c) Communities Scrutiny Group
  - (d) Planning Committee\*
  - (e) Licensing Committee\*
  - (f) Local Development Framework Group

- (g) Member Development Group
- (h) Employment Appeals Committee\*
- (i) Interviewing Committee\*

\* subject to appropriate training

5. Cabinet or scrutiny groups when commissioning a member group or panel will determine if substitutes are to be permitted at its meetings taking into account:
  - (a) the purpose of the group or panel and if it is 'task and finish' based (looking at a particular issue over a specific time with a view to making some recommendations)
  - (b) the anticipated timescale for the group or panel's work
  - (c) its terms of reference
  - (d) continuity of debate
  - (e) consistency of approach
  - (f) best use of expertise
  - (g) that material already dealt with does not have to be reconsidered.
  
6. If substitutes are to be used at meetings when it is permitted, the group leaders, deputy leaders or whips will:
  - (a) notify the Monitoring Officer or Performance, Reputation and Constitutional Services Manager, or their duly appointed representative, in writing as soon as possible in advance of the meeting of:
    - (i) the member to be substituted
    - (ii) the substitute
    - (iii) the anticipated period that a substitute will be used

Subject to exclusions (as set out above) based on agenda content and topics or issue being considered at meetings in short succession

  - (a) notify the Chief Executive, or their duly appointed representative, in writing in the event of a permanent replacement member due to exceptional circumstances (outlining the reasons for this).
  
7. Replacement members are permitted when exceptional circumstances mean that a member is unlikely to be able to attend future meetings through illness or legitimate external commitments.
  
8. In the event of such replacements, the group leaders or whips must notify the Chief Executive in writing in the event of a permanent replacement member due to exceptional circumstances (as per paragraph 4.6). They must outline the reasons for this. The Monitoring Officer will then make arrangements to notify the group leaders of the replacement member.

**9.** The rules in relation to the attendance of other members at member groups and panels are set out in the protocol within Part 5 – Codes and Protocols; of this Constitution.

# **Rushcliffe Borough Council Constitution**

## **Part 4**

### **Standing Orders, Rules and Financial Regulations**



## STANDING ORDERS – COUNCIL

### 1. Annual Meeting of the Council

#### 1.1 Timing and business

The annual meeting of the Council will be held at such places on such dates and at such times, as may be fixed by the Council, subject to any statutory requirements as set out below.

In a year when there is an election of all Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors (N.B. retirement takes place on the fourth day after the election). In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (a) receive any declarations of interest
- (b) elect a person to preside at the annual meeting if the Mayor or Deputy Mayor is not present
- (c) approve the minutes of the last meeting
- (d) receive an address from the outgoing Mayor
- (e) elect the Mayor
- (f) appoint the Deputy Mayor
- (g) receive any announcements from the Mayor
- (h) elect the Leader for a period of four years or until the Leader's term of office as a Councillor ends. (This appointment only occurs at the annual Council meeting following the local government elections).
- (i) appoint at least one scrutiny committee, a standards committee and such other committees or member groups as the Council considers appropriate and to deal with matters which are neither reserved to the Council nor are executive functions
- (j) appoint the Chairmen and Vice-Chairmen of committees and member groups
- (k) appoint representatives to outside bodies, unless previously appointed by the Council
- (l) agree the scheme of delegation or any amendments

- (m) approve a calendar of meetings for the year, if not previously approved by the Council; and
- (n) consider any business set out in the notice convening the meeting.

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

At the annual meeting, the Council will:

- (a) decide which committees or member groups to establish for the municipal year
- (b) decide the size and terms of reference for those committees or member groups
- (c) decide the allocation of seats to political groups in accordance with the political balance rules
- (d) receive nominations of Councillors to serve on each committee and outside body; and
- (e) appoint to those committees and outside bodies.

## 2 **Ordinary Meetings**

Ordinary meetings of the Council will take place in accordance with the calendar of meetings approved by the Council and will take place at Rushcliffe Arena.

Ordinary meetings will:

- (a) receive any declarations of interest from Councillors
- (b) elect a person to preside if the Mayor and Deputy Mayor are not present
- (c) approve the minutes of the last meeting
- (d) receive any announcements from the Mayor, Leader, members of the Cabinet or the Head of Paid Service
- (e) receive petitions in accordance with Standing Order 10 and the Council's Petition Scheme
- (f) deal with any business from the last Council meeting
- (g) receive reports from the Cabinet and the Council's committees and receive questions and answers on any of those reports

- (h) receive and consider reports from officers of the Council
- (i) receive reports about, and receive questions and answers on, the business of joint arrangements and external organisations (if any)
- (j) consider motions; and
- (k) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the scrutiny committees for debate.
- (l) deal with questions submitted under Standing Order 11.2 and answers to them.

### **3. Extraordinary Meetings**

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

Those listed below may require a Council meeting to be called in addition to ordinary meetings:

- (a) the Council by resolution
- (b) the Mayor
- (c) the Chief Executive
- (d) the Section 151 Officer
- (e) the Monitoring Officer; and
- (f) any five members of the Council if they have signed a requisition presented to the Mayor of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### **4. NOT IN USE**

### **5. Time and Place of Meetings**

All meetings shall start at 7.00pm (with the exception of Planning Committee which will start at 2.30pm from 1 August 2021-28 February 2022) and will be held at Rushcliffe Arena. Member working groups may be held at other times.

The Chief Executive, in consultation with the Mayor or relevant Chairman as the case may be, may vary the starting time and location of any meeting.

## **6. Notice of, and Summons to, Meetings**

The Chief Executive will give notice to the public of the time and place of any meeting by posting a weblink on the Council's website and in accordance with the Access to Information Procedure Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him/her, or his/her representative, electronically, to every member of the Council or by some other method as an individual member shall have specified. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available. The summons will also be posted on the Council's website.

For all purposes of the Constitution, the terms "notice", "summons", "agenda", "report", "written record" and "background papers" when referred to as being a document that is:

- (a) "open to inspection" shall include for these and all other purposes as being published on the website of the council; and
- (b) to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.

### **6a Agenda and Reports for meetings**

The summons will include an Agenda of the items of business for the meeting. The order in which the business will be considered will be as set out in the Agenda, but this can be changed at the meeting.

An item of business may only be considered at a meeting of the Council if:

A copy of the Agenda, including the item, is available to any member of the public wishing to consider it as provided at 6b below; or

The Mayor considers that the item should be considered at the meeting as a matter of urgency due to special circumstances. The special circumstances will be recorded in the minutes of the meeting.

### **6b Public consideration of the Agenda and most Reports for meetings**

A Copy of the Agenda and, except as set out below, copies of any report for a meeting will be open and be available at Rushcliffe Arena and on the Council's website for at least three clear days before the meeting for any members of the public who may wish to view them.

Some reports may not be available for members of the public to review, this may be the whole of a report (or any part of a report) which relates to items of business which are considered to contain exempt information. Reports in this category (or part of that report) will either –

Be marked “Not for Publication” and every copy (or the appropriate part) will say what kind of exempt information the report contains.

Be marked “Confidential” and every copy (or the appropriate part) will say that it contains confidential information.

## **7. Chairman of Meeting**

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these Standing Orders apply to committee and subcommittee meetings, references to the Mayor also include the Chairman of committees and sub-committees.

## **8. Quorum**

The quorum of a meeting of the Council will be one quarter of the whole number of Councillors being present. If, fifteen minutes after the time set for the start of the meeting, during any meeting, the Mayor counts the number of Councillors present is less than one quarter he/she and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

The quorum for a meeting of any committee or other member group shall be one quarter of the whole committee or member group. Provided that, in no case, shall the quorum be less than three Councillors.

If during the meeting there is a question about whether or not there is a quorum present, the Mayor will adjourn the meeting for a short period to allow the number of present members to be counted. If following the adjournment, it is not possible to confirm that a quorum is present, the meeting will be adjourned to another time on the same day, or to another date and time as the Mayor may decide.

## **9. Duration of Meeting**

### **9.1 Close of Meeting**

(a) Meetings of the Council, committees and member groups (with the exception of the Planning Committee) shall adjourn at 10pm. Planning Committee shall adjourn at 6pm (from 1 August 2021 – 28 February 2022).

(b) Provided that the Council, committee or member group may by resolution extend the closing time by 30 minutes to no later than 10.30pm (with the exception of the Planning Committee) shall adjourn at 6:30pm).

- (c) At the closing time of the meeting, the matter then under discussion and all of the business that remains to be considered shall be adjourned to the next ordinary meeting of the Council, committee or member group or such other meeting that is determined. Provided that the Mayor/Chairman may at his/her discretion unless in his/her opinion the motion then under discussion at the closure time has been insufficiently discussed, put the motion to the vote without discussion, subject to the mover of the motion and any amendment under debate being given a right of reply under Standing Order 14.9 before putting the motion to the vote. Otherwise, the matter, together with all other items of business remaining to be considered, will stand adjourned to the next ordinary meeting or such other meeting that is determined.

## **9.2 Recorded vote**

If a recorded vote is called for during this process it will be taken immediately.

## **9.3 Motions which may be moved**

During the process set out in these Standing Orders, the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report.

## **9.4 Close of the meeting**

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

## **10. Petitions**

### **10.1 The Council's Petition Scheme**

At a meeting of the Council any Councillor may present a petition which is relevant to some matter in relation to which the Council has powers and duties or which affects the Borough.

### **10.2 A petition cannot be presented to Council if it:**

- (a) relates to a planning or licensing application, appeal or review or to a matter where there is already an existing right of appeal or separate complaints process; or
- (b) is vexatious, abusive or defamatory.

- 10.3** At least seven working days before the meeting (not including the day of the meeting) at which the petition is to be presented, the person wishing to present it, shall give notice of his/her intention to do so by email to the Chief Executive.
- 10.4** Where the person proposing to present a petition is a member of the public, the Chief Executive shall determine whether or not it is proper to refer the petition to the Council, taking into account the exemptions set out in Standing Order 10.2. If not, the Chief Executive shall refer the petition to the appropriate officer, committee or member group and advise the person presenting the petition accordingly.
- 10.5** The person presenting the petition shall be allowed up to five minutes to present the petition and any comments shall be confined to reading out or summarising the petition and making such further supporting remarks relevant to the petition. The petition would then be received without discussion and noted or stand referred to the relevant Director, committee or member group, as appropriate.
- 10.6** Petitions shall be presented in the order they are received by the Chief Executive.

## **11. Questions by Members**

### **11.1 On reports of the Cabinet or committees or member groups**

A Councillor may ask the Leader or the Chairman of a committee or member group any question without notice upon an item of the report of the Cabinet or a committee or member group when that item is being received or under consideration by the Council.

### **11.2 Questions on notice at Full Council**

Subject to Standing Order 11.3, Councillor may ask:

- (a) the Leader
- (b) a member of the Cabinet; or
- (c) the Chairman of any scrutiny committee or member group

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

### **11.3 Notice of questions**

A Councillor may only ask a question under Standing Order 11.2 if either:

- (a) they have submitted the question by 5.00pm three clear working days (not including the day of the meeting) notice in writing of the question to the Chief Executive; or

- (b) the question relates to urgent matters, they have the consent of the Councillor to whom the question is to be put, and the content of the question is given to the Chief Executive by 10.00am on the day of the meeting.

#### **11.4 Response**

Every question shall be put and answered. An answer may take the form of:

- (a) a direct oral answer
- (b) a reference to publication in which the desired information is published by the Council or other published work; or (c) a written answer circulated later to the questioner.

#### **11.5 Supplementary question**

- a) One supplementary question in total may be asked by the Councillor asking the original question. A supplementary question must arise directly out of the reply and relate to the original question or it will not be permitted. The supplementary question and answer shall be given without discussion.
- b) The Mayor, having due regard to the advice of the Monitoring Officer, may reject a supplementary question if it:
  - (i) does not arise directly from the reply
  - (ii) does not relate to the original question
  - (iii) is a statement and not a question
  - (iv) is a matter for which the Council does not have responsibility
  - (v) is a matter which does not affect the Borough
  - (vi) is defamatory, frivolous or vexatious
  - (vii) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
  - (viii) requires the disclosure of confidential or exempt information.

### **12. Notice of Motions**

#### **12.1 Notice**

Except for motions which can be moved without notice under Standing Order 13, written notice of every motion, signed by the Councillor or Councillors moving the motion, must be delivered to the Chief Executive not later than 5.00pm seven clear working days (not including the day of the meeting) before the meeting.

#### **12.2 Motion set out in agenda**

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

### **12.3 Scope**

- (a) Motions must be about matters for which the Council has a responsibility, or which affect the Borough.
- (b) The Chief Executive, having due regard to the advice of the Monitoring Officer, may reject any motion submitted if it:
  - (i) is a matter for which the Council has no responsibility, and which does not affect the Borough
  - (ii) is defamatory, frivolous or vexatious
  - (iii) is substantially the same as a motion which has been put at a meeting of the Council in the past six months; or
  - (iv) requires the disclosure of confidential or exempt information.
- (c) A Councillor who has moved a motion which has been referred to the Cabinet, committee or member group shall have notice of the meeting when the motion is to be considered. The Councillor will have the right to attend and be given the opportunity to explain the motion.

### **13. Motions Without Notice**

The following procedural motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved
- (b) in relation to the accuracy of the minutes
- (c) to change the order of business in the agenda
- (d) to refer something to an appropriate body or individual
- (e) to appoint a committee or member group arising from an item on the summons for the meeting
- (f) to receive reports or adoption of recommendations of the Cabinet, committees, member groups or officers and any resolutions following from them
- (g) to withdraw a motion
- (h) to amend a motion
- (i) to proceed to the next business
- (j) that the question be now put
- (k) to adjourn a debate
- (l) to adjourn a meeting
- (m) to extend the meeting beyond 10.00 pm or
- (n) to suspend a particular Council Standing Order
- (o) to exclude the public and press in accordance with the Access to Information Procedure Rules

- (p) to not hear further a Councillor named under Standing Order 20.3 or to exclude them from the meeting under Standing Order 20.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.
- (r) to extend or reduce time limits on speaking on an item on the agenda.

## **14. Rules of Debate**

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

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

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

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

### **14.3 Secunder's speech**

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

### **14.4 Content and length of speeches**

- (a) Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- (b) A Councillor presenting a report of the Cabinet or other member moving a motion of which notice has been given under Standing Order 12, may speak for up to ten minutes. No other speech shall exceed five minutes. Provided the Council may, by resolution, extend or reduce the time limit on speeches.
- (c) The time limit does not apply to speeches by officers in presenting reports or advising the Council on any matter.

- (d) Immediately following the seconder speaking on a motion or report or reserving their right to speak until later in the debate, the Mayor shall ask the leaders of the main opposition groups to the motion to speak for no more than 5 minutes each on the motion, or nominate a Councillor to speak for their group next for no more than 5 minutes on the motion.

#### **14.5 When a Councillor may speak again**

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

- (a) to speak once on an amendment moved by another Councillor
- (b) to move a further amendment if the motion has been amended since he/she last spoke
- (c) if his/her first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which he/she spoke was carried)
- (d) in exercise of a right of reply
- (e) on a point of order; and
- (f) by way of personal explanation.

#### **14.6 Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration
  - (ii) to leave out words
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Subject to (f) below, only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of
- (c) If an amendment is not carried, other amendments to the original motion may be moved
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion upon which further speakers may be invited and to which any further amendments are moved
- (e) After an amendment has been carried, the Mayor will read out the amended motion before inviting any further speakers upon it as the substantive motion or accepting any further amendments to it, or if

there are none, and after the right to reply has been offered put it to the vote

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

#### **14.7 Alteration of motion**

- (a) A Councillor may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion by a show of hands and the number of votes for or against the motion or amendment or abstaining from voting will be recorded. A record of the vote taken shall be recorded in the minutes of the meeting without discussion
- (b) A Councillor may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion by a show of hands and the number of votes for or against the motion or amendment or abstaining from voting will be recorded. A record of the vote taken shall be recorded in the minutes of the meeting without discussion
- (c) Only alterations which could be made as an amendment may be made.

#### **14.8 Withdrawal of motion**

A Councillor may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion by a show of hands and the number of votes for or against the motion or amendment or abstaining from voting will be recorded. A record of the vote taken shall be recorded in the minutes of the meeting. No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### **14.9 Rights of reply**

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

The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote

- (b) At close of an amendment debate:

- (i) the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it
- (ii) The mover of the amendment shall also have the right of reply at the close of the debate immediately prior to the closing speech by the mover of the original motion.

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

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

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

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

- (a) to withdraw a motion
- (b) to amend a motion
- (c) to proceed to the next business
- (d) that the question be now put
- (e) to adjourn a debate
- (f) to adjourn a meeting
- (g) to extend the length of the meeting beyond 10.00 pm
- (h) to exclude the public and press in accordance with the Access to Information Procedure Rule; and
- (i) to not hear further a Councillor named under Standing Order 20.3 or to exclude them from the meeting under Standing Order 20.4.

#### **14.11 Closure motions**

- (a) A Councillor may move, without comment, the following motions at the end of a speech of another Councillor:
  - (i) to proceed to the next business

- (ii) that the question be now put (iii) to adjourn a debate; or (v) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed, he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### **14.12 Point of order**

A Councillor may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Standing Orders or the law. The Councillor must indicate the order or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

Commonly used points of order:

- 14.4 9 (b) The Mover has spoken for more than 10 minutes when moving the motion
- 14.4 (d) The Member has spoken for more than 5 minutes
- 11.5 The Member is not speaking to the subject under discussion
- 14.5 The Member has already spoken on the motion
- 14.5 (e) Points of Order and Personal Explanations
- 14.5 (f) Disorderly conduct

#### **14.13 Personal explanation**

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

## **15. Previous Decisions and Motions**

### **15.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least seven Councillors and is delivered to the Chief Executive not later than 5.00pm seven clear working days (not including the day of the meeting) before the meeting. Provided that this rule shall not apply to a motion by way of a recommendation from the Cabinet, committee or member group.

### **15.2 Motion similar to one previously rejected**

- (a) A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least seven Councillors and is delivered to the Chief Executive not later than 5.00pm seven clear working days (not including the day of the meeting) before the meeting.
- (b) Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.
- (c) Provided that this rule shall not apply to a motion by way of a recommendation from the Cabinet, committee or member group.

## **16. Voting**

### **16.1 Majority**

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

- 16.2** Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Councillors voting and present in the room at the time the question is put by a show of hands.

#### **Mayor's casting vote**

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

### **16.3 Show of hands**

Unless a recorded vote is demanded under Standing Order 16.4, the Mayor will take the vote by show of hands, utilising the recorded vote procedure (16.4), or if there is no dissent, by the affirmation of the meeting the number of votes for or against the motion or amendment or abstaining from voting will be recorded. A record of the vote taken shall be recorded in the minutes of the meeting.

#### **16.4 Recorded vote**

- (a) If any Councillor present at the meeting demands it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A recorded vote will also be taken when required by Standing Order 10 of the Budget and Policy Framework Standing Orders.
  
- (b) Immediately after any vote is taken at a budget decision meeting of the Council there must be a record 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.
  
- (c) In Standing Order 16.4(c):
  - (i) 'budget decision meeting' means a meeting of the Council at which it makes 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, and includes a meeting where making the calculation was included as an item of business on the agenda for that meeting
  - (ii) references to a vote are references to a vote on any decision related to the making of the calculation.

#### **16.4 Right to require individual vote to be recorded**

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

#### **16.5 Voting on appointments**

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



## **17 Minutes**

### **17.1 Signing the minutes**

The Mayor will sign the minutes of the proceedings at the next suitable meeting subject to such minutes having been proposed, seconded and approved by the meeting. The only part of the minutes that can be discussed is their accuracy.

### **17.2 No requirement to sign minutes of previous meeting at extraordinary meeting**

Where, in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### **17.3 Form of minutes**

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

## **18 Record of Attendance**

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

## **19 Exclusion of Public**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in part 4 of this Constitution or Standing Order 21 (disturbance by public).

## **20 Councillors' Conduct**

### **20.1 Standing to speak**

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

### **20.2 Mayor standing**

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

### **20.3 Councillor not to be heard further**

If a Councillor persistently disregards the ruling of the Mayor by behaving improperly or offensively, or deliberately obstructs business, the Mayor may move that the Councillor be not heard further. If seconded, the motion will be voted on by a show of hands or by the Chair taking the vote by rollcall and the number of votes for or against the motion or amendment or abstaining from voting on without discussion.

### **20.4 Councillor to leave the meeting**

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

### **20.5 General disturbance**

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

## **21 Public attendance at meeting - Disturbance by Public**

### **21.1 Removal of member of the public**

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

The Mayor may at any time stop the meeting to prevent disorderly conduct or other misbehaviour at a meeting, to exclude, remove or eject members of the public whose presence or conduct is impeding or is likely to impede the good conduct of the meeting and its business. If a member of the public interrupts any meeting, the Mayor may warn the person. If they continue the interruption the Mayor may order that they are removed from the meeting.

### **21.2 Clearance of part of meeting room**

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

## **22 Suspension and Amendment of Council Procedure Rules**

### **22.1 Suspension**

All of these Council Standing Orders except Orders 16.5 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of the Councillors is present. Suspension can only be for the duration of that meeting.

### **22.2 Amendment**

Any motion to add to, vary or revoke these Council Standing Orders will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council unless contained in a written report.

## **23 Application to Committees, Sub-Committees and Other Member Groups**

All of the Council Standing Orders apply to meetings of full Council.

Only Standing Orders 4–9, 14, 16-22 (but not Standing Orders 20.1) apply to meetings of committees and member groups.

## **24 Budget and Policy Framework Standing Orders**

- (a) The relationship between Cabinet, the scrutiny committees and the Council concerning the Budget and the Policy Framework is governed by national rules which are set out in the Council's Budget and Policy Framework Standing Orders, held elsewhere in this part of the Constitution, and which apply to the Council, the scrutiny committees and the Cabinet.
- (b) Standing Order 16.4 (b) and (c) are drawn from those rules, but are repeated within these Standing orders, as they regulate voting by Councillors on budget matters.

## **25 Access to Information Rules**

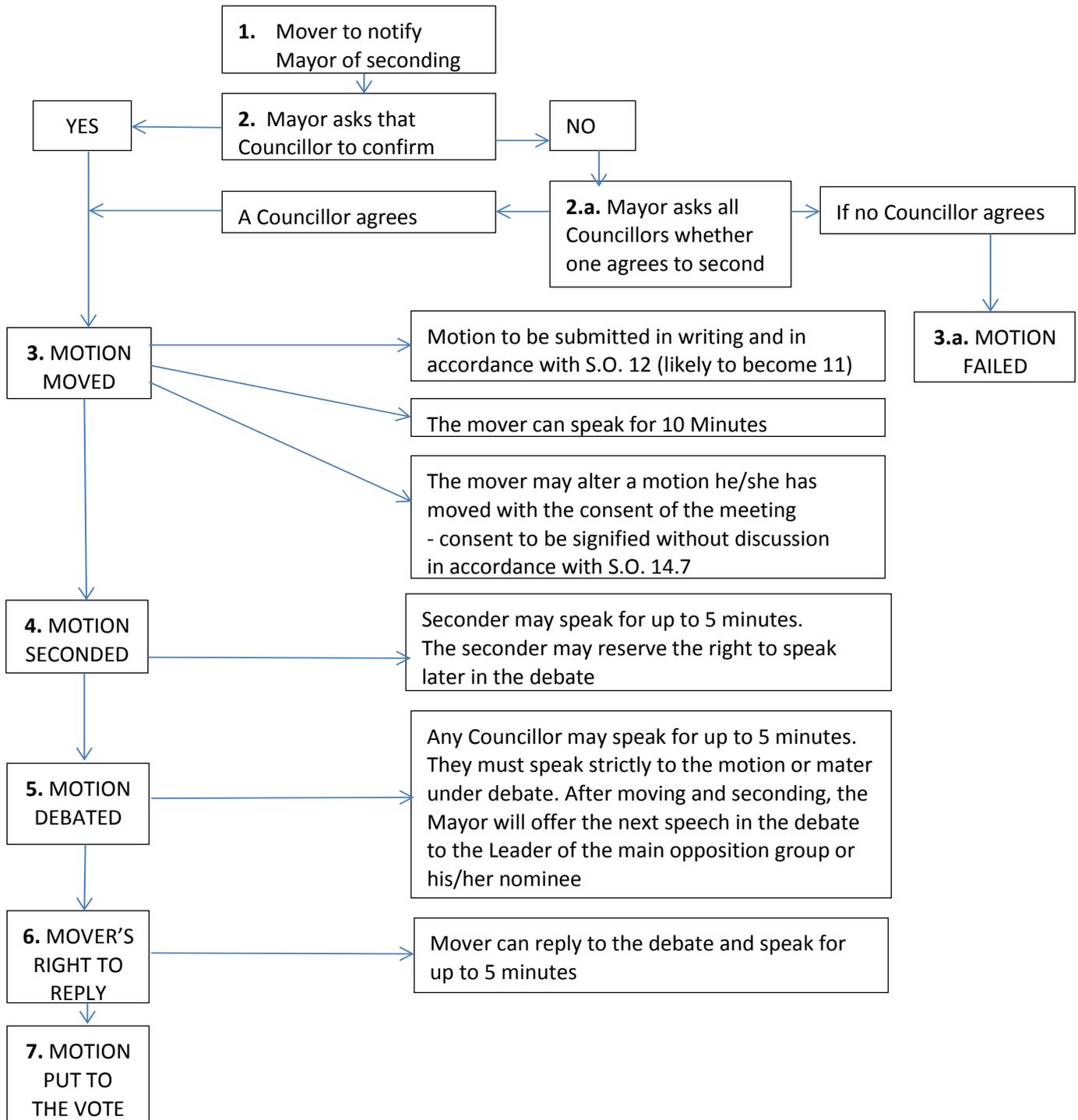
The Council's Access to Information Rules, set out elsewhere in Part 4 of the Constitution, shall apply, as appropriate, to all meetings of the Council and to the agenda and reports for those meetings

## **26 Interpretation of Rules**

The ruling of the Mayor 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.



**SUGGESTED FLOWCHART TO BE INSERTED IN THE SUMMARY AND EXPLANATION RULES OF DEBATE**

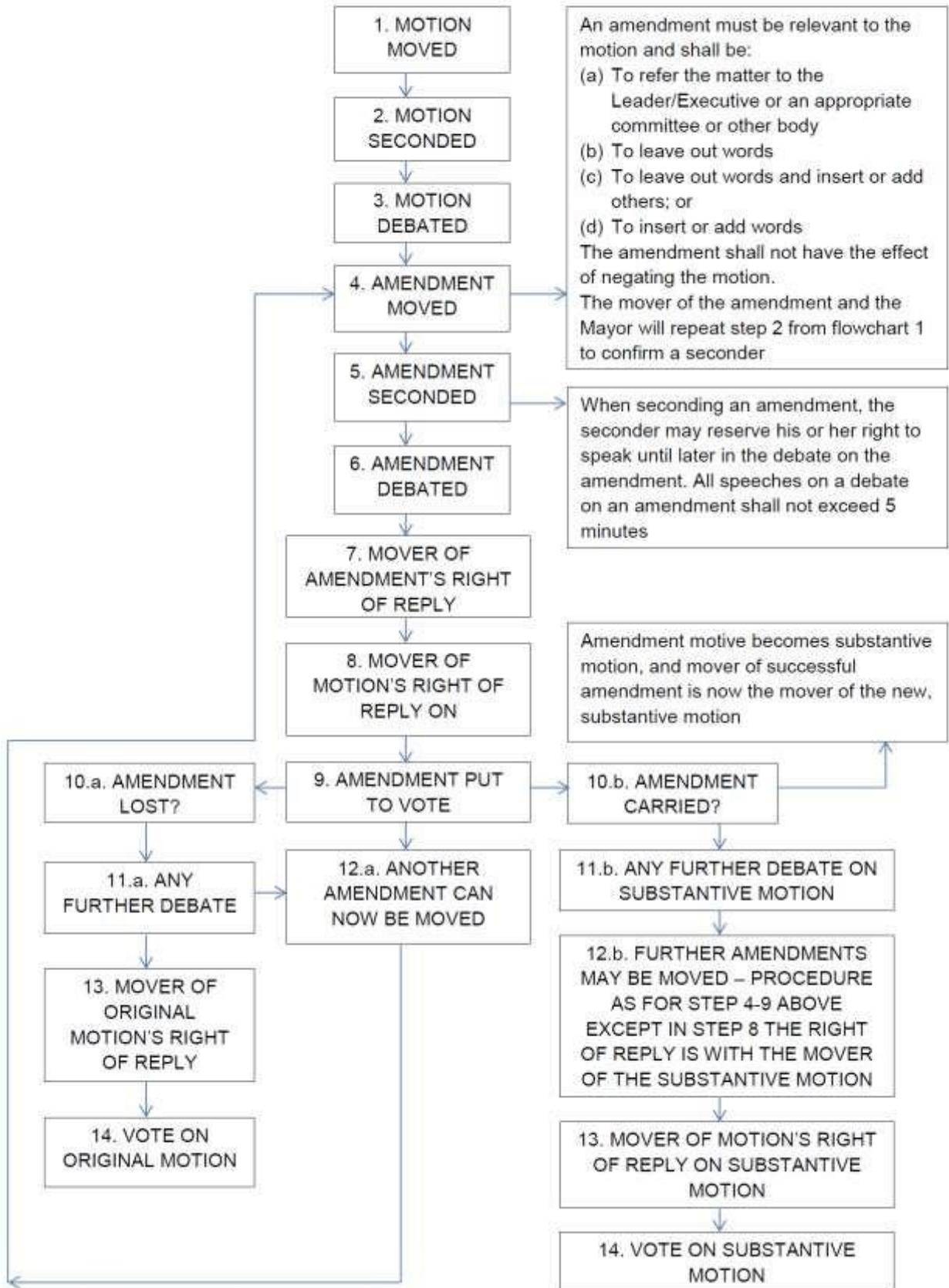


**– MAIN MOTION (un-amended)**

**GLOSSARY:**

- Motion:** a proposed policy or action for the Council to take
- Mover:** a Councillor who proposes a motion
- Second:** to formally support a motion so that it may be debated and put to the vote
- Secunder:** a Councillor who formally seconds a motion
- Amendment:** a proposed change to a motion
- Substantive motion:** the motion that is debated after an amendment is carried

**RULES OF DEBATE - AMENDMENTS TO MOTIONS**



## **STANDING ORDER – COMMITTEES AND WORKING GROUPS**

These Standing Orders for Committees and Working Groups are drawn selectively from the Standing Orders for Council and retain their numbering from there for ease of reference.

### **5. Time and Place of Meetings**

All meetings shall start at 7.00pm (with the exception of Planning Committee which will start at 2.30pm from 1 August 2021-28 February 2022) and be held at Rushcliffe Arena. The Chief Executive, in consultation with the Mayor or relevant Chairman as the case may be, may vary the starting time and location of any meeting.

### **6. Notice of, and Summons to, Meetings**

The Chief Executive will give notice to the public of the time and place of any meeting by posting a web link on the Council's website and in accordance with the Access to Information Procedure Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him/her, or his/her representative, electronically, to every member of the Council or by some other method as an individual member shall have specified. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available. The summons will also be posted on the Council's website.

#### **6a Agenda and Reports for meetings**

The summons will include an Agenda of the items of business for the meeting. The order in which the business will be considered will be as set out in the Agenda, but this can be changed at the meeting.

An item of business may only be considered at a meeting of the Council if:

A copy of the Agenda, including the item, is available to any member of the public wishing to consider it as provided at 6b below; or

The Mayor considers that the item should be considered at the meeting as a matter of urgency due to special circumstances. The special circumstances will be recorded in the minutes of the meeting.

#### **6b Public consideration of the Agenda and most Reports for meetings**

A Copy of the Agenda and, except as set out below, copies of any report for a meeting will be open and be available at Rushcliffe Arena and on the

Council's website for at least 3 clear days before the meeting for any members of the public who may wish to view them.

Some reports may not be available for members of the public to review, this may be the whole of a report (or any part of a report) which relates to items of business which are considered to contain exempt information. Reports in this category (or part of that report) will either –

Be marked “Not for Publication” and every copy (or the appropriate part) will say what kind of exempt information the report contains.

Be marked “Confidential” and every copy (or the appropriate part) will say that it contains confidential information.

## **7. Chairman of Meeting**

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these Standing Orders apply to committee and subcommittee meetings, references to the Mayor also include the Chairman of committees and sub- committees.

## **8. Quorum**

The quorum of a meeting of the Council will be one quarter of the whole number of Councillors being present, If, fifteen minutes after the time set for the start of the meeting the Mayor counts the number of Councillors present is less than one quarter he/she will adjourn the meeting immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

The quorum for a meeting of any committee or other member group shall be one quarter of the whole committee or member group. Provided that, in no case, shall the quorum be less than three Councillors.

If during the meeting there is a question about whether or not there is a quorum present, the Mayor will adjourn the meeting for a short period to allow the number of present members to be counted. If following the adjournment, it is not possible to confirm that a quorum is present, the meeting will be adjourned to another time on the same day, or to another date and time as the Mayor may decide.

The quorum for a meeting of any committee or other member group shall be one quarter of the whole committee or member group. Provided that, in no case, shall the quorum be less than three Councillors.

During any meeting, if the Mayor counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date

fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **9. Duration of Meeting**

### **9.1 Close of Meeting**

- (a) Meetings of the Council, committees and member groups (with the exception of the Planning Committee) shall adjourn at 10pm. Planning Committee shall adjourn at 6pm (from 1 August 2021-28 February 2022).
- (b) Provided that the Council, committee or member group may by resolution extend the closing time by 30 minutes to no later than 10.30pm (with the exception of the Planning Committee) shall adjourn at 6.30pm).
- (c) At the closing time of the meeting, the matter then under discussion and all of the business that remains to be considered shall be adjourned to the next ordinary meeting of the Council, committee or member group or such other meeting that is determined. Provided that the Mayor/Chairman may at his/her discretion unless in his/her opinion the motion then under discussion at the closure time has been insufficiently discussed, put the motion to the vote without discussion, subject to the mover of the motion and any amendment under debate being given a right of reply under Standing Order 14.9 before putting the motion to the vote. Otherwise, the matter, together with all other items of business remaining to be considered, will stand adjourned to the next ordinary meeting or such other meeting that is determined.

### **9.2 Recorded vote**

If a recorded vote is called for during this process it will be taken immediately.

### **9.3 Motions which may be moved**

During the process set out in these Standing Orders, the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to an appropriate body or individual for decision or report.

### **9.4 Close of the meeting**

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

## **10, 11, 12 & 13 NOT IN USE**

## **14 Rules of Debate**

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

Before commencing their speech supporting their motion, the mover of a motion shall indicate the Mayor which Councillor is to second the motion, and that Councillor will confirm this to the Mayor, following which the mover will commence their speech. If that Councillor does not confirm this, then the Mayor will ask if any other Councillor will second the motion. If a Councillor confirms this, then the mover can commence their speech. If not, the Mayor will rule that the motion fails.

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

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

#### **14.3 Seconders' speech**

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

#### **14.4 Content and length of speeches**

- (a) Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- (b) A Councillor presenting a report of the Cabinet or other member moving a motion of which notice has been given under Standing Order 12, may speak for up to ten minutes. No other speech shall exceed five minutes. Provided the Council may, by resolution, extend or reduce the time limit on speeches.
- (c) The time limit does not apply to speeches by officers in presenting reports or advising the Council on any matter. (d)
- (d) Immediately following the seconder speaking on a motion or reserving their right to speak until later in the debate, the Mayor shall ask the leaders of the main opposition groups to the motion to speak on the motion, or nominate a councillor to speak next on the motion for no more than 5 minutes.

#### **14.5 When a Councillor may speak again**

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

- (a) to speak once on an amendment moved by another Councillor
- (b) to move a further amendment if the motion has been amended since he/she last spoke
- (c) if his/her first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which he/she spoke was carried)
- (d) in exercise of a right of reply

- (e) on a point of order; and
- (f) by way of personal explanation.

#### 14.6 **Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration
  - (ii) to leave out words
  - (iii) to leave out words and insert or add others; or (iv) to insert or add words. as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Subject to (f) below, only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of
- (c) If an amendment is not carried, other amendments to the original motion may be moved
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion upon which further speakers may be invited and to which any further amendments are moved
- (e) After an amendment has been carried, the Mayor will read out the amended motion before inviting any further speakers upon it as the substantive motion or accepting any further amendments to it, or if there are none, and after the right to reply has been offered put it to the vote
- (f) Provided that the Mayor may determine on the presentation of a report and recommendation being proposed and seconded, that the motions and any subsequent amendments would be debated together. In this case, at the conclusion of the debate, the amendments will be voted on separately in the order in which they were proposed.

#### 14.7 **Alteration of motion**

- (a) A Councillor may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion by a show of hands and the number of votes for or against the motion or amendment or abstaining from voting will be recorded. A record of the vote taken shall be recorded in the minutes of the meeting.
- (b) A Councillor may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion by a show of hands and the number of votes for or against the motion or

amendment or abstaining from voting will be recorded. A record of the vote taken shall be recorded in the minutes of the meeting.

(c) A Councillor may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion

(d) Only alterations which could be made as an amendment may be made.

#### **14.8 Withdrawal of motion**

A Councillor may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused. A Councillor may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion by a show of hands or by the Chair taking the vote and the number of votes for or against the motion or amendment or abstaining from voting will be recorded. A record of the vote taken shall be recorded in the minutes of the meeting. No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### **14.9 Rights of reply**

(a) At close of main motion (i.e. un-amended) debate: the mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote

(b) At close of amendment debate

(ii) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it

(ii) The mover of the amendment shall also have the right of reply at the close of the debate immediately prior to the closing speech by the mover of the original motion.

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

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

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

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

- (a) to withdraw a motion
- (b) to amend a motion
- (c) to proceed to the next business
- (d) that the question be now put
- (e) to adjourn a debate
- (f) to adjourn a meeting
- (g) to extend the length of the meeting beyond 10.00 pm
- (h) to exclude the public and press in accordance with the access to information rules; and
- (i) to not hear further a Councillor named under Standing Order 20.3 or to exclude them from the meeting under Standing Order 20.4.

#### **14.11 Closure motions**

- (a) A Councillor may move, without comment, the following motions at the end of a speech of another Councillor:
  - (i) to proceed to the next business
  - (ii) that the question be now put (iii) to adjourn a debate; or (v) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote
- (c) If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed, he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### **14.12 Point of order**

A Councillor may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Standing Orders or the law. The Councillor must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final.

Commonly used points of order:

- 14.4 9 (b) The Mover has spoken for more than 10 minutes when moving the motion
- 14.4 (d) The Member has spoken for more than 5 minutes
- 11.5 The Member is not speaking to the subject under discussion
- 14.5 The Member has already spoken on the motion
- 14.5 (e) Points of Order and Personal Explanations
- 14.5 (f) Disorderly conduct

#### **14.13 Personal explanation**

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

#### **15 NOT IN USE**

#### **16 Voting**

##### **16.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Councillors voting and present either in the room at the time the question is put by a show of hands or by the Chair taking the vote by roll-call.

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

##### **16.2 Mayor's casting vote**

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

##### **16.3 Show of hands**

Unless a recorded vote is demanded under Standing Order 16.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting or by the Chair taking the vote and the number of votes for or against the motion or amendment or abstaining from voting will be recorded. A record of the vote taken shall be recorded in the minutes of the meeting.

#### **16.4 Recorded vote**

- (a) If any Councillor present at the meeting demands it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A recorded vote will also be taken when required by Standing Order 10 of the Budget and Policy Framework Standing Orders.
- (b) Immediately after any vote is taken at a budget decision meeting of the Council there must be a record 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.
- (c) In Standing Order 16.4(c):
  - (i) 'budget decision meeting' means a meeting of the Council at which it makes 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, and includes a meeting where making the calculation was included as an item of business on the agenda for that meeting
  - (ii) references to a vote are references to a vote on any decision related to the making of the calculation.

#### **16.5 Right to require individual vote to be recorded**

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

#### **16.6 Voting on appointments**

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

### **17 Minutes**

#### **17.1 Signing the minutes**

The Mayor will sign the minutes the proceedings at the next suitable meeting subject to such minutes having been proposed, seconded and approved by the meeting. The only part of the minutes that can be discussed is their accuracy.

### **17.2 No requirement to sign minutes of previous meeting at extraordinary meeting**

Where, in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### **17.3 Form of minutes**

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

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

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### **20.1 Mayor standing**

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

### **20.2 Councillor not to be heard further**

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

### **20.3 Councillor to leave the meeting**

If the Councillor continues to behave improperly after such a motion is carried, the Mayor may move that either the Councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion by a show of hands and the number of votes for or against the motion or amendment or abstaining from voting.

### **20.4 General disturbance**

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

## **21 Public attendance at meeting - Disturbance by Public**

### **21.1 Removal of member of the public**

The Mayor may at any time stop the meeting to prevent disorderly conduct or other misbehaviour at a meeting, to exclude, remove or eject members of the public whose presence or conduct is impeding or is likely to impede the good conduct of the meeting and its business. If a member of the public interrupts any meeting, the Mayor may warn the person. If they continue the interruption the Mayor may order that they are removed from the meeting.

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

### **21.2 Clearance of part of meeting room**

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

## **22 Suspension and Amendment of Council Procedure Rules**

### **22.1 Suspension**

All of these Council Standing Orders except Orders 16.5 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of the Councillors is present. Suspension can only be for the duration of that meeting.

### **22.2 Amendment**

Any motion to add to, vary or revoke these Council Standing Orders will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council unless contained in a written report.

**23 Access to Information Procedure Rules**

The Council's Access to Information Procedure Rules, set out elsewhere in Part 4 of the Constitution, shall apply, as appropriate, to all meetings of committees.

**24 Guide to speaking at Council and Cabinet Meetings**

Public speaking at Council and Cabinet including virtual meetings shall be allowed, solely in accordance with the appended protocol, which has been approved by Council.

[See Appendix 1 Below]

**26 Public Speaking – Planning Committee**

Public Speaking at Planning Committee including a virtual meeting shall be allowed, solely in accordance with the appended protocol, which has been approved by Council.

[See Appendix 3- Below]

## **Guide to speaking at Council and Cabinet meetings**

### **What are citizens' questions?**

□ Citizens' Question is the opportunity at the beginning of each meeting of the Council's Cabinet and each ordinary meeting of Full Council for citizens to ask questions about the council or the services it provides. It is a key part of the Borough Council's commitment to transparency, openness and accessibility in the democratic process.

□ The question session lasts for 15 minutes and is open to residents who live in the Borough or business owners who have a business address in the Borough but are not Rushcliffe residents (this opportunity is not extended to employees of businesses in the Borough who are not residents).

□ The following guidelines have been introduced to help Citizens' Questions run smoothly and to be of maximum benefit to the public.

### **How do I ask a question?**

□ Questions for Citizens' Questions need to be submitted in advance of either the Cabinet or Council meeting at which you would like to ask your question. Please see the table at the bottom of the page for a list of meeting dates and deadlines for submitting your question.

□ Your question must be submitted in writing to Democratic Services, by email: [democraticservices@rushcliffe.gov.uk](mailto:democraticservices@rushcliffe.gov.uk) or by letter to Democratic Services, Rushcliffe Borough Council, Rushcliffe Arena, Rugby Road, West Bridgford, Nottingham, NG2 7YG.

□ You need to give us your name, address (or that of your Borough based business) and e-mail (please note that your contact details will not be disclosed without your permission).

### **How many questions can I ask?**

□ There is a limit of one question per citizen at each meeting.

### **What can I ask?**

□ Your question must be relevant to some matter in which the Council has powers or duties. They should be limited to one subject but may have more than one part.

□ Your question should avoid detailed individual service issues (such as why a particular refuse bin has not been collected) as there are other ways of raising this kind of issue.

□ Questions relating to specific planning or licensing applications cannot be accepted as there are other ways of raising these e.g. objecting to the application.

□ Questions may be rejected by the Chief Executive, in consultation with the Leader (at Cabinet) or the Mayor (at Council), for the following reasons:

- o The question relates to an issue that is not a Council responsibility
- o The question is defamatory, vexatious, or offensive
- o The question is similar to or has already been asked in the last 6 months
- o Where a response would disclose confidential or exempt information
- o Where a response would relate to matters currently under investigation
- o Where a response would relate to a matter where Council has a quasi-judicial or regulatory role.

□ Officers in our Democratic Services team will provide every assistance to any individual wishing to ask a question, including assistance with the wording or writing of the question if

requested. For further information email [democraticservices@rushcliffe.gov.uk](mailto:democraticservices@rushcliffe.gov.uk) or telephone 0115 9148511.

### **Can I ask the question in person at the Cabinet or Council meeting?**

Yes, you may attend a meeting to present your question in person. You will be limited to the wording of the question as it has been submitted. If you prefer, your question can be read out by the Leader (at Cabinet) or the Mayor (at Council). However, you will be invited to the meeting to hear the response given. The meeting usually follows the order as printed in the agenda, but the Leader (at Cabinet) or the Mayor (at Council) may alter the order of the agenda at the meeting.

### **Who will respond to my question?**

Your question will be answered by the most relevant Portfolio Holder (that is the Cabinet member who has special responsibility for the service or topic to which the question relates) or one of our Scrutiny Committee Chairmen. The Leader (at Cabinet) or the Mayor (at Council) will ask the most appropriate person to respond to your question.

### **Who decides what questions are answered?**

The Leader (at Cabinet) or the Mayor (at Council) will determine which questions are to be answered at the meeting (in accordance with the guidelines for questions above). If more questions are received than can be answered in the time allocated (up to fifteen minutes), written answers will be sent to all questions not dealt with at the meeting and copies of written

answers will be available to all members of the Borough Council and published on the Council web site.

No discussion will be held on any question or answer.

The minutes of the meeting will record the name of the questioner, what the question was about, the name of the Councillor answering the question and details of the answer given. Minutes are available after the meeting and can be viewed on the Council's website and at the Council offices.

### **Need help?**

If you have any additional questions, or you would like to talk to someone about the Citizens' Questions arrangements, Democratic Services staff will be very happy to help via email [democraticservices@rushcliffe.gov.uk](mailto:democraticservices@rushcliffe.gov.uk) or on 0115 9148511.

## **Draft Model for Opposition Groups' Questions at Cabinet**

1. Each opposition group Leader (or nominee) can ask one question relevant to an agenda item.
2. Five minutes in total for each question and answer (including any supplementary and answer).
3. Questions received 3 working days before the meeting.
4. Questions dealt with in order received.
5. Leader can direct who shall answer the question.
6. Question can be rejected for good reason (as per rejection criteria for Citizens' Questions).
7. No debate on the question, but responder can refer it to another Council body.
8. One supplementary question is allowed directly relevant to the original question.

## Planning Applications ... having your say

### A guide on how to speak at Planning Committee

Rushcliffe Borough Council receives around 1,400 planning applications each year. Some of these will be from an individual household wanting to improve their home with additional accommodation, a new garage or conservatory; others will be from a property developer proposing to build a new housing estate, primary school and local shops with additional open community spaces. All of the applications we receive need to be considered by our planning officers, this includes consulting people who may be affected by the application. In many cases, these planning officers can make a decision under delegated powers but around 6% of applications each year are referred to the Council's Planning Committee for a decision.

### What is the Planning Committee?

The Planning Committee is formed of 11 Borough Councillors who make decisions on those applications referred to the Committee. These meetings take place once a month and are open to the public – dates, minutes and agendas and details of the venue (once they are published) can be found on our website [rushcliffe.gov.uk/councilanddemocracy](http://rushcliffe.gov.uk/councilanddemocracy). You can also see who is on the Planning Committee on our website.

Applications may be referred to the Planning Committee where it has not been determined by delegated decision and may include:

- they have been submitted by a Borough Councillor or senior member of staff □ they demonstrate a difference of opinion between the planning officers' recommendation and the ward councillors' views as expressed during the consultation
- they may not be determined by officer delegation

Please note that large or complex applications may be considered differently by the Planning Committee.

### Having your say at Planning Committee?

If you are the applicant, an objector or Ward Councillor (Borough Councillor for the ward in which the application is being made), and an application is to be discussed at Planning Committee in which you have an interest, you can present your views directly to the Committee via virtual link. The Planning Committee agenda is available on the website (at the same address as above) a week before the meeting and it lists the applications that will be discussed at the meeting. . You will be able to speak directly to the Planning Committee if you are the applicant for the application under consideration or if you are representing objectors to the application for a maximum

of five minutes; or if you are the ward Councillor for the ward in which the application is being made you may speak to the Committee for up to five minutes (in multi councillor wards where the views of ward councillors are different, then both viewpoints will be heard). Speakers will be heard by the Committee in the following order: Planning Officer (time unlimited), applicant, objector, and ward Councillor. No cross examination of the applicant or objector will be permitted.

### **How do I register my wish to speak?**

If you wish to speak at Planning Committee, you will need to contact our Constitutional Services team at [democraticservices@rushcliffe.gov.uk](mailto:democraticservices@rushcliffe.gov.uk) or on 0115 9148 320 with your name, address and telephone number, the application number you wish to speak about, and whether you are objecting to, or supporting the application. Requests to speak at Planning Committee must be received by 5pm on the Monday before the meeting. Only one applicant, objector and ward councillor (except in a multi councillor ward where the views of councillors differ) may speak at the Planning Committee on each application. If more than one person in each category wishes to speak, you will be asked to give us permission to share your contact details with other people wishing to speak and decide amongst yourselves who speaks at the meeting.

If you wish to introduce relevant additional material as part of your presentation to committee, you will need to forward copies to our Constitutional Services team at: [democraticservices@rushcliffe.gov.uk](mailto:democraticservices@rushcliffe.gov.uk) no later than 12 noon the day before the committee meeting. Relevant additional material may include (but is not limited to):

- Photographs
- Sketch Plans
- Models
- Petitions

In circumstances where the deadline for submission of additional material is not met, submission of it at the meeting may be refused at the discretion of the chair.

### **What happens at the Planning Committee?**

The following format is followed at each Planning Committee:

- apologies for absence from Committee members absent
- notification of any substitutions
- declarations of interest from Committee members
- minutes of the previous meeting agreed and signed.

Then the applications for consideration at this meeting are presented – for each application:

- the planning officer presents a report containing the recommendation
- opportunity for the applicant to speak
- opportunity for a representative of any objectors to speak
- opportunity for the relevant ward councillor to speak
- the Committee members will then discuss the application and take a vote
- this process will be repeated until all applications have been considered.

## **What should I talk about when I speak to the Committee?**

Firstly, it depends on whether you are the applicant, whether you are representing those that object to the application or acting in your capacity as a ward councillor. All speakers must ensure that their statement only refers to planning-related issues, examples are detailed below – these are the only issues which the Committee can consider and to speak about other issues would waste the time that you have. Speakers may not address questions directly to the Committee or the planning officers present. Speakers will not generally be questioned by the Committee – in very exceptional cases the Chairman might ask you to clarify a point of fact.

## **Relevant planning-related issues that can be considered by the Committee**

The Committee can only take planning-related issues into account when making their decision. Therefore, you should ensure that your statement relates to material planning considerations which may include:

- Overlooking / loss of privacy
- Design / effect on appearance of area
- Access, parking, traffic, road safety
- Trees / biodiversity / landscape / heritage
- Noise / disturbance
- Local or government policy / economic benefits
- Flooding issues

Matters which are not considered to be material planning considerations include:

- Loss of property value / loss of view
- Boundary / land ownership / neighbour disputes
- Impact on private drainage systems
- Inappropriate or personal comments
- Doubts as to integrity of applicant
- Breach of covenant

Please ensure that your statement does not contain any inappropriate comments, including those which are racist, sexist, xenophobic, defamatory, prejudiced or likely to cause offence. It should not be derogatory to this Council, or to any other party, or relate to matters the Council could consider to be confidential.

**Let us know if you want to speak by contacting:**

[democraticservices@rushcliffe.gov.uk](mailto:democraticservices@rushcliffe.gov.uk) or on 0115 9148 320

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. Scope**

- 1.1 These rules apply to all meetings of the Council, the Cabinet, scrutiny committees, area committees (if any), the standards committee; regulatory committees and, where appropriate, individual executive decisions.
- 1.2 Non-executive bodies shall accord with the provisions contained in the Local Government Act 1972 (as amended). Decisions by individual members of the Executive and bodies of the Executive shall comply with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 (hereafter referred to as “the Access Regulations”).

1.5

### **2. Additional Rights to Information**

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

### **3. Rights to Attend Meetings**

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

### **4. Notices of Meetings**

The Council will normally give at least five clear days’ notice of any meeting by posting details of the meeting at the Council offices

### **5. Access to Agenda and Reports Before the Meeting**

The Council will normally make copies of the agenda and reports open to the public available for inspection at the Council Offices and on the Council’s website at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda on the Council’s website. Where reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as the report is completed and sent to Councillors.

### **6. Private Meetings of an Executive Body**

- 6.1 This rule applies at any time when Cabinet or any other executive body is considering a confidential or exempt item as defined by the Access Regulations during that time the meeting is considered to be in private.
- 6.2 In order for a meeting (or part of a meeting) to be in private, the following requirements shall be met:

- (a) at least 28 clear working days before the private meeting, there shall have been made available at the Council's offices and published on the Council's website, a notice of the Council's intention to hold the meeting (or part thereof) in private that includes a statement of the reasons for the meeting to be held in private.
- (b) at least five clear working days before the private meeting, there shall be made available at the Council's offices and published on the Council's website, a further notice of the intention of the Council to hold a private meeting (or part thereof) that includes a statement of the reasons for the meeting to be held in private, details any representations received by the Council about why the meeting should be held in public and a statement of its response to such representations.

6.3 Where the provisions above are impracticable as a result of the date by which such a meeting must be held, the meeting (or part thereof) may be held in private provided that agreement has been obtained from the Chairman of the relevant scrutiny committee that the meeting is urgent and cannot reasonably be deferred, or if he is unable to act, from the Chairman of the Council, or where there is no such Chairman, from the Vice-Chairman of the Council. Where such agreement has been obtained, then as soon as reasonably practicable a notice will be made available at the Council's offices and published on the Council's website, setting out the reason(s) why the meeting is urgent and could not be reasonably deferred.

## **7. Urgent Items for Non-Executive Decisions**

- 7.1 Where by reason of special circumstances the Chairman of a nonexecutive body is of the opinion that an item should be considered at a meeting as an item of urgency, that item may be considered even though it is not identified as an item on the agenda. The special circumstances identified shall be specified in the minutes.

## **8. Supply of Copies**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item.
- (d) To any person on payment at a charge for postage and any other costs.

## **9. Background Papers**

### **9.1 List of background papers**

The Chief Executive will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in rule 11) and in respect of Cabinet reports, the advice of a political advisor.

### **9.2 Public inspection of background papers**

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

For meetings between 12 May 2020 to 7 May 2021 inspection may shall be via electronic means only.

## **10. Summary of the Rights of the Public**

- 10.1 A copy of these rules concerning the public's rights to attend meetings and to inspect and copy documents will normally be kept at and available to the public at the Council's offices and on its website only for meetings between 12 May 2020 and 7 May 2021.
- 10.2 The Council will make available copies of the following for six years after a meeting:
- (a) the minutes of the meeting or record of decision taken, together with reasons, for all meetings of the Council bodies, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclosed exempt or confidential information
  - (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record
  - (c) the agenda of the meeting; and
  - (e) reports relating to items when the meeting was open to the public.
- 10.3 Where legislation allows, the Council may levy a charge if a copy of any documentation is requested. Copies of documents requested between 12 May 2020 and 7 May 2021 shall be provided electronically.
- 10.4 Nothing contained within these rules or elsewhere in Constitution requires the production of any document that in the opinion of a relevant person (as identified in the Access Regulations) would contain confidential information or give rise to the disclosure of exempt information.

## **11. Exclusion of Access by the Public to Meetings**

### **11.1 Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### **11.2 Meaning of confidential information**

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

### **11.3 Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

#### 11.4 Meaning of exempt information

Exempt information means information falling within the following 10 categories (subject to any condition):

*Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.*

<b>Category</b>	<b>Condition</b>
1. Information relating to any individual.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Category	Condition
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under –</p> <p>(a) the Companies Acts 1985 (as defined in section 2 of the companies Act 2006)  (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  (f) the Charities Act 1993</p>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>6. Information which reveals that the authority proposes -</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>

## 12. **Exclusion of Access by the Public to Reports**

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with rule 11, the meeting is likely not to be open to the public. Such reports will be marked “not for publication” together with the category of information likely to be disclosed.

## 13. **Key Decisions**

13.1 A Key Decision is an executive decision which is likely:

- (i) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council’s budget for the service or function to which the decision relates. The Council has decided that, for this purpose, ‘significant’ savings or expenditure shall mean;  
Revenue: Any contract or proposal with an annual payment of more than £100,000  
Capital: Any capital project with a value in excess of £250,000
- (ii) to be significant in terms of its effects on communities living or working in any wards or electoral divisions in the area of the Council. For this purpose, the Leader or Cabinet may determine that a decision, which will have a significant impact on only one ward, shall be regarded as a Key Decision. In determining whether a decision is significant in terms of its effect on communities, consideration should be given to:
  - The number of residents/service users that will be affected in the wards concerned
  - Whether the impact is short term, long term or permanent
  - The impact on the community in terms of economic, social and environmental well-being

13.2 Key Decisions are subject to the same publication rules as other executive decisions but there are additional rules that also apply. These additional rules are set out below. If it is intended that a Key Decision is to be made at a private meeting, then further special rules apply (see Rule 17 below).

13.3 Subject to Rules 15 and 16 below relating to ‘urgency’ and ‘special urgency’, a Key Decision may not be taken unless:

- (a) an appropriate notice has been published in connection with the matter in question; and
- (b) where the decision is to be taken at a meeting of the Cabinet, notice of the meeting has been given in accordance with the above rules.

#### **14 . Publicity in Connection with Key Decisions**

14.1 Where a Key Decision is to be made (whether by a committee, individual Councillor or officer) then, subject as provided below, that decision must not be made unless at least 28 clear days beforehand, a document (whether as part of the Forward Plan or otherwise) has been made available for inspection by the public. Inspection by the public of a document relating to a meeting taking place between 12 May 2020 to 7 May 2021 shall be available on the Council's website only:

- (a) at the offices of the Council; and
- (b) on the Council's website which states:
  - (i) that a Key Decision is to be made by the Council
  - (ii) the matter in respect of which the decision is to be made
  - (iii) where the decision maker is an individual, that individual's name, title, if any and, where the decision maker is a body, its name and list of members
  - (iv) the date on which, or the period within which, the decision is to be made
  - (v) a list of the documents submitted to the decision maker for consideration in relation to the matter
  - (vi) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available
  - (vii) that other documents relevant to those matters may be submitted to the decision maker; and
  - (viii) the procedure for requesting details of those documents (if any) as they become available.

14.2 Where the Key Decision is to be made at a meeting at which the public may be excluded or documents relating to the decision need not be disclosed to the public (as it contains confidential or exempt information) the document referred to above must contain particulars of the matter but not the confidential or exempt information.

#### **15. General Exception to Key Decision Publicity – “Urgency”**

15.1 Where 28 clear days publicity of the intention to make a Key Decision is impracticable, that decision may only be made:

- (a) where the proper officer has informed the Chairman of the relevant scrutiny committee, or if there is no such person, each member of

the relevant scrutiny committee by notice in writing, of the matter about which the decision is to be made; and

- (b) after five clear days have elapsed following the day on which the proper officer has also made available at the offices of the Council for public inspection and published on the Council's website, a copy of the notice given in (a) above.

15.2 As soon as reasonably practicable after the proper officer has complied with the provision above, he/she shall also make available at the Council's offices and on the Council's website, a notice setting out the reasons why giving 28 clear days' notice is impracticable. For meetings held between 12 May 2020 and 7 May 2021 the notice shall be displayed on the Council's website only.

## **16. "Special Urgency" in Relation to Key Decision**

16.1 Where the date by which a Key Decision has to be made makes even compliance with the general exception procedure impracticable, the Key Decision may be made where the decision maker has obtained agreement from:

- (a) the chairman of the relevant scrutiny committee; or
- (b) if there is no such person, or if unable to act, the Chairman of the Council; or
- (c) if neither exist, the Vice-Chairman of the Council,

that the making of the decision is urgent and cannot reasonably be deferred.

16.2 As soon as reasonably practicable after the decision maker secures agreement as above, the decision maker must:

- (a) make available at the Council offices a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred; and
- (b) publish such a notice on the Council's website.

For meetings held between 12 May 2020 and 7 May 2021 the notice shall be displayed on the Council's website only.

## **17. The Forward Plan**

Although a Forward Plan is no longer a legal requirement, the Council still maintains one.

17.1 The Forward Plan will be prepared to cover a period of four months, beginning with the first day of any month. They will be prepared on a

monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

17.2 The Forward Plan will normally include matters which the Leader or Chief Executive has reason to believe will be subject to a Key Decision to be taken by the Cabinet, individual members of the Cabinet, officers or under joint arrangements during the period covered by the plan. In the case of Key Decisions, it will normally describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) that a Key Decision is to be made
- (b) the matter in respect of which a decision is to be made
- (c) where the decision maker is an individual, their name and title, if any and where the decision taker is a body, its name and details of membership
- (d) the date on which, or the period within which, the decision will be taken
- (e) a list of documents submitted to the decision maker for consideration in relation to the matter
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available; and
- (g) that other documents relevant to those matters may be submitted to the decision maker and the procedure for requesting details of those documents (if any) as they become available.

Notwithstanding the provisions above, where in relation to a matter:

- (a) the public may be excluded from the meeting at which the matter is to be discussed; or
- (b) documents relating to the decision need not be disclosed to the public,

the Forward Plan will contain particulars of the matter but will not contain any confidential or exempt information.

17.3 The Forward Plan will normally be made available for inspection at the Council's offices and published on the Council's website at least 14 days before the start of the period covered. In any event, notice of a Key Decision in accordance with the rules above will normally be made available and published no later than 28 clear working days before the decision is to be made.

17.4 The Forward Plan will also normally identify any proposal to hold any meeting (or part thereof) of the Cabinet (or any committee of Cabinet) in private and will include a statement of the reason(s) for that proposal. In any event, notice of an intention to hold any such private meeting (or part thereof) will also normally be made available and published on the Council's website at least 28 clear working days before the meeting.

## **18. Record of Decisions**

18.1 After any formal meeting, whether held in public or private, the Chief Executive or other nominated officer, or where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include:

- (a) a record of the decision including the date it was made
- (b) a record of the reasons for the decision; and
- (c) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision making body and a note of any dispensation granted by the Standards Committee.

18.2 In the case of any decision made by an Executive body, the minutes should also identify any alternative options considered and rejected at that meeting and reasons for the decision. The record, and any reports on items considered when the meeting was open to the public, will be kept available for public inspection for six years from the date of the meeting.

## **19. Decisions by Individuals**

19.1 For the purposes of these rules reference to a "significant executive decision" shall mean a decision in connection with the discharge of an executive function that in the opinion of the officer at the time of making the decision:

- (a) is a decision that:
  - (i) is not connected with the discharge of a function that is outside the responsibility of the Council's Executive; or
  - (ii) is not connected with the discharge of a function that is excluded from being a function of the Executive;
- (b) will or is likely to incur the Council in expenditure or savings in excess of £50,000 or generate a revenue return / income in excess of £50,000 as a specific consequence of that decision; and/or

- (c) will or is likely to result in the issue or termination of legal proceedings (whether by way of action in a court, tribunal or otherwise); and/or
- (d) will or is likely to be the subject of legal challenge (i.e. action in a court, tribunal or otherwise), whether by way of a challenge to the decision itself or any document issued as a consequence of that decision; and/or
- (e) is a decision on which there was specific prior consultation by the officer with the Leader/portfolio holder before the decision was taken
- (f) is a Key Decision.

19.2 Subject as provided for below, as soon as reasonably practicable after:

- (a) a decision is made by an individual member of the Cabinet; or
- (b) a significant executive decision is made by an officer,

the officer decision maker will prepare, or the individual Councillor shall instruct the proper officer to prepare (as the case may be):

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected;
- (d) a record of any declared conflict of interest by any executive member consulted on the decision and a note of any dispensation granted; and
- (f) the delegated authority under which any such decision is made.

19.3 Following the preparation of the decision record, the officer or proper officer (as the case may be) shall as soon as reasonably practicable thereafter arrange to place the record on the Council's website and make it available for public inspection.

19.4 For the purposes of the requirements of the Constitution, failure to produce a decision record and/or place it on the Council's website and/or make it available for public inspection and/or otherwise fail to accord with any of the requirements relating to the making and publication of a decision record shall not invalidate or otherwise impact upon any decision.

## **20. Report to Council**

20.1 Where an Executive decision has been made and:

- (a) was not treated as being a Key Decision; and
- (b) the relevant scrutiny committee consider that the decision should have been treated as a Key Decision,

the relevant scrutiny committee may require Cabinet to submit a report to the Council within such reasonable period as the committee may specify; such report to include details of:

- (a) the decision and the reasons for the decision;
- (b) the decision maker by which the decision was made; and
- (c) if Cabinet is of the opinion that the decision is not a Key Decision, the reasons for that opinion.

20.2 At least quarterly, the Leader will submit to full Council a report containing details of any Key Decision since the previous report that had been agreed as urgent, including a summary of the matters in respect of which each decision was made.

## **21. Additional Rights of Access for Members in Relation to Executive Decisions**

21.1 All Councillors will generally be entitled to inspect any document (except those in draft form) within the control of the Council that contains material relating to any business to be transacted at a public meeting of Cabinet or a committee of Cabinet at least five clear days before the meeting. Where, however, such a meeting is convened at shorter notice, or an item is added to the agenda at shorter notice, any such document may only be made available from that later time.

21.2 Where:

- (a) business is transacted at a private meeting of Cabinet (or committee of Cabinet)
- (b) an individual member of Cabinet makes a decision; or
- (c) an officer makes a decision which is a function of the Executive,

any document that is in the possession of the Council that contains material relating to any such business or decision (as the case may be) will normally be made available for inspection by all Councillors when the meeting concludes or decision has been made or within 24 hours thereof.

21.3 Subject to certain exceptions in relation to various financial information and information relating to notices and order as set out in the Access Regulations, none of the document disclosure provisions above require to be made available to a Councillor any document which appears to the proper officer to be exempt information or disclosure of advice provided by a political adviser / assistant.

21.4 Where:

- (a) business is transacted at a meeting of Cabinet (or committee of Cabinet)
- (b) an individual member of Cabinet makes a decision; or
- (c) an officer makes a decision which is a function of the Executive,

any document that is in the possession of the Council that contains material relating to any such business or decision (as the case may be) will normally be made available to a member of a scrutiny committee of the Council upon receipt of a request by the Chief Executive as soon as reasonably practicable and in any case no later than ten clear working days from receipt of the request.

21.5 The above additional disclosure provisions do not however entitle a member of a scrutiny committee to a copy of any document or part of a document that contains exempt or confidential information unless that information is relevant to:

- (a) an action or decision that the Councillor is reviewing or scrutinising; or
- (b) any review contained in any programme of work of a scrutiny committee (or sub-committee).

Furthermore, no such entitlement extends to a document or part of a document provided to a political adviser or assistant. Where, however, disclosure is not provided, a written statement must be provided to the scrutiny committee setting out the reason(s).

## **BUDGET AND POLICY FRAMEWORK STANDING ORDERS**

*These orders incorporate (in paragraphs 3 to 6 and 10) the provisions which authorities are required to include in their Standing Orders regulating proceedings and business under the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) and shall be interpreted in accordance with those Regulations.*

### **1 The framework for Executive decisions**

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

### **2. Process for developing the framework**

- (a) The Cabinet will publicise by including in the Forward Plan a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chairmen of scrutiny committees will also be notified
- (b) Following consultation, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If a relevant scrutiny committee wishes to respond to the Cabinet in that consultation process, then it may do so. It is open to the scrutiny committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from a scrutiny committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response
- (c) Once the Cabinet has approved the firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.

### **3. Conflict resolution procedure – policy framework**

- (a) Where the Cabinet of the Council has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in Standing Order 3 (b).
- (b) Before the Council:
  - (i) amends the draft plan or strategy

- (ii) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (iii) adopts (with or without modification) the plan or strategy, it must inform the Leader of any objections which it has to the draft plan  
or strategy and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
- (c) Where the Council gives instructions in accordance with Standing Order 3 (b), it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:
- (i) submit a revision of the draft plan or strategy as amended by the Cabinet (the “revised draft plan or strategy”), with the Cabinet’s reasons for any amendments made to the draft plan or strategy, to the Council for the Cabinet’s consideration; or
  - (ii) inform the Council of any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for any such disagreement.
- (d) When the period specified by the Council, referred to in Standing Order 3(b), has expired, the Council must, when:
- (i) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
  - (ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her 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
  - (ii) adopting (with or without modification) the plan or strategy,
- take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet’s reasons for those amendments, any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.

#### 4. **Conflict resolution procedure – budget**

- (a) Subject to Standing Order 7 where, before 8 February in any financial year the Cabinet submits to the Council for its consideration in relation to the following financial year:
    - (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992
    - (ii) estimates of other amounts to be used for the purposes of such a calculation
    - (iii) estimates of such a calculation; or
    - (iv) amounts required to be stated in a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992,and following consideration of those estimates or amounts the Council has any objections to them; it must take the action set out in Standing Order 4 (b).
  
  - (b) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in Standing Order 4 (a) (i) , or issues a precept under Chapter IV of Part 1 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/her instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
5. Where the Council gives instructions in accordance with Standing Order 4 (a), 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 Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
  - (b) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
6. When the period specified by the Council, referred to in Standing order 5, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in Standing Order 4 (a) (i), or issuing a precept under Chapter IV of Part 1 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 Council's objections; and
- (d) the Cabinet's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.

**7. Decisions outside the budget or policy framework**

- (a) Subject to the provisions of financial regulations relating to the use of contingencies and variation of estimates, the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers, area committees or joint arrangements discharging Cabinet functions may only take decisions which are in line with the Budget and Policy

Framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to Standing Order 8 below.

- (b) If the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers, area committees or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Standing Order 8 (urgent decisions outside the budget and policy framework) shall apply.

**8. Urgent decisions outside the budget or policy framework**

- (a) The Cabinet, a committee of the Cabinet, an individual member of the Cabinet, or officers, area committees or joint arrangements discharging Cabinet functions, may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical to convene a quorate meeting of the full Council; and

- (ii) if the Chairman of a relevant scrutiny committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the relevant scrutiny committee consents to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of a relevant scrutiny committee the consent of the Mayor and, in the absence of both, the Deputy Mayor will be sufficient.

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

## 9. **Call-in of decisions outside the budget or policy framework**

- (a) Where a scrutiny committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Section 151 Officer.
- (b) In respect of functions, which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Section 151 Officer's report shall be sent to the Cabinet with a copy to every Councillor. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Section 151 Officer conclude that the decision was a departure, and to the scrutiny committee if the Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Section 151 Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 7 days of the request by the scrutiny committee, or on such other date as the Chief Executive may determine in consultation with the Mayor. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer.
- (d) The Council may either:
  - (i) endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget and policy framework. In

- this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Section 151 Officer.

## 10. Recording Votes

- (a) Immediately after any vote is taken at a budget decision meeting of the Council 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.
- (b) In this Standing Order
  - (i) "budget decision" means a meeting of the Council at which it:
    - (1) makes 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; or
    - (2) issues a precept under Chapter 4 of Part 1 of that Act,and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting;
  - (ii) references to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

## **STANDING ORDERS – CABINET**

### **1. How does the Cabinet operate?**

#### **1.1 Who may make executive decisions?**

Executive functions may be discharged by:

- (a) the Cabinet as a whole
- (b) a committee of the Cabinet
- (c) the Leader and an individual member of the Cabinet, where a delegation has been made
- (d) an officer
- (e) an area committee (N.B. the Council does not currently have Area Committees)
- (f) joint arrangements; or
- (g) another local authority.

#### **1.2 Any delegation will be reported to the Council and will be reviewed from time to time. Details of the delegation will be included in the Constitution, which will include:**

- (a) the extent of any authority delegated to Cabinet members individually (if any), including details of the limitation on their authority
- (b) the terms of reference and constitution of such Cabinet committees so appointed, and the names of Cabinet members appointed to them
- (c) the nature and extent of any delegation of Executive functions (if any) to area committees, any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint committee; and
- (d) 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.

#### **1.3 Sub-delegation of Cabinet functions**

- (a) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an Executive function,

they may delegate further to an area committee, joint arrangements or an officer

- (b) Unless the Leader directs otherwise, the Cabinet may delegate functions to a committee of the Cabinet or to an officer
- (c) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer
- (d) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

#### **1.4 The Council's scheme of delegation and Executive functions**

- (a) Subject to (b) below, the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council.
- (b) the Leader may amend the scheme of delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Chief Executive and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

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

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Councillor code of conduct in Part 5 of this Constitution
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Councillor code of conduct in Part 5 of this Constitution
- (c) If the exercise of an Executive function has been delegated to a committee of the Cabinet, an individual Councillor or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Councillor code of conduct in Part 5 of this Constitution.

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

The Cabinet will meet in accordance with a calendar of meetings agreed by it or the Leader.

All meetings of the Cabinet will be open to the public subject to the Access to Information Procedure Rules in Part 4 of this Constitution.

### 1.7 **Quorum**

The quorum for a meeting of the Cabinet, or a committee of it, shall be three.

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

- (a) Executive decisions which fall to be determined by the Cabinet will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a committee of the Cabinet, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## 2. **How are Cabinet Meetings Conducted?**

### 2.1 **Who presides?**

If the Leader is present, he/she will preside. In his/her absence, the Deputy Leader shall preside.

In the event of both the Leader and the Deputy Leader being absent from a meeting, the Cabinet will appoint a person from among those present to preside at that meeting. Whoever is presiding (and the word 'Leader' in the following will include any such person presiding at the meeting) will have similar powers to the Mayor at a Council meeting in relation to conduct of Councillors and the public, as follows: -

- (a) If a Councillor persistently disregards the ruling of the Leader by behaving improperly or offensively, or deliberately obstructs business, the Leader may move that the Councillor be not heard further. If seconded, the motion will be voted on without discussion
- (b) If the Councillor continues to behave improperly after such a motion as described in (a) above is carried, the Leader may move that either the Councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion
- (c) If there is a general disturbance making orderly business impossible, the Leader may adjourn the meeting for as long as he/she thinks necessary.
- (d) If a member of the public interrupts proceedings, the Leader will warn the person concerned. If they continue to interrupt, the Leader will order their removal from the meeting room.

- (e) If there is general disturbance in any part of the meeting room open to the public, the Leader may call for the room to be cleared and adjourn the meeting to enable this to happen.

## 2.2 Who may attend?

All meetings of the Cabinet will be open to the public unless exempt or confidential information is being considered. All Councillors will be entitled to attend meetings of the Cabinet. The Leader of the main opposition group may ask questions on executive matters at a Cabinet meeting or a subcommittee or working group of Cabinet, and a maximum period of five minutes will be available at each meeting for this.

## 2.3 What business?

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

- (a) consideration of the minutes of the last meeting
- (b) declarations of interest, if any
- (c) questions on executive matters relevant to an agenda item from the leader of the main opposition group and Citizens (see below)
- (d) matters referred to the Cabinet (whether by a scrutiny committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Standing Orders or the Budget and Policy Framework Standing Orders set out in Part 4 of this Constitution
- (e) consideration of reports from scrutiny committees; and
- (f) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in part 4 of this Constitution.

### **Opposition Group Questions**

Each opposition group Leader (or nominee) may ask under Standing Order 2 one question relevant to an agenda item if either:

- (a) they have given at least three clear working days (including the day of the meeting) notice in writing of the question to the Chief Executive; or
- (b) the question relates to urgent matters, they have the consent of the Councillor to whom the question is to be put, and the content of the question is given to the Chief Executive by 10.00 am on the day of the meeting.

A total of 5 Minutes will be allowed for each question and answer (including any supplementary and answer).

Questions will be dealt with in the order in which they are received.

Leader/Chair shall direct who shall answer the question.

Question can be rejected for good reason (as per rejection criteria for Citizens Questions).

No debate on the question, but the responder may refer it to another Council body.

One supplementary question is allowed directly relevant to the original question

### **Supplementary Question**

- (a) One supplementary question in total may be asked by the Councillor asking the original question. A supplementary question must arise directly out of the reply and relate to the original question or it will not be permitted. The supplementary question and answer shall be given without discussion.
- (b) The Chair, having due regard to the advice of the Monitoring Officer, may reject a supplementary question if it:
  - (i) does not arise directly from the reply
  - (ii) does not relate to the original question
  - (iii) is a statement and not a question
  - (iv) is a matter for which the Council does not have responsibility
  - (v) is a matter which does not affect the Borough
  - (vi) is defamatory, frivolous or vexatious
  - (vii) is substantially the same as a question which has been put at a meeting of Cabinet in the past six months; or
  - (viii) requires the disclosure of confidential or exempt information.

### **Questions on Executive Matters from Citizens**

Citizens may ask questions under Standing Order 2.

A total of 15 minutes will be allowed for the questions and answers submitted for the meeting. Responses outstanding following expiry of 15 minutes will be responded to in writing.

Citizens are Rushcliffe residents and business owners in Rushcliffe ('Citizens').

The Leader/ Chair has discretion to direct questions to most appropriate responder.

Citizens' questions must be submitted in writing to the Chief Executive at least seven clear working days (not including the day of the meeting) before the meeting.

Citizens' questions can be rejected by the Chief Executive in consultation with the Leader/Chair, for good reasons:

- Not Council responsibility
- Defamatory, vexatious, offensive, etc.
- Similar to or asked in last 6 months
- Response would disclose confidential or exempt information

- Relates to matters currently under investigation, in complaints process or with Ombudsman
- Relates to a matter where Council has a quasi-judicial or regulatory role.

Citizens' questions shall be limited to one question per Citizen for the meeting.

Citizens' questions may be read by the Leader/Chair if the Citizen is unable to attend or for other good reasons.

Citizens' questions shall be dealt with in the order which they are received.

## 2.4 **Consultation**

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant scrutiny committees as set out in the Forward Plan, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

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

The Leader may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any Councillor or officer in respect of that matter.

## 2.6 **Record of Decisions**

As soon as reasonably practicable after a meeting of the Cabinet or a committee appointed by the Cabinet where an Executive decision has been made, the Chief Executive or an officer nominated by him/her, or in the event of the Chief Executive or nominated officer not being present at the meeting, the person presiding, shall ensure that a written statement is produced in respect of every Executive decision made at the meeting which must include:

- (a) a record of the decision
- (b) a record of the reasons for the decision
- (c) details of any alternative options considered and rejected
- (d) a record of any conflict of interest in relation to any matter decided which is declared by any Councillor
- (e) in the case of a declared conflict of interest, a note of any dispensation granted by the standards committee

Similarly, any Councillor or officer making any delegated decisions for which a record is required shall make a record of those decisions or

request the Chief Executive or other designated officer to do so, as set out above.

3. **Budget and Policy Framework Standing Order**

The relationship between Cabinet, the scrutiny committees and the Council concerning the budget and the policy framework is governed by national rules, which are set in the Council's Budget and Policy Framework Standing Orders, held elsewhere in this part of the constitution, and which apply to the council, the scrutiny committees and the Cabinet

4. **Access to Information Rules**

The Council's Access to Information Procedure Rules, set out elsewhere in Part 4 of the constitution, shall apply, as appropriate, to all meetings of the Cabinet and to agenda and report for those meetings

## **STANDING ORDERS –OVERVIEW AND SCRUTINY**

### **1. What will be the number and arrangements for scrutiny committees?**

The Council will appoint such scrutiny committees as it considers appropriate from time to time. Such committees may appoint subcommittees or member groups/panels. Scrutiny committees or other groups may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

The Council shall determine the terms of reference, size and membership of scrutiny committees giving effect to appointments in accordance with the wishes of any political group to reflect political proportionality.

The current scrutiny committees and other groups are described in Part 3 of the Constitution.

### **2. Who may sit on scrutiny committees?**

All Councillors, except members of the Cabinet, may be members of a scrutiny committee. However, no Councillor may be involved in scrutinising a decision in which he/she has been directly involved.

### **3. Co-optees**

Each scrutiny committee or sub-committee shall be entitled to recommend to Council the appointment of up to two non-voting co-optees.

### **4. Meetings of the scrutiny committees**

(a) The Council shall approve first meeting dates of the scrutiny committees, following which they will establish their own calendar of meetings. In addition, special meetings may be called from time to time as and when appropriate.

(b) The Chairman of the relevant scrutiny committee may call a special meeting of a scrutiny committee.

(c) A special meeting may also be called by a quarter of the membership of the group (but not less than three members of the group) or by the Chief Executive if he/she considers it necessary or appropriate.

### **5. Quorum**

The quorum for a scrutiny committee shall be one quarter of the total number of members of the committee, or three, whichever is the larger.



6. **Who chairs scrutiny committee meetings?**

The Council at the annual meeting will appoint the Chairman and Vice-Chairman of the scrutiny committees in accordance with any locally agreed convention. In the absence of the Chairman and Vice-chairman at a meeting, the committee will decide who shall be Chairman of that meeting.

7. **Work programme**

The Corporate Overview Group will be responsible for preparing its own work programme for Governance Scrutiny Group, Growth and Development Scrutiny Group and Communities Scrutiny Group based on the Cabinet Forward Plan. Each scrutiny Group work programme shall be reported annually to the Council.

8. **Agenda items**

Any Councillor shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda. The Leader of the main opposition group may ask questions, for a maximum of five minutes in total referring to any items on the agenda. The following procedures shall apply:

- (a) Councillors should raise any item with the appropriate officer for resolution prior to requesting an additional item for a scrutiny agenda. This contact should be at the service manager or executive management team level
- (b) if the issue is not resolved, then a Councillor should submit a request with background details for an item to be discussed at a future scrutiny committee meeting giving at least ten working days' notice
- (c) this item will be placed as an item at the end of the next appropriate scrutiny committee meeting agenda
- (d) the item will consist of a short report detailing the question together with the brief background details provided by the Councillor raising the question and an officer consideration of likely resource requirements if action was agreed
- (e) there will be a maximum time period of fifteen minutes allowed for initial consideration of any additional item raised for a potential future scrutiny item. The scrutiny committee should then decide whether the item is suitable to be included within the scrutiny programme.

The above procedures are considered to encompass the requirements of the statutory 'Councillor Call of Action' initiative, but nothing in the procedures is intended to derogate from those statutory powers available to Councillors. The Council's current procedures supporting the Call for Action are available on the following:

**9. Policy review and development**

- (a) The role of the scrutiny committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Standing Orders
- (b) In relation to the development of the Council's approach to other matters not forming part of its budget framework, scrutiny committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference
- (c) Scrutiny committees may review the available options for future direction in policy development. They may seek information and advice on the options, go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them and be questioned on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

**10. Reports from Scrutiny Committee**

- (a) Once it has formed recommendations on proposals for development, the Scrutiny Committee will prepare a formal report and submit it to the Chief Executive for consideration by the Cabinet (if the proposals are consistent with the existing budget and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from, or a change to, the agreed budget and policy framework).
- (b) If a Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then a minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet shall consider the report of the scrutiny committee at its next scheduled meeting.

**11. Making sure that Overview and Scrutiny reports are considered by the Cabinet**

- (a) Once a Scrutiny Committee report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet at a later meeting. In such cases, the Cabinet shall consider the report of the scrutiny committee when it considers that matter.
- (b) Once a Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Chief Executive who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework.
- (c) Scrutiny Committees will in any event have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a scrutiny committee following consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

## 12. **Rights of scrutiny committee members to documents**

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

## 13. **Members and officers giving account**

- (a) Any scrutiny committee may scrutinise, and review decisions made, or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require, any (other) member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance,

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

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

If a Councillor is invited to attend a scrutiny committee meeting he/she shall have the right to be accompanied at the meeting by an officer.

- (c) Where, in exceptional circumstances, the Councillor or officer is unable to attend on the required date, then the scrutiny committee shall, in consultation with the Councillor or officer, arrange an alternative date for attendance.

#### **14. Member Question Time at Scrutiny Committees**

There will be an opportunity for a short question time at the commencement of each scrutiny committee meeting. The purpose of this question time is to enable non-executive Councillors to put questions (primarily relating to policy to the relevant Cabinet portfolio holder and/or Leader. The following protocol will apply:

- (a) the period allowed for questions shall be limited to 15 minutes
- (b) the Chairman shall have discretion to extend this period to enable a full reply to be given, but no further questions may be put after the 15 minutes have expired, unless the Chairman and the Cabinet member or Leader agree
- (c) any Councillor wishing to put a question under this procedure shall provide a copy of it to the Chief Executive at least three working days (not including the day of the meeting) before the relevant scrutiny committee meeting and the Chief Executive shall notify the relevant Cabinet member and Leader
- (d) any questions to be put must relate to a matter within the terms of reference of the scrutiny committee.
- (e) having received notice of a question under this procedure the relevant Cabinet member or Leader shall attend the scrutiny committee meeting to answer the question, or if unable to attend, may request another Cabinet member to attend and answer on their behalf

- (f) at the commencement of question time the Chairman shall invite the member who gave notice of the question to put it to the Cabinet member or Leader in attendance. If notice of more than one question has been given, they shall be put and answered in order of receipt unless otherwise agreed by the Chairman and the Cabinet member or Leader
- (g) the questioner may put one supplementary related question following the receipt of the original reply
- (h) at the end of the Cabinet member question time the Chairman will ask the particular committee if there are any issues arising from the discussion that need to be followed up within the scrutiny work programme
- (i) a question which is the same or substantially the same as one which has previously been put to a Cabinet member or Leader under this procedure may not be put again before the expiry of six months from the date of the meeting at which it was last put
- (j) questions which relate to operational matters will normally be raised with Directors in the first instance and not put under this procedure until the relevant service manager has had an opportunity to respond
- (k) nothing in this protocol shall override any provisions of the Council's Constitution.

#### 15. **Attendance by others**

A scrutiny committee may invite people other than those people referred to in Standing Order 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Councillors and officers in other parts of the public sector and shall invite such people to attend.

#### 16. **Call- In of Key Decisions Procedure**

The Council has decided that the call-in procedure, described below, shall apply only to key decisions.

A Key Decision is an executive decision which is likely:

- (i) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates. The Council has decided that, for this purpose, 'significant' savings or expenditure shall mean;

Revenue: Any contract or proposal with an annual payment of more than £100,000

Capital: Any capital project with a value in excess of £250,000

- (ii) to be significant in terms of its effects on communities living or working in any wards or electoral divisions in the area of the Council. For this purpose, the Leader or Cabinet may determine that a decision, which will have a significant impact on only one ward, shall be regarded as a Key Decision. In determining whether a decision is significant in terms of its effect on communities, consideration should be given to:
- The number of residents/service users that will be affected in the wards concerned
  - Whether the impact is short term, long term or permanent
  - The impact on the community in terms of economic, social and environmental well-being
- (a) When a Key Decision is made by the Cabinet, or a committee of the Council's Cabinet, or under joint arrangements, or in line with any delegation within the Constitution's responsibility for functions, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made.
- (b) Copies of the notice of decision will be provided to all Councillors.
- (c) Key Decisions of the Cabinet will come into effect seven working days (not including the day of the meeting) after the meeting unless five members give notice in writing to the Chief Executive requesting a Call- In of the decision. The facility to Call-In only applies to Key Decisions.
- (d) If no notice requesting the Call-In of a Key Decision is received in this seven working day period, the decision will come into effect.
- (e) The Call-In submission should comprise a completed Call-In request form (Annex A) available to Councillors and include the names and signatures of the five signatories, the decision-making principles it is believed have been breached and also the reasons for this. The decision-making principles are:
- (i) proportionality (ie the action must be proportionate to the desired outcome)
  - (ii) due consultation and the taking of professional advice from officers
  - (iii) respect for human rights
  - (iv) a presumption in favour of openness
  - (v) clarity of aims and desired outcomes; and

(vi) the record of which options were considered and giving reasons for the decision.

(f) Upon receipt of the Call-In form the Chief Executive will give due regard to the advice of the Monitoring Officer to ensure the correct information has been submitted by the signatories. At this stage a Call- In request could be rejected if it is believed:

- (i) insufficient information has been provided
- (ii) it is vexatious, malicious, or politically motivated
- (iii) it does not evidence the decision-making principles breached and why
- (iv) the decision has previously been Called-In
- (v) the reasons given have been addressed in a previous Call-In

If necessary, reasonable steps will be taken to make the lead signatory aware of any issues regarding the validity of the Call-In request prior to the closure of the Call-In period.

(g) Upon determining that the request is a valid Call-In, the Chief Executive will agree with the relevant Scrutiny Chairman (giving due regard to the committees' terms of reference and role and remit) the scrutiny committee to consider the Call-In and instruct the Monitoring Officer to notify the Cabinet of the Call-In and also the relevant officers. He/she will then call a meeting of the relevant scrutiny committee.

(h) The Scrutiny committee must meet to consider the Call-In as soon as possible and at the latest within ten working days of the decision to call it in. If the meeting does not take place in this period, then the decision will come into effect. Special meetings of the scrutiny committee will be called if necessary, to consider Call-In requests within this period.

(i) The first named Councillor (lead signatory) on the Call-In form will be entitled to attend the relevant scrutiny committee meeting to present the Call-In, outline the reasons for the request and take part in any debate on the matter (but not vote). The relevant Cabinet member(s) will also attend the meeting and be invited to address the scrutiny committee. The scrutiny committee may ask the lead signatory questions about the Call-In request as part of their deliberations. They may also ask the Cabinet member(s) questions as part of their deliberations. The format for the scrutiny committee meeting when the Call-In request is considered is set out at Annex B.

(j) If having considered the decision, the scrutiny committee is still concerned about it, then it may refer the matter back to the Cabinet for reconsideration, setting out in writing the nature of its concerns. The Cabinet shall reconsider it at their next meeting, (or a special

meeting if necessary) amending the decision or not, before adopting a final decision.

- (k) If the scrutiny committee concludes not to refer the matter back to the Cabinet, the decision shall take effect on the date of the scrutiny committee meeting.
- (l) If the scrutiny committee concludes that the decision is outside the budget and policy framework then, it can refer the matter to Council for consideration. Standing Order 9 of the Budget and Policy Framework Standing Orders within Part 4 of the Constitution sets out the procedure in relation to the Call-In of decisions outside the budget and policy framework. When exercising this option, the scrutiny committee should evidence how and why the decision is outside the framework and give due regard to the advice of the Chief Executive and Monitoring Officer on this matter. If the matter is referred to full Council and the Council does not object to a decision that has been made, then no further action is necessary, and the decision will take effect from the date of the Council's decision.

**Notice of Call-In of Key Decision**

In accordance with Standing Order 16 of the Overview and Scrutiny Standing Orders of the Council's Constitution, we the undersigned hereby give notice that we wish to Call-In the following key decision:

1. Decision.....
2. Meeting at which the decision was made.....
3. Date of the Meeting.....

We believe that the following principles of decision making have been breached by the making of this decision (tick relevant boxes):

<b>Principle</b>		<b>Reasons why breached</b>	<b>Please tick</b>
a.	Proportionality		
b.	Due consultation and the taking of professional advice from officers		
c.	Respect for human rights		
d.	A presumption in favour of openness		
e.	Clarity of aims and desired outcomes		

f.	A record of what options were considered and giving the reasons for the decision		
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1. Signed.....  
Name.....  
Date.....
2. Signed.....  
Name.....  
Date.....
3. Signed.....  
Name.....  
Date.....
4. Signed.....  
Name.....  
Date.....
5. Signed.....  
Name.....  
Date.....

## **CALL-IN PROCESS – EXPLANATORY NOTE**

This note provides a simple explanation of the format for the ‘Call-In’ at the meeting of a scrutiny committee. It sets out each stage to follow to ensure the meeting is effective and is not adversarial. The key stages are set out as follows:

### **Stage 1 – Lead signatory submission**

As lead signatory, the first signatory to the ‘Call-In’ will be invited to address the scrutiny committee and to make a statement of explanation in respect of the decision called in. They should outline the reasons why the signatories have called the decision in. They should also aim to explain how the decision is in breach of the principles of decision making (See Annex A).

The address should be limited to a maximum of 20 minutes and the lead signatory should stick to the reasons why the decision has been called in and why they believe it is in breach of the decision making principles.

### **Stage 2 – Cabinet member submission**

Following the lead signatory’s address to the scrutiny committee the relevant Cabinet member(s) will be invited to address the committee. Relevant officers can be called upon to support this submission.

The address should be limited to a maximum of 20 minutes and it should aim to address the reasons given by the lead signatory for the Call-In. They should also aim to explain why the decision has not breached the principles of decision making.

### **Stage 3 – Scrutiny committee questions**

Scrutiny committee members can then ask questions of the lead signatory, the Cabinet member and officers directly relating to the decision and the reasons for the Call-In (this should be questions about the decision and the Call-In and not a debate on the issue as a whole).

### **Stage 4 – Lead signatory closing statement**

The lead signatory makes a closing statement (this should last a maximum of five minutes) responding to the submissions and questions previously heard. They are not allowed to question anyone.

### **Stage 5 – Cabinet member closing statement**

The Cabinet member(s) then make a closing statement (this should last no longer than five minutes) responding to the submissions and questions previously heard. They are not allowed to question anyone.

## **Stage 6 – Scrutiny committee decision**

At this stage, the scrutiny committee needs to make a decision based on the discussion that has taken place. The Chairman should make it clear that no further submissions will be heard from the lead signatory or the Cabinet member(s) whilst the scrutiny committee deliberates and makes a decision.

The scrutiny committee has a number of options available for its decision which are:

- they agree with Cabinet’s decision (the Cabinet decision can now be actioned)
- they disagree with it but this does not warrant referral back to Cabinet (the Cabinet decision can now be actioned)
- they disagree with the decision and agree that it should be referred back to the next Cabinet meeting (the scrutiny committee should expressly outline the reasons for disagreeing with Cabinet’s decision in its recommendations).

Minutes of the meeting containing the decision will be circulated to all Councillors in due course.

## **CALL IN AND URGENCY**

- (a) The Call-In procedure set out above shall not apply where the decision is urgent. A decision will be urgent if any delay likely to be caused by the Call-In process would prejudice the Council’s or the public’s interests
- (b) The Cabinet must decide that no Call-In may be made on the grounds of urgency at the time the decision is made, and not subsequently. This will be indicated at a set point on the agenda
- (c) If there is an urgent item, which it would not be practicable to Call-In, then the Cabinet decision can be implemented by the Chief Executive in consultation with the Leader of the Council, the relevant Cabinet member and the Chairman of the relevant scrutiny committee.

## **17. Procedure at scrutiny committee meetings**

- (a) Scrutiny committees shall consider the following business:
  - (i) declarations of interest
  - (ii) Councillor question time
  - (iii) consideration of any matter referred to the committee for a decision;
  - (iv) in relation to Call-In of a decision
  - (v) responses of the Cabinet to reports of the scrutiny committee; and
  - (vi) the business otherwise set out on the agenda for the meeting.

- (b) Where the scrutiny committee conducts investigations (e.g. with a view to policy development), people may be asked to attend to give evidence at meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly, and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Chairman of the scrutiny committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

## **18. Voting**

- (a) Voting at a scrutiny committee shall be by a show of hands
- (b) In the event of an equality of votes, the Chairman shall have a second or casting vote.

## **19. Membership**

The membership of the scrutiny committees shall comprise eight Councillors (or such number as the Council may determine) appointed on a politically proportionate basis, with power to co-opt up to two non-Council members to ensure a wide a range of appropriate interests for particular scrutiny reviews e.g. representatives of user groups etc.

## **20 Conduct of Councillors, Co-opted Members, Invitees and the Public**

The chairman at a meeting of a scrutiny committee or group will have similar powers to the Mayor at a council meeting in relation to conduct of Councillors and other people attending the meeting, as follows:

- (a) If a Councillor persistently disregards the ruling of the Chairman by behaving improperly or offensively, or deliberately obstructs business, the Chairman may move that the Councillor be not heard further. If seconded, the motion will be voted on without discussion
- (b) If the Councillor continues to behave improperly after such a motion as described in (a) above is carried, the Chairman may move that either the Councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion
- (c) If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

- (d) If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.
- (e) If there is general disturbance in any part of the meeting room open to the public, the Chairman may call for the room to be cleared and adjourn the meeting to enable this to happen.

## **FINANCIAL REGULATIONS**

Financial regulations, which are approved by the Council, are fundamental to maintaining acceptable standards of financial administration supporting service delivery and the performance of functions. As a contractual condition of their employment, every employee shall comply with these regulations when carrying out their duties and no exceptions are permitted without the express consent of the Council.

### **FINANCIAL MANAGEMENT**

#### **Standards**

Officers and Councillors have a duty to abide by the highest standards of probity in dealing with financial issues. It is therefore important that these standards are promoted throughout the authority and that compliance is monitored.

1. The Council's officer appointed in accordance with Section 151 of the Local Government Act 1972 (the Section 151 Officer) shall be responsible to the Council for the regulation, practical arrangements and control of the Council's finances and accounts, and in particular shall be authorised to:
  - (a) set financial management standards and monitor compliance with them
  - (b) determine the form of accounts and accounting systems of the Council
  - (c) select accounting policies and ensure that they are applied consistently
  - (d) issue codes of practice in respect of detailed requirements for financial control, according to the list under the section on systems and procedures below
  - (e) delegate such authority as appropriate, for operational purposes, to nominated officers.
2. Any codes of practice issued by the Section 151 Officer shall have force as though they are part of these financial regulations, unless specifically noted to the contrary.
3. Members of the Executive Management Team, Service Managers and Lead Specialists of the Council shall be responsible for:
  - (a) promoting the financial management standards set by the S151 Officer ensuring the relevant controls are properly applied
  - (b) the proper, effective and efficient use of any resources under their control and allocated to them by the Council.
4. **Directors** of the Council shall be responsible for:
  - (a) ensuring that any codes of practice issued by the Section 151 Officer are implemented and maintained

- (b) ensuring that fees and charges are reviewed at least annually.
- 5. All financial systems shall comply with statutory requirements and relevant regulations.

## Managing Expenditure

It is important that expenditure is only incurred in respect of approved budgets and for approved purposes that comply with the Council's policies and objectives. Monitoring of expenditure against budgets and budget virement are tools to ensure that these aims are achieved.

6. The Section 151 Officer shall be responsible for:
  - (a) monitoring expenditure at service level against approved budgets, setting thresholds for significant variances and obtaining explanations from members of the Executive Management Team and Service Managers or lead specialists where such variances arise
  - (b) regularly reporting to the Cabinet, the progress against approved budgets, together with relevant explanations for variances provided by members of the Executive Management Team and Service Managers or Lead Specialists.
  
7. **Directors** and Service Managers or Lead Specialists shall be responsible for:
  - (a) regularly monitoring and controlling expenditure and income against approved budgets
  - (b) regular reporting to the Executive Management Team of expenditure and income against approved budgets
  - (c) providing proper explanations to the Executive Management Team for significant variances, together with the action being taken to correct the situation
  - (d) taking prompt action to deal with variances from approved budgets, such action to include reducing the rate of expenditure, generating further income, or obtaining proper approval for amended budgets
  - (e) exercising virement between budget heads within a service (excluding support service charges and notional capital accounting charges), in consultation with the Section 151 Officer.
  
8. Budgets for services may be varied subject to the following:
  - (a) expenditure that cannot be contained within the approved estimates, contingencies and reserves shall not be incurred, except in case of emergency, until a supplementary estimate has been approved by Council
  - (b) expenditure incurred in an emergency, and for which a supplementary estimate is necessary, shall be reported to the Cabinet as soon as possible thereafter, and appropriate action then recommended to Council for approval
  - (c) budgetary provision in the estimates for a particular service may be transferred to other **Directors**, subject to:
    - (i) the service not being reduced; and

- (ii) the gross expenditure or income budget for a service (other than notional capital accounting charges and management and administration recharges) not varying by more than 5% of the service, or £20,000, whichever is the greater; and
    - (iii) the agreement of the Chief Executive or relevant Executive Manager and the Section 151 Officer but where a transfer of provision in excess of £20,000 is proposed, the Section 151 Officer shall consult with a designated Cabinet member prior to reaching such agreement.
  - (d) Budgetary provision in the estimates for a service head may be amended by a transfer from a particular contingency or reserve, subject to the agreement of the Chief Executive or relevant Director and the Section 151 Officer but where a transfer of provision in excess of £20,000 is proposed, the Section 151 Officer shall consult with a designated Cabinet member prior to reaching such agreement.
  - (e) Variation of estimates outside that determined by financial regulations 8 c) and d) shall be submitted to the Cabinet for consideration and forwarded to Council for approval.
  - (f) The Section 151 Officer shall approve variation of management and administration and notional capital accounting charges.
  - (g) Each member of the Executive Management Team or relevant Service Manager or lead specialist shall consult the Section 151 Officer with respect to any matter that is likely to go beyond the approved budget of the Council.
9. Carry forward of unspent revenue budget provision shall be permitted in the following circumstances:
- (a) The carry forward should be in respect of unusual items of expenditure that are sufficiently committed but cannot be accounted for in the original year and cannot be absorbed in the new year's budget.
  - (b) The carry forward should be recommended by the Section 151 Officer and approval is reserved to Council.

### **Accounting records and returns**

These are important in demonstrating stewardship and accountability in the application of public resources.

10. The Section 151 Officer shall:

- (a) Ensure accounts are prepared in accordance with proper practices and in accordance with the statutory timetable for the production of the statement of accounts
  - (b) Examine all financial returns and to certify all claims for payment in respect of grants awarded by any external body.
11. Members of the Executive Management Team and Service Manager or Lead Specialist shall:
- (a) Consult and obtain approval of the Section 151 Officer before making any changes to accounting records and procedures
  - (b) Provide the Section 151 Officer with information required for the preparation of the Statement of Accounts in accordance with agreed timescales and guidance provided by the Section 151 Officer.

## **FINANCIAL PLANNING**

### **Revenue Budgets**

Revenue budgets are the mechanism by which the Council allocates resources to the achievement of its objectives. It is important that the budget is consistent with the various performance plans and strategies of the Council. These explain overall priorities and objectives, current performance and proposals for improvement. They must be consistent and form the basis from which revenue and capital budgets are prepared.

12. The Section 151 Officer shall prepare a five-year projection of the revenue budget to demonstrate the affordability and sustainability of the Council's spending plans in accordance with prudential guidelines. The Cabinet shall consider this projection when making recommendations to the Council in respect of the medium-term financial strategy, revenue budget and capital programme.
13. The Section 151 Officer shall be responsible for:
- (a) Determining the form of revenue estimates to be presented to the Cabinet and Council
  - (b) Determining the estimates of external factors affecting the estimates, including those for inflation, pay awards, general income increases and interest rates
  - (c) Co-ordinating and consolidating the spending plans of the Executive Management Team, Service Managers and Lead Specialists for presentation to Cabinet.
14. Members of the Executive Management Team, Service Managers and Lead Specialists shall:

- (a) Prepare revenue estimates in consultation with the Section 151 Officer and planned developments in support of the Council's performance plans and strategies and in support of the five-year projection of expenditure
- (b) Ensure that the above revenue estimates are in accordance with any relevant cash limits
- (c) Ensure that proper approval for new proposals is obtained, especially those that create financial commitment in future years, change existing policies, initiate new policies or cease existing policies.

## **Capital Budgets**

Capital expenditure involves acquiring or enhancing fixed assets with a long term benefit to the authority, such as land, buildings and major items of plant and equipment. It is important that the capital programme is drawn up in accordance with the capital strategy, asset management plans and the corporate objectives of the Borough. These regulations and the associated Code of Practice are designed to ensure that capital schemes are fully justified, that alternative options are considered and that best value in the use of capital resources is achieved.

- 15. Members of the Executive Management Team and Service Managers shall prepare capital estimates in a rolling programme covering five financial years, in consultation with the Section 151 Officer and shall submit them to the Cabinet for consideration and approval by the Council in a form determined by the Section 151 Officer.
- 16. Officers shall be authorised to commence projects in the capital programme where the Council has received and approved a capital appraisal when considering the capital programme, except that costs may be incurred prior to scheme approval where necessary to undertake work and investigations essential to drawing up plans and estimating the cost of the project.
- 17. Capital appraisals shall address the following matters:
  - (a) A detailed description of the project
  - (b) How the project contributes to the Council's aims and objectives
  - (c) Anticipated outcomes and outputs
  - (d) A consideration of alternative solutions
  - (e) An estimate of the capital and revenue costs and sources of funding
  - (f) Other aspects relevant to the appraisal of the scheme as the Section 151 Officer may determine.

Except those schemes that are deemed by the Section 151 Officer as being for regular maintenance of the Council's property, linked to the Asset Management Plan, or regular grant support will not require a full justification prior to inclusion in the programme.

18. Where capital expenditure, unforeseen at the time of approving the capital programme, is proposed and is to be funded from within the overall approved capital programme including contingency, a separate appraisal shall be carried out and approved by the Executive Management Team, except that such schemes over £50,000 but under £100,000 shall be approved in consultation with the relevant Cabinet portfolio holder and those over £100,000 will be referred to Cabinet for approval.
19. Capital estimates may be amended in the following circumstances:
  - a) On full appraisal of the scheme
  - b) On receipt of tenders
  - c) On new information becoming available during the monitoring of the project.
20. Consequent to any of the circumstances set out in regulation 17 demonstrating a need to vary capital estimates they shall be amended, subject to the consent of the Section 151 Officer, as follows:
  - (a) By supplementary estimate provided that sufficient capital contingency has been approved by the Council and remains uncommitted
  - (b) By transfer from one capital scheme provision to another, subject to no scheme total changing by more than 5% or £20,000, whichever is the greater, and there being no material change to the appraised viability of the scheme, assessed in consultation with the Section 151 Officer.

Where a variation in excess of £20,000 is proposed, the Section 151 Officer shall consult with a designated Cabinet member prior to giving such consent.

21. Members of the Executive Management Team and Service Managers shall be responsible for ensuring that progress on schemes is properly monitored, and that approved outcomes are achieved.

## **RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **Risk Management**

Risk management is the planned and systematic approach to the identification, evaluation and control of risk. This is important in order to safeguard against the possibility of loss, damage, injury or failure to achieve objectives of the Council. The management of risk is the responsibility of all managers as part of their day to day activities. Strategically, the Council operates a risk management strategy through the risk management group.

22. The Section 151 Officer shall effect corporate insurance cover and deal with all claims in consultation with other officers as necessary.

23. Members of the Executive Management Team, Service Managers and Lead Specialists shall take steps to minimise risks in accordance with the corporate risk management strategy.

### **Internal Control**

Internal controls are an important element in ensuring that the Borough's financial arrangements are operated in a secure and proper manner. The authority has statutory obligations and internal controls assist in identifying, meeting and monitoring compliance with those obligations.

24. The Section 151 Officer shall approve arrangements for internal control to ensure the proper administration and security of the Council's financial affairs.
25. Directors and Service Managers shall ensure that any proposed changes to the control environment are discussed with the Section 151 Officer before implementation and authorisation.
26. Directors and Service Managers shall ensure that such controls are being adhered to and ensure that officers have a clear understanding of the consequences of lack of control.

### **Internal Audit**

Internal audit is a statutory requirement. It needs to provide an independent and objective review to assist in evaluating the adequacy of internal control.

27. The Section 151 Officer shall maintain a continuous, up-to-date internal audit of the activities of the Council.
28. Such officers as nominated by the Section 151 Officer shall have authority to visit all Council premises and have access to all records of the Council, and shall be entitled to require and receive such explanations as they consider necessary to satisfy themselves of the correctness of any matter under examination.
29. Where any irregularity occurs or is suspected, from whatever source, except in the case of suspected Housing Benefit fraud committed by external agencies, the Chief Executive, the relevant member of the Executive Management Team and the head of internal audit (if contracted out, the designated individual) shall be notified, in accordance with published codes of practice. The Head of Internal Audit shall carry out an investigation in conjunction with the relevant member of the Executive Management Team or service manager in accordance with proper practice.
30. Investigations of external Housing Benefit fraud are investigated by the Department for Works and Pensions.

31. Members of the Executive Management Team, Service Managers and Lead Specialists shall consider and respond promptly to recommendations in audit reports.
32. Members of the Executive Management Team, Service Manager and Lead Specialists shall ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient manner.

### **Preventing Fraud and Corruption**

33. Members of the executive management team, service managers and lead specialists shall ensure adherence to the Borough's anti-fraud and corruption policy and ensure that all suspected irregularities are reported to the Chief Executive, the Monitoring Officer, the Section 151 Officer and the Head of Internal Audit.

### **Assets**

It is important that all the Borough's assets are safeguarded and used efficiently in-service delivery. An up to date register of assets is a prerequisite for proper asset management and accounting.

34. The Section 151 Officer shall maintain an asset register in accordance with good practice and accounting code requirements.
35. Members of the Executive Management Team, Service Managers and Lead Specialists shall:
  - (a) inform the Section 151 Officer of the acquisition or disposal of such assets in a prompt manner
  - (b) ensure the proper security of all buildings and other assets under their control
  - (c) maintain inventories and records of stocks and stores as detailed in Codes of Practice issued under financial regulations.

## **FINANCIAL SYSTEMS AND PROCEDURES**

### **General**

36. Financial regulations in respect of systems and procedures are detailed in the relevant Codes of Practice issued by the Section 151 Officer under regulation 1. These are as follows:
  1. Orders for goods and services
  2. Building and civil engineering contracts
  3. Payment of accounts
  4. Receipt and accounting for income
  5. Stocks and stores
  6. Loans and investments
  7. Insurances and protection of assets

8. Inventories
9. Raising and recovery of debts
10. Petty cash
11. Payroll
12. Capital schemes
13. Money laundering
14. Grants and external funding
15. Suspected irregularities
16. Budget Monitoring.

## **EXTERNAL ARRANGEMENTS**

### **Partnerships and external funding**

The Council is increasingly involving other bodies and partnerships in achieving its objectives. It is important that arrangements with other bodies are as rigorously controlled, with the highest level of probity as for any other arrangement. In particular, the Council's financial regulations will apply except where, in specific circumstances the Section 151 Officer agrees that some alternative may be used.

37. The Section 151 Officer shall:

- (a) advise on the relevant controls that should apply to any arrangement, whether through the Council's own financial regulations or some adequate alternative
- (b) ensure satisfactory accounting arrangements
- (c) ensure that any match funding requirements are considered prior to entering into any such agreements
- (d) certify all claims for payment in respect of grants awarded by any external body.

38. Members of the Executive Management Team, Service Managers and Lead Specialists shall:

- (a) consult with the Section 151 Officer in respect of financial controls
- (b) ensure that all agreements and arrangements are properly documented
- (c) provide appropriate information to the Section 151 Officer to enable proper accounting arrangements to be made (d) ensure that conditions of funding are complied with.

# STANDING ORDERS RELATING TO CONTRACTS

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Appendix 1: Definitions

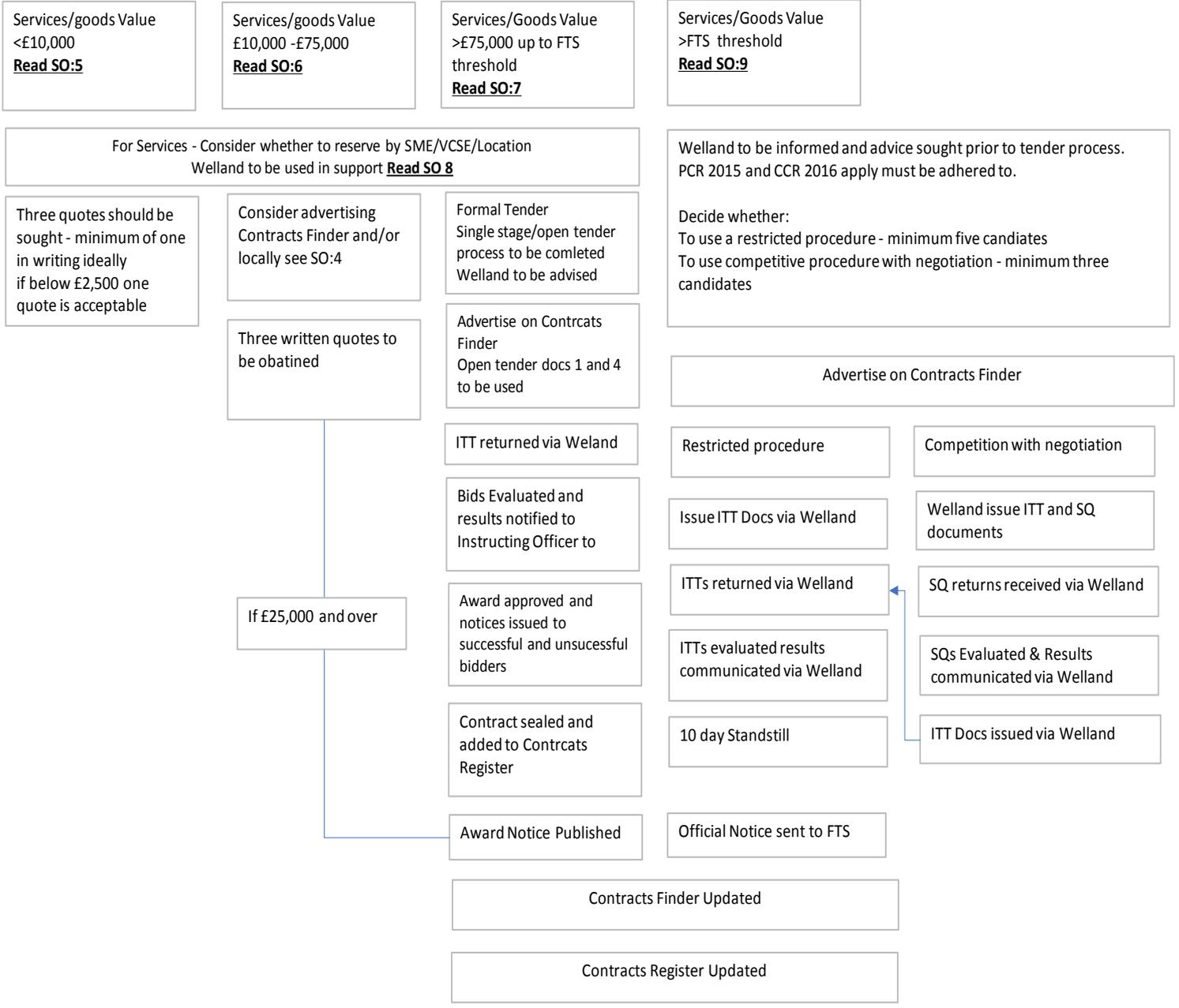
Appendix 2: Variable Information

Appendix 3 Roles and Responsibilities

Record Keeping

## Procurement Process Flow Charts

*Estimating the contract value should take into account the provisions in SO 3*



## Approval levels

Value	Approved by
>£75,000	Lead Specialist
£75,000 - £125,000	Service Manager
>£125,000 but <£1,000,000	Executive Manager
>£1,000,000	S151 Officer and Chief Executive

## Roles and responsibilities

To be read in conjunction with Appendix 3

Officers	Executive Management
Responsible for the contracting activity	Ensure that they and their Officers comply with these Standing Orders at all times.
Appraise the purchase	Ensure that Value for Money is achieved in all procurements.
Keeping records detailed in these Rules	Ensure that they have in place a scheme of delegation that records in writing what action Officers are authorised to take under these Rules.
For over FTS thresholds contact the procurement provider before embarking on the procurement	Responsible for ensuring that the Council's Contracts Register is updated as required following procurement activity.
Take all necessary legal, financial and other professional advice (e.g. HR, Comms etc.) and ensure the necessary decisions are in place before embarking upon any procurement process.	
Ensure they have the relevant budget approved and available prior to embarking upon a procurement process.	
Ensure that the contracts for which they are responsible are effectively managed and monitored to ensure they deliver the requirement as intended.	
Ensure due diligence is undertaken on successful suppliers, both at Contract Award, and for the duration of the Contract.	
Establish and consider TUPE implications	

## 1. General and interpretation

- (a) The purpose of these Standing Orders is to set out the principles, roles and processes involved in procurement at the Council. All procurements must comply with these Rules, the Council's Financial Procedure Rules, English law and European law in force in England. Apart from the permitted exceptions listed in Standing Order 1 (h) below, no variations, waivers or suspensions to any of these provisions shall be made, without available budgetary provision, and approval from the appropriate Executive Manager and Service Manager for any extension to the contract or payment due in excess of the contract, except that where the additional sum is more than 10% of the contract sum or £5,000 (whichever is the lower), the agreement of the S151 Officer is required. See [here](#)
- (b) All procurements must realise value for money through the optimum combination of whole life costs and quality of outcome whilst also considering social, environmental and sustainability issues in contracts.
- (c) These Rules seek to protect the Council's reputation by minimising the risk of allegations of corruption, dishonesty and failure to meet legal obligations; as such they must be followed in all procurement activity.
- (d) If there is any change to the law which affects these Rules, then that change must be observed until these Rules can be revised. If these Rules conflict in any way with the law, then the law takes precedence.
- (e) These Rules are supported by detailed, practical guidance available in the Procurement Toolkit, which can be accessed via the [procurement portal](#).
- (f) Any values stated within these Rules are exclusive of VAT.
- (g) E-procurement procedures shall be used wherever possible and it is mandatory that officers obtaining quotations or tenders will use the "ProContract" portal. These include e-purchasing, e-tendering, purchase cards and others. Where appropriate, e-auctions may be used, so long as provision is made for this in the FTS adverts. The Council may also make use of contracts set up by other public bodies where electronic auctions have been used, so long as the advert and contract contain provision for this.
- (h) These Rules do not apply in the following circumstances:
- a. The purchase or lease of property, land acquisition, interest in land, transaction in land or disposal. This does not extend to any service, supplies or works contracts that may be required to make the land, existing buildings or immoveable property ready for acquisition, disposal or leasing.
  - b. Direct employment of permanent or fixed term employees, for the avoidance of doubt these Rules do apply to consultancy and employment agency contracts.
  - c. Instructing barristers or solicitors (as long as those costs do not exceed the

relevant EU Threshold).

- d. Tenders that have been invited on behalf of a partnership, collaboration or similar body, of which the Council is a member.
  - e. The lending or borrowing of money by the Council.
  - f. Contracts between Local Authorities as defined by Clause 12 of the Public Contract Regulations 2015.
- (i) Where an Officer becomes aware of any non-compliance with these Rules (which cannot be remedied), they must declare this to the relevant member of the Executive Management Team and Monitoring Officer.

## **2. Agency Work**

This Standing Order shall apply where the Council executes work for or on behalf of a principal authority under the terms of an agreement with that authority or on behalf of any consortium, collaboration or similar body of which the Council is a member. In that event the appropriate member of the Executive Management Team or service manager shall comply with the relevant requirements of the principal authority or other body. To the extent that the principal authority or other body has no requirements governing contracts, appropriate parts of these Standing Orders shall apply.

## **3. Estimates**

Total Value is the maximum potential contract value. This is an estimation of the annual value, multiplied by the maximum contract length (including any extensions). This calculation is to be used for contracts that fall under the Public Procurement Regulations 2015. All references to "value" within these Rules refer to Total Value.

For contracts that fall under the Concession Contracts Regulations 2016 (where the supplier makes money from the right given by the Council to provide), contract values are based on what it is worth to the supplier or the cost the Council would incur to provide the contract. The Total Value for these contracts shall be the total turnover of the concessionaire generated over the duration of the contract, as estimated by the Council, taking into account:

- (a) the value of any form of option and any extension of the duration of the concession contract;
- (b) revenue from the payment of fees and fines by the users of the works or services other than those collected on behalf of the Council;
- (c) payments or any other financial advantages, in any form, from the Council to the concessionaire, including compensation for compliance with a public service obligation and public investment subsidies;
- (d) the value of grants or any other financial advantages, in any form, from third parties for the performance of the concession contract;
- (e) revenue from sales of any assets which are part of the concession contract;
- (f) the value of all the supplies and services that are made available to the concessionaire by the Council, provided that they are necessary for executing the works or providing the services;
- (g) any prizes or payment.

Contracts shall not be subdivided with the effect of preventing it from falling within the scope of these Rules, thresholds or any relevant FTS Regulations.

Re-occurring Contracts shall not be put in place with the effect of preventing it from falling within the scope of these Rules, thresholds or any relevant FTS Regulations. Spend must be aggregated where it is appropriate to do so, whether that is within Council departments, or across multiple departments for the same scope of work; to ensure value for money is achieved and reduce the duplication of work. Examples of where aggregate spend would be appropriate includes (but is not be limited to):

- One department spot purchasing similar pieces of work on a regular basis throughout the financial year;
- Multiple Council departments purchasing the same services under different contracts; and
- Individual contracts being kept under a certain threshold to avoid procurement obligations within these Rules.

Before obtaining quotes/tenders for any contract likely to cost more than £10,000, the appropriate member of the Executive Management Team, service manager or lead specialist shall obtain an estimate of the probable expense and shall record such estimate in accordance with the requirements of any Code of Practice issued under the Financial Regulations.

#### **4. Advertising**

For contracts between £10,000 and £75,000 where three suppliers couldn't be identified, or the procurement opportunity is politically sensitive or high profile the Council may choose to advertise. Where the value of the procurement is £25,000 and over the opportunity must be advertised on contract finder before being placed elsewhere.

For contracts with a total value of more than £75,000, the Council must advertise the procurement on Contracts Finder.

For contracts with a total value above the relevant FTS threshold, the Council must advertise the procurement on both Contracts Finder and FTS.

An award notice is required on Contracts Finder for all Contracts awarded with a total value of £25,000 or above.

An award notice is required on FTS for all Contracts awarded with a total value above the relevant FTS threshold.

#### **5. Contracts under £10,000**

- (a) Where the contract has a total value below £10,000 three comparable quotations should be obtained with at least one in writing (email is acceptable). It is accepted fewer than three quotations may be received despite three being sought, this shall be recorded in accordance with the requirements of any Code of Practice issued under financial regulations. Where the contract has a total value below £2,500 one quotation is acceptable.

- (b) Officers will need to ensure they have the relevant budget approved and available prior to embarking upon a procurement process. This approval will be from the Budget Holder, in accordance with budget authorisation limits (as outlined in the Financial Regulations). Please see 1.8.1 of Roles and Responsibilities for further information.
- (c) Quotations can be submitted via email, preferably in PDF format to prevent tampering or accusations thereof; the onus will be on the bidder to make this decision. Quotations shall be sent to the appropriate member of the Executive Management Team, Service Manager or Lead Specialist (via email) and they shall be opened at one time following the stated deadline. The names of those submitting quotations and the amounts shall be recorded in registers kept by Service Managers.
- (d) Value for money remains a primary objective as such Officers should seek more than one quotation and ideally three, save as prescribed under paragraph 5(a) above.
- (e) If more than one quote is sought, then the Rules under Standing Order 6 must be adhered to.
- (f) The quotation(s) must be received before any order is processed and must include the following information:
  - (i) A description of the goods, services or works to be supplied;
  - (ii) When and where they will be supplied;
  - (iii) The total value of the requirement; and
  - (iv) Payment terms.
- (g) In some instances, Officers may need to consider TUPE implications.
- (h) Approval to award at this value will be in writing from the budget holder. The Contract or Purchase Order must be approved/signed by the relevant Budget Manager in accordance with budget authorisation limits (as outlined in the Financial Regulations) via the Council's Corporate Financial System (electronic Purchase Order).
- (i) If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to Legal Services for advice and guidance on the use of electronic signatures.
- (j) Where the value of the contract is £5,000 and above, the resultant contract must be added to the Contract Register (on ProContract) to ensure compliance with Transparency Regulations.
- (k) It is the Officer's responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract.

## **6. Contracts between £10,000 and up to £75,000**

Before obtaining quotes/tenders for any contract likely to cost more than £10,000, the appropriate member of the Executive Management Team, service manager or lead specialist shall obtain an estimate of the probable expense and shall record such estimate in accordance with the requirements of any Code of Practice issued under the Financial Regulations.

- (a) Where it is estimated that a contract will exceed £10,000 but not £75,000 in total value or amount at least three comparable quotations must be obtained in writing by the appropriate member of the Executive Management Team or Service Manager (email is acceptable). Those quotations can be invited from identified suppliers as advertising is not mandatory.
- (b) Where fewer than three potential suppliers can be identified, the member of the Executive Management Team or Service Manager shall record the reason in accordance with the requirements of any Code of Practice issued under Financial Regulations. It is accepted that fewer than three quotations may be received even where three or more suppliers have been invited to quote.
- (c) Officers will need to ensure they have the relevant budget approved and available prior to embarking upon a procurement process. This approval will be from the Budget Holder, in accordance with budget authorisation limits (as outlined in the Financial Regulations). Please see 1.8.1 of Roles and Responsibilities for further information.
- (d) It is recommended that the Request for Quotation Template document is used which can be obtained from the [procurement portal](#). In any case the criteria for selecting the most advantageous quotation must be established before the quotations are invited and be made clear in the procurement documentation. The quotations must contain (as a minimum):
  - (i) The goods, services or works to be supplied;
  - (ii) The “where” and “when” they are to be supplied;
  - (iii) The total value;
  - (iv) Instructions to bidders:
    - a. Evaluation criteria
    - b. How to respond
    - c. How clarification messages are to be asked (who sent to, any deadlines for messages)
    - d. Information bidders need to include within response
    - e. Deadline for responses (day and time); and
  - (v) The short form terms and conditions to be applied.

In some instances, Officers may need to consider TUPE implications.

- (l) Quotations can be submitted via email, preferably in PDF format to prevent tampering or accusations thereof; the onus will be on the bidder to make this decision. Quotations shall be sent to the appropriate member of the Executive Management Team or Service Manager (via email) and they shall be opened at one time following the stated deadline. The names of those submitting quotations and the amounts shall be recorded in a register kept by Legal Services.
- (m) Information on the number and value of the tenders received, including whether a tender other than the lowest has been accepted, will be reported in Performance Reports to the Executive Management Team.
- (e) The appropriate member of the Executive Management Team or Service Manager may accept the most economically advantageous quote subject to there being adequate budgetary provision.

- (f) A quote other than the lowest (if payment is to be made by the Council), or other than the highest (if payment is to be received by the Council), may only be accepted by the appropriate member of the Executive Management Team or Service Manager having complied with the requirements of any Code of Practice issued under Financial Regulations and approved by the Section 151 Officer.
- (g) Evaluation of the quotations received must be carried out using the evaluation criteria identified in the procurement documentation. Any subjective evaluation (such as quality) must be carried out independently by a minimum of two evaluators (preferably three), and then moderated by an independent moderator to reach a final agreed score. The evaluators should be fully briefed on the evaluation process. The 'Conflict of Interest Declaration – Confidentiality Agreement' on the [procurement portal](#) gives further guidance on evaluation principles and best practice; it is advisable to ask all evaluators to complete, sign and return this document to the Council lead. The Procurement advisor can act as the independent moderator but cannot undertake any scoring. Clarification questions may be asked where responses would not result in a material change of the bid received.
- (h) The resultant contract must be added to the Contract Register (on ProContract) to ensure compliance with Transparency Regulations.
- (i) An award notice is required on Contracts Finder for all Contracts awarded with a total value of £25,000 or above.
- (j) It is the Officer's responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract.

## **7. Contracts between £75,000 and the current Works/Goods and Services FTS threshold**

Before obtaining quotes/tenders for any contract likely to cost more than £10,000, the appropriate member of the Executive Management Team, service manager or lead specialist shall obtain an estimate of the probable expense and shall record such estimate in accordance with the requirements of any Code of Practice issued under the Financial Regulations.

- (a) Officers will need to ensure they have approval to procure (as well the relevant budget approved and available) prior to embarking upon a procurement process (as per 1.8.1 of Roles and Responsibilities.). Officers also need to speak to their Manager about any further approvals required outside of these Rules.
- (b) Procurement should be notified in respect of all contracts with a total value between **£75,000** and the current goods and services FTS Threshold because a single stage/open tender process must be completed. This means that all interested suppliers are eligible to submit a Tender.
- (c) The Council must advertise the procurement on Contracts Finder.
- (d) "Open Tender Document One" and "Document Four" template documents should be used. The Officer must ensure that the required "Standard Suitability Questions" are used. These can be requested from Welland Procurement. All documents need to be finalized prior to advertisement. This is the responsibility of the officer. As a minimum the following need to be completed before an advertisement is made; The

Specification; Terms and Conditions (Long Form); TUPE (if applicable); and the Evaluation Criteria.

- (e) Where conducting a two stage/restricted process, Officers should use the Publicly Available Specification (PAS91) Pre-Qualification Questionnaire (PQQ) for works contracts (including the procurement of goods and services needed in relation to the works).
- (f) The procurement will be managed using an electronic tendering system. Tenders will be received via the electronic tendering system, where an Officer or a representative from the Procurement provider will be responsible for opening tenders.
- (g) Tenders must be evaluated in accordance with the advertised evaluation criteria, clarification questions may be asked as long as the response would not have the affect of materially changing the tender received. Any subjective evaluation (such as quality) must be carried out independently by a minimum of two evaluators (preferably three), and then moderated by an independent moderator to reach a final agreed score. The evaluators should be fully briefed on the evaluation process. The 'Conflict of Interest Declaration – Confidentiality Agreement' on the [procurement portal](#) gives further guidance on evaluation principles and best practice; this form must be completed, signed and returned to the procurement lead. Procurement can act as the independent moderator but cannot undertake any scoring.
- (h) The bidder with the highest evaluation score will be awarded the contract. If this is not the case, the advice of Procurement must be sought prior to go to award and any decision approved by the s151 Officer or the Monitoring Officer
- (i) Contract award must be approved by the relevant Executive Manager and budget holder.
- (j) All bidders must be notified of the Award decision simultaneously in writing (via the Council's electronic tendering system) by the Officer (or the Procurement Unit), whether or not their bid was successful.
- (k) The contract will require sealing, please speak to Legal services.
- (l) The resultant contract must be added to the Council's Contract Register (on ProContract) to ensure compliance with Transparency Regulations.
- (m) An award notice is required on Contracts Finder.
- (n) It is the Officer's responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract.

## **8. Reserving Below Threshold Procurements (services only)**

Social value is the wider financial and non-financial impact to the wellbeing of individuals, communities and the environment from public sector contracts, over and above the delivery of services directly at no extra cost. Where appropriate the Council is committed to working with local suppliers not withstanding the achievement of a number of other procurement objectives. When considering procurement evaluation process areas such as localism, added value and/or sustainability factors should also be taken into account. Small and Medium Enterprises (SMEs) play a major role in

creating jobs and generating income for those on low incomes; they foster economic growth, social stability and are a source of innovation. Equally the Voluntary, Community Social Enterprise "Third Sector" should also be considered where appropriate.

(a) If Council Officers wish to reserve below threshold Services procurements as per the guidance set out in this section, they must.

Consult with Welland Procurement;

- i. Comply with all other Rules within this document;
- ii. Provide rationale for reserving a contract; and
- iii. Receive written approval from the relevant Director for this approach.

(b) Procurement processes still need to be adhered to regardless of value and reservations. Officer's should seek support from Welland Procurement and or Legal.

(c) Council Officers may consider the following options for the procurement of below threshold Services contracts (applying either both or just one option):

- i. Reserve the procurement by supplier location - this means being able to run a competition and specify that only suppliers located in a geographical area can bid. This could be by county to tackle economic inequality and support local recruitment, training, skills and investment. Where a county reservation is to be applied, only a single county may be reserved. Supplier location should be described by reference to where the supplier is based or established and has substantive business operations and not by location of corporate ownership.
- ii. Reserve the procurement for Small and Medium sized Enterprises (SMEs) and Voluntary, Community and Social Enterprises (VCSEs) - this means being able to run a competition and specify that only SMEs and VCSEs can bid.

(d) Definitions:

- i. Small and Medium sized Enterprise (SME): Any business with fewer than 250 employees and either an annual turnover below £45m or a total balance sheet less than £40m.
- ii. Voluntary, Community and Social Enterprises (VCSEs): Any organisation (incorporated or not) working with a social purpose. This ranges from small community-based groups / schemes, through to larger registered charities and social enterprises, public service mutuals and cooperatives that operate locally, regionally and nationally. This term is often interchangeable with the terms 'third sector' or 'civil society' organisations.
- iii. Supplier Location: Where the supplier is based or established in a particular location and has substantive business operations in that location. In this context, this means having a registered office, factory or other permanent base in that location from which meaningful business operations have been conducted for at least 12 months. For example, if the reservation is for the UK or a county such as Dorset (non-metropolitan county), this should not preclude foreign suppliers from participating as long as they are based or established and have substantive business operations in the UK in the first example or in Dorset in the second example.

(e) When considering either of the above, Council Officers would need to:

- i. Make reservation decisions on a case by case basis, and record justifications for the decision to reserve a contract;
- ii. Make the reservation clear in the procurement documentation in terms of any intention by including the standardised definitions of SME / VCSE and supplier location;

- iii. Eliminate bidders that do not meet the stated criteria, following on from written approval being received from the relevant Director; and
- iv. Ensure value for money can still be met, and an open competitive process is followed.

## 9. Contracts valued over the relevant FTS threshold

- (a) Officers will need to ensure they have approval to procure (as well the relevant budget approved and available) prior to embarking upon a procurement process (as per 1.8.1 of Roles and Responsibilities). Officers also need to speak to their Manager about any further approvals required outside of these Rules.
- (b) Where the anticipated total value of the contract exceeds the relevant FTS threshold, the formal advice of Procurement must be sought as early as possible and in any case before any procurement activity takes place.
- (c) All goods, services and works with a procurement total value in excess of the relevant FTS threshold are enforced by the Public Contracts Regulations 2015, and over threshold public works concessions and public services concessions are enforced by the Concessions Contracts Regulations 2016. These Regulations set out strict processes that have to be followed, as well as remedies available to suppliers. The European legal framework for public procurement is composed of the principles deriving from the Treaty on the Functioning of the European Union (TFEU):
  - (i) equal treatment;
  - (ii) non-discrimination;
  - (iii) mutual recognition;
  - (iv) proportionality; and
  - (v) transparency.

Officers must comply with these Regulations and principles at all times.

- (d) Where the Officer is following one of the below procurement processes, the number of bidders invited to tender or to conduct a dialogue can be limited (out of those meeting the selection criteria). This must be indicated in the contract notice and the tender documentation (shortlisting criteria, the minimum number of candidates the Officer intends to invite and, where applicable the maximum number).
  - (i) In the restricted procedure, the minimum number of candidates shall be 5.
  - (ii) In the competitive procedure with negotiation, the competitive dialogue procedure and the innovation partnership procedure, the minimum number of candidates shall be 3.

Where the number of candidates meeting the selection criteria and the minimum levels of ability is below this minimum number, the Officer may continue the procedure by inviting the candidates with the required capabilities but must record the reason for doing so.

- (e) The Officer must:
  - (i) adhere to the minimum timescales stipulated in the Regulations;
  - (ii) ensure the specification clearly describes the intended outcomes or outputs, and that it is complete and fair;
  - (iii) assess the quality of tenders as per the Regulations;
  - (iv) ensure the evaluation criteria (and any sub criteria) is disclosed in the Tender documentation and advertisements;

- (v) ensure the Contract terms and conditions allow for modification, should the total value increase or decrease due to amended volumes/values;
  - (vi) treat selection and award criteria separately.
- (f) The procurement must be advertised on Contracts Finder and FTS
- (a) The procurement will be managed using an electronic tendering system. Tenders will be received via the electronic tendering system, where an Officer or a representative of Welland Procurement will be responsible for opening tenders.
- (g) Open Tender Document One” and “Document Four” template documents should be used. The Officer must ensure that the required “Standard Suitability Questions” are used. These can be requested from Welland Procurement. All documents need to be finalised prior to advertisement. This is the responsibility of the officer. As a minimum the following need to be completed before an advertisement is made; The Specification; Terms and Conditions (Long Form); TUPE (if applicable); and the Evaluation
- (h) Tenders must be evaluated in accordance with the advertised evaluation criteria, clarification questions may be asked as long as the response would not have the effect of materially changing the tender received. Any subjective evaluation (such as quality) must be carried out independently by a minimum of two evaluators (preferably three), and then moderated by an independent moderator to reach a final agreed score. The evaluators should be fully briefed on the evaluation process. The ‘Conflict of Interest Declaration – Confidentiality Agreement’ on the [procurement portal](#) gives further guidance on evaluation principles and best practice; this form must be completed, signed and returned to the procurement lead. Procurement can act as the independent moderator but cannot undertake any scoring.
- (i) The bidder with the highest evaluation score will be awarded the contract, as per the award criteria detailed.
- (j) Contract award must be approved by the relevant Director.
- (k) All bidders must be notified of the Award decision simultaneously in writing (via the Council’s electronic tendering system) by the Officer (or the Procurement Unit), whether or not their bid was successful. The letters must include:
- (i) the award criteria;
  - (ii) the name of the successful bidder(s);
  - (iii) the score of the recipient;
  - (iv) the score of the successful bidder(s);
  - (v) details of the reason for the decision, including the characteristics and relative advantages of the successful tender; and
  - (vi) confirmation of the date before which the contracting authority will not enter into the contract or framework agreement (i.e., the date after the end of the standstill period).
- (l) The contract will require sealing, please speak to Legal services.
- (m) The resultant contract must be added to the Council’s Contract Register to ensure compliance with Transparency Regulations.
- (n) An award notice is required on Contracts Finder and FTS.

(o) It is the Officer's responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract.

## **10. Purchasing from a Framework Agreement or Dynamic Purchasing System (DPS)**

(a) Officers will need to ensure they have approval to procure (as well the relevant budget approved and available) prior to embarking upon a procurement process (as per 1.8.1 of Roles and Responsibilities). Officers also need to speak to their Manager about any further approvals required outside of these Rules.

(b) Framework agreements may be used where the Council wishes to contract for the supply of goods, services or works without conducting a new procurement exercise, where the relevant member of the Executive Management team or Service Manager, in consultation with the Section 151 Officer, considers that best value can be obtained by purchasing through a recognised purchasing consortium.

(c) Where the Council has entered into a framework agreement through procurement or is able to call off from existing framework agreements procured by central government agencies, buying consortia, or other public bodies, then the Council may benefit from using those agreements without entering into a separate procurement. The Council should perform a due diligence exercise to ensure that the framework is available for it to use.

(d) A contract of any value can be procured via a framework agreement or DPS. Compliance with these Rules and relevant national and EU law is achieved through compliance with the framework agreement/DPS terms and conditions. This will involve:

- (i) reviewing relevant Framework guidance document(s)
- (ii) reviewing the correct process for call off (which may be through further competition or direct award)
- (iii) following the stated call off process, as laid out in the Framework documentation

(e) Please speak to Procurement for further advice regarding Framework and call off compliance.

(f) For the avoidance of doubt, a framework agreement or DPS is considered a compliant procurement route where:

- (i) It has been entered into by the Council in compliance with these Rules; or
- (ii) Another contracting authority, purchasing consortium or Central Government has tendered the framework agreement or DPS in compliance with national and EU procurement law and the Council is named as a potential user of the arrangement.

(g) In some instances Officers may need to consider [TUPE](#) implications.

(h) Contract award must be approved by the relevant Executive Manager.

(i) The contract must be signed/sealed in line with the appropriate Standing Order, dependent on the [total value](#) of the contract.

- (j) If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to Legal Services for advice and guidance on the use of electronic signatures.
- (k) Where the Council is using an external framework, and the total value of the contract is £5,000 or above, the resultant contract must be added to the Contract Register to ensure compliance with Transparency Regulations.
- (l) Where the Council has set up a framework, only the framework is necessary to be recorded on the register. It is not necessary to record the individual call-offs from the framework.
- (m) Where the contract has a total value of £25,000 or above an award notice is required on Contracts Finder.
- (n) It is the Officer's responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract.

## **11 Setting up a Framework Agreement**

- (a) Officers will need to ensure they have approval to procure (as well the relevant budget approved and available) prior to embarking upon a procurement process (as per 1.8.1 of Roles and Responsibilities). Officers also need to speak to their Manager about any further approvals required outside of these Rules.
- (a) Framework agreements set out the general terms under which specific purchases ("call offs") can be made under the agreement. The purpose of using a framework is to enable contracting authorities to award individual contracts without going through a full procurement process each time. A framework agreement may be established with one supplier ("single supplier frameworks") or with more than one ("multiple supplier frameworks").
- (b) The minimum number of suppliers for a multiple supplier framework is two.
- (c) Framework agreements must not exceed four years. Call-off contracts based on framework agreements may be longer than four years and may extend beyond the expiry date of the framework.
- (d) Framework agreements should be set up to allow for mini competitions to run as the first option for selecting a supplier. Where this is not the case, Procurement Unit should be consulted.
- (e) As Framework agreements are "closed" for the term, consideration should be given to the impact of this, and ensure that the benefits and length of the Framework are justified.
- (f) Formal advice from Procurement must be sought as early as possible and in any case before any procurement activity takes place. The relevant Rules and Regulations should be followed according to the total potential value of the Framework (the value to be taken into consideration shall be the maximum estimated value net of VAT of all the contracts envisaged for the total term of the framework agreement). It is the Officer's responsibility to monitor and track the spend against the framework.

- (g) If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to Legal Services for advice and guidance on the use of electronic signatures.
- (h) Where the Council has set up a framework, details of the framework itself must be recorded on the Council's Contract Register. The estimated value of the framework must be recorded, and all of the suppliers associated with the framework must be listed. Any other relevant detail to the mechanics of the framework must also be recorded so the suppliers can be searched and found in the Register and cross referenced with Council spend.
- (i) Where the Council has set up a framework, only the framework is necessary to be recorded on the register. It is not necessary to record the individual call-offs from the framework.
- (j) It is the Officer's responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract.

## **12 Setting up a Dynamic Purchasing System (DPS)**

- (a) Officers will need to ensure they have approval to procure (as well the relevant budget approved and available) prior to embarking upon a procurement process (as per 1.8.1 of Roles and Responsibilities). Officers should speak to their Manager about any further approvals required outside of these Rules.
- (a) A Dynamic Purchasing System (DPS) is similar to an electronic framework agreement, with two exceptions, new suppliers can join at any time and it is to be run as a completely electronic process.
- (b) Dynamic Purchasing Systems are used exclusively by public sector organisations. They save time and money by being a quick and easy way to access goods, services and works through an FTS compliant route.
- (c) There is no maximum term for a DPS; the period of validity of the DPS should be indicated in the call for competition.
- (d) All bidders that meet the selection criteria shall be admitted to the DPS, and the number of bidders accepted on to the DPS shall not be limited.
- (e) Formal advice from Procurement must be sought as early as possible and in any case before any procurement activity takes place. The relevant Rules and Regulations should be followed according to the total potential value of the DPS (the value to be taken into consideration shall be the maximum estimated value net of VAT of all the contracts envisaged for the total term of the DPS). It is the Officer's responsibility to monitor and track the spend against the DPS.
- (f) There is no obligation to notify DPS suppliers of a decision to award a contract under a DPS, to provide a de-brief or to run a standstill period.
- (g) There is a requirement to publish a contract award notice on FTS for contracts awarded using a DPS. The contract award notice must be dispatched to FTS within 30 days of the contract award. Contract award notices can be grouped together and published on a quarterly basis within 30 days of the end of each quarter. The Officer

must formally advise Procurement of the award details, so that they can publish the award notice.

- (h) Contracting authorities are also required to publish information on Contracts Finder in respect of contracts awarded under a DPS for contracts with a total value of £25,000 or above. Publication on Contracts Finder is required within a "reasonable time" (no longer than 90 days following contract award).
- (i) If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to Legal Services for advice and guidance on the use of electronic signatures.
- (j) Where the Council has set up a DPS, details of the DPS itself must be recorded on the Council's Contract Register. The estimated value of the DPS must be recorded and all of the suppliers associated with the DPS. Any other relevant detail to the mechanics of the DPS must also be recorded so the suppliers can be searched and found in the register and cross referenced with council spend.
- (k) Where the Council has set up a DPS, only the DPS is necessary to be recorded on the register. It is not necessary to record the individual call-offs from the DPS.
- (l) It is the Officer's responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract.

### **13 Exemptions**

- (a) The exemptions listed in this Section do not apply to procurements with a total value above the relevant EU Threshold. The Officer must obtain a fully approved exemption in advance of awarding a contract and must ensure that the actual spend does not exceed the total value stated in the approved exemption. An exemption form can be requested from legal Services.
- (b) Officers will need to ensure they have the relevant budget approved and available prior to embarking upon a procurement process. This approval will be from the Budget Holder, in accordance with budget authorisation limits (as outlined in the Financial Regulations. Please see 1.8.1 of Roles and Responsibilities for further information. Officers also need to speak to their Manager about any further approvals required outside of these Regulations.
- (c) If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to Legal Services for advice and guidance on the use of electronic signatures.
- (d) Exemptions must be approved by the Director Finance and Corporate Services or the Monitoring Officer upon completion of the Exemption form, subject to one or more of the following criteria being fulfilled. If the justification being relied upon is as detailed in 13(d)(ii) below, the relevant Executive Manager will need to approve the exemption prior to it being submitted to the s151 Officer or the Monitoring Officer for approval.
  - (i) No genuine competition: proprietary or patented goods or services; requirement of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; compatibility with existing goods or services is required and where those existing goods or services can only be sourced from the same supplier.

- (ii) There is a sound business case and/or an independent review that there is no value for money in running a full procurement process. Supporting evidence will need to demonstrate market testing and enquiries to other suppliers. This should not be used to avoid competition or where decisions to procure have been postponed and there are insufficient timelines to procure.
  - (iii) Genuine emergencies: critical preventative or remedial work where there is a real and imminent risk to the safety of people or property arising from hitherto unforeseen 'catastrophic' events or incidents, for example fire, bombing, landslide etc.
  - (iv) Urgent Situations not of the Council's own making: the urgency must have been reasonably unforeseeable (e.g. existing supplier going into liquidation) and genuinely be a case of time is of the essence. Urgency arising from the Council's own making (e.g. lack of planning) shall not justify an exemption. Where this exemption is used, a compliant procurement must be implemented as soon as possible.
  - (v) Collaborative/Joint Procurement: where another authority/public body is acting as the 'lead buyer' and provided that the Officer can demonstrate those arrangements comply with relevant Regulations and best practice.
  - (vi) Grants which the Council may receive or make except where the grant is the form of payment for a contract for services where the Council specifies the output or outcomes to be delivered. The awarding of grants by the Council or on behalf of the Council must be carried out under the principles of openness, fairness, non-discrimination and value for money. Officers cannot choose to treat procurement as a grant in order to avoid conducting a competitive process.
  - (vii) Contracts for the execution of either mandatory works or provision of goods or services which must be provided by a Statutory Provider other than the Council. This includes but is not limited to public utility companies and other legal authorities.
- (e) Where the total value of the contract is £5,000 or more, the resultant contract must be added to the Contract Register to ensure compliance with Transparency Regulations.
- (f) An award notice is required on Contracts Finder for all Contracts with a total value of £25,000 or above.

#### **14 Public Services (Social Value) Act 2012**

- (a) The Public Services (Social Value) Act requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits.
- (b) Before starting a procurement process, the Officer should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders.
- (c) When considering this potential improvement, only what is relevant to the particular procurement should be taken into account, as well as whether or not it is proportionate.

- (d) The Officer must consult Procurement for advice on specifying requirements under Social Value, and how to evaluate tenders against these requirements.

## 15. Other Matters to Consider

### **Clarification Questions during a Tender Process**

- (a) As part of a procurement process, potential bidders can seek clarification on either the information published or the process itself.
- (b) The nature of any clarification or response from the Council must not materially change the scope/substance of the requirement. If it does, Officers may need to abandon the process and restart, using revised documentation. Please discuss this with Procurement.
- All requests for clarification and questions relating to the quote (and its associated documents) must be submitted as per the instruction document (via email or ProContract)
  - The Council must respond to all clarifications as soon as possible (via email or ProContract)
  - A copy of all requests for clarifications and the responses must be anonymised and published to all potential bidders (who have either been invited to quote, or have expressed an interest in the quote) where the clarification and response are not considered confidential
  - If a potential bidder wishes the Council to treat a clarification as confidential and therefore not publish the response to all, it must state this when submitting the clarification. If in the opinion of the Council, the clarification is not confidential, the Council will publish it in an anonymised format
  - Officers must state a deadline for receipt of clarifications
  - Officers must keep a record of communications between potential bidders and the Council
- (c) Unless it is part of a clarification and the above is observed, Officers must not:
- Make contact with suppliers/potential bidders
  - Send information to suppliers/potential bidders
- (d) If a supplier/potential bidder makes contact with an Officer, they should advise them that messages must be submitted as per the instruction document; via email or ProContract.

### **Conflict of Interest**

- (a) Where an Officer has a potential conflict of interest within a procurement process, the Officer must declare this immediately to the relevant member of the Executive Management Team and Monitoring Officer. The Officer may be required to withdraw from the procurement process. Any Officer who fails to declare such a conflict of interest may be subject to disciplinary proceedings and sanctions.
- (b) A 'Conflict of Interest Declaration – Confidentiality Agreement' form can be obtained from the [procurement portal](#).

- (c) For contracts with a total value of £50,000 or more, all Officers, Members and other stakeholders involved in procuring for the Council must sign a Declaration of Interest form at the start of the procurement process. This form is available on the procurement portal.
- (d) For contract with a total value of between £10,000 and £50,000, it is advisable that all Officers, Members and other stakeholders involved in procuring for the Council sign a Declaration of Interest form at the start of the procurement process. This form is available on the procurement portal.

This form must be kept on file during the procurement itself and the contract term.

### **Tenders over Budget**

- (a) Where the most economically advantageous tender received is for an amount in excess of the approved budgetary provision, then the appropriate member of the Executive Management team or Service Manager may:
  - (i) abandon the current procurement process and invite further tenders in accordance with these Standing Orders, or
  - (ii) apply for approval to a revised estimate for the scheme in accordance with Financial Regulations.

### **Abnormally Low Bids**

- (a) Under the Public Contract Regulations 2015, the Council is required to request an explanation of the price or costs proposed in a tender where that price or those costs appear to be abnormally low in relation to the requirement.
- (b) Advice should be sought from Procurement during this investigation process to ensure that the requirements of the Public Contract Regulations 2015 are adequately complied with.

### **Errors in Tenders**

- (a) Persons tendering shall not be allowed to alter their tenders after the date fixed for their receipt, although arithmetical errors may be corrected. If a tender has been accepted before such arithmetical correction, the acceptance shall be confirmed if the alteration has not increased the amount, but otherwise the appropriate member of the Executive Management team or Service Manager in consultation with the Section 151 Officer may decide whether or not to confirm acceptance of the altered price. This discretion shall only be exercised where the tender concerned would still be the most favourable to the Council.
- (b) If it is identified that a bidder has made an error or omission that is “obvious”, the Officer can request the bidder to correct this, as long as:
  - (i) the member of the Executive Management Team has given written approval, and is in agreement that the error or omission was “obvious”;
  - (ii) it has been determined that the bidder has gained no unfair advantage from correcting the error or omission; and
  - (iii) any such corrections are recorded, along with the approval decision.

### **Receiving Late Submissions**

- (a) Where a Tender/Quote has been received late (beyond the stated response deadline), the Officer must get written approval to either accept or reject the submission from the relevant member of the Executive Management Team **before** opening any of the responses. Late submissions must only be accepted in exceptional circumstances.
- (b) The Officer must record:
  - (i) the circumstances behind the late response;
  - (ii) how late the response was received;
  - (iii) if any advantage could have been gained by the bidder in submitting the late response (i.e. having longer to respond to the opportunity compared with other bidders); and
  - (iv) the member of the Executive Management Team's decision to accept or reject the late response (based on the above points).

### **Receiving Irregular Tenders**

- (a) Irregular tenders are those that:
  - (i) do not comply with the terms of the tender documents (i.e. fail to supply key information); or
  - (ii) make reservations (i.e. if the pricing submitted contains conditions, when these are explicitly prohibited within the tender documentation).
- (b) If the Officer receives an irregular Tender, they shall immediately report this to the relevant member of the Executive Management Team.
- (c) The member of the Executive Management Team may accept the irregular tender if it has been determined that the bidder has gained no unfair advantage from the irregularity.
- (d) Any acceptance or rejection of irregular tenders shall be recorded in writing.

### **GDPR Requirements**

- (a) The General Data Protection Regulations impose greater obligations on the Council to protect an individual's information.
- (b) Officers conducting a procurement process should ensure that the GDPR screening questions, available from Procurement, are completed as early as possible in the planning stages of that procurement.
- (c) Should any of the GDPR screening questions be answered positively, further advice must be sought from the Council's Data Protection Officer before any further action is taken.

### **Freedom of Information**

- (a) The Council has specific obligations under the FOI Act 2000, regarding disclosure of information. Officers have an obligation to record and maintain accurate records relating to Contracts, as well as complying with FOI requests.
- (b) Bidders should be asked to identify any information they supply that is confidential or commercially sensitive, and detail why they consider this the case. This justification should be considered when responding to FOI requests.

(c) Any queries relating to this should be directed to the Council's Data Protection Officer.

### **Modern Slavery**

(a) The Council is committed to ensuring that modern slavery does not exist within its supply chains.

(b) All procurements with a [total value](#) of £50,000 or more are required to include the Standard Selection Question regarding Modern Slavery Act compliance.

(c) Where procurement is considered high risk in terms of modern slavery, for example transport and waste related procurements, additional award questions should be considered with advice from Procurement.

(d) Where a supplier is required to comply with the Modern Slavery Act, i.e. their turnover is above £36 million, that compliance should form part of the contract management (as per [15.10](#)).

(e) A Modern Slavery Helpline is available on Tel: 08000 121 700 or [online](#). The Helpline provides information and advice about modern slavery, a 24 hour telephone reporting line and an online reporting function through the website. Additional guidance can be found [here](#)

### **Safeguarding Provisions in Contracts and Grant Arrangements**

(a) Any service engaged by the Council should be provided on the basis of agreed terms or a contract. Safeguarding compliance should be included in all arrangements. All services commissioned by the Council must operate within the requirements of the Council's Safeguarding Policy and meet the relevant legislative standards. Where appropriate, procuring officers will need to ensure that contractors demonstrate that they meet these requirements.

(b) It is expected that the lead officer on any commissioning project be responsible for ensuring that any contract includes proper provision for the safeguarding of children, young people, and adults with care and support needs; this also includes making reasonable requests for evidence from suppliers that the requirements stated in the Safeguarding Policy (where applicable) are in place or ready to be implemented. Where there is any confusion about the need for the inclusion of safeguarding in a contract arrangement clarification and/or advice should be sought from the Safeguarding Lead.

### **Due Diligence**

(a) It is the Officer's responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract. This will involve requesting, obtaining and maintaining records (and asking for appropriate evidence) of relevant due diligence, annual inspections and any future expiration/renewals. This may include (but not be limited to):

(i) Insurance certificates (new certificates to be requested upon expiry of the individual insurance policy);

(ii) Details as required by the selection/suitability criteria asked as part of the procurement process (annually, upon anniversary of Contract start date):

- a. Supplier policies
- b. Quality Management
- c. Environmental
- d. Equality
- e. Health and Safety
- f. Data protection/GDPR
- g. Licences/certificates/registrations
- h. Business continuity plans
- i. Required training (and updates for staff (Council and supplier))
- j. Staff certifications/qualifications (Council and staff); and

(iii) A financial appraisal, which may include a financial credit check and / or a review of submitted financial information (as per the standard selection questionnaire). Procuring Officers should contact the Financial Services Manager to request a credit check on the successful supplier. An external provider is requested to provide a Status Enquiry Report to cover financial standing of the supplier and credit risk. Documents will need to be supplied to enable a financial appraisal that includes but is not limited to the most recent set of audited accounts.

(b) Before the contract commences (and regularly throughout the duration of a contract), contract managers should request and inspect key health and safety records to provide assurance that controls are operating effectively. The frequency of requests and types of records to be reviewed should be agreed and outlined as part of the procurement process. Records should include but not be limited to:

- (i) Up to date Health and safety policies
- (ii) Risk Assessments
- (iii) COSHH assessment
- (iv) Induction and training records
- (v) Fire safety logbooks (if applicable)
- (vi) PAT certificates
- (vii) Health and Safety inspections (as well as any actions arisen, and how they are being followed up on, reviewed and regularly monitored) and whether these are carried out by the Council or the supplier
- (viii) Accident reporting

(c) Throughout the duration of the contract, Council Officer's must keep a record (and ask for appropriate evidence) of relevant due diligence as well as any future expiration/renewals.

## 15. Performance Bonds Parent Company Guarantees

Performance Bonds or other suitable alternatives need the prior approval of the S151 officer and must be sought for contracts with a value of £250,000 and above.

## 16. Contracts under Seal

(a) Every contract which exceeds £50,000 in value or amount shall be completed under the Common Seal of the Council

(b) The Common Seal will be affixed to all documents which in the opinion of the Monitoring Officer should be sealed

(c) The Common Seal of the Council shall be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or any part of it, will be sufficient authority for sealing any document to give effect to the decision.

(d) The Seal shall be attested solely by an authorised officer of the Council which for this purpose will mean the Chief Executive, an Executive Manager, Monitoring Officer, the Principal Solicitor and an entry of every sealing of a document shall be made and consecutively numbered in a book kept for the purpose and shall be signed by the person who has attested the seal.

## **17. Contracts in Writing**

Every contract not required to be under the Common Seal of the Council under the preceding Standing Order shall be in writing and approved as follows for contracts:

- (a) up to £100,000 service managers;
- (b) from £100,000 to £250,000 executive managers; and
- (c) greater than £250,000 Section 151 Officer and the Chief Executive.

## **18. Contents of Contracts**

(a) Every contract shall specify:

- (i) the work, materials, matters, or things, to be furnished, had or done;
- ii) the price to be paid, with a statement of discounts or other deductions; and
- iii) the time or times within which the contract is to be performed.

(b) Contracts for the execution of work or for the supply of goods, materials or services otherwise than at one time which exceed £50,000 in value or amount (net of provisional sums and prime cost items) shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed. In the case of such contracts the Council shall also require and take sufficient security for the due performance of any such contract where the member of the Executive Management team or Service Manager in consultation with the Monitoring Officer considers it desirable to do so.

## **19. British Standards**

All contracts where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institute is current at the date of the tender shall, as a minimum requirement, be in accordance with that Standard or equivalent European Standard, without prejudice to any higher standard required by the Contract.

## **20. Prevention of Corruption**

- (a) There shall be inserted in every contract exceeding £50,000 a Clause to secure that the Council shall be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if:
- (i) the contractor has offered, given or agreed to give any person any gift or consideration of any kind as an inducement or reward for doing or declining to do or for having done, or declined to do any action in relation to the obtaining or execution of the contract or any other contract with the Council; or
  - (ii) the contractor has shown favour to any person in relation to the contract or any other contract with the Council, even if done by a person or body employed by the contractor with or without the contractor's knowledge; or
  - (iii) in relation to any contract with the Council, the contractor or any principal employed by the contractor or acting on the contractor's behalf shall have committed any offence under the Bribery Act 2010, or shall have given any fee or reward, the receipt of which is an offence under sub-section (2) of Section 117 of the Local Government Act 1972.
- (b) In the case of contracts exceeding £50,000 tenderers shall be required to submit with their tender a declaration relating to collusive tendering in a form agreed by the Monitoring Officer.
- (c) A member of the Executive Management Team or Service Manager shall also apply the requirements of (a) and (b) above to contracts not exceeding £50,000 when he/she considers it desirable to do so.

## **21. Employment of Persons to Supervise Contractors**

It shall be a condition of the employment by the Council of any person (not being an Officer of the Council) to supervise a contract that, in relation to such contract, he/she shall comply with the requirements of these Standing Orders as if he/she were a member of the Executive Management team or Service Manager of the Council.

## **22. Contract Management**

- (a) The named Contract Manager should be noted in the Contract Register. All contracts must have a named Contract Manager for the entirety of the contract and that Contract Manager is responsible for the application of these Rules.
- (b) For all contracts with a total value over £50,000, the Contract Manager must identify the risks by maintaining a suitable risk register and ensure that suitable contingency measures are in place.
- (c) During the life of the contract, the Contract Manager must monitor the overall performance of the contract closely in order to ensure any issues of underperformance are addressed as soon as possible and any areas of added value are identified as soon as possible.
- (d) Where a supplier intends to sub-contract, Officers must satisfy themselves using all reasonable endeavours to obtain local quotes as part of this process and assess whether it is appropriate to obtain a local quotation where local means the Borough

of Rushcliffe.

## **Variations**

- (a) In any case where a variation means that the total value of a contract would exceed the relevant EU Threshold, or where there is any material change to the contract, the contract must be treated as a new procurement under these Rules.

If any variation (independently or cumulative) means that the total value of a contract would exceed a threshold set out in these Rules, Officers must seek advice from Procurement.

- (b) A material change is one which:

- (i) Would have allowed the admission of other Bidders or the acceptance of another tender; or
- (ii) Extends the scope of the contract considerably to goods, services or works not initially covered by the Specification; or
- (iii) Changes the economic balance in favour of the contractor in a manner not provided for in the procurement documents.

- (c) For clarity, a change will be deemed immaterial if the value of the modification is both below the relevant EU Threshold and below 10% of the original contract value (15% for works contracts).

## **Extensions**

- (a) A contract should not be extended beyond its initial term unless the contract documents allow.

- (b) A Framework Agreement shall only be extended if the contract documents and framework allow and the original term and extension together should not exceed **four years** except in exceptional circumstances.

- (c) Where a business need has been identified which means that a contract is required to be extended beyond the term permissible in the original contract documents, advice must be sought from Welland Procurement and the Council's legal team in the first instance and authority sought from the Monitoring Officer or the S151 Officer if such an extension is proposed. If any extension (independently or cumulative) means that the total value of a contract would exceed a threshold set out in these Rules, Officers must seek advice from Procurement. The Officer must be satisfied that such an extension would achieve value for money and be reasonable in all circumstances. The Officer must record the reasons for these conclusions in writing (i.e. the relevant decision record).

## **Appendix 1: Definitions**

<b>Award Notice</b>	A notice published FTS and/or Contracts Finder which provides details of the winning bidder and the total value of the contract. Award notices are required to be published on Contracts Finder for all procurements with a total value at £25,000 or above.
<b>Bidder</b>	An individual or organisation who submits a tender or quotation in a competitive procurement process.
<b>Candidate</b>	An individual or organisation that has sought an invitation or has been invited to take part in a restricted procedure, a competitive procedure with negotiation, a negotiated procedure without prior publication, a competitive dialogue or an innovation partnership.
<b>Conflict of interest</b>	The concept of conflicts of interest shall at least cover any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.
<b>Contract</b>	A legal document that states and explains a formal agreement between two different parties.
<b>Contracting Authority</b>	Has the definition contained within the Public Contract Regulations 2015. It means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but does not include Her Majesty in her private capacity.
<b>Contract management</b>	Is the process of managing contract creation, execution and analysis to maximise operational and financial performance at an organisation, all while reducing financial risk.
<b>Contract Register</b>	A register that stores details of the Council's Contracts, including duration and expiry dates. All Contracts with a total value of £5,000 and above must be entered onto the register.
<b>Contract term</b>	The length of the contract including the initial term and any extension periods proposed.
<b>Corporate Contract</b>	A contract that has already been let by the Council for the benefit of Council staff, to support value for money.
<b>Due Diligence</b>	The process of conducting detailed examination of a company and its financial records both at Contract Award, and for the duration of the Contract prior to conducting business with it.
<b>Dynamic Purchasing System (DPS)</b>	Is similar to an electronic framework agreement, with two exceptions, new suppliers can join at any time and it is to be run as a completely electronic process.

EU Procedure	A procurement process where the total value exceeds the relevant EU Threshold and so governed by the Public Contract Regulations 2015 and the Concessions Contracts Regulations 2016.
EU Threshold	The threshold established by the EU above which an EU procedure must be carried out. There are thresholds for goods/services, works and concessions. The current thresholds are contained within Appendix 2.
Evaluation	The process of assessing received tenders or quotations against the published criteria to identify the winning bidder, i.e. the bidder with the highest evaluation score. Any subjective evaluation (such as quality) must be carried out independently by a minimum of two evaluators (preferably three), and then moderated by an independent moderator to reach a final agreed score. The evaluators should be fully briefed on the evaluation process. The 'Conflict of Interest Declaration – Confidentiality Agreement' on the <a href="#">procurement portal</a> gives further guidance on evaluation principles and best practice. Welland Procurement can act as the independent moderator but cannot undertake any scoring.
Exemption	An act or instance of waiving a right to obey these Rules.
Extension (contract)	An additional period identified within the contract, beyond the initial term which may be used to lengthen the contract term.
Framework Agreement	A framework is an agreement with suppliers to establish terms governing contracts that may be awarded during the life of the agreement. It is a general term for agreements that set out terms and conditions for making specific purchases (call-offs).
FTS	UK Find a tender Service (replacement of FTS following Brexit)
Goods	Tangible products that satisfy a need.
Initial Term	The initial period of a contract; this may be subsequently extended.
FTS	The Official Journal of the European Union.
Procurement	Procurement is the process of finding, agreeing terms and acquiring goods, services or works from an external source, often via a tendering or competitive bidding process.
Publicly available contract	A contract that has been let by another Contracting Authority and which is available for use by the Council. The Council must have been named specifically or generally within the procurement documentation in order to enable access.

<b>Quotation</b>	A formal statement setting out the estimated cost for a particular job or service.
<b>Services</b>	A valuable action, deed, or effort performed to satisfy a need or to fulfil a demand.
<b>Specification</b>	An exact statement of the particular needs to be satisfied, or essential characteristics that a customer requires (in a good, material, method, process, service, system, or work) and which a bidder must deliver.
<b>Standard Suitability Questions/Questionnaire</b>	The set of standard suitability or selection questions referred to in <a href="#">PPN 08/16</a> which must be used in all advertised procurements.
<b>Tender</b>	A written invitation sent to potential suppliers of a good or service to inform them about the information required for the buyer to choose between them.
<b>Terms and Conditions</b>	General and special arrangements, provisions, requirements, rules, specifications, and standards that form an integral part of an agreement or contract.
<b>TUPE</b>	Stands for the Transfer of Undertakings (Protection of Employment) Regulations 2006. TUPE regulations ensure the rights of employees are transferred along with the service.
<b>Variation</b>	An alteration to the scope, term or any other part of a Contract. The limitations of the Public Contract Regulations 2015 should be borne in mind when varying a contract.
<b>Whole life costs</b>	The total cost of ownership over the whole length of the contract and sometimes beyond.
<b>Works</b>	As defined by the Public Contract Regulations 2015. Means public contracts which have as their object any of the following:— (a) the execution, or both the design and execution, of works related to one of the activities listed in <a href="#">Schedule 2</a> ; (b) the execution, or both the design and execution, of a work; (c) the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work.

## **Appendix 2: Variable Information**

The following information is subject to change during the currency of these Contract Procedure Rules and may be updated as changes occur.

### **EU Thresholds**

Details of the current FTS thresholds can be found on [Proactis](#). (the procurement system)

## **Appendix 3 Roles and Responsibilities**

### **Officer**

- 1.1 The Officer responsible for the procurement must comply with these Standing Orders and the Financial Regulations. The Officer is also responsible for ensuring that any Agents acting on behalf of the Council do so in compliance with these Rules and should seek written confirmation of their agreement.
- 1.2 As part of the service planning process Officers are expected to highlight all required procurement support through the annual Procurement Service Plan in advance of the next financial year.
- 1.3 Officers are responsible for the contracting activity, and must ensure:
  - a) Continued compliance with the Council's requirements;
  - b) Value for money;
  - c) Compliance with these Rules as well as any legal and statutory requirements; and
  - d) Compliance with any relevant Council policy and Key Decision Threshold.
- 1.4 The Officer must have regard to the guidance contained in the Procurement Toolkit which can be accessed via the [procurement portal](#).
- 1.5 Before beginning a purchase the Officer responsible for it must appraise the purchase and consider:
  - Taking into account the requirements from any relevant Best Value or other review;
  - Appraising the need for the expenditure and its priority e.g. has a business case been developed which sets out the service objectives, the criteria for evaluation and the options for delivery;
  - Defining the objectives of the purchase;
  - Consider the risks associated with the purchase over its life and how to manage them;
  - Considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, and collaboration with other purchasers;
  - Establish if corporate contracts and/or suitable frameworks exist and assess their suitability;
  - Consulting users as appropriate about the proposed procurement method, contract standards, and also performance and user satisfaction monitoring; and
  - Selecting the most appropriate procurement method.
- 1.6 The Officer must keep the records detailed in these Rules.
- 1.7 The requirements for the various procurement categories (based on total value) are detailed below. Where an EU procedure is required, the Officer **must** contact the procurement provider before embarking on the procurement.
- 1.8 Officers should take all necessary legal, financial and other professional advice (e.g. HR, Comms etc.) and ensure the necessary decisions are in place before

embarking upon any procurement process. If in doubt, please speak to Democratic Services.

1.8.1 Officers will need to ensure they have the relevant budget approved and available prior to embarking upon a procurement process. Budget approval ensures you have provision to fund any commitment within your own budget, and where sufficient budget isn't available the additional required funding has been sought and approved via members or delegated decision via the Chief Executive to access funding from reserves. Further information on this (and the process) can be found within the Financial Procedure Regulations; if in doubt, please speak to your Budget Holder or the Financial Services Manager.

1.8.2 Officers will need approval to award, in line with these Standing Orders. This approval needs to be sought regardless of the procurement route i.e. Tender, Quotation, Framework Award or Exemption.

1.8.2.1 For contracts with a total value under £50,000, this must be done in writing (email is sufficient).

1.8.2.2 For contracts with a total value of £50,000 or more, this must take the form of a Decision Notice (Record); please speak to Legal Services.

1.8.3 A Key Decision must be on the forward plan. Democratic Services must be engaged prior to any procurement process with a total value of £50,000 or more commencing. Note that any applicable "call in" period must be observed before the decision is implemented.

A Key Decision is an Executive decision (Officer Portfolio Holder or Cabinet) which is likely to result in the Council:

- Incurring expenditure of £50,000 or more, or;
- Making savings or generate income of £50,000 or more, and/or
- Has a significant impact on two or more wards in the Borough and on communities living or working in those areas.

As part of the Key Decision, Officers will need approval to procure as well as approval to award, in line with the Constitution. This approval needs to be sought regardless of the procurement route i.e. Tender, Framework Award or Exemption. This must take the form of a Decision Notice; please speak to Democratic Services.

1.9 The provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) apply to a relevant business transfer where the transferor (incumbent supplier) has a dedicated team of employee(s) that carry out the service activity that is to be transferred. In practice this will often apply where a Council service is:

- 'out-sourced'
- brought back 'in-house' / in-sourced
- where a contract that former Council employees are undertaking comes up for renewal and is awarded again to the same supplier or to a new supplier
- transferred from one external organisation to another

- TUPE is also likely to apply where a supplier who has been awarded a contract subsequently awards or sub-contracts all or part of it to another supplier, whilst retaining the contract with the main client

TUPE can apply irrespective of whether there has been a formal procurement exercise or not. Officers must ask the current Supplier whether or not any employee of the Council or of the Supplier may be affected by any transfer arrangement (TUPE). Where this is relevant, the Officer must ensure that the Transfer of Undertaking (Protection of Employment) issues are considered and obtain relevant advice before undertaking the procurement process. This will include liaising with Nottinghamshire County Council where any employee of the Council or of the Supplier is a member of the Local Government Pension Scheme (LGPS). Guidance on whether TUPE applies must be referred to Human Resources or Legal services in the first instance, before proceeding, so that the scope of any legal obligations may be identified. If TUPE does apply this must be factored into your procurement strategy / plan and timescales.

Suppliers must seek their own legal guidance on the application of TUPE; the Council must not offer any such advice. The Council's only involvement with TUPE is to facilitate through the provision of TUPE information; it must not get involved in other TUPE related matters.

'TUPE Information' templates are available on the [Welland Procurement portal](#). This information will need to be completed by the current supplier which you will issue to the market as part of your procurement documentation on which potential suppliers are invited to bid. This information must be gathered prior to going out to market, and you would need to review the information to ensure it has been anonymised (TUPE information is confidential – please discuss with Welland Procurement whether TUPE information should be published with the tender pack, or to individual bidders, subject to the return of TUPE Confidentiality Agreement), and whether or not there are any LGPS (Local Government Pension Scheme) members. Officers can refer to the Procurement Toolkit available on the [Welland Procurement portal](#) for guidance on considerations for LGPS members.

1.10 Officers must ensure that the contracts for which they are responsible are effectively managed and monitored to ensure they deliver the requirement as intended.

1.11 It is the Officer's responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract.

1.12 Where an Officer has a potential conflict of interest within a procurement process, the Officer must declare this immediately to the relevant member of the Executive Management Team and Monitoring Officer. The Officer may be required to withdraw from the procurement process. Any Officer who fails to declare such a conflict of interest may be subject to disciplinary proceedings and sanctions.

A 'Conflict of Interest Declaration – Confidentiality Agreement' form can be obtained from the [Welland Procurement portal](#).

### **Executive Management Team**

1.13 The **Executive Management** Team must ensure that they and their Officers comply with these Rules at all times.

1.14 The **Executive Management** Team must ensure that Value for Money is achieved in all procurements.

1.15 The **Executive Management** Team must ensure that they have in place a scheme of delegation that records in writing what action Officers are authorised to take under these Rules.

1.16 The **Executive Management** Team is responsible for ensuring that the Council's Contracts Register is updated as required following procurement activity.

1.17 Where an Officer within the **Executive Management** Team has a potential conflict of interest within a procurement process, the Officer must declare this immediately to the member of the Executive Management Team and Monitoring Officer. The Officer may be required to withdraw from the procurement process. Any Officer who fails to declare such a conflict of interest may be subject to disciplinary proceedings and sanctions.

A 'Conflict of Interest Declaration – Confidentiality Agreement' form can be obtained from the procurement provider (currently via the [Welland Procurement portal](#))

### **Record Keeping**

1.18 The Officer must keep the following records:

- a. A record of all decisions from pre to post procurement;
- b. The method of obtaining tenders;
- c. Tender documents produced by the Council;
- d. Tenders received from bidders. The successful tender should be retained for at least the life of the contract. Unsuccessful tenders should be retained for the first 12 months of the contract;
- e. A written record of the evaluation;
- f. A record of the Award approval;
- g. A signed copy of the Contract which should be retained for the life of the contract and in normal circumstances for 6 years thereafter;
- h. Communications to and from bidders during the procurement process.

1.19 Where an Agent has managed the procurement on behalf of the Council, the Officer must ensure that the above documents are returned to the Council upon completion of the process.

# **Rushcliffe Borough Council Constitution**

## **Part 5**

### **Codes and Protocols**

## **RULES OF PROCEDURE – OFFICER EMPLOYMENT**

These procedure rules incorporate (in paragraphs 5 to 8) the provisions which authorities are required to include in their Standing Orders relating to officers under the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) and shall be interpreted in accordance with those regulations.

### **1. Recruitment and Appointment**

#### **(a) Declarations:**

- (i) the Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are related to an existing Councillor or senior officer of the Council; or of the partner of such persons
- (ii) no candidate so related to a Councillor or a senior officer will be appointed without the authority of the Chief Executive or an officer nominated by him/her.

#### **(b) Seeking support for appointment:**

- (i) Subject to (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information
- (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council
- (iii) This would not preclude a Councillor from providing an official reference for an applicant, provided the Councillor did not participate or seek to influence in any other way in the appointment.

### **2. Recruitment of Head of Paid Service and Directors**

Where the Council proposes to appoint a Chief Executive, Director - Operations or other Director it should determine the scope of intended applicants, and whether the stated post(s) should be advertised internally, externally or both. In all cases, the Council will:

#### **(a) draw up a statement specifying:**

- (i) the duties of the officer concerned; and
- (ii) any qualifications or qualities to be sought in the person to be appointed.

- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
- 3. **Appointment of Head of Paid Service, Monitoring Officer and Section 151 Officer**

The full Council will approve the appointment of the Head of Paid Service, and designation of the roles of Monitoring Officer and the Section 151 Officer.

4. **Appointment of Directors**

A committee of the Council will appoint Directors.

5. **Appointment of Head of Paid Service and Dismissal of Head of Paid Service, Monitoring Officer and Section 151 Officer**

- a) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the appointment of an officer designated as Head of the Council's Paid Service, the Council's Section 151 Officer, or the Council's Monitoring Officer, the Council must approve that appointment before an offer of appointment is made to that person.
- b) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the dismissal of an officer designated as the Council's Head of Paid Service, as the Council's Section 151 officer, or as the Council's Monitoring Officer, the Council must approve that dismissal before confirmation is given to that person.
- c) In the case of an emergency, the leader of the Council in consultation with the lead Human Resources Specialist suspend the Chief Executive immediately. Where suspension decision is taken pursuant to this part, the period must be reasonable to allow a full investigation into the alleged conduct of the officer giving rise to it. A decision under this part must be reported to Full Council by the calling of an extraordinary meeting.

6. **Cabinet Member on Committees**

Where a committee or sub-committee is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in the Appendix, at least one member of the Cabinet must be a member of the committee or sub-committee.

## 7. **Member Involvement**

- a) Save as provided for in sub-paragraphs (b) and (c) below, the function of the appointment and dismissal of, and taking disciplinary action against, an officer must be discharged, on behalf of the Council, by the Head of Paid Service or by an officer nominated by him / her.
- b) The above requirement shall not apply to the appointment or dismissal of, or disciplinary action against an officer referred to in the Appendix.
- c) Sub-paragraph (a) above shall not prevent any Councillor from serving as a member of the employment appeals committee.

## 8. **Dismissal of Head of Paid Service, Monitoring Officer and Section 151 Officer**

- a) In the following paragraphs:
  - (i) “the 2011 Act” means the Localism Act 2011
  - (ii) “Chief Finance Officer”, “disciplinary action”, “Head of the Authority’s Paid Service” and “Monitoring Officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001
  - (iii) “independent person” means a person appointed under section 28(7) of the 2011 Act
  - (iv) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts
  - (v) “the panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority
  - (vi) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
  - (vii) “relevant officer” means the Chief Finance Officer, Head of Paid Service or Monitoring Officer, as the case may be.
- (b) A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with
- (c) The Council must invite relevant independent persons to be considered for appointment to the panel, with a view to appointing at least two such persons to the panel
- (d) In paragraph (c) “relevant independent person” means any independent person who has been appointed by the Council or, where there are fewer

than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate

- (e) Subject to paragraph (f), the Council must appoint to the panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph (c) in accordance with the following priority order:
  - (i) a relevant independent person who has been appointed by the Council and who is a local government elector
  - (ii) any other relevant independent person who has been appointed by the authority
  - (iii) a relevant independent person who has been appointed by another authority or authorities.
- (f) The Council is not required to appoint more than two relevant independent persons in accordance with paragraph (e) but may do so.
- (g) The Council must appoint any panel at least 20 working days before the relevant meeting.
- (h) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:
  - (i) any advice, views or recommendations of the panel
  - (ii) the conclusions of any investigation into the proposed dismissal
  - (iii) any representations from the relevant officer
  - (iv) comply with the regulations and the revised Standing Orders; and (v) give effect to any relevant provision in the officer's contract.
- (i) Any remuneration, allowances or fees paid by the Council to an independent person appointed to the panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

## **Appendix 1**

The posts listed in paragraph 3 of Part II of Schedule 1 the Local Authorities (Standing Orders) (England) regulations 2001, namely:

- (a) The Head of Paid Service (Chief Executive)
- (b) Statutory Chief Financial Officer (Section 151 Officer)
- (c) Non-statutory Chief Officer (Directors) (d) Assistant for a political group.

Note: The above posts are defined more specifically in the regulations and the Strategic Human Resources Manager will advise which posts on the establishment fall within the definitions.

# CODES AND PROTOCOLS

## COUNCILLOR CODE OF CONDUCT

You are a Councillor or co-opted member of Rushcliffe Borough Council and as such are 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.

Accordingly, when acting in your capacity as a Councillor or co-opted member:

- (a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate
- (b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties

- (c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit
- (d) you are accountable for your decisions to the public and you must cooperate fully with whatever scrutiny is appropriate to your office
- (e) you must be as open as possible about your decisions and actions and the decisions and actions of the Council and should be prepared to give reasons for those decisions and actions
- (f) you must declare any private interests, both pecuniary and non-pecuniary, including your membership of any trade union, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below
- (g) you must, when using or authorising the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986
- (h) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and by example. By respecting others and not bullying, intimidating or harassing person or behaving in an improper or offensive manner (including the use of offensive language or making improper personal remarks to or about individuals), by respecting confidentiality of information you receive, and by not conducting yourself in a manner which is likely to bring the authority into disrepute.

Harassment can occur through verbal or written comments (including ones made online). The following list provides some examples, but it is, by no means, exhaustive:

- Unwelcome physical contact such as touching or invading 'personal space';
- Inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes (such as ones of a racial, sexual or sectarian nature);
- Intrusive questioning, including the persistent discussion of a person's sexual practices, misogynistic behaviour, sexual orientation or religious beliefs (either directly or with others); and
- Sending unwelcome emails, messages or notes; circulating or displaying explicit or inappropriate images

Bullying is inappropriate and unwelcome behaviour which is offensive and intimidating, and which makes an individual or group feel undermined, humiliated or insulted. Again, it is the impact of any behaviour rather than the intent which is the key.

Bullying usually arises as a result of an individual misusing their power (usually derived from status or some other position of strength) and, again, can occur through all means of communication. Bullying tends to be a pattern of behaviour or can be a one-off serious incident that becomes objectionable or intimidating. The examples in the following list are, by no means, exhaustive:

- Unwelcome physical, verbal or non-verbal conduct;
  - Intimidatory behaviour including verbal abuse or the making of threats;
  - Making someone's working life difficult;
  - Disparaging, ridiculing or mocking comments and remarks;
  - Physical violence; and
  - Deliberately excluding an individual from conversations, work or social activities, in which they have a right or legitimate expectation to participate.
- (i) you must have regard to any relevant advice provided to you by the Council's Monitoring Officer, Section 151 Officer and Chief Executive where they are acting pursuant to his or her statutory duties
- (j) you must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
- (i) you have the consent of a person authorised to give it
  - (ii) you are required by law to do so
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or (iv)
- the disclosure is:
- reasonable, in the public interest and
  - made in good faith and in compliance with the reasonable requirements of the Council.
- (k) You must promote equality by not discriminating against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability.

## Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a Councillor or co-opted member, notify the Council's Monitoring Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State (see attached schedule), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a Councillor or co-opted member, notify the Council's Monitoring Officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the Council's register, then the Councillor must disclose the interest to any meeting of the Council at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions the Council places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by the Council.

If you are in any doubt regarding your obligations, you should contact the councils Monitoring Officer.

### **FAILURE TO MAKE THESE DISCLOSURES IS A CRIMINAL OFFENCE**

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<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a Councillor or co-opted member of an authority having an interest, and the nature of the interest being such that the Councillor or co-opted member, and the Authority's Monitoring Officer, consider that disclosure of the details of the interest could lead to the Councillor or co-opted member, or a person connected with the Councillor or co-opted member, being subject to violence or intimidation.

## SCHEDULE

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>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 Councillor in carrying out duties as a member, or towards the election expenses of the Councillor.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>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 -</p> <ul style="list-style-type: none"><li>(a) under which goods or services are to be provided or works are to be executed; and</li><li>(b) which has not been fully discharged.</li></ul>
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	<p>Any tenancy where (to the Councillor's knowledge)</p> <ul style="list-style-type: none"><li>(a) the landlord is the relevant authority; and</li><li>(b) the tenant is a body in which the relevant person has a beneficial interest.</li></ul>

## Securities

Any beneficial interest in securities of a body where:

(a) that body (to the Councillor's knowledge) has a place of business or land in the area of the 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.

## **CODES AND PROTOCOLS PROTOCOL FOR THE REGISTRATION OF GIFTS AND HOSPITALITY**

1. Councillors should treat with extreme caution any offer or gift, favour or hospitality that is made to them personally. The person or organisation making the offer may be doing, or seeking to do, business with the Council, or may be applying to the Council for planning permission or some other kind of decision.
2. There are no hard or fast rules about the acceptance or refusal of hospitality or tokens of goodwill. For example, working lunches may be a proper way of doing business, if they are approved by the Council and that no extravagance is involved. Likewise, it may be reasonable for a member to represent the Council at a social function or event organised by outside persons or bodies, for example corporate hospitality at approved conferences.
3. Each Councillor is personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding the risk of damage to the public confidence in the Council and in local government generally.
4. A Councillor must within 28 days of receiving any gifts or hospitality over the value of £25 provide written notification to the Council's Monitoring Officer of the existence and nature of that gift or hospitality.
5. A Councillor must also notify the Council's Monitoring Officer of any offer of any gift or hospitality, whether or not the Councillor accepts that offer, which a member of the public with knowledge of the relevant facts might reasonably regard as intended to influence the discharge of their responsibilities as a Councillor.
6. Such notification shall be made as soon as reasonably practicable after the Councillor is aware of the offer and in any case within 28 days of such offer.
7. Gift or hospitality includes any opportunity to acquire goods or services at a price or on terms at which they are not readily available to the general public.

# **CODES AND PROTOCOLS**

## **GUIDANCE ON PLANNING APPLICATION PROCEDURES**

### **1. Introduction**

- 1.1 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects property interests, particularly the financial value of land holdings and the quality of their settings. It is important, therefore, that planning decisions are made openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for any reasonable person to suggest with any justification that a decision has been partial, biased or not well founded in any way.
- 1.2 It is important that Councillors receive open and impartial professional advice from their planning officers. Councillors should make planning decisions on the basis of relevant material planning considerations and should have good reasons, based on land use planning grounds, for resisting such advice.
- 1.3 The public is entitled to expect the highest standards from both Councillors and officers in their duties and they are expected at all times to act fairly, in good faith and impartially in all aspects of their work. Accordingly, the Local Government Association has recommended that planning authorities should agree a local Code of Practice to guide Councillors in the way they go about their business. The Code also gives guidance to officers involved in dealing with planning applications.
- 1.4 This Code of Practice applies to Councillors at all times when involving themselves in the planning process, whether as a member of the Planning Committee, as a ward Councillor consultee, as an applicant, or in some other capacity. If you have any doubts about the application of this Code to your own circumstances, you should seek advice at the earliest opportunity, preferably well before any meeting takes place.

### **2. Relationship to the Councillors' Code of Conduct**

- 2.1 Councillors should always start by applying the rules in the Councillors' Code of Conduct. The rules in this Planning Code seek to explain and supplement the Code of Conduct in the context of planning control. This Planning Code goes beyond the probity concerns of the Councillors' Code of Conduct to give more detailed advice on the operation of the system, to ensure the preservation of the integrity of the planning process as open and fair to all parties.
- 2.2 If you do not abide by this Code, you may put:

- (a) the Council at risk of proceedings on the legality or maladministration of the related decision; and/or
- (b) yourself at risk of either being named in a report made to the Standards Committee or Council if the failure is likely to also be a breach of the Councillors' Code of Conduct.

### **3. Planning application procedures**

3.1 The following principles shall be followed by the Council in dealing with planning applications:

- (a) Councillors and officers will, wherever possible, avoid indicating the likely decision on an application or otherwise committing the Council during contact with applicants or objectors
- (b) details of all applications will be sent to local ward Councillors and parish councils with the opportunity to comment
- (c) the Director – Communities will be responsible for determining all applications except those which, in accordance with the Council's scheme of delegation, must be referred to the Planning Committee for determination.

### **4. Application discussions with applicants**

4.1 Discussions between a potential applicant and the Council prior to the submission of an application, or discussion on submitted applications, is normal and beneficial to applicants. However, it would be easy for such discussions to become, or to be seen, particularly by objectors, to become, part of a lobbying process on the part of the applicant. To avoid any meetings being misunderstood, they will normally be at officer level.

4.2 In any event:

- (a) it should be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are provisional
- (b) advice should be consistent and based upon the Development Plan and other material considerations.

4.3 Officers should make it clear that the decision on the application would be made either by the Director – Communities under delegated powers, or by Councillors through the Planning Committee. In addition:

- (a) written note should be made of all potentially contentious meetings and telephone conversations
- (b) care should be taken to ensure that advice is not partial (or seen to be).

## **5. Reports to Committees**

- 5.1 All applications to the Planning Committee will be the subject of a full, written report incorporating all relevant considerations and responses to consultations and clear recommendations from the Director – Communities. In particular, the following points should be taken into account in the preparation of reports:
- (a) reports should be accurate and cover, among other things, the substance of objections and the views of people who have been consulted
  - (b) there should be a clear explanation of relevant development plan policies, where appropriate, the site or related history and any other material considerations
  - (c) reports should have written recommendations of action, oral reporting (except to update a report) should be avoided wherever possible and minuted when it does occur
  - (d) reports should contain a technical appraisal which clearly justifies the recommendation
  - (e) if the report's recommendation is contrary to the development plan, the material considerations which justify this must be clearly stated.

## **6. Decisions contrary to officer recommendations and/or the development plan**

- 6.1 If the Planning Committee makes a decision which is contrary to the advice of the Director – Communities, the Committee should clearly indicate the reasons for the decision, and these should be minuted.
- 6.2 Similarly, if the Committee makes a decision which is contrary to the development plan, the material considerations taken into account in reaching that decision should be minuted.

## **7. Declaration of interests**

- 7.1 The requirements and procedures relating to the declaration of interests by Councillors are fully set out in the Councillors' Code of Conduct. Councillors must disclose the existence and nature of all interests, as defined in the Code, but it does not then necessarily follow that the holding of a nonpecuniary interest debars the Councillor from participation in the discussion and voting. If, however, a non-pecuniary interest is capable of affecting the Councillors judgement, then the Councillor must withdraw from the room and not participate in the discussion of the matter.
- 7.2 If, when consulted on an application in their capacity as ward Councillor, a Councillor recognises that they have a prejudicial interest in the matter, the

consultation form should be marked accordingly, and the Councillor should not express their view as a Councillor.

- 7.3 Although Councillors are not normally obliged to return these consultation forms, they should upon receipt use their best possible endeavours to do so whenever they have a prejudicial interest

## **8. Applications by Councillors and Officers and Council development**

- 8.1 The impartiality of the planning process requires particular care when dealing with an application by anyone who might ordinarily be involved in the planning process. Accordingly, when any Councillor, or any officer who might be involved in the planning process (or who holds a post of a type or level of seniority referred to in the officer code of conduct for this purpose), submits an application to the Council for themselves or on behalf of any person, they should inform the Director – Communities and take no part in processing or determining the application. The Director – Communities will ensure that all such applications are determined by the Planning Committee and not under delegated powers.

- 8.2 The requirements placed on Councillors by paragraph 8.1 shall also apply when a Councillor has any other significant interest in a planning application such as would amount to a prejudicial interest and the reference to “agent” in the Council’s scheme of delegation (Development Control (i)(e)) shall be construed accordingly.

- 8.3 Following receipt of notification from a Councillor under paragraph 8.1 or 8.2, the Director – Communities shall notify the Monitoring Officer.

- 8.4 Proposals for the Council’s own development will be treated in the same way as those of private developers, in accordance with Government advice (currently to be found in DoE Circular 19/92), particularly in relation to officers’ advice.

## **9. Lobbying of and by Councillors, and fettering discretion**

- 9.1 It is essential for the proper operation of the planning system that local concerns are adequately raised and taken into consideration. The most effective and suitable way that this can be done is via the local representatives, the Councillors themselves. (*Nolan Committee report 1997*)

- 9.2 Lobbying of local Councillors is a normal and perfectly proper part of the political process.

- 9.3 When being lobbied (whether by the applicant or an objector), ward Councillors, and members of the Planning Committee in particular, should take care in expressing an opinion which may be taken to mean that they have come to a final view on the issue before they have considered all the evidence and arguments. Advice on procedural matters in relation to the

application can be properly given, but if an opinion on the merits of the application is given it should be emphasised that a final decision can only be made after all the evidence and arguments have been considered.

- 9.4 Ward Councillors sitting on the Planning Committee when dealing with a local application which is controversial, and the subject of extensive local lobbying may find themselves in a difficult position. The overriding duty of a Councillor sitting on the Planning Committee is to the whole local community and, whilst a Councillor may properly raise and represent the views of local constituents, Councillors should not put the interests of local constituents above the general interest.
- 9.5 If a Councillor does find that they no longer retain an open mind on the matter, or that their impartiality has been compromised, then the proper course of action would be to make an open declaration to that effect at the meeting and not vote on the matter. The Councillor may not necessarily have a prejudicial interest in the application under the Councillor Code of Conduct, but if a Councillor has (in legal parlance) “fettered their discretion” or “pre-determined” the issue, their continued involvement in the decision making process could jeopardise the validity of the final decision and/or lead to a formal complaint being made.
- 9.6 Membership of a parish council which has expressed a view on an application does not by itself give rise to a conflict, provided that the Councillor retains an impartial viewpoint.
- 9.7 The following issues should also be taken into account:
- (a) on the basis that decisions can only be made when the relevant Committee has considered all the evidence and argument, political groups should not use the Group Whip to determine how the group Councillor should vote
  - (b) Councillors should in general avoid organising support for or opposition to a planning application, and avoid lobbying officers or other Councillors
  - (c) Councillors should not put pressure on officers for a particular recommendation
  - (d) Councillors should seek the Monitoring Officer’s advice if they are unsure about the application of these principles in any situation.

## **10. Councillor training**

- 10.1 Councillors should not generally serve on the Planning Committee unless they have received training on the planning system. Periodic training sessions will be organised by officers to ensure that Councillors are kept informed of developments in planning legislation, procedures and probity

issues. In view of the use of substitutes at Committee meetings, all Councillors should endeavour to attend such training sessions.

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# **CODES AND PROTOCOLS**

## **PROTOCOL ON COUNCILLOR: OFFICER RELATIONS**

“Every local authority should have its own written statement or protocol governing relations between members and officers.” (third report of the Committee on Standards in Public Life – the Nolan Committee).

### **1. INTRODUCTION**

1.1 Rushcliffe Borough Council recognises that the relationship between its Councillors and its officers is of vital importance in its work on behalf of the people of the Borough. The Council believes that a public statement of rules and guidance on this relationship demonstrates its commitment to act with integrity and helps both Councillors and officers in carrying out their different but interrelated duties. This Protocol forms part of the Borough Council's Constitution and has been approved by its Standards Committee. It builds on the Council's Codes of Conduct for Councillors and officers and should be read in conjunction with them.

1.2 The principles on which the protocol is based are that:

- (a) both Councillors and officers are servants of local people but with distinct roles
- (b) the best service will be provided to local people by Councillors and officers working as one team
- (c) the service given to local people must be efficient, open and accountable
- (d) both Councillors and officers have a duty to act in accordance with the Council's ethical standards
- (e) officers serve the Council, but this service is expressed through the management structure
- (f) the political impartiality of staff must be maintained
- (g) effective working relationships between Councillors and officers must be based on trust and mutual respect.

### **2. THE ROLES OF COUNCILLORS AND OFFICERS**

2.1 Councillors are elected by local people and are democratically accountable to local people. Councillors set the policy framework and budget for the Council through meetings of the full Council.

Councillors on the Executive take key decisions in implementing, and initiatives within, the policy framework and budget. Councillors are responsible for holding decision takers to public account through the work of overview and scrutiny committees. Councillors are responsible for ensuring that the Council considers issues of concern to local people. It is Councillors who are responsible for taking the lead in representing and leading their communities. It is Councillors who must ensure that the Council works effectively with its partners in the public, private and voluntary sectors in promoting and maintaining the economic, social and environmental wellbeing of the Borough and local people. In addition to these official roles, most Councillors belong to a political group. Political groups meet together and may consider issues before the Council takes a decision. Political groups do not meet to consider planning applications. These group meetings are not part of the Council's constitutional arrangements. To ensure openness they are covered in this protocol.

- 2.2 With limited exceptions Councillors do not have any decision taking powers as individuals. They do not have any responsibility for the day-to-day management of officers or the delivery of services. They do not give orders to officers. They do not use their influence to secure for themselves or any other person an improper advantage or disadvantage from the Council or any of its partners. Councillors do not do anything that would compromise the impartiality of officers. Councillors do not lobby on behalf of any individual seeking employment with the Council or in other personnel matters.
- 2.3 All officers serve the Council as a whole and support Councillors in their roles. Officers use their professional expertise and best judgement in advising Councillors how they can achieve their objectives. They are free to make their impartial recommendations without pressure from Councillors, individually or collectively. Officers implement the lawful decisions of Councillors taken in accordance with the Constitution. Officers ensure that Councillors are aware of changes to legislation or other external influences on the Council's operation and advise on how best the Council should respond. Officers manage the resources of the Council for which they are responsible in providing services to local people. Officers propose new policies or changes to existing policies where they consider that these would improve the Council's performance or service to local people. Officers take the day-to-day managerial and operational decisions within the Council. Officers liaise with colleagues working for other local authorities and the Council's partners to share best practice and to co-operate where necessary in achieving the Council's objectives. Some officers have particular statutory responsibilities as detailed in part 3 of the Constitution and perform these roles in accordance with their own judgement and without fear or favour.
- 2.4 Officers do not allow their personal or political opinions to interfere with the exercise of their responsibilities to the Council. Officers do

not treat any individual Councillor less favourably than any other but provide the same level of service to all Councillors consistent with the demands of the Councillor's roles within the Council and their workloads.

### **3. THE AGREEMENT BETWEEN COUNCILLORS AND OFFICERS**

- 3.1 The protocol takes the form of an agreement between Councillors and officers and sets out what each can expect from the other in a range of situations. It is not possible to cover every circumstance in which Councillors and officers interact. The protocol sets out the most common areas where Councillors and officers come into contact. In other situations, the protocol, and especially the principles in paragraph 1.2, sets the framework and acts as a guide to the relationship that is to be followed.

## 3.2

**Supporting Front-line Councillors**

	<b>Councillors will</b>	<b>Officers will</b>
<b>Casework</b>	<p>(a) Raise case working issues with:</p> <ul style="list-style-type: none"> <li>• an appropriate Director, or</li> <li>• such other officer as may be arranged with an Director, or</li> <li>• a designated officer within Customer Services.</li> </ul> <p>(b) Ask for, or provide, information on a particular case, seek clarification on the application of the Council's policies or procedures but:</p> <ul style="list-style-type: none"> <li>• will balance the interests of their constituents with the interests of other local people in a fair and objective way</li> <li>• not raise issues in which they have a personal interest except by correspondence only (making sure that they clearly state both the existence and nature of their personal interest)</li> <li>• not do anything which could be interpreted as a direction to, or pressure on, an officer in relation to an issue but to raise any concerns with the relevant Director.</li> </ul>	<p>(a) Respond promptly to enquiries by providing a reply within five working days of the receipt of the request, or, if a full response is not possible, provide an interim reply explaining why a full response is not possible with an estimate of when the full reply will be made</p> <p>(b) Treat enquiries from Councillors in which they have a personal interest no more, or less, favourably than they would an enquiry from any other local person, and provide them with the same information that a member of the public would receive</p> <p>(c) Report to a senior manager any contact from a Councillor that does not comply with this protocol.</p>

<b>Public Consultations</b>	Inform the appropriate officer of any formal consultation exercise they intend to conduct in their ward on particular issues, except where that consultation is used for party political purposes.	(a) Provide support at a level agreed with an Director in arranging and conducting consultations undertaken by Councillors, subject to the availability of designated resources and to such support not compromising either the political impartiality or professional obligations of officers. Directors shall seek to ensure that Councillors are informed of issues which affect their wards as soon as possible.
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## 3.3

**Supporting overview and scrutiny**

	<b>Councillors will</b>	<b>Officers will</b>
<b>Scrutiny</b>	<ul style="list-style-type: none"> <li>(a) Conduct their scrutiny role through the appropriate committee on decisions taken or proposed and their merits</li> <li>(b) Not raise the conduct or capability of an officer at meetings or in any public forum</li> <li>(c) Conduct overview and scrutiny meetings in accordance with the overview and scrutiny Standing Orders in part 4 of the Constitution</li> <li>(d) Exercise their individual rights to place items on the agenda with due regard to the overall work programme of the committees and the capacity of officers to provide the support needed</li> <li>(e) Treat admissions of failure or mistakes made by officers as an opportunity to improve the service provided for local people</li> <li>(f) Welcome the opportunity to congratulate officers on a job well done, bearing in mind the potential positive impact on staff morale and Councillor/officer relations</li> <li>(g) Not ask staff to explain the actions of Councillors</li> <li>(h) Be open about failures or mistakes for which they have responsibility and be supportive of others, be they Councillors or officers who may have made an error.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Ensure that overview and scrutiny committees have access to appropriate internal resources within the overall resources of the Council</li> <li>(b) Be no less accountable to overview and scrutiny committees as to the Executive and provide the overview and scrutiny committees with uninhibited objective professional support to assist them in their work for the benefit of local people</li> <li>(c) Be open in responding to the enquiries of overview and scrutiny committees and never seek to obstruct their work</li> <li>(d) Explain and justify the advice they have given to decision takers, but not criticise decision takers in committees or public forums where lawful decisions have been taken which do not follow that advice</li> <li>(e) Be open about failures or mistakes for which they have responsibility and be supportive of others, be they Councillors or officers who may have made an error</li> <li>(f) Not ask Councillors to explain the advice given by officers.</li> </ul>

	<b>Councillors will</b>	<b>Officers will</b>
<b>Policy Development</b>	Conduct their policy development role through the appropriate body with due regard to the overall work programme of the body and the capacity of officers and partner organisations to provide the support needed.	Provide advice, expertise and their professional judgement to support policy development proposals whether these have been initiated by the Executive or by overview and scrutiny committees or by partnership structures, and according to any protocols within the Council's current policy framework.

## 3.4

**Supporting the Cabinet and other decision-making bodies**

	<b>Councillors will</b>	<b>Officers will</b>
<b>taking decisions</b>	<ul style="list-style-type: none"> <li>(a) Always consider the advice and recommendations submitted to them by officers</li> <li>(b) Where possible, seek clarification on the content or recommendations contained in a report from officers prior to discussions in formal meetings</li> <li>(c) Recognise that officers are not always able to defend themselves in meetings and other public forums and therefore make any negative observations privately to the Chief Executive or Directors wherever possible. If in exceptional circumstances that proves impossible, they will ensure that any criticism of reports or actions is never personal</li> <li>(d) Never seek to pressurise an officer to make a recommendation that is against their professional judgement</li> <li>(e) Give reasons for their decisions, particularly on those occasions when they do not accept the recommendation of officers.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Regardless of their personal or political views, officers will provide decision takers with professional advice within their areas of expertise on how best the Council can achieve its objectives. Officers will diligently seek to implement decisions taken. Officers at all times will strive to act fairly, in good faith and in an impartial way to achieve the objectives set by the Council.</li> <li>(b) Be entitled to request that the minutes of a meeting record their advice on any matter where Councillors have decided not to follow that advice.</li> </ul>

	<b>Councillors will</b>	<b>Officers will</b>
<b>Access to information</b>	<ul style="list-style-type: none"> <li>(a) Only seek information that they have a need to know to perform their duties</li> <li>(b) Not knowingly seek information which is not publicly available and which they do not have a need to know to perform their duties, in which they are professionally interested, in which they have a prejudicial interest or which they intend to put to wider political purpose rather than constituency purpose.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Respond promptly to requests for information</li> <li>(b) Refer a request for information which is not publicly available and in which it would seem to the relevant Director that a Councillor may have an interest. This will enable appropriate action to be taken in consultation with the Monitoring Officer</li> <li>(c) Refer a decision to refuse a Councillor access to requested information to the Monitoring Officer at the Councillor's request (or to the Chief Executive if the refusal was by the Monitoring Officer) for decision.</li> </ul>
<b>Access to staff</b>	<ul style="list-style-type: none"> <li>(a) Be provided with the direct line work telephone numbers of all senior officers</li> <li>(b) Only approach officers via the Director or in accordance with any guidance issued by the Chief Executive. (also see 3.2 above)</li> <li>(c) Exercise their right to contact officers during the working hours of the Council between Monday and Friday.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Ensure that Councillors are able to leave messages for them out of normal working hours</li> <li>(b) Other than in exceptional circumstances, agree to any requests for a meeting received from the group leaders on behalf of individual Councillors (having consulted the Chief Executive or Director – Operations if considered appropriate).</li> </ul>

	<b>Councillors will</b>	<b>Officers will</b>
<b>Access to premises</b>	<p>When making visits as individual Councillors:</p> <ul style="list-style-type: none"> <li>(a) whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge</li> <li>(b) comply with health and safety, security and other workplace rules</li> <li>(c) not disrupt the services or activities being provided at the time of the visit</li> <li>(d) take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Endeavour to accommodate visits by Councillors subject to the exigencies of the service</li> <li>(b) Advise Councillors making such visits of any relevant safety or security requirements as appropriate.</li> </ul>
<b>The Leader, members of the Cabinet, chairs and deputy chairs of committees.</b>	<ul style="list-style-type: none"> <li>(a) Have a high regard for: <ul style="list-style-type: none"> <li>• the rights of officers to have a personal and family life</li> <li>• the need to comply with the working time regulations</li> <li>• honouring and respecting the published timetable of meetings, briefings and consultative events agreed at the commencement of the municipal year</li> </ul> </li> <li>(b) Have regard to the need for officers to research and prepare reports in exercising their right to direct that any item of business (within the terms of reference of that meeting) as they may specify is included on the agenda for that meeting.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Have a high regard for <ul style="list-style-type: none"> <li>• the rights of Councillors to have a personal and family life</li> <li>• the demands placed on Councillors who are in full time employment</li> <li>• the need to comply with the working time regulations</li> <li>• honouring and respecting the published timetable of meetings, briefings and consultative events agreed at the commencement of the municipal year.</li> </ul> </li> <li>(b) Be entitled to make whatever recommendation in a report that they may decide in the exercise of their professional judgement.</li> </ul>

	<b>Councillors will</b>	<b>Officers will</b>
<b>Use of Council facilities</b>	<ul style="list-style-type: none"> <li>(a) Ensure that their use of any facilities or equipment provided for them such as stationery, reprographics, secretarial services, computers and telecommunications equipment is strictly for their duties as a Councillor and for no other purpose, and in accordance with any agreements made as to their use.</li> <li>(b) Never use facilities or equipment so provided for party political or personal use.</li> </ul>	<p>Provide assistance on request to Councillors to enable them to make use of any facilities provided within agreed timescales and current policy.</p>
<b>Media relations</b>	<ul style="list-style-type: none"> <li>(a) Comply with the Code of Recommended Practice on Local Authority Publicity</li> <li>(b) Not disclose confidential or exempt information to the media</li> <li>(c) Not request assistance from officers in facilitating any media contact which is intended or likely to criticise the Council, its partners or its policies.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Assist Councillors in explaining proposals and policies to journalists but not in promoting individual Councillors, their political views or criticising the Council, its partners or its policies</li> <li>(b) Promptly pass media requests for interviews and contributions on to Councillors and make arrangements to bring these about</li> <li>(c) Not divulge to other Councillors any media contact made or planned by a Councillor without their consent unless such disclosure is essential to the interview or event</li> <li>(d) Make available for inspection by Councillors all media releases which are issued on behalf of the Council.</li> </ul>

	<b>Councillors will</b>	<b>Officers will</b>
<b>Political Group meetings</b>	<ul style="list-style-type: none"> <li>(a) Direct requests for staff attendance at group or other political meetings to the Chief Executive or in his/her absence the Director – Operations at whose absolute discretion attendance rests</li> <li>(b) Not discuss party political business in the presence of officers</li> <li>(c) Not ask officers to divulge confidential or exempt information at political group meetings, where there are persons present at the meeting who are neither Councillors nor officers.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Inform the leaders of the other political groups of any such attendance and the subject matter involved</li> <li>(b) Not divulge confidential or exempt information at political group meetings where there are persons present at the meeting who are neither Councillors nor officers</li> <li>(c) Provide all groups with copies of information provided to any one group which is likely to be cited in support of a particular option or decision at a meeting of the Council, the Executive or a committee.</li> </ul>
<b>Councillors appointed to outside bodies</b>	<p>Report back to the appropriate Council body on the activities of the outside body where such information would assist the Council's service to local people and not breach any requirement of confidentiality or duty owed by the Councillor to the outside body.</p>	<ul style="list-style-type: none"> <li>(a) Provide reasonable assistance to support Councillors in their membership of outside bodies to which they have been appointed by the Council, subject to the availability of designated resources</li> <li>(b) On request provide information about the body prior to appointment and a named contact for briefing purposes.</li> </ul>

	<b>Councillors will</b>	<b>Officers will</b>
<b>Management of staff</b>	<ul style="list-style-type: none"> <li>(a) Not become involved in staffing matters except at the request of the executive management team or as provided in the Constitution</li> <li>(b) Not enter into discussion with any other Councillors or officers about any employment decisions or an applicant for employment or day-to-day staffing issues (except when an agreed agenda item being considered by a committee or other formal member group)</li> <li>(c) Always make employment decisions on merit</li> <li>(d) Not seek to become involved in operational issues except at the request of the executive management team.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Not lobby any Councillor about any employment decisions or an applicant for employment or day-to-day staffing issues</li> <li>(b) Not seek Councillors' involvement in staffing matters except at the request of the executive management team or as provided in the Constitution, for example staffing policy formation</li> <li>(c) Always make employment decisions on merit</li> <li>(d) Not seek to involve Councillors in operational issues except at the request of the executive management team.</li> </ul>
<b>Confidentiality</b>	<ul style="list-style-type: none"> <li>(a) Comply with requests by officers that information they provide should remain confidential subject only to it being information which should be made available under a statutory obligation on the Council, under the Council's Constitution or by the lawful decision of the Executive, a committee or sub-committee</li> <li>(b) Ensure that as much information as possible shall be available to the public through the proper channels.</li> </ul>	<ul style="list-style-type: none"> <li>(a) Comply with requests by Councillors that information they provide must remain confidential subject only to it being information which should be made available under a statutory obligation on the Council, under the Council's Constitution or by the lawful decision of the Executive, a committee or sub-committee</li> <li>(b) Not communicate Councillor correspondence relating to political or sensitive matters to other Councillors without the original Councillor's consent</li> <li>(c) Ensure that as much information as possible shall be available to the public through the proper channels.</li> </ul>

	<b>Councillors will</b>	<b>Officers will</b>
<b>Complaints</b>	Bring any knowledge or reasonable suspicion that there has been a failure to comply with the provisions of this protocol to the attention of the Monitoring Officer or their deputy, or in the absence of both the Head of Paid Service, or follow the Council's whistleblowing policy and procedure.	Bring any knowledge or reasonable suspicion that there has been a failure to comply with the provisions of this protocol to the attention of their line manager or follow the Council's whistleblowing policy and procedure.

#### **4. REVIEW**

This Protocol will be reviewed by the Standards Committee after the first year and subsequently every four years, or as required.

# **Rushcliffe Borough Council Constitution**

## **Part 6**

### **Members' Allowances**

# **COUNCILLORS' ALLOWANCES SCHEME**

## **1. Councillors' Allowances Scheme**

1.1 The Council is required, in accordance with the provisions of the Local Authorities (Members' Allowances) (England) Regulations 2003 ("the regulations"), to make a scheme providing for the payment to Councillors of the following allowances:

- (a) basic allowance
- (b) special responsibility allowance (optional)
- (c) dependants' carers' allowance (optional)
- (d) travel and subsistence allowance (optional)
- (e) co-optees' allowance (optional)

1.2 A copy of the current Councillors' allowances scheme is attached at Appendix 1.

1.3 In accordance with the regulations, an independent remuneration panel has been established to review and make recommendations to the Council on the Councillors' allowances scheme.

1.4 The independent panel last reviewed the scheme in January 2019 and the principles set out in Appendix 2 attached were reaffirmed by Council on 7 March 2019.

## **2. Approved Duties**

2.1 The regulations prescribe the approved duties in respect of which dependants' carers' and travel and subsistence allowances may be paid. Those which are relevant to the Council are as follows:

- (a) attendance at Council meetings
- (b) attendance at meetings of the Cabinet, committees (including joint committees), sub-committees and other member groups by Councillors who have been appointed to serve on them
- (c) attendance at a meeting of any association of authorities of which the Council is a member (e.g. LGA)
- (d) the carrying out of any other duty approved by the Council, or any class of duty so approved, for the purposes of, or in connection with, the discharge of the functions of the Council or any of the committees or sub-committees. Under this category the Council has approved the following duties or class of duty:
  - (i) attendance at meetings of the Planning Committee by Councillors who are not members of the committee but who

are allowed to speak on applications relating to the area which they represent

- (ii) attendance at meetings of a committee or member group although not a member of that committee or group, if attendance follows a specific invitation by the committee or group or its Chairman or is otherwise specifically authorised by the Council
- (iii) attendance at site visits and other meetings arranged by the Council or a committee or member group within their terms of reference
- (iv) attendance as the Council's representative on outside bodies as approved by the Council, (excluding school governing bodies)
- (v) representing such outside bodies on any formally constituted committees, if nominated by the body concerned and no other arrangements for the payment of allowances in respect of such duties exist
- (vi) attendance at conferences or training events authorised by the Council
- (vii) attendance at any meeting or event following the specific request of the Chief Executive to attend as the Council's representative
- (viii) attendance at meetings (other than ward party meetings), consultations and visits to constituents
- (ix) attendance at any meeting or event following the specific request of the Chief Executive for the purpose of, or in connection with, the discharge of the functions of the Council.
- (x) attendance by non-executive members at Cabinet
- (xi) attendance by Cabinet members at meetings of scrutiny committees.

### 3. **Co-optees' Allowance**

The independent and parish members of the Council's standards committee will be paid a co-optees' allowance at the rate specified in schedule I of the scheme.

**LOCAL GOVERNMENT AND HOUSING ACT 1989 -  
SECTION 18**

**COUNCILLORS' ALLOWANCE SCHEME**

The Rushcliffe Borough Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:

1. This scheme may be cited as the Rushcliffe Borough Council Councillors' Allowances Scheme
2. In this scheme:
  - "Councillor" means a member of the Rushcliffe Borough Council who is a Councillor
  - "year" means the 12 months ending with 31 March.

**Basic Allowance**

3 Subject to paragraph 7, for each year a basic allowance in the sum specified in Schedule 1 shall be paid to each Councillor.

**Special Responsibility Allowances**

- 4.1 For each year a special responsibility allowance shall be paid to those Councillors who hold the special responsibilities in relation to the authority that are specified in Schedule 1 to this scheme and (subject to paragraph 4.3 below) at such rates as are therein specified.
- 4.2 For the purposes of the Councillors' allowances scheme, only political groups comprising five or more members shall be recognised for the payment of special responsibility allowances.
- 4.3 No councillor may claim more than one special responsibility allowance.

**Dependants' Carers' Allowance**

5.1 Councillors will be entitled to claim a childcare and dependants' carers' allowance in respect of expenditure incurred for the care of dependant relatives or children whilst carrying out approved duties. This will be paid at cost up to a maximum of £7 per hour, but that limit will not apply in the event of specialist care being required. The allowance shall be on the basis of the reimbursement of actual expenses incurred on the production of receipts. Councillors will be requested to complete a form giving details of their circumstances.

5.2 Councillors will not be entitled to claim such an allowance in respect of any payment made to a relative who also normally resides with the Councillor concerned.

5.3 In respect of payments made to other relatives, reimbursement will be made provided that the rate claimed is not in excess of the rate which the Section 151 Officer considers to be the normal commercial rate having regard to other claims under paragraph 5(1).

## **Renunciation**

6. A Councillor may, by notice in writing given to the Chief Executive, elect to forego any part of his or her entitlement to an allowance under this scheme.

## **Part-Year Entitlement**

7.1 The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility is payable.

7.2 If an amendment to this scheme changes the amount to which a Councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:

- (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect; or
- (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

7.3 Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his/her term of office subsists bears to the number of days in that year.

7.4 Where this scheme is amended as mentioned in sub-paragraph (2) and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph (2) (a), the entitlement of any such Councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of the days during which his term of office as a Councillor subsists bears to the number of days in that period.

7.5 Where a Councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.

7.6 Where this scheme is amended as mentioned in 7.2 and a Councillor has during part, but does not have throughout the whole, of any period mentioned in 7.2 (a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

## **Claims and Payments**

8.1 Payments shall be made monthly for all allowances.

8.2 Where a payment of one twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the Councillor receiving more than the amount to which, by virtue of paragraph 7, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

8.3 Claims for dependants' carers' allowances and travel and subsistence allowances shall be submitted to the Section 151 Officer within 3 months of the date of entitlement.

## **Revision of amounts payable**

9. The Allowances Scheme shall be updated annually on 1 April each year to reflect changes in comparable salary and inflation levels and be subjected to a more formal review every four years. The measure by which this annual review is achieved shall be the inflation provision in the Council's budget for salaries and wages and the Section 151 Officer shall be authorised to determine and pay the relevant amounts.

## **Suspension of Payments**

10.1 If a Councillor fails to attend any meeting during a period of three months, the Chief Executive, in consultation with the group leaders, may refer the question of the non-attendance of the member to the standards committee for consideration. The standards committee has authority to suspend the

payment of allowances under the scheme, unless the reasons for nonattendance are approved by the standards committee.

11. Where a Councillor is also a member of another authority, that Councillor may not receive allowances from more than one authority in respect of the same duties.

### **Pensions**

12. No Councillor of the Council shall be entitled to a pension in accordance with a scheme made under Section 7 of the Superannuation Act 1972.

### **Travel and Subsistence**

13. Councillor shall be entitled to receive travel and subsistence allowances in accordance with Schedule 2 when necessarily incurred in carrying out any approved duty and, in the case of subsistence allowances, the approved duty exceeds four hours in duration.

## SCHEDULE 1

### RATES OF ALLOWANCES

1. The following allowances are payable with effect from May 2019.
2. The amount of basic allowance payable to all Councillors is £5,188 per annum.
3. The following are specified as the special responsibilities in respect of which special responsibility allowances are payable and the amounts of those allowances:

Full Year

£

Leader of the Council	14,545
Deputy Leader	8,606
Other Cabinet members	5,670
Leader of the principal opposition	4,684
Leader of other political groups (5 members or more)	2,359
Chairmen of scrutiny committees	3,276
Vice Chairmen of above committees	1,092
Chairman of Planning Committee	4,823
Vice-Chairman of Planning Committee	2,411
Chairman Licensing Committee	1,200
Chairman of Standards Committee*	1,200

\* to be paid as a co-optees' allowance if an independent member

4. The independent and parish council members of the Standards Committee shall each be paid a co-optees' allowance of £293
5. The Council has also agreed that the following additional allowances be paid under Sections 3 and 5 of the Local Government Act 1972:

Mayor - £6,444 per annum

Deputy Mayor - £2,048 per annum.

## SCHEDULE 2

### PART 1

#### **Rates of Travelling Allowance and Provisions Relating Thereto (from 1 April 2010)**

1. The rate for travel by public transport (which, for the avoidance of doubt, excludes air travel) where more than one class of fare is available shall be determined by reference to first class fares.

2.1 The rate for travel by a Councillor's own solo motorcycle will be 24.0p per mile.

2.2 The rate for travel by a Councillor's own private motor vehicle, or one belonging to a member of his family or otherwise provided for his/her use, other than a solo motor cycle, shall (subject to sub-paragraphs (3) and (4)) be in accordance with the National Joint Council (NJC) rates for officers applying at the relevant time, which, from 1 April 2010, are:

- for the use of a motor car of cylinder capacity not exceeding 999 cc  
46.90p a mile
- for the use of a motor car of cylinder capacity exceeding 999 cc, but not exceeding 1199 cc  
52.20p a mile; and
- for the use of a motor car of cylinder capacity exceeding 1199 cc,  
65.0p a mile.

2.3 The rates specified in sub-paragraphs (1) and (2) may be increased by not more than the amount of any expenditure incurred on tolls, ferries or parking fees and overnight garaging.

2.4 The rates specified in sub-paragraph (2) shall be reduced by 10% in respect of cars with CO<sub>2</sub> emissions greater than 185 g/km.

3. The rate for travel by bicycle shall be 14.9p per mile.

4. The rate for travel by taxicab or cab shall not exceed:

- in cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid, and
- in any other case, the amount of the fare for travel by appropriate public transport.

The rate for travel by a hired motor vehicle other than a taxi-cab shall not exceed the rate which would have been applicable had the vehicle belonged to the Councillor who hired it provided that where the body so

- approves the rate may be increased to an amount not exceeding the actual cost of hiring.
5. The rate for travel by air shall not exceed the rate applicable to travel by appropriate alternative means of transport together with an allowance equivalent to the amount of any saving in subsistence allowance consequent on travel by air. Provided that if the Council resolves, either generally or specifically, that the saving in time is so substantial as to justify payment of the fare for travel by air, there may be paid an amount not exceeding:
    - (a) the ordinary fare or any available cheap fare for travel by regular air service; or
    - (b) where no such service is available or in case of urgency, the fare actually paid by the Councillor.
  - 6 As per the independent panel recommendations, approved March 2015, the rate of allowances will remain in parity with officer allowance rates.
  7. The cost of travel outside of the UK shall not be reimbursed unless it has previously been authorised by the Council.
  8. Travel allowances to be payable from home to place of duty, or another location (if applicable and less), except that where a Councillor's main residence is no longer in Rushcliffe and is a greater distance than their last qualifying address in the Borough, such allowances shall be payable from the latter.

## **Part 2**

### **Rates of Subsistence Allowance, and Provisions Relating Thereto**

- 1.1 The rate of subsistence for Councillors' allowances will be in accordance with the Council's policy at that time.

**COUNCILLORS' ALLOWANCES SCHEME  
PRINCIPLES IN REVIEWING SCHEME**

The following principles were restated by the independent remuneration panel in reviewing the Councillors' allowances scheme in 2003, 2007, 2014 and in 2019.

1. The system of Councillors' allowances should not restrict the possibility of any group in society from standing for the Council and should ideally have the effect of encouraging groups currently under-represented on Councils to become Councillors.
2. The voluntary public service principle should be one of the factors influencing the allowances scheme but not the only one.
3. There should be established proper processes for holding Councillors to account in the performance of their duties. Transparency and accountability are essential components of a new system.
4. There should be a basic payment received by all Councillors, irrespective of their formal responsibilities on the Council, reflecting the demands of their representative roles and other duties.
5. Special allowances for Councillors holding positions of responsibility should be categorised into a limited number of "bands" with related job descriptions. Special responsibility allowances paid should reflect these different levels of responsibility.
6. Levels of remuneration in Rushcliffe should bear comparison with those agreed in comparable authorities.
7. The allowances paid to Councillors should take into account those paid in relation to comparable positions of responsibility in the public sector.
8. The system of Councillors' allowances should be as uncomplicated as possible; easy for Councillors and members of the public to understand.
9. Internal political roles and activities (party group leadership excepted) should not be eligible for allowances.
10. The allowances scheme should be updated annually to reflect changes in comparable salary and inflation levels and subjected to a more fundamental review every four years.