

**Report to** Council  
16 March 2021  
**Report of** Monitoring officer  
**Subject** Constitution Review

**Item**

**7**

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## **Purpose**

To seek members' approval of the work that has been carried out to review and revise the constitution, to acknowledge the input of the Constitution Working Party, and to recommend the formal adoption of the revised constitution by the Council.

## **Recommendation**

- 1) To approve the work that has been carried out by the Corporate Leadership Team and the cross-party Constitution Working Party to review and revise the constitution; and
- 2) To adopt the revised constitution.

## **Corporate and service priorities**

The report helps to indirectly meet all of the corporate priorities.

## **Financial implications**

There are no direct financial implications arising from this report.

## **Ward/s: Multiple Wards**

**Cabinet members:** Councillor Waters – Leader

Councillor Paul Kendrick – Portfolio Holder for Resources

## **Contact officers**

Geoff Wild, Monitoring Officer 01603 989609

Stuart Guthrie, Democratic Services Manager 01603 989389

## **Background documents**

None

# Report

## Introduction

1. A council's constitution should primarily be a locally driven document that outwardly reflects the character and culture of the organisation. It should facilitate council business, deliver consistent, efficient and effective decision-making and enable good governance. It should not create overly bureaucratic procedures but promote transparency, efficiency and democratic accountability.

## Background

1. Norwich City Council's constitution has grown over the past 20 years much like a patchwork quilt. It currently comprises 205 unnumbered pages divided into several unstructured sections. It is out of date in places and is not internally consistent or easily accessible. Furthermore, there are concerns about its accuracy, legal compliance and completeness.
2. Constitutions must be widely and readily available for inspection at all reasonable hours by members of the public and supplied to anyone who asks for a copy on payment of a reasonable fee.
3. However, the document is not accessible as a whole and is consequently difficult to navigate. A member of the public who did not already know which part to look in would find it difficult to locate the constitution or a specific section of it.

## Legislation

4. Every local authority is under a duty to prepare and keep up to date its constitution under section 9P of the Local Government Act 2000.
5. The constitution must contain:
  - (a) the standing orders/procedure rules;
  - (b) the Members' Code of Conduct;
  - (c) such information as the Secretary of State may direct;
  - (d) such other information (if any) as the authority considers appropriate.
6. Under s.135 Local Government Act 1972, every local authority must make standing orders with respect to the making of contracts for the supply of goods or materials or for the execution of works.
7. Further mandatory provisions within constitutions have been made by the following:
  - (a) Sections 8 and 20, Local Government and Housing Act 1989 – standing orders with respect to staff and regulating proceedings.

- (b) The Local Authorities (Standing Orders) Regulations 1993 – standing orders with respect to appointment of chief officers, investigations into misconduct by the Head of Paid Service, the recording of votes and the signing of minutes.
  - (c) The Local Authorities (Standing Orders) (England) Regulations 2001 – standing orders with respect to the operation of executive and alternative arrangements, disciplinary action against staff and regulating proceedings.
  - (d) The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 – standing orders with respect to voting at budget meetings.
  - (e) The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 – standing orders with respect to investigations into misconduct by relevant officers
8. The [Local Government Act 2000 \(Constitutions\)\(England\) Direction](#) was issued by the Secretary of State in December 2000, which stated that the constitution, and other documents referred to in it, should set out in plain English everything anyone who has dealings with the local authority would need to know about how the local authority conducts its business, who takes which decisions and how to work with the local authority. It required over 80 minimum elements to be included as a minimum within constitutions (see **Appendix A**):

## **Procedure**

- 9. Article 15 of the Constitution places a duty on the Chief Executive and the Director of Resources to monitor and review the operation of the constitution to ensure that its aims and principles are given full effect. It also places responsibility on the Monitoring Officer to be aware of the strengths and weaknesses of the constitution and to recommend ways in which it could be amended in order better to achieve its purposes.
- 10. The Council is responsible for approving changes to the articles of constitution, after consideration by the Director of Resources or a body established for that purpose, i.e. the Constitution Working Party. Changes to the appendices may be made by the Director of Resources to reflect decisions taken by the Council, the Cabinet, a committee or the Chief Executive. In addition, the Director of Resources has delegated authority (following consultation with the Chief Executive) to amend the constitution to reflect changes to factual references or changes required by law.

## **Process**

- 11. The Monitoring Officer worked with the Corporate Leadership Team and the cross-party Constitution Working Party throughout February (and in particular at its two 2-hour+ meetings on 5 and 19 February) to:

- (a) Review and consider proposed changes to ensure the constitution is brought up to date with legislation and best practice;
- (b) Develop a clearer, more succinct Constitution, which better reflects the present values of the Council, incorporates changes to modernise the document and makes it easier to use;
- (c) Consider key issues, including:
- (i) Compliance with the Secretary of State's 2000 Direction.
  - (ii) The structure (length, articles, appendices, etc) and how it all works together. Note that there is no requirement to have Articles, and their removal and amalgamation with the Appendices could significantly reduce duplication and length and ease access.
  - (iii) All committees to be merged into one section, combining Articles 6-9 and 17 with Appendix 4.
  - (iv) The new Constitution to be published and capable of being read as a single, complete document, not in individual sections as at present. This will allow the reader to readily access and search the whole document and to more easily search and find cross-referenced provisions.
  - (v) Remove existing sections that, whilst relevant and necessary, do not need to form part of the Constitution, including:
    - Monitoring Officer Protocol
    - Chief Finance Officer Protocol
    - Standards hearing arrangements
    - Code of Governance
    - Protocol for sponsorship of Lord Mayor's events
- (d) Add new sections to the Constitution, including:
- (i) Contract/Procurement Rules
  - (ii) Community Rights
  - (iii) Councillor Call for Action protocol
  - (iv) Structure chart showing hierarchy of Executive and Non-Executive committees
  - (v) Members' rights to access information
  - (vi) Including all joint arrangements, e.g. Police and Crime Panel, Community Safety Partnership, etc.
  - (vii) Statutory and Proper Officer table
  - (viii) Local choice functions table
  - (ix) Non-Executive and Executive schemes of officer delegation
  - (x) Rules for recording and publishing officer decisions
  - (xi) New senior management structure
  - (xii) List of Cabinet portfolios and name the Cabinet members by whom they are exercisable
  - (xiii) Revised Key Decision financial threshold
  - (xiv) Dispensations protocol

- (e) To respond to questions and reflect comments, suggestions and amendments from officers and members.

12. It should be noted that it was not the role or remit of this review to amend or update the existing codes and protocols contained within the Constitution, many of which, such as the Members' Code of Conduct, the Contract and Procedure Rules and the Officer Employment Rules, will be the subject of further work in the coming months by lead officers and brought forward to Council for approval and inclusion in the new Constitution in due course.
13. The outcome of the work of the Constitution Working Party was to recommend the revised Constitution (attached at **Appendix B**) to the Council for approval. The document contains a number of marginal comments throughout, which are there to highlight new insertions or to explain some of the key changes made. They will be removed once the document is approved and will not appear in the published version of the Constitution.

## **Timeline**

- 27 January - headline proposals discussed at informal Cabinet.
- Early February - headline proposals discussed at Group Leaders meeting.
- 3 February - headline proposals discussed at CLT.
- 5 and 19 February - Constitution Working Party worked through the proposals in detail.
- 3 March - Informal Cabinet signed off revised Constitution.
- 5 March – deadline for submission of Council report.
- 8 March – Council agenda published.
- 16 March – Council to approve revised Constitution.

## **Key Features of the Constitution**

### **Contents and Introduction**

14. The revised constitution is divided into clear sections. There is a detailed hyperlinked contents page, which allows the reader to go straight to the section they wish to see.
15. The current introduction and Articles have been simplified into a new easier to read introduction, setting out the status and purpose of the constitution, and the roles played by councillors, officers and members of the public. The Articles are not a legal requirement and repeat many of the points made elsewhere in the constitution and so have been removed to avoid duplication.

### **Responsibility for Functions**

16. This part of the constitution makes clear the distinction between executive and non-executive functions and sets out the respective delegations from Council and Cabinet to committees and officers. There are new comprehensive and consolidated schemes of officer delegation for both executive and non-executive functions, so that it is clear who is responsible for which functions.

17. An expanded section on the history and status of the Lord Mayor and Sheriff is included to mark the importance of these two positions.
18. There is included a diagram showing the council's committees and sub-committees, and each committee's membership and terms of reference are described in detail.
19. It also sets out those matters included in the Budget and Policy Framework that are reserved for Full Council to decide, usually on the recommendation of the Cabinet.
20. Review of scrutiny included clearly stating the role of overview and scrutiny committees to make the decision-making process more transparent, accountable and inclusive. In order for scrutiny to be effective, the process must be open, fair, constructive and positive. This section sets out the structure and procedures of the overview and scrutiny committees, including call-in arrangements. A new section has been included on the councillor call for action.
21. There are also a number of 'local choice' functions that the council can decide to either assign to the Cabinet or to exercise itself or delegate to a committee or a named officer. The council has discretion as to how best to organise these matters and they now form part of a table in the constitution.
22. The current constitution lacks a consolidated scheme of officer delegations. There is a new list of those officers who have statutory or Proper Officer functions delegated to them under various pieces of legislation.
23. A new protocol for Recording and Publishing Officer Decisions has been included, to ensure compliance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the Openness of Local Government Bodies Regulations 2014.
24. The council's joint arrangements have been revised and updated to include a number of arrangements that were not previously included.

### **Rules governing how the Council operates**

25. The council's Procedure Rules constitute an essential instrument for the smooth operation of the authority. The rules guide the conduct of both Cabinet and Council meetings and meetings of their committees and sub-committees. These rules have been reviewed to ensure they comply with:
  - (a) Schedule 12 of the Local Government Act 1972
  - (b) Sections 8 and 20 of the Local Government and Housing Act 1989
  - (c) Local Authorities (Standing Orders) Regulations
  - (d) Local Government Act 2000 Mandatory Standing Orders

## **Codes and Protocols**

26. This section of the constitution has been updated to include the following new additions:

- (a) Access to Information Rules, setting out the rights and circumstances in which members of the council and the public may access different types of information
- (b) A list of the five statutory 'Community Rights'.
- (c) Dispensations Protocol – to govern the award of dispensations that would otherwise prevent a member with a Disclosable Pecuniary Interest from taking part in a debate

## **Appendices attached**

Appendix A – Secretary of State's minimum constitutional requirements.

Appendix B – Revised constitution

## Integrated impact assessment



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### Report author to complete

<b>Committee:</b>	Council
<b>Committee date:</b>	16 March 2021
<b>Director / Head of service</b>	Monitoring officer
<b>Report subject:</b>	Constitution review
<b>Date assessed:</b>	1 March 2021



	Impact			
Economic (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Finance (value for money)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Other departments and services e.g. office facilities, customer contact	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
ICT services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Economic development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Financial inclusion	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Social (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Safeguarding children and adults	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<u>S17 crime and disorder act 1998</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Human Rights Act 1998	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Health and well being	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

	Impact			
Equality and diversity (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Relations between groups (cohesion)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Eliminating discrimination & harassment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Advancing equality of opportunity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Environmental (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Natural and built environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Waste minimisation & resource use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Pollution	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sustainable procurement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Energy and climate change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(Please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Risk management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

**Recommendations from impact assessment**

**Positive**

**Negative**

**Neutral**

**Issues**

## APPENDIX A

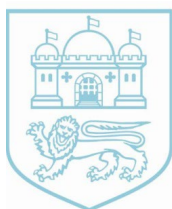
### Secretary of State's minimum constitutional requirements

1.	A summary and explanation of the purpose and content of the constitution
2.	A description of the composition of the council, the scheme of ordinary elections for members of the council and their terms of office
3.	A description of the principal roles and functions of the members of the council under executive arrangements, including the rights and duties of those members
4.	The scheme of allowances for members of the authority drawn up in accordance with regulations made under s.18 of the Local Government and Housing Act 1989
5.	<p>A description of the rights and responsibilities of inhabitants of the authority's area including:</p> <ul style="list-style-type: none"><li>i. their rights to vote in elections for the return of members of the authority</li><li>ii. their rights to access to information about the authority's activities</li><li>iii. their rights of access to meetings of the council, its committees and sub-committees and any joint committees established with any other authority and</li><li>iv. their rights of access to meetings of the executive and committees of the executive</li></ul>
6.	<p>A description of the roles of the authority itself under executive arrangements, including:</p> <ul style="list-style-type: none"><li>i. the functions which may be exercised only by full Council or which may to some extent be exercised only by full Council (including, in the case of a local authority operating executive arrangements, any plans and strategies which are subject to approval or adoption by full Council by virtue of reg.5 and Sch.4 para.1 of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000) and</li><li>ii. any rules governing the conduct and proceedings of meetings of full Council, whether specified in the authority's standing orders or otherwise</li></ul>
7.	A description of the roles and functions of the chairman of the council (Lord Mayor)
8.	A description of the functions of the local authority executive which are exercisable by individual members of the executive stating, as respects each function, the name of the member by whom it is exercisable
9.	A description of the functions of the local authority executive that are exercisable by the executive collectively or a committee of the executive

	stating, as respects each function, the membership of the body by who it is exercisable
10.	A description of those powers of the executive which for the time being are exercisable by an officer, stating the title of the officer by whom each of the powers so specified is exercisable, other than any power exercisable by the officer for a specified period not exceeding six months
11.	<p>A description of the arrangements for the operation of overview and scrutiny committees, including:</p> <ul style="list-style-type: none"> <li>i. the terms of reference and membership of those committees and any rules governing the exercise of their functions and</li> <li>ii. any rules governing the conduct and proceedings of meetings of those committees, whether specified in the authority's standing orders or otherwise</li> </ul>
12.	<p>A description of the roles of the executive, committees of the executive and members of the executive including:</p> <ul style="list-style-type: none"> <li>i. the roles, functions, rights, responsibilities and duties of members of the executive</li> <li>ii. in the case of a leader and cabinet form of executive, any rules governing the election of the executive leader</li> <li>iii. any rules governing the appointment or dismissal of members of the executive</li> <li>iv. any provisions in the executive arrangements with respect to the quorum, proceedings and location of meetings of the executive</li> <li>v. any provisions in the executive arrangements with respect to the quorum, proceedings and location of meetings of any committees of the executive</li> <li>vi. any provisions in the executive arrangements with respect to the appointment of committees of the executive</li> </ul>
13.	<p>A description of the roles of any committees or sub-committees appointed by the authority in accordance with s.101 of the Local Government Act 1972, including:</p> <ul style="list-style-type: none"> <li>i. the membership, terms of reference and functions of such committees or sub-committees and</li> <li>ii. any rules governing the conduct and proceedings of meetings of those committees or sub-committees, whether specified in the authority's standing orders or otherwise</li> </ul>
14.	A description of those powers of the council which for the time being are exercisable by an officer, stating the title of the officer by whom each of the powers so specified is exercisable, other than any power exercisable by the officer for a specified period not exceeding six months
15.	A description of the roles of the local authority's Standards Committee and any parish council sub-committee of the Standards Committee appointed in accordance with ss.53 or 55 of the Act, including:

	<ul style="list-style-type: none"> <li>i. the membership, terms of reference and functions of that committee or sub-committee and</li> <li>ii. any rules governing the conduct and proceedings of meetings of that committee or sub-committee, whether specified in the authority's standing orders or otherwise</li> </ul>
16.	<p>A description of the roles of any area committees appointed by the authority to exercise functions in accordance with reg.16A of the Local Government (Committees and Political Groups) Regulations 1990 or, as the case may be, s.18 of the Act and the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000, including:</p> <ul style="list-style-type: none"> <li>i. the membership, terms of reference and functions of such committees and</li> <li>ii. any rules governing the conduct and proceedings of meetings of those committees, whether specified in the authority's standing orders or otherwise</li> </ul>
17.	<p>A description of any joint arrangements made with any other local authorities under s.101(5) of the Local Government Act 1972, including:</p> <ul style="list-style-type: none"> <li>i. the terms of those arrangements</li> <li>ii. the membership, terms of reference and functions of any joint committees established under those arrangements and</li> <li>iii. any rules governing the conduct and proceedings of meetings of those joint committees, whether specified in the authority's standing orders or otherwise</li> </ul>
18.	<p>A description of any arrangements made with another local authority for the discharge of functions by that other local authority or the executive of that other local authority in accordance with s.101(1)(b) of the Local Government Act 1972 or, as the case may be, Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000</p>
19.	<p>A description of the roles of officers of the local authority, including:</p> <ul style="list-style-type: none"> <li>i. the management structure for officers of the authority</li> <li>ii. any arrangements made under s.101 of the Local Government Act 1972 or, as the case may be, ss.14, 15 or 16 of the Act for the discharge of functions by officers of the authority</li> <li>iii. the roles and functions of the head of paid service, monitoring officer and chief finance officer</li> <li>iv. the code of conduct for local government employees issued by the Secretary of State in accordance with s.82 of the Act</li> <li>v. any rules governing the recruitment, appointment, dismissal and disciplinary action of officers of the authority</li> <li>vi. any protocol established by the authority in respect of relationships between members and officers</li> </ul>
20.	<p>A description of the arrangements the authority has in place for access of the public, members of the authority and officers of the authority to meetings of the</p>

	authority, committees and sub-committees, joint committees established with any other local authority, the executive and committees of the executive
21.	A description of the arrangements the authority has in place for access of the public, members of the authority and officers of the authority to information about the decisions made or to be made by in respect of local authority's functions and activities
22.	A register stating: <ul style="list-style-type: none"> <li>i. the name and address of every member of the local authority executive for the time being and the division (if any) which they represent and</li> <li>ii. the name of every member of each committee of the local authority's executive for the time being</li> </ul>
23.	A description of the rules and procedures for the management of its financial, contractual and legal affairs, including: <ul style="list-style-type: none"> <li>i. procedures for auditing the local authority;</li> <li>ii. the local authority's financial rules or regulations, whether specified in the authority's standing orders or otherwise;</li> <li>iii. rules, regulations and procedures in respect of contracts and procurement, including authentication of documents, whether specified in the authority's standing orders or otherwise and</li> <li>iv. rules and procedures in respect of legal proceedings brought by and against the local authority</li> </ul>
24.	A description of the register of interests of members and co-opted members of the authority required under s.81 of the Act, together with the procedures for publicising, maintaining and updating that register
25.	A description of the rules and procedures for review, revision, suspension and interpretation of the authority's constitution and executive arrangements
26.	The Code of Conduct for Members



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## CONSTITUTION

**Commented [GW1]:** The new Constitution will be published and capable of being read as a single, complete document, not in individual sections as at present. This will allow the reader to readily access and search the whole document and to more easily find cross-referenced provisions.

**Approved by the Council**

**16 March 2021**



## CONTENTS

PART 1 - INTRODUCTION .....	6
1. The Constitution .....	6
Purpose .....	6
Monitoring and Review.....	7
Changes .....	7
Interpretation and Publication .....	7
Finance, Contracts and Legal Matters.....	8
2. Councillors.....	8
Eligibility.....	9
Election and Terms of Office.....	9
Transitional Arrangements .....	9
Roles and Responsibilities .....	9
Rights and Duties.....	10
Allowances.....	10
Political Group Leaders.....	10
3. Officers .....	10
The Council's Staff.....	10
Senior Management Structure.....	11
4. The Public.....	13
PART 2 - RESPONSIBILITY FOR FUNCTIONS .....	14
1. Principles of Decision Making .....	14
2. Executive and Non-Executive Functions .....	14
3. Decision-Making Arrangements .....	14
<b>Committee Structure</b> .....	15
4. The Council .....	16
5. The Lord Mayor, Deputy Lord Mayor and Sheriff .....	17
6. The Cabinet .....	19
<b>Terms of Reference</b> .....	19
<b>Forward Plan (Cabinet Notice)</b> .....	20
<b>Key Decisions</b> .....	20
<b>General Exception Decisions and Urgent Decisions</b> .....	21
<b>Cabinet Proceedings</b> .....	22
<b>Executive Leader</b> .....	22
<b>Deputy Leader</b> .....	23
<b>Other Cabinet Members</b> .....	23
<b>Role of Cabinet Members</b> .....	23

**Commented [GW2]:** The Articles are not a legal requirement of a Constitution and currently contain much that is duplicated or which is cross-referenced elsewhere.

The new version dispenses with the Articles and merges the Articles contents with Appendices into four logical sections.

**Commented [GW3]:** Sections removed include:

- Monitoring Officer Protocol
- Chief Finance Officer Protocol
- Standards hearing arrangements
- Code of Governance
- Protocol for sponsorship of Lord Mayor's events

**Commented [GW4]:** All committees have been merged into one section (including Audit, below, combining Articles 6-9 and 17 with Appendix 4.

A structure chart has been added, showing hierarchy of Executive and Non-Executive committees.

**Commented [GW5]:** Sections added include:

- Contract Procedure Rules
- Community Rights
- Councillor Call for Action
- Members' rights to access information
- Proper Officer table
- Local choice functions table
- Non-Executive and Executive Schemes of Officer Delegation
- Rules for recording and publishing officer decisions
- New management structure
- List of Cabinet portfolios

<b>Cabinet Portfolios</b> .....	25
<b>Executive Panels</b> .....	27
7. <b>Budget and Policy Framework Rules</b> .....	28
<b>Policy Framework</b> .....	28
<b>Budget</b> .....	28
<b>Housing Land Transfer</b> .....	28
<b>Process for Developing the Policy Framework</b> .....	29
<b>Consideration by Cabinet/Council</b> .....	29
<b>Decisions Outside the Budget and Policy Framework</b> .....	30
<b>Urgent Decisions Outside the Budget or Policy Framework</b> .....	31
<b>Virement</b> .....	31
<b>In-year changes to the Policy Framework</b> .....	32
8. <b>Terms of Reference of Committees and Boards</b> .....	32
<b>Appointment of Committees/Terms of Office</b> .....	32
<b>Audit Committee</b> .....	33
<b>Licensing Committee</b> .....	34
<b>Licensing Sub-Committee</b> .....	36
<b>Regulatory Sub-Committee</b> .....	36
<b>Personnel Appeals Panel</b> .....	36
<b>Mousehold Heath Conservators</b> .....	36
<b>Planning Applications Committee</b> .....	37
<b>Standards Committee</b> .....	38
<b>Select Committees</b> .....	39
9. <b>Policy Overview and Scrutiny</b> .....	39
<b>Agenda Items</b> .....	42
<b>Members and Officers Giving Account</b> .....	43
<b>Guide for People Attending Scrutiny Committee Meetings</b> .....	44
<b>Councillor Call for Action</b> .....	45
<b>Call-In</b> .....	47
10. <b>Local Choice Functions</b> .....	49
11. <b>Area Committees</b> .....	51
12. <b>Joint Arrangements</b> .....	51
<b>Norfolk Joint Museums Committee</b> .....	51
<b>Norwich Museums Area Committee</b> .....	52
<b>Norfolk Records Committee</b> .....	52
<b>CNC Building Control Consultancy Joint Committee</b> .....	53
<b>Community Safety Partnership</b> .....	53
<b>Norfolk Police and Crime Panel</b> .....	53

<b>Greater Norwich Development Partnership Board</b> .....	54
<b>Greater Norwich Growth Board</b> .....	55
13. <b>Officer Schemes of Delegation</b> .....	55
<b>Non-Executive Scheme of Officer Delegation</b> .....	55
<b>Executive Scheme of Officer Delegation</b> .....	69
<b>Statutory and Proper Officers</b> .....	76
<b>Recording and Publishing Officer Decisions</b> .....	84
<b>PART 3 – RULES GOVERNING HOW THE COUNCIL OPERATES</b> .....	88
<b>COUNCIL, CABINET AND COMMITTEE PROCEDURE RULES</b> .....	88
<b>Annual Meetings</b> .....	88
<b>Ordinary Meetings</b> .....	88
<b>Budget Meetings</b> .....	89
<b>Extraordinary Meetings</b> .....	89
<b>Cancellation or Rescheduling of Meetings</b> .....	90
<b>Time and Place of Meetings</b> .....	91
<b>Notice of and Summons to Meetings</b> .....	91
<b>Chair of Meetings</b> .....	91
<b>Quorum</b> .....	91
<b>Duration of Meetings</b> .....	91
<b>Questions by the Public</b> .....	92
<b>Petitions</b> .....	93
<b>Questions by Councillors</b> .....	94
<b>Motions on Notice</b> .....	96
<b>Motions Without Notice</b> .....	97
<b>Amendments</b> .....	98
<b>Rules of Debate</b> .....	99
<b>Right of Reply</b> .....	100
<b>Point of Order</b> .....	100
<b>Personal Explanation</b> .....	100
<b>Previous Decisions and Motions</b> .....	100
<b>Voting</b> .....	101
<b>Minutes</b> .....	101
<b>Disturbance by Public</b> .....	101
<b>Suspension and Amendment of Procedure Rules</b> .....	102
<b>Substitute Members</b> .....	102
<b>Rights to Attend and Speak</b> .....	102
<b>Members' Interests</b> .....	103

<b>Party Whip</b> .....	104
<b>Political Assistants</b> .....	104
<b>Remote Meetings</b> .....	104
PLANNING APPLICATIONS COMMITTEE PROCEDURE RULES .....	109
PART 4 – CODES AND PROTOCOLS .....	117
ACCESS TO INFORMATION RULES .....	117
<b>Councillors Rights to Information</b> .....	117
<b>Notice of Meetings</b> .....	120
<b>Key Decisions</b> .....	120
<b>Background Papers</b> .....	121
<b>Public Rights to Attend Meetings</b> .....	122
<b>Exclusion of the Public</b> .....	122
<b>Exempt Information</b> .....	123
<b>Public Interest Test</b> .....	123
<b>Private Meetings of the Cabinet</b> .....	124
FINANCIAL REGULATIONS .....	126
CONTRACT PROCEDURE RULES .....	136
EMPLOYEE CODE OF CONDUCT .....	154
OFFICER EMPLOYMENT RULES .....	162
PROTOCOL FOR MEMBER/OFFICER WORKING ARRANGEMENTS .....	167
COMMUNITY RIGHTS .....	174
<b>Community Right to Bid</b> .....	174
<b>Community Right to Build</b> .....	174
<b>Community Right to Challenge</b> .....	175
<b>Community Right to Reclaim Land</b> .....	175
<b>Community Asset Transfer</b> .....	176
MEMBERS' CODE OF CONDUCT .....	177
DISPENSATIONS PROTOCOL .....	183
GIFTS AND HOSPITALITY FOR COUNCILLORS .....	187
MEMBERS' ALLOWANCE SCHEME .....	193
PARENTAL LEAVE POLICY FOR COUNCILLORS .....	195

## **PART 1 - INTRODUCTION**

### **1. The Constitution**

The Constitution is divided into the following sections:

#### Part 1 - Introduction

Setting out general information about what is included, the decision-making processes, how key parts of the council operate, councillors' key duties and the rights of the public to become involved.

#### Part 2 – Responsibility for Functions

Setting out how decisions are made, including the responsibilities and terms of reference of the council's committees and boards, including the Cabinet and other Executive functions.

#### Part 3 - Rules Governing How the Council Operates

Setting out detailed procedure rules (standing orders), covering how meetings operate, including Full Council, Cabinet, Scrutiny and other committees. Cabinet Member portfolios are set out here. It also sets out the Petition Scheme.

#### Part 4 - Codes and Protocols

Explaining how members and officers of the council must conduct themselves according to the various codes of conduct and protocols, such as the Access to Information Rules and the use of resources and gifts and hospitality, and the Members' Allowances Scheme setting out details of the allowances that members are entitled to claim.

#### Purpose

The council exercises its powers and duties in accordance with the law and this Constitution. The Constitution sets out how the council operates, how decisions are made and the procedures that are followed to ensure that they are efficient, transparent and accountable to local people.

The purpose of the Constitution is to:

- a) enable the council to provide clear leadership to the Norwich community in partnership with citizens, businesses and other organisations;
- b) support the active involvement of the public in the process of local authority decision-making;
- c) help councillors to represent their constituents more effectively;
- d) enable decisions to be taken efficiently and effectively;
- e) create a powerful and effective means of holding decision-makers to public account;
- f) ensure that decision-makers are clearly identifiable and that they explain the reasons for decisions;
- g) ensure that no one will review or scrutinise a decision in which they were directly involved;

- h) provide a means of improving the delivery of services to the community; and
- i) set out the respective responsibilities of members and officers of the Council and how they inter-relate.

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

### Monitoring and Review

The Chief Executive and the Executive Director Corporate & Commercial Services will monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect.

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out above. In undertaking this task the Monitoring Officer may -

- a) observe meetings of different parts of the member and officer structure;
- b) undertake an audit trail of a sample of decisions;
- c) record and analyse issues raised by members, officers, the public and other relevant stakeholders; and
- d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

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

### Changes

Significant or substantive changes to the Constitution will only be approved by the Council after consideration of the proposal by the Monitoring Officer or a body established for that purpose.

Changes to factual references or changes required by law may be made by the Monitoring Officer after consultation with the Chief Executive and the Executive Director Corporate & Commercial Services.

The Monitoring Officer is authorised to make minor and/or consequential amendments to the Constitution for the purpose of keeping it up to date, clarifying its content or interpretation, correcting any errors or omissions or otherwise giving effect to the intentions of the Council.

### Interpretation and Publication

The procedure rules set out in Part 3 may be suspended by the Council to the extent permitted within those rules and the law.

The ruling of the Lord Mayor (or other chair) as to the construction or application of the Constitution or as to any proceedings of the council shall not be challenged at any meeting. Such interpretation will have regard to the purposes of this Constitution

contained in Part 2 Section 1.

The Monitoring Officer will ensure that a copy of the Constitution:

- a) is available to each member of the council either via the council's website, or in hard copy if requested, upon receipt of that member's declaration of acceptance of office on first being elected to the council.
- b) is accessible for public inspection at council offices, libraries and other appropriate locations. Access by electronic means shall be sufficient for these purposes.

#### Finance, Contracts and Legal Matters

The management of the council's financial affairs is conducted in accordance with the Financial Regulations (see Part 4).

Every contract made by the council will comply with the Financial and the Contract Procedure Rules (see Part 4).

The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the council or in any case where they consider that such action is necessary to protect the council's interests.

Where any document is necessary to any legal procedure or proceedings on behalf of the council, it will be signed by the Head of Legal & Procurement or other person authorised by them, unless any enactment otherwise authorises or requires, or the council has given requisite authority to some other person. Where legal proceedings are for the prosecution of an offence, the relevant Director or any person authorised by them may sign any documents necessary for those proceedings.

All contracts must be made in accordance with the Contract and Procurement Procedures (see Part 4).

The common seal of the council will be kept in a safe place in the custody of the Head of Legal & Procurement. A decision of the council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The common seal will be affixed to those documents which in the opinion of the Head of Legal & Procurement should be sealed. The affixing of the common seal will be attested by the Head of Legal & Procurement or some other person authorised by them.

## **2. Councillors**

Norwich City Council is composed of 39 elected councillors (or members) representing 13 wards, each electing 3 representatives.

Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the Budget each year. The Council appoints the Executive Leader and various committees and holds them to account.

#### Eligibility

Only registered voters living or working in the City during the previous 12 months prior to an election are eligible to stand as a councillor. They must be a citizen of the United Kingdom, the Republic of Ireland or the Commonwealth, or a relevant citizen of the European Union and be at least 18 years old<sup>1</sup>.

#### Election and Terms of Office

The ordinary election of a third of all councillors is held on the first Thursday in May in each year. In 2005 and every fourth year thereafter there is no City Council election. Instead, the elections to Norfolk County Council are held.

The terms of office of councillors is for four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

#### Transitional Arrangements

Unless they resign or become disqualified, the Lord Mayor and Deputy Lord Mayor of the Council remain in those posts until their successors are appointed at the Annual Meeting of the council even if, in an election year, they are not re-elected at that election.

Where a member holds another post described in this Constitution and they are re-elected at an election, they continue in that post until the Annual Meeting of the council immediately following that election. If they are not re-elected then the post is vacant until a replacement is appointed.

#### Roles and Responsibilities

All elected councillors have the following roles and responsibilities:

- a) collectively determine the Budget and Policy Framework and effectively discharge the functions that are the responsibility of Full Council;
- b) contribute to the good governance of the city of Norwich and actively encourage community participation in policy formulation and decision making;
- c) effectively represent the interests of their electoral ward and of individual constituents;
- d) respond to constituents' enquiries and representations promptly, fairly and impartially;
- e) be available to represent the council on other bodies;
- f) maintain high standards of conduct and ethics, in accordance with the Member Code of Conduct, the Protocol for Member/Officer Relations (see Part 4) and other procedures and protocols set out in this Constitution;
- g) hold the Cabinet to account as either a member of Full Council or as a member of

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<sup>1</sup> [Sections 79-80 Local Government Act 1972](#)



- the Scrutiny Committee or its sub-committees;
- h) promote good community relations, ensure greater public/stakeholder participation and take and encourage steps to reduce crime and eliminate inequality of opportunity and unlawful discrimination;
  - i) promote the economic, social and environmental well-being of the city and to have regard to any city-wide strategies when doing so;
  - j) develop and maintain a working knowledge of the council's services, management arrangements, powers, duties and constraints;
  - k) focus on service improvement and efficiency at a strategic and political level and not become involved in detailed operational or managerial issues;
  - l) engage with the media in accordance with agreed protocols.

### Rights and Duties

Councillors have rights of access to such meetings, documents, information, land and buildings of the council as are necessary for the proper discharge of their functions and in accordance with the law. These rights are set out in the Access to Information Rules (see Part 4).

Councillors will not make public information that is confidential or exempt without the consent of the Monitoring Officer or divulge information given in confidence to anyone other than a councillor or officer entitled to know it. For these purposes, 'confidential' and 'exempt' information are defined in the Access to Information.

### Allowances

Councillors are entitled to receive allowances in accordance with the Members' Allowances Scheme (see Part 4). The scheme also provides allowances for certain post holders and co-opted and independent members.

### Political Group Leaders

Two or more members may form a political group under the Local Government (Committees and Political Groups) Regulations 1990 and appoint a leader of that group. The wishes of the group are taken to be those expressed by its leader.

## **3. Officers**

### The Council's Staff

The people who work for the council (its officers) give advice, implement decisions and manage the day-to-day delivery of services. The council may engage such staff as it considers necessary to carry out its functions. Officers provide information and professional advice to provide a proper basis for decision-making.

The most senior officer is the Chief Executive who is also the council's statutory Head of Paid Service, and has responsibility for determining the management and officer structure for delivering council functions and policies within available resources. Other senior managers lead different parts of the council's services.

The Monitoring Officer and the Chief Finance Officer have specific duties to ensure that

the council operates within the law and uses resources wisely. The council provides the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are, in their opinion, sufficient to allow their duties to be performed.

The Protocol for Member/Officer Relations guides members and officers in their relations with one another to ensure the smooth running of the council (see Part 4).

Officers comply with the Employee Code of Conduct (see Part 4).

The functions and responsibilities which the council has given to the senior officers are listed in the Non-Executive and Executive Officer Schemes of Delegation (see Part 2 Section 13).

The recruitment, selection, discipline and dismissal of officers is done in accordance with the Officer Employment Procedure Rules (see Part 4).

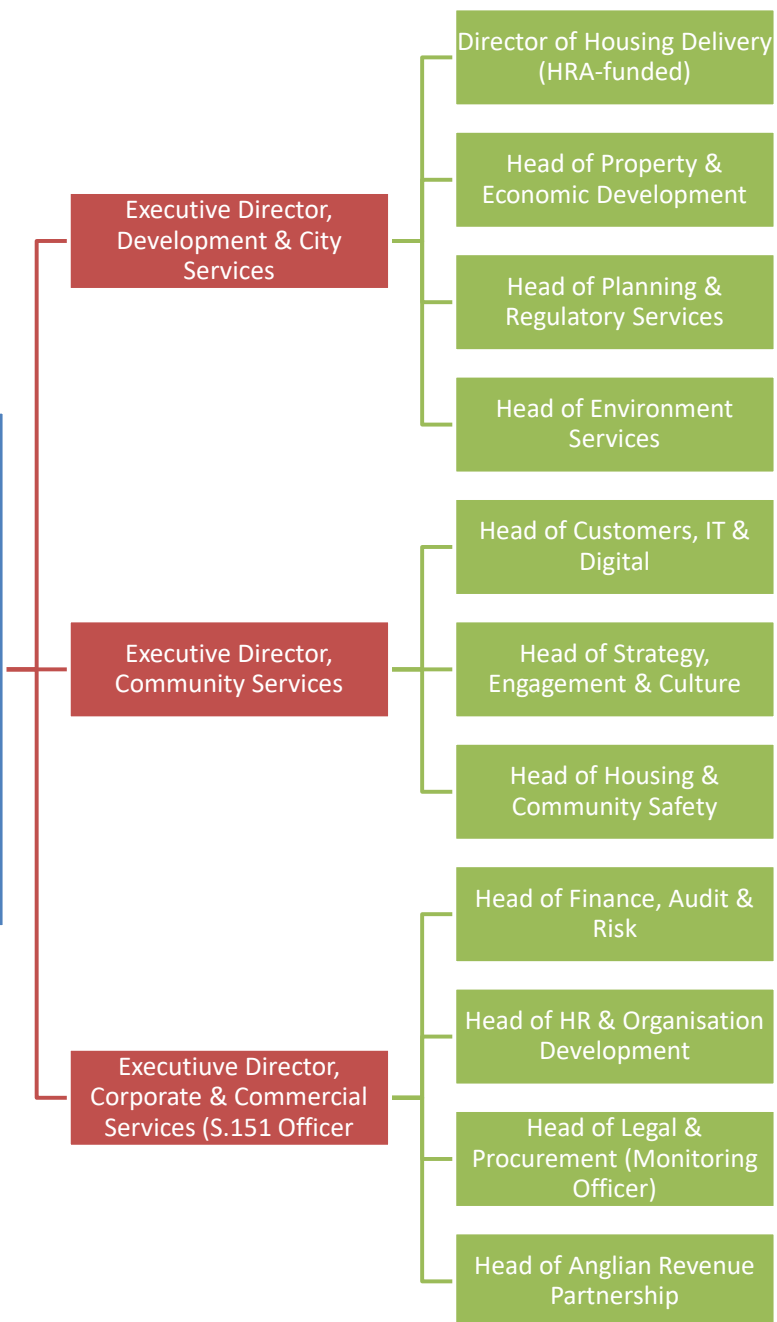
#### Senior Management Structure

The Head of Paid Service is responsible for determining and publishing a description of the overall organisation of the council, showing the management structure and deployment of officers (see below).

# Chief Executive

## CORPORATE LEADERSHIP TEAM (CLT)

**Commented [GW6]:** Reflecting new titles and structure, post-April 2021.



#### 4. The Public

The council welcomes participation by members of the public in its work. A strong democratic council, working collaboratively across Norwich, can deliver (and advocate for) the policies and resources that all its citizens need to live a good life within the framework of a strong, creative and vibrant city<sup>2</sup>.

Members of the public who grow up, study, work, live and visit the City have a number of rights in their dealings with the council, including:

- a) vote at local elections, if they are registered;
- b) contact their local councillor about any matter of concern to them;
- c) attend meetings of Council, Cabinet, Scrutiny and Regulatory committees, except where confidential or exempt information is likely to be disclosed;
- d) find out from the Cabinet Notice (Forward Plan) what major decisions will be taken and when by Cabinet and officers;
- e) view agendas, public reports, background papers and any public records of decisions made by Council, Cabinet, Scrutiny and Regulatory committees and officers;
- f) sign a petition
  - (i) requesting the establishment of a parish council or similar Community Governance Review<sup>3</sup>
  - (ii) requesting a referendum to replace the council's political management model<sup>4</sup>
  - (iii) on any matter within the council's purview
- g) inspect the following documents:
  - (i) the Constitution
  - (ii) the Register of Members' Interests
  - (iii) the council's accounts as part of the annual audit and make their views known to the external auditor
  - (iv) pay and remuneration policies for chief and senior officers
- h) access other information as set out in the Access to Information Rules (see Part 4);
- i) make complaints about services to:
  - (i) the council, under its customer complaints scheme
  - (ii) the Ombudsman, after using the council's complaints scheme
  - (iii) the Monitoring Officer, about alleged breaches of the Member Code of Conduct
- j) ask questions at most meetings
- k) contribute to the discussions of Scrutiny Committee and investigations by Select Committees at the discretion of the chair of the meeting;
- l) take part in the council's consultation activities;
- m) initiate a Community Right to Buy, Community Right to Build, Community Right to Bid, Community Right to Challenge or participate in Neighbourhood Planning, as identified by the Localism Act 2011 (see Part 4).

Members of the public must not harass or be violent, abusive or threatening to councillors or officers and must comply with the procedures for public engagement at meetings. Any one causing a disturbance at a meeting will be removed from that meeting.

<sup>2</sup> See [Corporate Plan 2019-22](#) and [Norwich 2040 City Vision](#)

<sup>3</sup> See the [Legislative Reform \(Community Governance Reviews\) Order 2014](#)

<sup>4</sup> See the [Local Authorities \(Referendums\)\(Petitions\)\(England\) Regulations 2011](#)

## PART 2 - RESPONSIBILITY FOR FUNCTIONS

### 1. Principles of Decision Making

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

- a) take into account all relevant considerations and ignore those which are irrelevant
- b) compliance with finance, contract and all other procedure rules
- c) due consultation and proper advice is taken **at the earliest opportunity and** alternative options considered before decisions are reached
- d) impartiality and an absence of bias or pre-determination
- e) any interests are properly declared
- f) decisions are properly recorded and published
- g) decisions are proportionate to the desired outcome
- h) respect for human rights and equality impacts
- i) a presumption in favour of transparency and openness
- j) clarity of aims and desired outcomes
- k) due consideration of all available options
- l) reasons are given for decisions

**Commented [GW7]:** Words added at the request of the Constitution Working Party (CWP)

The Council, Cabinet, committees and officers will follow their relevant procedure rules, the schemes of delegation and the principles set out in this section when taking decisions.

### 2. Executive and Non-Executive Functions

Decisions taken by the council are divided by law into two types: Executive and Non-Executive.

Executive decisions relate to all of the council's functions that are not Full Council (or Non-Executive) functions. They include those Local Choice functions identified below as the responsibility of the Executive. Executive decisions are taken by the Leader, Cabinet, Cabinet committees or officers acting under delegated authority in accordance with, and in order to implement, the Budget and Policy Framework.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and subsequent regulations give effect to section 13 of the Local Government Act 2000 by specifying which functions are not the responsibility of the Executive; which may (but need not) be the responsibility of the Executive (Local Choice functions); and which are to some extent the responsibility of the Executive. All other functions not so specified are the responsibility of the Executive.

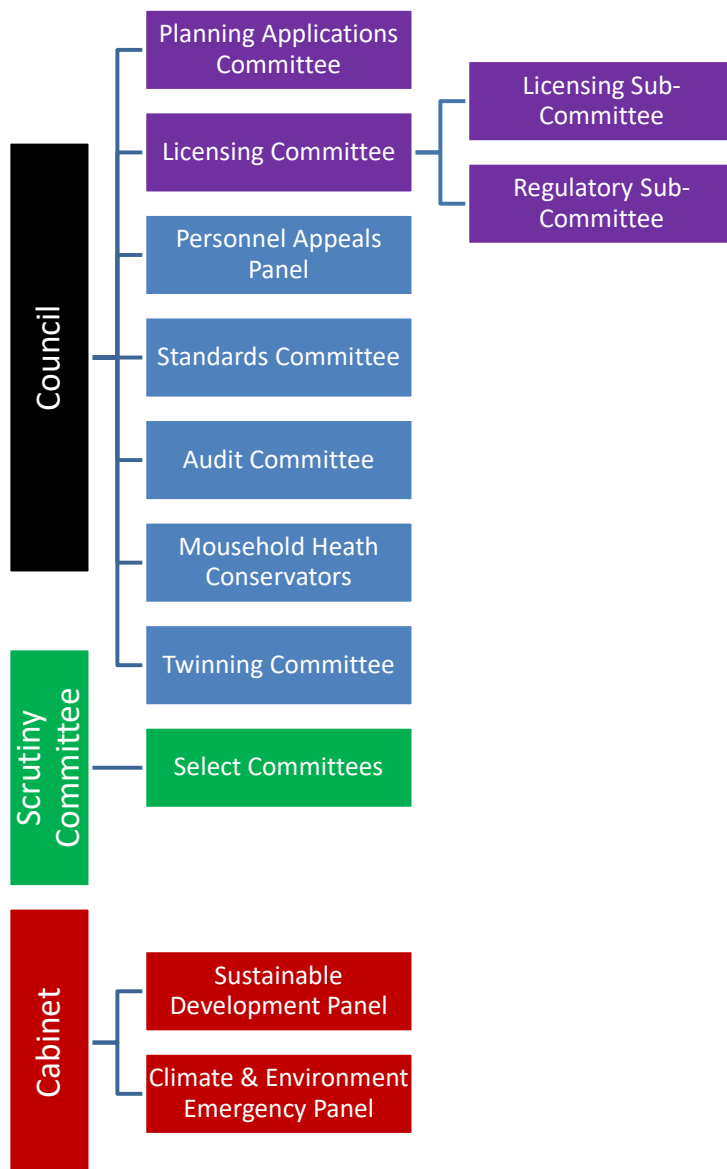
Non-Executive functions are powers and duties that under statute are not the responsibility of the Executive Leader or Cabinet. The power to exercise Non-Executive functions is either reserved to Full Council or delegated by Full Council to committees or officers, as set out below.

### 3. Decision-Making Arrangements

This Part sets out the functions and decision making arrangements for Full Council, Cabinet, committees and officers, makes clear how these distinctions are given effect and sets out the Local Choice functions by identifying:

- a) the responsibilities of Full Council and its committees
- b) the responsibilities of the Cabinet and its committees
- c) those functions which are not the responsibility of the Executive to a specified extent
- d) those functions which are delegated to an officer

### Committee Structure



#### 4. The Council

All councillors meet together a number of times each year as Full Council. There are five types of Full Council meeting:

- a) Annual meeting
- b) Budget meeting
- c) Ordinary meetings
- d) Extraordinary meetings
- e) Meetings required to be convened for a special purpose, e.g. for the appointment of honorary aldermen and alderwomen

Only the Council exercises the following functions:

- a) adopts and approves changes to the Constitution other than minor amendments (see Part 1 Section 1);
- b) adopts or amends the Budget and Policy Framework following recommendation from the Cabinet, other than minor amendments to policies (see Part 2 Section 7);
- c) subject to the urgency procedure below, makes decisions about any Cabinet proposal that is contrary to the Policy Framework or not wholly in accordance with the Budget;
- d) sets the Council Tax;
- e) appoints and removes the Executive Leader;
- f) appoints the Lord Mayor, Sheriff, chairs of the Scrutiny Committee and other committees;
- g) appoints or nominates representatives to joint authorities, joint committees and other outside bodies, unless the appointment or nomination is an Executive function or has been delegated by the Council;
- h) agrees and/or amends the composition, terms of reference and political balance of committees, other than those established by the Cabinet;
- i) determines whether Local Choice functions should be reserved to the Council or exercised by the Cabinet or officers acting under delegated powers;
- j) adopts a Members' Allowances Scheme (see Part 4)
- k) appoints/dismisses/designates the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, the Returning Officer and Electoral Registration Officer;
- l) determines the terms and conditions on which staff hold office (including procedures for their dismissal), unless otherwise delegated to a committee or officer;
- m) approves the council's response to any issues or proposals in relation to local government boundaries, including electoral wards and the conduct of elections;
- n) takes decisions relating to the name of the area;
- o) confers the title of Honorary Alderman/Alderwoman or Freedom of the City;
- p) agrees any payments or provides other benefits in cases of maladministration, etc;
- q) adopts the Member Code of Conduct and the Protocol for Member/Officer Relations;
- r) takes decisions in respect of Non-Executive functions that have not been delegated to committees, sub-committees or officers;
- s) approves Housing Land Transfers, i.e. authorises applications to the Secretary of State for land transfers of housing stock under sections 32, 43 and 106A and Schedule 3A Housing Act 1985, Leasehold Reform, Housing and Urban Development Act 1993;
- t) makes, amends, revokes, re-enacts or adopts bylaws;
- u) promotes or opposes the making of local legislation or personal bills;

- v) considers and debates public petitions submitted under the Petition Scheme (see Part 3);
- w) assigns officers in relation to requisitions of the registration officer;
- x) divides constituencies and wards into polling districts;
- y) holds elections;
- z) fills vacancies in the event of insufficient nominations;
- aa) declares vacancies in office in certain cases;
- bb) gives notice of a casual vacancy;
- cc) determines fees and conditions for supply of copies of, or extracts from, elections documents;
- dd) submits proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000;
- ee) approves the council's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be);
- ff) any function under a local Act other than a function specified in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
- gg) determines appeals against any decision made by or on behalf of the council;
- hh) appoints review boards under regulations under section 34(4) (determination of claims and reviews) of the Social Security Act 1998.

The council discharges these functions either itself or through committees and officers.

## 5. The Lord Mayor, Deputy Lord Mayor and Sheriff

The right to appoint a Lord Mayor is a relatively rare honour that is even less frequently bestowed than city status. Only 23 cities in England have Lord Mayors, of which Norwich is one. The word 'mayor' derives from the comparative "major" of the Latin word 'magnus' meaning 'great'. The first English Mayor was the Mayor of London, appointed in 1189 by Richard I.

In 1403 Henry IV gave Norwich the right to appoint a Lord Mayor and two Sheriffs. The Charter stated that:

*'the Mayor may have a sword carried erect before him in the presence of all magnates and lords except the King. The Sergeants-at-Mace of the Lord Mayor and Sheriff may carry gilt or silver maces with the King's Arms even before the King within the liberty.'*

Not many Lord Mayors or Mayors have the right to a sword and only a very few, have the right to carry maces erect in the presence of the Monarch.

The added dignity of the title 'Lord Mayor' was conferred by Edward VII in 1909 and confirmed in 1974 by Letters Patent. The Lord Mayor of Norwich is entitled to be called "The Right Worshipful".

In addition, Norwich is one of only 15 UK towns and cities to appoint a Sheriff. The office of Sheriff dates back to a Charter of Henry IV granted in 1403 which enabled the city to appoint two Sheriffs. This was reduced to one in 1835 by the Municipal Reform Act. Under the Letters Patent granted in 1974, the Sheriff is a 'local Officer of dignity' and, as such, holds purely ceremonial status within the city's life.

**Commented [GW8]:** New section added setting out the history and status of the Lord Mayor and Sheriff.



Members of the majority political group on the Council make the decision as to who is to become Sheriff. The appointment is made annually. The council may appoint a non-member of the council to the office. In the years when the Sheriff is a councillor then no appointment is made to the post of Deputy Lord Mayor.

The Lord Mayor's position is laid down by the Local Government Act 1972. This requires:

- a) that they shall be elected annually by the Council from among the councillors
- b) the term of office is for one year
- c) during their term of office they shall continue to be a member of the Council
- d) the Lord Mayor shall have precedence in all places in the district, but not so as to prejudicially affect Her Majesty's Royal prerogative
- e) the Council may pay to the Lord Mayor for the purpose of enabling them to meet the expenses of office such allowance as they think reasonable.

The Lord Mayor acts as Chair of the Council, and is non-political and non-executive during their term of office – this means they don't represent any political party while in the role and don't hold any decision making powers.

The Lord Mayor cannot preside at their own election. The Lord Mayor and Deputy Lord Mayor must be councillors. The Lord Mayor and Deputy Lord Mayor must not be members of the Cabinet.

In the absence of both the Lord Mayor and the Deputy Lord Mayor, members will elect a chair for the meeting concerned by a simple majority vote. The person presiding at the meeting may exercise any power or duty of the chair for that meeting. In so doing, they will act apolitically, impartially and in the interests of the whole council.

### **Chairing the Council Meeting**

The Lord Mayor and in their absence, either the Sheriff if a councillor or the Deputy Lord Mayor, have the following responsibilities:

- a) uphold and promote the purposes of the Constitution, and after receiving advice, to interpret the Constitution when necessary;
- b) promote public involvement in the council's activities;
- c) ensure that the council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
- d) represent the council as its civic head on ceremonial occasions at local, national and international events;
- e) ensure that meetings of Council are properly constituted and that a quorum is present;
- f) preserve order in the conduct of those present;
- g) preside over meetings of the council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- h) confine discussion within the scope of the meeting and reasonable limits to time;
- i) decide whether proposed motions and amendments are in order;
- j) decide points of order and other incidental questions that require decision;

- k) ascertain the sense of the meeting by:
  - (i) putting relevant questions to the meeting and taking a vote thereon
  - (ii) declaring the result
- l) causing a ballot to be taken if demanded;
- m) approve the draft minutes or other record of proceedings;
- n) adjourn the meeting with the consent of those present where circumstances justify it;
- o) declare the meeting closed when its business is complete.

## **6. The Cabinet**

The Council operates an Executive form of governance. This means that Full Council appoints an Executive Leader. The Leader then appoints between two and nine other councillors who, together with the Leader, form the Cabinet. The Cabinet is the part of the council that is responsible for most day-to-day decisions and carries out all of the council's functions that are not the responsibility of any other part of the council, whether by law or under this Constitution.

When major decisions are to be discussed or made, these are published in the Cabinet Notice (Forward Plan) in so far as they can be anticipated. If these major decisions are to be discussed with officers at a meeting of the Cabinet, this will generally be open for the public to attend except where exempt or confidential information matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the Budget or Policy Framework, this must be referred to the Council as a whole to decide.

### **Terms of Reference**

All functions of the council that are not reserved by law or by local choice as Non-Executive, are Executive functions. Except where the law otherwise provides, it is at the Leader's discretion to determine how decision-making in relation to Executive functions will be exercised.

The Leader may discharge any Executive functions personally or may arrange for the discharge of those functions by the Cabinet as a whole, by one or more other Cabinet members, by a committee of the Cabinet, by an officer or jointly with other bodies. In particular, the Leader may:

- a) allocate areas of responsibility to those members or bodies
- b) arrange for the discharge of Executive functions by himself, the Cabinet collectively, Cabinet committees, individual Cabinet members or officers
- c) determine the membership of Cabinet committees

As a general rule, matters of corporate policy and high level strategic matters will be determined by the Cabinet collectively and operational service matters will be determined by the Chief Executive (or relevant Director) in consultation with the Leader and/or relevant Cabinet Member, where appropriate. Where there is doubt, the Leader will decide.

The Cabinet undertakes all Executive functions (except those delegated under arrangements described in Part 2 Section 13), including:

- a) proposing plans and strategies to the Council to approve and adopt, including the

overall Budget, the Policy Framework, changes to the Constitution and arrangements for the good governance of the authority;

- b) publishing in the Cabinet Notice (Forward Plan) all decisions by Cabinet and Key Decisions to be made by officers;
- c) establishing committees to discharge specific Executive functions, or establishing working groups or panels to review or advise on specific issues;
- d) representing the council locally, nationally and internationally;
- e) attending meetings of the Scrutiny Committee as and when required to do so;
- f) agreeing the acquisition and disposal of property and the management of the council's land holdings (other than Housing Land Transfers);
- g) exercising the powers and duties of the council in respect of leisure, libraries, museums, consumer protection and environmental health;
- h) acting as the waste collection authority;
- i) agreeing protocols for consultation and relations with outside bodies;
- j) exercising the "local choice" functions listed in Part 2 Section 10;
- k) establishing appropriate arrangements for the delivery of cross-cutting/cross departmental functions;
- l) receiving reports and recommendations from the Scrutiny Committee and Select Committees.

### Forward Plan (Cabinet Notice)

There is a statutory requirement to publish the intention to take any Key Decision at least 28 clear days in advance of it being taken, except in cases of general exception or special urgency. There is also a requirement to publish at least 28 clear days in advance if any meeting, or part thereof, is likely to consider in private a Key Decision or any other executive decision even if not a Key Decision. Both these requirements are achieved through the Forward Plan (otherwise described as the Cabinet Notice).

The Cabinet Notice enables elected members, members of the public and the Scrutiny Committee to consider which items they wish to examine and consider in good time before they are determined.

The Cabinet Notice is updated and published as a minimum monthly and covers all decisions proposed to be made by the Cabinet and Key Decisions made by officers acting under delegated authority. Not all decisions will be known in advance and so notice of decisions will be included on the Cabinet Notice as soon as they become known.

### Key Decisions

A 'Key Decision' means an Executive decision that is likely to:

- a) result in the council incurring expenditure or making savings of £500k or more (calculated on a whole life basis) ; or
- b) be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Norwich city area.

A decision-maker may only take a Key Decision in accordance with the requirements of the procedure rules (see Part 3) and the Access to Information Rules (see Part 4).

In considering whether a decision is likely to be 'significant', the decision-maker should consider the strategic nature of the decision and whether the outcome will have an impact,

**Commented [GW9]:** New financial threshold, as agreed by Cabinet and the CWP. Decisions below £500k are officer decisions. Decisions between £200k - £499k are taken in consultation with the relevant Portfolio Holder. Any decision below £200k will be an officer decision with a requirement to record the decision and notify the Ward member.

for better or worse, on the amenity of a community or quality of service provided by the council to a significant number of people living or working in the locality affected. The following should be considered:

- a) the effect on businesses and communities
- b) the expectation of the public and councillors as to whether the decision should be taken by the Cabinet
- c) the anticipated interest of the public and of councillors
- d) the effect on other council services and functions

Where a Cabinet decision has been made and:

- a) was not treated as being a Key Decision, and,
- b) the Scrutiny Committee is of the opinion that the decision should have been treated as a Key Decision;

The Scrutiny Committee may require Cabinet to report to Full Council within such reasonable period as the committee may specify, including details of the:

- a) decision and the reasons for the decision;
- b) reasons Cabinet is of the opinion that the decision was not a Key Decision

#### **General Exception Decisions and Urgent Decisions**

Sometimes it is impracticable to include the intention to make a Key Decision on the Cabinet Notice (Forward Plan), but there is still time to give advance public notice. Such a decision may still be made in accordance with the general exception procedure if three conditions are fulfilled:

- a) The Monitoring Officer must inform (by written notice) the Chair of the Scrutiny Committee, or if there is no such person, each member of that committee, of the matter about which the decision is to be made;
- b) A copy of such notice must be placed on the website and made available for public inspection at City Hall;
- c) Five clear days must have elapsed, not counting the day upon which the copy notice was given.

As soon as practicable, the Monitoring Officer will make available a notice setting out the reasons why it was impracticable for notice of the intended decision to appear in the Cabinet Notice and to publish that notice on the website.

Sometimes even reduced public notice cannot be given and decisions need to be made urgently outside the usual process, e.g. reducing the pre-decision notification time. Urgency in these cases is defined as cases where the council will be significantly disadvantaged by a delay. Where these provisions are used, clear explanations must be made in the written reports.

In accordance with Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, if less than five clear days' notice of a Key Decision has to be given, or if an item has not appeared in the Cabinet Notice and a decision needs to be taken before the next edition of the Cabinet Notice is published, then the agreement of the chair of the Scrutiny Committee (or, in their absence, the Lord Mayor

or, in their absence, the Deputy Lord Mayor) that the making of the decision is urgent and cannot reasonably be deferred must be obtained in writing before the decision can be made. Their views must be included in the report alongside the explanation as to why the matter is urgent, why it cannot await the next edition of the Cabinet Notice and why it missed the last edition of the Cabinet Notice.

In either case, the chair of Corporate Scrutiny Committee must report on such consultations/agreements at the next meeting of the Scrutiny Committee.

Following the taking of an urgent decision, the Leader will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why it was treated as urgent.

### **Cabinet Proceedings**

Proceedings of the Cabinet take place in accordance with the Procedure Rules set out in Part 3.

Cabinet meetings are held at a time and place determined by the Cabinet. Cabinet Meetings are held in public unless the law requires or, where lawfully allowed, Cabinet decides it is expedient to exclude the press and public.

Cabinet meeting agendas are determined by the Leader, in consultation with relevant chief officers. Items will only be placed on the agenda if they have appeared on the Cabinet Notice (Forward Plan), unless the general notice or special urgency provisions apply in exceptional circumstances.

The quorum of the Cabinet is three. Voting is by a show of hands. A simple majority prevails and in the event of a tied vote the chair may exercise a second or casting vote.

Members of the public have the right to ask questions at each ordinary Cabinet meeting.

Members of the council may ask questions about budget and policy at a strategic level, and will be given an opportunity to speak on each item before the vote is taken.

### **Executive Leader**

The Executive Leader is a councillor elected at the first Annual Meeting of the Full Council after election and holds office until the day of the Annual Meeting of the Full Council after their next election unless, at an earlier date:

- a) they resign from office
- b) they are disqualified from office
- c) the expiry of their fixed term, i.e. the date of the post-election Annual Meeting that follows four years after their election as Leader
- d) they are removed from office by Full Council resolution

If the council passes a resolution to remove the Leader, a new Leader is elected either at the meeting at which the Leader is removed from office or at a subsequent meeting.

If a vacancy in the office of Leader arises for the reasons set out at (a) or (b) above, a new Leader is elected at the next scheduled meeting of Full Council or at an Extraordinary

Meeting of the council.

The Leader, or when absent, the Deputy Leader, will chair Cabinet meetings. Otherwise, members present will elect a chair for that meeting.

### **Deputy Leader**

The Leader must appoint at least one of the Cabinet Members as Deputy Leader<sup>5</sup>, who holds office until the end of the Leader's term of office, unless at an earlier date they:

- a) resign as Deputy Leader
- b) cease to be a councillor
- c) are removed from office by the Leader

Where a vacancy occurs, the Leader must appoint another Deputy Leader.

In the absence of the Leader, the Deputy Leader exercises the Leader's powers in respect of portfolio responsibilities, but not the functions conferred by statute solely on the Leader, such as appointing or removing Cabinet Members or objecting to senior officer appointments and dismissals.

When the Leader ceases to be Executive Leader, the Deputy Leader reverts to being an ordinary member of Cabinet, rather than stepping up for the interregnum before a new Executive Leader is elected by Council.

If, for any reason, both the Leader and Deputy Leader are unable to act or both offices become vacant, the Cabinet must act in the Leader's place or arrange for another Cabinet Member to act in their place until the Lord Mayor can call a meeting of Full Council to elect a new Executive Leader.

### **Other Cabinet Members**

Cabinet Members shall be appointed by the Leader from among the councillors. Cabinet Members shall hold office until the commencement of the next following Annual Meeting of the Council unless or until:

- a) they resign from office
- b) they are no longer a councillor
- c) the expiry date of their term of office (i.e. at the date of the Annual Meeting of the council in any year) save that the Leader may remove a Cabinet Member from office at an earlier date

No substitution arrangements will apply to the Cabinet, and neither the Lord Mayor nor Sheriff or Deputy Lord Mayor may be appointed to the Cabinet.

### **Role of Cabinet Members**

Cabinet members will undertake the following roles which are in addition to the general role of the councillor set out in this Constitution:

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<sup>5</sup> Sch.3 para.8 Local Government and Public Involvement in Health Act 2007

- a) Promote the objectives and values of the council.
- b) Ensure that new policies are developed and presented to the Cabinet within the overall strategic approach of the council after full consultation with external stakeholders, (where appropriate), the Scrutiny Committee and fellow Cabinet members.
- c) Liaise with the corporate leadership team on the need to develop policy issues and the timing thereof.
- d) Contribute to the effective decision making of the Cabinet.
- e) Act as a public spokesperson for the council within agreed parameters within the portfolio area of responsibility and in accordance with the Code of Recommended Practice on Local Authority Publicity.
- f) Assist in promoting reports produced by officers to the Cabinet and to attend Scrutiny Committee as required to answer questions from members and the public, to report and comment on items which concern the relevant Cabinet member or when an item is called in.
- g) Serve on best value service review panels when areas within the Cabinet member's remit are under review.
- h) Respond on behalf of the council to relevant consultation documents after consulting with Scrutiny Committee wherever appropriate.
- i) Aid the council in pursuing its defined community leadership role.
- j) Respond to recommendations from the Scrutiny Committee.

**Commented [GW10]:** Words added at the request of the CWP.

### Cabinet Portfolios

Corporate Plan priority	Corporate strategy	Great neighbourhoods, housing and local environment		Inclusive growth		People living well		Corporate resources
Cabinet portfolio	Executive Leader – Alan Waters	Deputy Leader and social housing - Gail Harris	Safe and Sustainable City Environment - Kevin Maguire	Sustainable and Inclusive growth - Mike Stonard	Social Inclusion - Karen Davis	Safer, Stronger Neighbourhoods - Beth Jones	Health and wellbeing - Matthew Packer	Resources - Paul Kendrick
Key responsibilities	<ul style="list-style-type: none"> <li>• Championing the city and city vision</li> <li>• Corporate strategy and policy</li> <li>• Economic development strategy</li> <li>• Cultural strategy</li> <li>• Strategic partnerships</li> <li>• Council performance</li> <li>• Marketing and communications</li> <li>• Transformation</li> <li>• Organisational development and HR</li> </ul>	<ul style="list-style-type: none"> <li>• Housing need and public housing strategy</li> <li>• Homelessness and housing allocations</li> <li>• Housing property management and investment</li> <li>• Tenant support and development</li> <li>• Leaseholder liaison</li> <li>• New council housing</li> <li>• Customer access</li> <li>• Customer services</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental strategy and climate change</li> <li>• Affordable warmth and energy efficiency</li> <li>• Enforcement including: <ul style="list-style-type: none"> <li>- Environmental protection</li> <li>- Licensing and the night time economy</li> <li>- Public protection</li> <li>- Food safety</li> <li>- Graffiti removal</li> <li>- Antisocial behaviour</li> </ul> </li> <li>• Emergency planning</li> <li>• Waste strategy</li> <li>• Clean streets, refuse and recycling</li> </ul>	<ul style="list-style-type: none"> <li>• Local Plan, planning and sustainable development</li> <li>• Sustainable transport – cycling and walking</li> <li>• Parking</li> <li>• Promoting growth and city development</li> <li>• Site promotion and development (council and private)</li> <li>• Business growth and skills development</li> <li>• Business liaison and growth</li> <li>• Commercial investment portfolio development</li> <li>• Commercialisation</li> <li>• Heritage access and development</li> </ul>	<ul style="list-style-type: none"> <li>• Financial and social inclusion</li> <li>• Living wage</li> <li>• Equality and diversity</li> <li>• Housing benefits</li> <li>• Council tax reduction scheme</li> <li>• Food poverty and food security</li> <li>• Fuel poverty</li> <li>• Digital inclusion</li> </ul>	<ul style="list-style-type: none"> <li>• Housing need and private sector housing strategy</li> <li>• Safeguarding including: <ul style="list-style-type: none"> <li>- Safeguarding adults and children</li> <li>- Tackling domestic abuse</li> <li>- Early help</li> </ul> </li> <li>• Neighbourhood development including: <ul style="list-style-type: none"> <li>- Community enabling</li> <li>- Co-operative and social enterprise development</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Health and wellbeing</li> <li>• Sport and leisure</li> <li>• Promoting healthy activities</li> <li>• The Halls and community centres</li> <li>• Markets</li> <li>• Parks and play areas</li> <li>• Trees and open spaces</li> <li>• Allotments</li> <li>• Cemeteries</li> <li>• Biodiversity</li> </ul>	<ul style="list-style-type: none"> <li>• Financial and investment management</li> <li>• Property and asset management</li> <li>• Revenues</li> <li>• Legal services</li> <li>• Democratic services, elections and member development</li> <li>• Procurement</li> <li>• ICT and information governance (data protection and FOI)</li> </ul>



			<ul style="list-style-type: none"> <li>• Rough sleeping strategy</li> </ul>					
<b>Memberships</b>	<ul style="list-style-type: none"> <li>• Greater Norwich Growth Board</li> <li>• Local Enterprise Partnership Board</li> <li>• Local Government Association (General Assembly)</li> <li>• Local Government Association (Norfolk Branch)</li> <li>• Norwich BID</li> <li>• Norwich International Airport Board</li> <li>• Strategic Board of the Norwich and HCA Strategic Partnership</li> <li>• Pension Committee member</li> <li>• Greater Norwich Development Partnership</li> <li>• Key cities</li> <li>• Fast growth cities</li> <li>• Arts Council</li> <li>• National Centre for Writing</li> </ul>	<ul style="list-style-type: none"> <li>• iESE Board member</li> <li>• Local Government Information Unit</li> <li>• Association of Retained Council Housing</li> <li>• Norwich Norse (Building) Company Board</li> <li>• Forum Trust Board</li> <li>• Norwich Norse (Building) Stakeholder Panel</li> </ul>	<ul style="list-style-type: none"> <li>• Norfolk Police and Crime Panel</li> <li>• Norwich Norse (Environmental) Company Board</li> <li>• Greater Norwich Development Partnership</li> <li>• Joint Norfolk Waste Partnership</li> <li>• NEWS Board</li> </ul>	<ul style="list-style-type: none"> <li>• River Wensum Strategy Group</li> <li>• Sustainable Development Panel</li> <li>• Chair of Norwich Regeneration Company Board</li> <li>• Greater Norwich Development Partnership</li> <li>• Central Norfolk Building Control Partnership (CNC)</li> <li>• CNC Board</li> <li>• Duty to Cooperate</li> <li>• LEP Deputy</li> <li>• Transport for Norwich</li> <li>• Norwich City New Co Board</li> </ul>	<ul style="list-style-type: none"> <li>• Older Peoples Forum</li> <li>• Norfolk Health and Wellbeing Board</li> </ul>	<ul style="list-style-type: none"> <li>• iESE shareholder</li> <li>• CCIN</li> <li>• Mental Health Champion</li> </ul>		<ul style="list-style-type: none"> <li>• NPS (Norwich) Company Board</li> <li>• NP Law Board</li> <li>• LGSS Partner Liaison Board</li> <li>• Norwich Regeneration Company Board</li> <li>• Norwich City New Co Board</li> <li>• Director of Three Score Open Spaces Management Company</li> </ul>

## **Executive Panels**

### **Climate Emergency and Environment Panel (CEEP)**

On 23 July 2019, the Council resolved to set up a Climate Emergency and Environment Executive Panel to:

- a) consider climate change and sustainability including social and economic issues in both the short and the long term in order to gather information and generate reports to advise Cabinet on:
  - (i) their work to make the city of Norwich carbon neutral as soon as possible, considering both production and consumption emissions
  - (ii) the continuation and expansion of its work of building climate-change resilient social housing
  - (iii) their continued promotion of climate-change resilient planning and building
  - (iv) working with other local authorities to determine and implement best practice methods to limit global warming to less than 1.5°C;
  - (v) continuing and expanding their work with partners across the city and region to deliver this new goal through all relevant strategies and plans, framed by the 2040 City Vision
- b) consider:
  - (i) what the council is doing now
  - (ii) what it plans to do
  - (iii) what it might do
  - (iv) what other partners could do and which other partners or agencies could help us
  - (v) actions needed to be facilitated by or legislated for Government to enhance local action and lobby government to give these effect
  - (vi) report directly to and advise Cabinet including judgements on deliverability and prioritisation and
  - (vii) have the power to ask for reports from officers and other outside experts in order to help with their recommendations to Cabinet
- c) monitor the progress of the council's environmental strategy and carbon management programme
- d) consider how the council's environmental strategy, carbon reduction programme and associated policies tackle the issues of climate change, carbon reduction and sustainable development
- e) oversee the implementation of the action plan for the integrated waste management strategy
- f) develop specific environmental strategies, including trees, parks, play areas and natural areas
- g) be drawn from all parties in a politically balanced manner and composed of 7 members
- h) hold meetings in public

### **Sustainable Development Panel**

Following its formation in 2011, on 13 November 2019 the Council revised the terms of reference for the Sustainable Development Panel to consider and make recommendations to Cabinet or any relevant committee/body on sustainability issues facing the council, including:

- a) an overview of government policy relating to sustainable development and the

- implications for the council and the city
- b) preparation and implementation of planning policy including Local Development Framework
- c) responses to relevant planning consultations
- d) issues arising from the implementation and monitoring of planning policies
- e) the council's position and response to transport policy and strategy development, including the Norwich Area Transportation Strategy
- f) the development of specific sustainable transport initiatives

## **7. Budget and Policy Framework Rules**

### **Policy Framework**

The council has a list of plans and strategies that are relevant to its functions, known as a Policy Framework. This is required by law to be decided by Full Council, usually on the recommendation of the Cabinet. It consists of the following:

- (i) Corporate Plan (the overarching Policy Framework)
- (ii) Local Development Framework;
- (iii) Licensing Policy
- (iv) Gambling Policy

### **Budget**

The Budget is the identification and allocation of financial resources by Full Council, including:

- (i) the allocation of financial resources to different services and projects
- (ii) proposed contingency funds
- (iii) the council tax base
- (iv) setting the council tax
- (v) treasury management
- (vi) approval of the capital and investment strategy
- (vii) decisions relating to the control of the council's borrowing requirement
- (viii) agreement of the capital programme and the Medium Term Financial Strategy
- (ix) any limitations to, conditions on, or rules governing the management of budgets, virement between budgets, treatment of underspends, windfall income or reserves contained within the Financial Regulations

### **Housing Land Transfer**

Housing Land Transfer means:

- (i) the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or
- (ii) to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985

## **Process for Developing the Policy Framework**

The Cabinet will publicise, by including in the Cabinet Notice (Forward Plan) and any other appropriate means, a timetable for making proposals to Full Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework and any arrangements for consultation after publication of those initial proposals.

Each year, a draft Corporate Plan will be prepared, setting out the overall strategic direction of the council including its vision, priorities and values. The plan guides everything the council will do for the City, its residents and visitors for the period. It therefore acts as the overarching Policy Framework of the council.

The draft Corporate Plan is drawn up in line with the council's Medium Term Financial Strategy and in parallel to the development of the Budget for the period to ensure the necessary resources are in place for its delivery.

The draft Corporate Plan will be subject to discussion with the Scrutiny Committee, before being submitted, along with the comments and recommendations of the Scrutiny Committee, to Cabinet for consideration. Cabinet will then present the draft Corporate Plan to Full Council for approval, along with the draft Budget for the coming year.

The draft Corporate Plan is underpinned by a range of supporting strategic, service and operational plans, which set out in more detail how the council's vision and priorities will be delivered. These plans contain more specific targets, which are allocated to teams, contractors and employees to deliver.

Progress against targets is monitored and reviewed regularly through the council's performance management framework. Overall progress on delivering the Corporate Plan is formally reported quarterly to the Cabinet and Scrutiny Committee. The council also publishes an overall performance review as part of its statement of the accounts.

The Corporate Plan also links closely to the council's risk management strategy and corporate risk register. The council has a comprehensive approach to risk management which ensures that all strategic risks are appropriately identified, managed and mitigated against.

## **Consideration by Cabinet/Council**

In time for the annual Budget council meeting of the financial year, the Cabinet will receive:

- (i) the draft Corporate Plan together with the views of the Scrutiny Committee;
- (ii) a report from the Chief Finance Officer setting out a statement of the likely Budget out-turn for the year, a forecast of the Budget requirement and resources for the forthcoming year, and any recommendations with regard to the management of the council's financial affairs.

The Cabinet will undertake the statutory consultation on the Budget with the business community, together with such other such consultation as they see fit.

The Cabinet may make recommendations to Council about the council's resources and expenditure, and measures to be taken to ensure a balanced Budget in the forthcoming year, or may leave it to the Council to determine on the basis of the report from the Chief Finance Officer.

The Cabinet will, if necessary, amend the draft Corporate Plan, which will form the council's overarching Policy Framework.

The council will consider the draft Policy Framework and may adopt, amend, add to or refer all or part back to the Cabinet for further consideration, or indicate that it wishes to substitute its own proposals in their place.

If it accepts the recommendation of the Cabinet without amendment or is formally setting the Budget or Council Tax levels for a financial year, Full Council may make a decision that has immediate effect. Otherwise, it may only make an in-principle decision.

An in-principle decision in relation to the Budget, plan or strategy will automatically become effective after the expiry of five working days beginning on the day after the date when the Leader is informed of Full Council's objections, unless the Leader informs the Monitoring Officer in writing, within that five working day period that they object to the decision becoming effective and provides reasons why. The Leader may also decide to call a special meeting of the Cabinet to discuss the issue.

Upon receiving written notification from the Leader, the Monitoring Officer will arrange to call a Full Council meeting within a further seven working days. Full Council will reconsider its decision and the Leader's written submissions and may:

- (i) Approve the Cabinet recommendation or
- (ii) Approve a different decision that does not accord with the recommendations of the Cabinet

The decision shall then be made public and implemented immediately.

### **Decisions Outside the Budget and Policy Framework**

Cabinet functions are undertaken either by the Cabinet acting collectively or are delegated to officers. Subject to the virement and the urgency provisions below, the Leader, Cabinet or those acting under delegated arrangements may only take decisions that are in line with the Budget and Policy Framework.

The Cabinet will meet to take decisions collectively on the basis of reports and recommendations prepared by the corporate leadership team who will ensure that the Monitoring Officer and Chief Finance Officer are consulted as required. The Monitoring Officer and Chief Finance Officer will advise the Chief Executive and subsequently the Cabinet of any matter which appears to be contrary to or not in accordance with the Budget and Policy Framework.

If the Leader, Cabinet or those acting under delegated arrangements wish to make a decision

that is contrary to the Budget or Policy Framework, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer. If the advice of either of those officers is that the decision would not be in line with the Budget and/or Policy Framework, then the decision must be referred to Full Council, unless any of the exceptions below apply.

Executive functions can only be undertaken within the approved Budget and Policy Framework unless:

- (i) the Cabinet is approving annual plans or strategies which operate to a different cycle and timescale and are being updated and submitted following consultation;
- (ii) immediate action is needed to comply with the law, ministerial or equivalent direction, or government guidance;
- (iii) action is needed urgently and the chair of Scrutiny Committee (or, in their absence, the Lord Mayor) agrees and also agrees that it is not practicable to convene a quorate meeting of the council.

#### **Urgent Decisions Outside the Budget or Policy Framework**

The Leader, Cabinet or those acting under delegated arrangements may take an urgent decision that is contrary to the Budget or Policy Framework if:

- a) it is not practical to convene a quorate meeting of the Full Council and
- b) the chair of Scrutiny Committee has given a written statement agreeing that the decision needs to be made as a matter of urgency

The reasons why it is not practical to convene a quorate meeting of Full Council and the chair of Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.

In the absence of the chair of Scrutiny Committee, the consent of the Lord Mayor should be obtained. If the Lord Mayor is also absent, such consent should be obtained from the Deputy Lord Mayor of the Council. The decision cannot otherwise be taken, and delay will result until Full Council makes the determination.

Following the taking of an urgent decision, the decision-maker will provide a full report to the next available Full Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

If any councillor is concerned that an employee has taken, or proposes to take, a decision or action contrary to the Budget and Policy Framework, the matter must be referred in the first instance to the Chief Executive to deal with as a matter of management and discipline. If the councillor's concern persists, the matter should be referred to the chair of Scrutiny Committee to discuss with the Chief Executive and, if necessary, the Monitoring Officer.

#### **Virement**

Detailed provisions concerning virement across budget heads are set out in the council's Financial Regulations (see Part 4).

### **In-year changes to the Policy Framework**

No changes to any policy or strategy which make up the Policy Framework may be made by the Leader, Cabinet or those acting under delegated authority except those changes:

- a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint, or
- b) necessary to ensure compliance with the law, ministerial direction or government guidance, or
- c) in respect of a policy that would normally be agreed annually by Full Council following consultation, but where the existing policy document is silent on the matter under consideration

A plan or strategy within the Policy Framework may be amended by the relevant Director where it is considered, in the opinion of the Monitoring Officer and the Chief Executive (after consultation with the Leader and relevant Cabinet member), not to be contrary to the principles of the plan or strategy and can be contained within the approved budget. Such an amendment does not require the approval of Full Council.

### **8. Terms of Reference of Committees and Boards**

#### **Appointment of Committees/Terms of Office**

Legislation excludes specific issues from being Executive decisions, including the council's overall Budget and Policy Framework, quasi-judicial matters (such as planning and licensing applications) and issues related to staffing, audit and standards. The Council has established the following regulatory committees and panels to deal with these areas:

- a) Audit Committee
- b) Licensing Committee
- c) Household Heath Conservators
- d) Personnel Appeals Panel
- e) Planning Applications Committee
- f) Standards Committee

Full Council determines the number and terms of reference and allocates the number of places on each committee to each political group. The political groups then nominate the members to serve on committees or sub-committees.

The quorum of a meeting of the council, committee or sub-committee will be one quarter of the whole number of voting members of that body, with the exceptions of Audit Committee, Cabinet and Scrutiny Committee (four voting members); and Standards Committee (three voting members).

Members, once confirmed as members of a committee or sub-committee, continue to hold office until they:

- a) resign
- b) cease to be members of the council (unless re-elected for a further term)
- c) are removed from membership by the council or their political group

Once appointed, committees continue in office until the council appoints a successor committee or resolves the committee ceases.

## Audit Committee

Membership of the Audit Committee shall comprise 8 members appointed by the Council (excluding Cabinet members). Additionally, up to two independent non-voting co-opted members may be appointed on the basis of their skill, knowledge, qualification and experience relevant to the role of the committee.

The chair of the committee is elected by the council and the vice-chair is appointed by the committee.

Within the policies laid down by the council and within the Corporate Plan to exercise the following powers of the council:

### Corporate governance

1. Review the effectiveness of internal control across the council and the adequacy of actions taken to address any weaknesses or control failures.
2. Consider the adequacy and effectiveness of the council's arrangements for the identification and management of the organisation's business risks; including the risk management policy, strategy and risk register.
3. Receive and consider regular reports at least twice a year on the risk environment, corporate risk register and associated management actions.
4. Review and ensure the adequacy of the council's anti-fraud and corruption policy and strategy and the effectiveness of their application.
5. Review and ensure that adequate arrangements are established and operating to deal with situations of suspected or actual fraud and corruption.
6. Review, consider and agree the Annual Governance Statement, including the adequacy of the corporate governance framework and improvement action plan contained within it.
7. Receive periodic updates on improvement actions taken.

### Internal and external audit

8. Approve the internal audit charter.
9. Approve and monitor delivery of the internal audit strategy.
10. Consider, endorse and monitor delivery of the internal audit annual work programme, including any significant in-year changes to the programme or resource requirements.
11. Ensure adequate resourcing of the internal audit function, approving any significant additional consulting services requested from internal audit not already included in the internal audit annual work programme.
12. Receive and consider the annual internal audit report and opinion on behalf of the council.
13. Oversee the annual review of the effectiveness of the system of internal audit, to include

**Commented [GW11]:** Words added at the request of the CWP.

**Commented [GW12]:** Provision included for the possibility of appointing appropriate non-voting co-opted members, in accordance with CIPFA/SOLACE guidance.

**Commented [GW13]:** Words added at the request of the CWP.



the performance of the internal audit function, compliance with standards and delivery of improvement actions.

14. Contribute to the external quality assessment of internal audit that takes place every five years.
15. Commission work from internal and external audit and consider the resulting reports.
16. Comment on the scope and depth of external audit work and ensure it gives value for money.
17. Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
18. Seek assurance that action has been taken to implement the recommendations arising from the findings of significant audit and inspection work.

#### **Statement of accounts**

19. Discuss the annual audit plan for the audit of the financial statements with external audit.
20. Consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
21. Review and approve the annual statement of accounts, including subsequent amendments on behalf of the council.

#### **Referral powers**

22. Make recommendations for due consideration on all matters described above.  
Recommendations relating to all paragraphs except 9-10 and 12-21 shall be made to the Cabinet and Chief Finance Officer. Recommendations relating to paragraphs 9-10 and 12-21 shall be made to the Chief Finance Officer.

**Commented [GW14]:** Words added at the request of the CWP.

#### **Accountability arrangements**

23. Report to those charged with governance on the committee's findings, conclusions and recommendations concerning the effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.
24. Report to full council on the committee's performance in relation to the terms of reference and effectiveness of the committee in meeting its purpose.

#### **Licensing Committee**

Within the policies laid down by the council and within the Corporate Plan to exercise the following powers of the council:

##### Licensing Act 2003

1. issue Premises Licences under the Licensing Act 2003
2. issue Club Premises Certificates under the Licensing Act 2003
3. issue Counter Notices (Temporary Event Notice) under the Licensing Act 2003
4. issue Personal Licences under Licensing Act 2003

5. take enforcement proceedings under the Licensing Act 2003
6. issue Section 24 Permits under the Gaming Act 1968 in respect of premises where the supply of alcohol is authorised under the Licensing Act 2003

#### Gambling Act 2005

7. All powers under the Gaming Act 2005 other than those reserved to the council

#### Other regulatory functions

8. issue licenses authorising the use of land as a caravan site (site licences)
9. license the use of moveable dwellings and camping sites
10. license hackney carriages and drivers and private hire vehicles and drivers and private hire operators
11. regulate hackney carriage fares
12. issue permits for the operation of minibuses
13. register pool promoters
14. grant track betting licences
15. license inter-track betting schemes
16. register societies wishing to promote lotteries
17. issue Section 34 Permits under the Gaming Act 1968 in respect of premises where the supply of alcohol is not authorised under the Licensing Act 2003
18. license sex establishments
19. license performances of hypnotism
20. license premises for acupuncture, tattooing, ear piercing and electrolysis
21. license pleasure boats and pleasure vessels
22. license market and street trading
23. license dealers in game and the killing and selling of game
24. register and license premises for the preparation of food
25. license scrap yards
26. license premises for the breeding of dogs
27. license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business
28. license zoos
29. license dangerous wild animals
30. license guard dogs
31. license slaughter houses and knackers' yards
32. license houses in multiple occupation (HMOs)
33. license to collect for charitable and other causes
34. functions under any "relevant statutory provision" within the meaning of Part 1 (Health, Safety, and Welfare in Connection with Work, and Control of Dangerous Substances) of the Health and Safety at Work, etc, Act 1974
35. Any function relating to contaminated land
36. control pollution
37. protect important hedgerows
38. serve abatement notice in respect of statutory nuisance
39. resolve that Schedule 2 to the Noise and Statutory Noise Act 1993 is to apply in the authority's area

40. inspect area to detect statutory nuisance
41. investigate statutory nuisance complaints
42. grant consent for the operation of a loudspeaker
43. issue street litter control notices
44. enforcement of legislation relating to straw and stubble burning, etc
45. license the placing of facilities on the highway for recreation or refreshment

The election of the chair is made at the Annual Council meeting. The Annual Council meeting also determines the number of members on the committee, which may vary from year to year.

### **Licensing Sub-Committee**

Determines licensing functions in accordance with the council's Licensing Policy, Statement of Gambling Policy and Statement of Sex Establishments.

Applications considered by the Licensing Sub-Committee are subject to the Licensing Act 2003 (Hearings) Regulations 2005.

Three members from the pool of Licensing Committee members are appointed to the Licensing Sub-Committee.

The sub-committee meets on an ad-hoc basis and must comply with the statutory hearing regulations.

### **Regulatory Sub-Committee**

Determines consideration of licences or the issue of permits in relation to Hackney and private drivers' vehicles and licences, and other regulatory functions under the terms of the Licensing Committee that are outside the remit of the Licensing Sub-Committee, such as structures on the highway and charitable collections.

Five members from the pool of Licensing Committee members are appointed to the Regulatory Sub-Committee.

The sub-committee meets monthly and must comply with the statutory hearing regulations.

### **Personnel Appeals Panel**

To hear appeals against written warnings and dismissals issued through the council's disciplinary procedure, and to hear appeals against grievance which have reached the final stage of the council's grievance procedure.

### **Mousehold Heath Conservators**

Mousehold Heath was given to Norwich City Council in 1880 by the church to look after on behalf of the citizens of Norwich. The City of Norwich, Mousehold Heath, Scheme Confirmation Act 1884 established the Mousehold Heath Conservators to maintain and preserve Mousehold Heath.

The Norwich City Council Act 1984 made further provision for the preservation and maintenance of Mousehold Heath by the Mousehold Heath Conservators.

There are 12 Conservators appointed every three years as follows: 9 appointed by the Council (at least 7 of whom must be councillors), 1 from the Mousehold Heath Defenders, 1 from the Norwich Society and 1 appointed by an organisation interested in the conservation of the environment in the city.

The Mousehold Heath Conservators meet four times a year and cover the costs of managing the heath through a precept to the Council, which may include:

- a) executing works of drainage and improvement of the heath
- b) ornamenting the heath, planting trees and enclosing them with fences of a character not likely to injure animals turned out onto the heath
- c) maintaining footpaths and providing seats for the public on the heath
- d) enclosing portions of the heath for periods not exceeding six days at a time for the protection and renewal of the herbage thereon
- e) setting apart any part of the heath for games
- f) enclosing any games area with posts and chains or fences
- g) prohibiting or prescribing times for the playing of games on the heath
- h) permitting temporary enclosures to be made and tents or booths to be erected
- i) making bylaws

### **Planning Applications Committee**

Within the policies laid down by the council and within the Corporate Plan to exercise the following powers of the council:

1. determine applications for planning permission
2. grant or refuse planning permission for development without complying with conditions to which previous planning permission is subject
3. grant consent for the display of advertisements
4. grant listed building consent
5. grant conservation area consent
6. grant hazardous substances consent
7. confirm and revoke tree preservation orders
8. dispense with duty to replace trees
9. enforce duty to replace trees
10. dispense with duty to replace trees in conservation areas
11. enforce duty to replace trees in conservation areas
12. grant consent under a tree preservation order
13. give directions as to the replanting of land
14. require information as to interests in land
15. serve a planning contravention notice, breach of condition notice or stop notice
16. issue an enforcement notice
17. apply for an injunction restraining a breach of planning control
18. authorise entry onto land
19. issue a listed building enforcement notice

20. serve an urgent works notice
22. revoke or modify any listed building consent
23. agree site specific planning briefs
24. determine applications for Exceptional Circumstances Relief from the Community Infrastructure Levy. Approval of such applications is not to be delegated to officers
25. extinguish certain public rights of way
26. extinguish public right of way over land acquired for clearance
27. apply for an enforcement order against unlawful works on common land
28. protect unclaimed registered common land and unclaimed town or village greens against unlawful interference
29. institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens

The election of the chair is made at the Annual Council meeting. The Annual Council meeting also determines the number of members on the committee, which may vary from year to year.

### **Proceedings of the Planning Applications Committee**

In addition to the procedure rules for the regulation of council proceedings, the Planning Applications Committee will conduct proceedings in accordance with the Planning Applications Committee Procedure Rules (see Part 3).

### **Standards Committee**

The Council appoints a Standards Committee of 8 members (including two co-opted independent members) to promote and maintain high standards of conduct by members and co-opted members of the Council and to assist members and co-opted members to observe the Council's Code of Conduct.

The quorum for meetings is three elected members. No Cabinet member shall be a member of the Standards Committee. The Chair is appointed by the committee.

Terms of reference:

1. Promoting and maintaining high standards of conduct by the members and co-opted members of the council.
2. Assisting members and co-opted members of the council to observe the Members' Code of Conduct.
3. Advising the council on the adoption or revision of the Members' Code of Conduct.
4. Monitoring the operation of the Code.
5. Advising, training or arranging to train members and co-opted members of the council on matters relating to the council Members' Code of Conduct.
6. Deciding matters relating to conduct, ethics and propriety referred to it by the Monitoring Officer.
7. Where there has been a breach of the Members' Code of Conduct determining any actions as appropriate.
8. Receiving and determining applications for dispensations from the Members' Code of Conduct if the Monitoring Officer is unwilling or unable to do so.

9. Deciding on particular matters relating to members' allowances referred to it.
10. Deciding on particular matters relating to the Register of Members' Interests referred to it.
11. Deciding on matters referred to it by Cabinet.
12. Dealing with any ancillary matters relating to standards and conduct including replying to consultations, training, etc.
13. Assisting when called upon to do so in deciding whether a standards complaint should be referred for investigation.
14. Hearing and determining standards complaints made against the council's members and co-opted members in accordance with the council's standards hearing arrangements ([https://www.norwich.gov.uk/download/downloads/id/2042/13b\\_standards\\_arrangements.pdf](https://www.norwich.gov.uk/download/downloads/id/2042/13b_standards_arrangements.pdf)).
15. Imposing such sanctions as it thinks fit in relation to matters found to be breaches of the code.

### **Select Committees**

From time to time the Council, Cabinet or Scrutiny Committee may appoint Select Committees or Working Parties to discharge any of their functions. Select Committees can also review and make recommendations in relation to matters which are not the direct responsibility of the Council but affect the economic, environmental or social wellbeing of the area.

All requests to set up sub-committees, select committees, member-led groups or panels, shall be assessed by the Executive Director Corporate & Commercial Services and the resource implications of supporting its work be reported back to council, Cabinet or Scrutiny Committee, as appropriate for decision.

### **9. Policy Overview and Scrutiny**

Scrutiny is a key democratic mechanism for holding public-service decision-makers and providers to account and facilitating the improvement of public services in Norwich. Effective scrutiny enhances accountability, ensures transparency of decision-making, contributes to service improvement and acts as a 'check and balance' on decision-makers.

Scrutiny should be carried out in a proactive and constructive way and contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants, visitors and businesses.

The Council has agreed that the overview and scrutiny function should be exercised by the Scrutiny Committee. In summary, this committee is required to maintain an overview of the discharge of the council's Executive function and has the right to scrutinise any Executive decision made by the Cabinet or by council officers (acting under delegated powers); or to review the council's policy-making or decision-making processes; or to undertake work aimed at policy development within the council.

The Scrutiny Committee supports the work of the Cabinet and the Council as a whole. It also monitors the decisions of the Cabinet. It can 'call-in' certain decisions that have been made

by the Cabinet but not yet implemented. This enables it to consider whether the decision is appropriate. The Scrutiny Committee may recommend that Cabinet reconsiders the decision. The Scrutiny Committee may also be consulted by Cabinet or the Council on forthcoming decisions and the development of policy.

The Scrutiny Committee can also review any relevant matter after the event or ask a relevant sub-committee to do so.

Decisions of the Planning Applications Committee on specific applications and cases where applicants have a right of appeal, and similar decisions by the Licensing Committee are not subject to review by the Scrutiny Committee. Individual cases dealt with by the Standards Committee and the Personnel Appeals Panel are also not subject to scrutiny review.

### Membership

The Scrutiny Committee consists of 13 members of the council. All councillors (except members of the Cabinet) may be members of the Scrutiny Committee. However, no member may be involved in scrutinising a decision with which they have been directly involved.

In exceptional circumstances, the Scrutiny Committee shall be entitled to recommend to the Council the appointment of a co-optee where particular skills or knowledge are justified.

The quorum for the Scrutiny Committee shall be four voting members.

#### Members of the committee will:

- a) participate in the work of the Scrutiny Committee in ways that contribute to the council's corporate objectives
- b) seek to strengthen the council through non-partisan participation in the Scrutiny Committee and
- c) engage in available training for members involved in the scrutiny and review role

**Commented [GW15]:** Words added at the request of the CWP.

The chair of the Scrutiny Committee shall be appointed by the council. Where one group has majority control of the council, the chair will be drawn from a member of a minority group with the vice-chair of the committee being drawn from any member of the committee.

The chair of the committee will undertake the following roles:

- a) chair meetings of the Scrutiny Committee and promote the development and exercise of the scrutiny function according to the council's Constitution;
- b) ensure that the work of the Scrutiny Committee contributes to the council's corporate objectives;
- c) liaise with the Chief Executive and the Executive Director Corporate & Commercial Services to ensure that the workload of the Scrutiny Committee is managed effectively to enable it to carry out its role of:
  - (i) reviewing the formulation of policy development
  - (ii) best value service reviews
  - (iii) advising the Cabinet of areas of potential improvements.

- d) liaise with Cabinet members as appropriate;
- e) contribute to the training and development of members engaged in the overview and scrutiny role;
- f) approve any report that the committee may wish to submit to Cabinet;
- g) be the spokesperson for the committee within the terms of the Code of Recommended Practice on Local Authority Publicity.

## Terms of Reference

### Policy development and overview:

- a) assist the Council and the Cabinet in the development of the Budget and Policy Framework by in-depth analysis of policy issues;
- b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- d) question members of the Cabinet and chief officers about their views on issues and proposals affecting the area;
- e) liaise with other organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- f) hold enquiries and investigate the available options for future direction in policy development;
- g) appoint advisors and assessors to assist in the process;
- h) go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that are reasonably considered necessary to perform the deliberations;
- i) invite witnesses to attend to address it on any matter under consideration and pay any advisor, assessors and witnesses a reasonable fee and expenses for so doing.

### Scrutiny:

- a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions, ensuring they are made in accordance with the Constitution and policies laid down by the Council and within the Corporate Plan;
- b) review and scrutinise the decisions made by and performance of the Cabinet and council officers both in relation to individual decisions and over time;
- c) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- d) require Cabinet members and officers to attend and answer questions 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;
- e) exercise the right to call-in, for reconsideration, decisions made by Cabinet or



- an officer but not yet implemented;
- f) make reports and/or recommendations to the Council and/or Cabinet and/or joint committees in connection with the discharge of any functions;
- g) review and scrutinise the performance of other public bodies in the area (including the Local Enterprise Partnership) by inviting reports and requesting them to address the committee and local people about their activities and performance;
- h) question and gather evidence from any person (with their consent);
- i) consider requests from any elected or co-opted member for an item relevant to the functions of the committee to be considered at the next available meeting;
- j) consider a Councillor Call for Action on matters relevant to the committee;
- k) perform scrutiny functions relating to crime and disorder and to scrutinise the Community Safety Partnership<sup>6</sup>.

### **Annual report**

The Scrutiny Committee will report annually to the Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

### **Proceedings of the Scrutiny Committee**

Meetings of the Scrutiny Committee shall be held in accordance with the approved timetable of meetings. Additional meetings may be called from time to time as and when appropriate. Such additional meetings shall be convened by the Head of Legal & Procurement, following consultation with the chair of the committee. The chair of the committee, any three members of the committee or the Monitoring Officer may convene a meeting if they consider it necessary or appropriate.

### **Work Programme**

The Scrutiny Committee will be responsible for setting its own work programme on the advice of the Chief Executive and the Executive Director Corporate & Commercial Services and in doing so it shall take into account wishes of members on that committee who are not members of the largest political group on the council.

### **Agenda Items**

Any member of the Scrutiny Committee may request that an item relevant to the functions of the committee be included on the agenda of the next available meeting. On receipt of such a request, the Head of Legal & Procurement will ensure that the request is included on the next available agenda, provided that it is received at least 10 clear working days prior to the date of the meeting.

Apart from the chair, no member of the committee may place more than one item

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<sup>6</sup> s.19 Police and Justice Act 2006 and Crime and Disorder (Overview and Scrutiny) Regulations 2009

of business on the agenda for any one meeting.

Any member of the council may request that an item relevant to the functions of the committee be included on the agenda of the next available meeting. The Chief Executive and the Monitoring Officer have delegated powers to place items on the agenda without the need to refer to the Cabinet, if necessary. The agenda for the meeting will give the name of the councillor who asked for the item to be considered and that member will be invited to attend the meeting when the item is to be considered.

### **Reports from Scrutiny Committee**

Once it has formed recommendations on proposals for development, the Scrutiny Committee will prepare a formal report and submit it to the Head of Legal & Procurement for consideration by the Cabinet.

The Council or the Cabinet shall consider the report of Scrutiny Committee as soon as practicable after it has been submitted. If for any reason, the Cabinet does not consider the report within 8 weeks, then the matter will be referred to Full Council for review and consideration at the next Ordinary meeting of the Council. In such cases, the Council shall consider the report and make a recommendation to Cabinet.

Only one report per month may be submitted by the Scrutiny Committee to Cabinet unless Cabinet agrees to receive further reports.

The Scrutiny Committee will, in any event, have access to the Cabinet Notice (Forward Plan) and timetable for Cabinet decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the 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.

### **Members and Officers Giving Account**

Within the scope of their terms of reference, the 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 the Leader, any other member of the Cabinet, the Head of the Paid Service and/or executive Directors and heads of services to attend before it to explain in relation to matters within their remit:

- a) any particular decision or series of decisions;
- b) the extent to which the actions taken implement Council policy;
- c) their performance.

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

Where any member or officer is required to attend the Scrutiny Committee under this provision, the chair of the committee will inform the Head of Paid Service and the Executive Director Corporate & Commercial Services. The Executive Director Corporate & Commercial

Services shall inform the member or officer in writing giving at least five clear working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to give account and whether any papers are required to be produced for the committee. Where the account to be given to committee will require the production of a report, then a member or officer concerned will be given ten clear working days' notice to allow for preparation of that documentation.

Where, in exceptional circumstances, the member is unable to attend on the required date, the Scrutiny Committee shall, in consultation with the member, arrange an alternative date for attendance.

Where, in exceptional circumstances, an officer is unable to attend on the required date, the Head of the Paid Service shall in consultation with the Scrutiny Committee arrange an alternative officer or an alternative date for attendance.

### **Whipping**

Applying the party whip is defined as any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the council, or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should they speak or vote in any particular manner.

When considering any matter in respect of which a member of the Scrutiny Committee is subject to a party whip, the member must declare the existence of the whip and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### **Guide for People Attending Scrutiny Committee Meetings**

From time to time, the Scrutiny Committee may decide to ask people to assist in its work. Council employees, representatives of organisations and individuals can be asked to come to a meeting to give their views, share their expertise and answer questions. People outside the council who are invited will be advised that, although taking part in scrutiny can be demanding, it is a vital part of local democracy and an important service to the community.

For anybody being asked to assist the Scrutiny Committee with its work the following protocol will be followed:

- a) The Scrutiny Committee will identify the subject area to be considered and identify people who might assist with this work. The committee will agree the issues to be explored with the people invited to assist.
- b) The Head of Legal & Procurement will agree a set of questions with the chair, vice chair or other member/s nominated by the committee. The questions should be focused on matters of fact and/or explanation.
- c) The Head of Legal & Procurement will send an invitation to people invited to attend giving as much notice as possible and no less than 14 days. The letter

will set out the purpose of the review, the areas the committee would like to explore and, if applicable, the agreed list of questions.

- d) Everyone attending to assist Scrutiny Committee will be treated with courtesy and respect at all times. Every effort will be made to ensure that the items are heard at an agreed time.
- e) The committee will follow the agreed questions that should be focused on matters of fact and/or explanation. Supplementary questions will be limited to points of clarification.
- f) When employees have been invited they will be asked only about matters of fact and will not be asked to express a personal opinion. Policy issues are matters for members.

The letter of invitation and the chair's introduction will make it clear to everyone attending to assist the committee that they should tell the chair of the meeting if they are asked a question that they feel is unfair, that they are not the right person to answer it, that they would like more time to think about it and ask someone else's advice.

### **Confidentiality**

The Scrutiny Committee meets in public, unless there are very exceptional circumstances. Therefore, there might be members of the public in the meeting, as well as journalists who can report anything that is said in public during a committee meeting. The written reports and minutes are also public documents, which any member of the public is entitled to read.

If there is any reason why someone would like to give their views in private, or would want a written statement to be confidential they should tell the Head of Legal & Procurement when accepting the invitation.

### **After the Meeting**

Everyone who assisted the committee will be sent a copy of the minutes of the meeting.

If the process ends in a report, which could go to the Cabinet or to the council for a decision on further action, people who have assisted the committee will be advised when the report is posted on the council website and provided with a paper copy if requested.

### **Expenses**

The council will reimburse reasonable expenses incurred by anyone invited to attend such as travel costs and, in some cases, child or other carer's costs. The Head of Legal & Procurement will include details of expenses in the letter of invitation.

### **Councillor Call for Action**

The Councillor Call for Action (CCfA) enables any member of the council to bring matters of community concern (including crime and disorder issues) within their ward to the attention of the council via the Scrutiny process. It is intended to enhance the council's Scrutiny arrangements and provide a formal mechanism to enable elected members to seek positive

Commented [GW16]: New section.

outcomes for the citizens they represent, provided all other means of resolution have been exhausted.

A CCfA will be included on a Scrutiny Committee agenda if the chair is satisfied that:

- a) the member has made all reasonable efforts to resolve the matter via liaison with council officers and/or relevant partner agencies; and
- b) the issue of concern relates to the discharge of a council function (including where this is undertaken with partners and other service providers); and
- c) the issue of concern has a demonstrable impact on all or part of the member's ward; and
- d) The CCfA does not relate to:
  - (i) individual complaints concerning personal grievances or commercial issues, for which the council's complaints procedure should be followed;
  - (ii) matters that have a statutory appeals process, e.g. planning and licensing applications, council tax queries, housing benefits complaints, issues under dispute in a court of law, etc;
  - (iii) matters where there is a statutory right of review or appeal (not including the right to complain to the Ombudsman), e.g. a matter relating to a housing benefit appeal;
  - (iv) matters that are vexatious, discriminatory or unreasonable;
  - (v) matters of wider council policy, i.e. if an issue affects more than one ward it may be appropriate to refer it to the Corporate Scrutiny Committee for consideration of its wider strategic or policy implications, rather than focusing on one particular ward;
  - (vi) questioning Cabinet decisions that have been taken but not yet implemented, for which the Call-In procedure may be used.

Having considered a CCfA, the Scrutiny Committee may take one or more of the following actions:

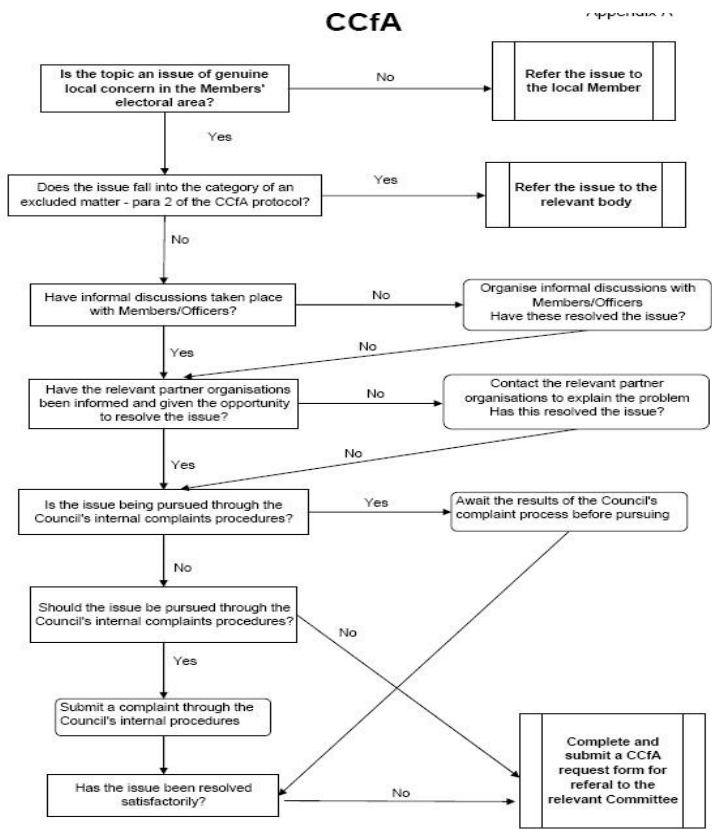
- a) ask for further information to be brought to a future meeting
- b) require the attendance of Cabinet members or senior officers to attend a future meeting to answer questions
- c) set up a Select Committee to undertake an in-depth review
- d) make a report or recommendations to Full Council, the Cabinet or partner agency and:
  - (i) publish that report
  - (ii) request Full Council or Cabinet to consider and respond to the report, setting out what action it proposes to take and to publish its response
  - (iii) request a partner agency to have regard to the report when exercising its functions

If the Scrutiny Committee decides to take any action then it will inform the member who raised the CCfA and provide them with a copy of any report or recommendations made in relation to the CCfA, together with any response received from Full Council, the Cabinet or a partner agency.

If the Scrutiny Committee decides not to consider a CCfA or on consideration decides no further action is necessary, it will inform the member who raised the CCfA and explain the reasons why.

The flowchart below will assist in deciding whether an issue is ready for referral to a Scrutiny

committee as a CCfA.



**Call-In**

When a decision is made by the Cabinet, or a Key Decision is made by an officer with delegated authority from the Cabinet, the decision will be sent to all members of the council and shall be available at the main offices of the council normally within two days of being made.

That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of two working days after the publication of the decision, unless the Scrutiny Committee objects to it and calls it in.

During that period, the Monitoring Officer shall call-in a decision for scrutiny by the Scrutiny Committee if so requested in writing by the Chair of Scrutiny Committee, together with at least two other members of the council.

**Commented [GW17]:** Alternative to two members from two political groups.

The request for a call-in must contain in writing the detailed reasons why the decision has been called- in.

A matter may not be called-in if it is a matter that has already been considered by the Scrutiny Committee or if the decision is urgent and any delay would prejudice the interest of the council or the public in the opinion of the Monitoring Officer.

The members of the council requesting a call-in must attend and address the Scrutiny Committee, called for that purpose, in order for the matter to be considered by the committee.

The Monitoring Officer shall then notify the Cabinet or the decision-taker of the call-in, and shall call a meeting of the Scrutiny Committee on such date as they may determine, where possible after consultation with the chair of the committee, and this will normally be within five clear working days of the decision to call-in.

If Scrutiny Committee does not refer the matter back to the decision-maker, the decision shall take effect from the date of the Scrutiny Committee. If Scrutiny Committee does not meet, the decision shall take effect five clear working days after the decision to call-in.

If, having considered the decision, Scrutiny Committee is still concerned about it, then it may refer it back to the decision-maker for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred to the decision-maker, they shall then reconsider the matter as soon as possible, amending the decision or not, before making a final decision and implementing it.

If the matter was referred to Full Council and the council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if Full Council does object, it will refer the decision back to the decision-maker, together with its views on the decision. The decision-maker shall then reconsider the matter as soon as possible, amending the decision or not, before making a final decision and implementing it.

If Full Council does not meet, or if it does but does not refer the decision back to the decision-maker, the decision will become effective on the date of the council meeting or expiry of the period in which the council meeting should have been held, whichever is the earlier.

Once a decision-maker has reconsidered the matter following call-in, no further call-in of that matter will be allowed.

Call-In may be abridged or disapplied by a decision of Cabinet, if to do so is necessary to safeguard the interests of the council or of the public. In any such case, reasons for the disapplication will be discussed with the chair (or in their absence the vice-chair) of the Scrutiny Committee and the reasons for disapplying Call-In will be stated at the top of the

report and further explained – with the views of the chair of the Scrutiny Committee – in the body of the report. In such cases, whilst the actual decision cannot be Called-In, the Scrutiny Committee may ask to consider the circumstances and provide recommendations if they so wish.

## 10. Local Choice Functions

Local Choice functions are set out in Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. These functions may be, but need not be, the responsibility of the Executive. It is up to Full Council to decide.

Having regard to government guidance, Full Council has decided that Local Choice functions will be Executive or Non-Executive as set out in the table below:

LOCAL CHOICE FUNCTION	STATUS OF FUNCTION	DELEGATION TO OFFICERS	DELEGATION TO NON-EXECUTIVE COMMITTEES
1. Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1.	Executive	All Directors	N/a
2. The determination of appeals against any decision made by or on behalf of the authority (other than those reserved to a Non-Executive committee)	Executive	All Directors in relation to decisions taken in their Directorate	N/a
3. The appointment of review boards under regulations under section 34(4) of the Social Security Act 1998 (determination of claims and reviews)	Executive	Executive Director Community Services	N/a
8. The making of appointments (appointment of members by relevant councils) under Sch.2 Paras.2-4 to the Police Act 1996 (police authorities established under section 3)	Executive	N/a	N/a
9. The conducting of best value reviews in accordance with the provisions of any order under section 5 of the Local Government Act 1999 (best value reviews)	Executive	All Directors in relation to decisions taken in their Directorate	N/a
10. Any function relating to contaminated land.	Executive	Executive Director Development & city	N/a

**Commented [GW18]:** This is a new and comprehensive list of local choice functions.



		Services	
11. The discharge of any function relating to the control of pollution or the management of air quality	Executive	Executive Director Development & city Services	N/a
12. The service of an abatement notice in respect of a statutory nuisance	Executive	Executive Director Development & city Services	N/a
13. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Executive	Executive Director Development & city Services	N/a
14. The inspection of the authority's area to detect any statutory nuisance	Executive	Executive Director Development & city Services	N/a
15. The investigation of any complaint as to the existence of a statutory nuisance	Executive	Executive Director Development & city Services	N/a
16. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land	Executive	Executive Director Development & city Services	N/a
17. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions Act 1976	Executive	Executive Director Development & city Services	N/a
19. The appointment (and revocation of appointment) of any individual - (a) to any office other than an office in which they are employed by the authority (b) to any body other than: (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body	Executive and Non-Executive	N/a	The Leader where the appointment relates to Executive powers.  The Council where the appointment relates to Non-Executive functions
20. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities	Executive	All Directors in relation to decisions taken in their Directorate	N/a

## **11. Area Committees**

The Council does not have any Area Committees.

## **12. Joint Arrangements**

The council has made joint arrangements with one or more other local authorities under section 101(5) of the Local Government Act 1972 for the exercise of certain of its functions. The council appoints with those other authorities joint committees to exercise these functions.

Joint arrangements with other local authorities may be established to exercise Executive and/or Non-Executive functions. The establishment of joint committees that exercise Executive powers requires the agreement of the Leader. The establishment of joint committees that exercise Non-Executive powers requires the approval of Full Council.

Political balance rules apply to joint committees that exercise Non-Executive powers and where Full Council appoints to three or more seats. If any Executive functions are to be exercised, then a Cabinet member must be appointed if the Leader appoints to two or more seats on the committee. Political balance rules do not apply to joint arrangements that only exercise Executive powers. Only Cabinet members may be appointed to these joint committees.

All those joint committees listed below exercise Executive functions that are the responsibility of the Cabinet. The membership, terms of reference and functions of these joint committees and the rules governing their conduct and proceedings are described below.

### **Norfolk Joint Museums Committee**

Membership consists of Norfolk County Council, Breckland District Council, Broadland District Council, Great Yarmouth Borough Council, King's Lynn and West Norfolk Borough Council, North Norfolk District Council, Norwich City Council and South Norfolk District Council.

Norfolk County Council appoints 9 members, Norwich City Council 3 members and the remaining councils 1 member each.

The Norfolk Joint Museums Committee has established area committees for Breckland, Great Yarmouth, King's Lynn and West Norfolk, North Norfolk and Norwich.

The Chair and Vice-Chair of the Joint Museums Committee shall be ex-officio, non-voting members of the Area Committees. The Chair and Vice-Chairs of the Area Committees must be voting members of the Joint Museums Committee.

The Joint Museums Committee is responsible for:

- a) the effective operation of the Norfolk Museums Service
- b) advising all the participating Councils on the strategic framework for museums in Norfolk

- c) agreeing policies for the Norfolk Museums Service in accordance with national and local guidelines
- d) agreeing an annual budget for the Museums Service

Area Committees are responsible for:

- a) advising the Joint Committee on museums issues within their area
- b) agreeing and reviewing on a regular basis a museums strategy for their area
- c) developing and agreeing a yearly action plan
- d) advising on the terms of any service level agreement with the Norfolk Museums Service for the provision of museums services within their area

The Joint Museums Committee exercises the functions of the participating local authorities under section 12 of the Public Libraries and Museums Act 1964 with regard to the provision and maintenance of museums and art galleries in their areas, except to the extent specifically provided for in the current agreement constituting the committee dated 6 January 1999.

The conduct and proceedings of meetings of the Joint Museums Committee are governed by the rules relating to meetings of Norfolk County Council committees.

The right of the public to attend meetings of the Joint Museums Committee are set out in paragraph 2 of the Access to Information Procedure Rules of Norfolk County Council.

#### **Norwich Museums Area Committee**

The Norwich Museums Area Committee has a membership of 6 county councillors and 6 city councillors, with power to co-opt up to 5 additional non-voting members.

The standing orders of the City Council apply to meetings of the Norwich Museums Area Committee, including the rights of the public to attend.

#### **Norfolk Records Committee**

Membership consists of Norfolk County Council, Breckland District Council, Broadland District Council, Great Yarmouth Borough Council, King's Lynn and West Norfolk Borough Council, North Norfolk District Council, Norwich City Council and South Norfolk District Council.

The County Council and the City Council each appoint 3 members and the remaining District Councils 1 member each. There are also non-voting members as follows.

- a) Custos Rotulorum (the Lord Lieutenant of Norfolk)
- b) A representative of the Bishop of Norwich
- c) A representative of the Norfolk Records Society 3 co-opted members.

The Norfolk Records Committee exercises the functions of the participating local authorities under the Local Government (Records) Act 1962 and for the control of the Norfolk Records Office with a view to ensuring as far as possible that:-

- a) storage and maintenance facilities are provided to it for archives relating to or deriving from the areas of the participating local authorities; and
- b) there is at the Record Office an adequate means of reference to the archives and facilities are provided for the public to inspect and take copies of deposited documents

The conduct and proceedings of meetings of the Norfolk Records Committee are governed by the rules relating to the meetings of Norfolk County Council committees.

The rights of the public to attend meetings of the Norfolk Records Committee are set out in paragraph 2 of the Access to Information Procedure Rules of Norfolk County Council.

### **CNC Building Control Consultancy Joint Committee**

Membership consists of Broadland District Council, South Norfolk Council, Fenland District Council, Kings Lynn & West Norfolk Borough Council and Norwich City Council, who are each represented by one Executive or Cabinet member.

It is responsible for discharging the Council's building control and related functions as set out in the Joint Agreement for the Provision of Building Control Services.

### **Community Safety Partnership**

Norfolk County Council manages Norfolk's Countywide Community Safety Partnership (NCCSP). The NCCSP comprises the statutory partners – the County Council, all 7 district councils, police, probation, fire and CCGs – as well as the Office of the Police & Crime Commissioner, YOT and housing. These partners are all committed to working together in partnership with victims and communities to tackle crime and disorder within the county, striving to keep Norfolk one of the safest places in the country to live, work and visit.

The NCCSP has a key role to play in developing practical ways partners can work differently in localities with the ambition being to achieve:

- Greater integration of delivery across partners on the ground
- Increased prevention and reduced demand through community resilience
- Protection of the most vulnerable people

Each district has an Operational Partnership Team which enables joint working between partners to resolve anti-social behaviour affecting the most vulnerable people in our communities, as well as the most entrenched anti-social behaviour issues.<sup>7</sup>

### **Norfolk Police and Crime Panel**

Norfolk's Police and Crime Panel is tasked with holding the Police and Crime Commissioner (PCC) to account for the way they perform their duties by scrutinising their actions and

<sup>7</sup> <https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/partnerships/crime-and-disorder-partnerships/community-safety-partnership>

decisions.

The Panel is a joint committee of the County Council, Borough, City and District Councils. It consists of ten councillors (comprising three from Norfolk County Council and one from each of the seven district authorities) plus two independent members (not councillors) co-opted by the Panel.

The PCP will examine and make recommendations on various aspects of the PCC's activity, and in particular must:

- Review the draft Police and Crime Plan for Norfolk
- Scrutinise the PCC's Annual Report
- Review and scrutinise decisions and actions by the PCC
- Review and veto the PCC's proposed Council Tax precept levels
- Review the PCC's Conduct – the PCP can suspend the PCC if they are charged with a two year imprisonable offence and report to IPCC, however they cannot remove the PCC
- Confirm proposed Chief Constable and senior officer appointments
- Appoint an acting PCC, if required
- Deal with complaints made about the conduct of the PCC and receive monitoring reports setting out the number and themes of complaints handled

Panel meetings are held around four times per year with the PCC and Chief Constable at County Hall in Norwich and people are welcome to attend and observe. Agendas and minutes of the meetings are published on the Norfolk County Council website.<sup>8</sup>

### **Greater Norwich Development Partnership Board**

The Greater Norwich Development Partnership Board exercises political leadership for the planning activities carried out jointly by the Greater Norwich Local Planning Authorities.

The Board is made up of three members each from Broadland District Council, Norwich City Council, South Norfolk Council, Norfolk County Council (including the Leader and Planning portfolio holder), and a member from the Broads Authority. It is chaired by a Norfolk County Council representative.

The Board is supported in its role by the Director-level representation from each local authority and a series of advisors who will be seconded into the group when necessary.

Members may submit substitutes when unable to attend themselves in agreement with the chair.

Meetings are held quarterly or more frequently as required in public. The public may submit questions to the Board in respect of the development of the Greater Norwich Local Plan (GNLP). Questions are required to be submitted three working days before the meeting to the Greater Norwich Planning Policy Team Manager. The time allowed for questions and

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<sup>8</sup> : <https://www.norfolk.gov.uk/what-we-do-and-how-we-work/policy-performance-and-partnerships/partnerships/crime-and-disorder-partnerships/police-and-crime-panel>

responses will be limited to 15 minutes in total. There is no guarantee that all questions will be able to be answered in the given time and it will be up to the discretion of the chair on the day as to whether the time available for questions should be extended. Questions and the responses will be minuted.

Responsibilities

- To prepare and monitor a joint Local Plan for the three district local planning authority areas of Broadland, City of Norwich and South Norfolk, to include integrated land-use and transport policies;
- To oversee the work of the Greater Norwich Local Plan team and associate bodies and ensure all bodies work effectively;
- To make recommendations to the Councils and Broads Authority on any wider planning matter affecting the Broadland, City of Norwich and South Norfolk administrative areas;
- To advise on the development of the Local Transport Plan (LTP) implementation strategies and on future reviews of the LTP relevant to the area, including the Norwich Area Transportation strategy (NATS);
- To facilitate joint working between the local planning authorities and the local transportation authority on matters of common interest and benefit; and
- To ensure the Greater Norwich Infrastructure Plan reflects the needs of the Greater Norwich Local Plan.

Greater Norwich Growth Board

The Greater Norwich Growth Board provides strategic direction, monitoring and co-ordination of both the city deal and wider programme for the Greater Norwich area. It has representation on and links with the Business Growth Programme Operational board and the Employment and Skills Strategy Board. It works with the New Anglia Local Enterprise Partnership (LEP) and other relevant bodies and the private sector to promote the work of the Board and to secure funding for the benefit of the area.

Membership comprises the Leaders of Broadland District Council, Norwich City Council, South Norfolk District Council and Norfolk County Council and the chair of the New Anglia LEP.

13. Officer Schemes of Delegation

Non-Executive Scheme of Officer Delegation

Under Section 101 of the Local Government Act 1972, the Council has delegated to committees and officers the exercise of a range of functions set out in the table below (as referred to in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended), which are not the responsibility of the Executive.

Officers may, in turn, delegate their powers to more junior officers, or escalate the making of those decisions to the relevant Director, but must ensure that such delegations are documented to the satisfaction of the Chief Executive and Monitoring Officer and are regularly reviewed.

**Commented [GW19]:** These are new, more comprehensive, sections, corresponding with legislation.

Any manager may exercise any power delegated to an officer for whom they have supervisory responsibility, except those reserved by law to others. Any Non-Executive function may be exercised by the Chief Executive notwithstanding its delegation to another Director, except those reserved by law to others.

Officers (or an officer authorised by them) may take action on urgent matters, which would otherwise require reference to, or consultation with Full Council or a committee, if there is no time for such reference or consultation to be made; relevant committee chairmen should be consulted if time permits. All such decisions should be reported to the next meeting of Full Council or committee.

Certain Non-Executive decisions taken by officers must be recorded and published, in accordance with the rules on Recording and Publishing Officer Decisions (see Part 2 Section 13).

An officer shall not have the power to exercise any functions or take any decisions:

- a) where the Council or relevant committee or sub-committee has resolved to suspend that delegated power;
- b) outside or contrary to the council's budget and policy framework;
- c) where the council's Head of Paid Service or Monitoring Officer has formally notified the officer concerned that the delegated function should not be exercised;
- d) where there is a conflict of interest or where any code of conduct for council employees in force from time to time prevents the exercise of such a function.

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
<p><i>The numbers in column 1 refer to the numbering used in the Regulations.</i></p> <p><i>Titles in italics in column 3 indicate full delegation to the named officer.</i></p> <p><i>Where only council or a committee name is shown indicates no delegations to officers.</i></p> <p><i>Statutory references are as amended and replaced from time to time.</i></p>		
<b>A. Functions relating to town and country planning and development control</b>		
5. Power to determine application for planning permission.	Sections 59A(1)(b), 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
6. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
7. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
8. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
9. Duties relating to the making of determinations of planning applications.	Sections 69, 69A, 92 and 96A of the Town and Country Planning Act 1990 and Parts 2-6 and 8 of the Town and Country Planning Development Management Procedure) (England) Order 2015 and directions made thereunder	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
10. Power to determine application for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
11. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	The Town and Country Planning (General Permitted Development) (England) Order 2015	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
12. Power to enter into agreement regulating development or use of land and to modify such agreements.	Sections 106, 106A and 106BA of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
13. Power to issue a certificate of existing or proposed lawful use or development.	Sections 191, 192 and 193 of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
14. Power to serve a completion notice.	Section 94 of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
15. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 2007	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
16. Power to authorise entry onto land.	Sections 196A, B and C of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
17. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
18. Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
18A. Power to issue a temporary stop notice.	Section 171E of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE



<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
		<i>Head of Planning &amp; Regulatory Services</i>
19. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
20. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
21. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
22. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 and paragraph 6(5) of Schedule 14 to that Act	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
23. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
24. Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
26. Duties relating to applications for listed building consent	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990; regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990; and paragraphs 8, 15 and 26 of Department of the Environment, Transport and the Regions Circular 01/01	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
27. Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
28. Power to issue enforcement notice in relation to demolition of listed building in conservation area.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
29. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
30. Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
30A. Power to authorise stopping up or diversion of highway.	Section 247 of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
31. Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
32. Duty to enter land in Part 2 of the brownfield land register.	Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
<b>B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)</b>		
1. Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
3. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976; (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
6. Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(c) of the Gambling Act 2005 (Commencement No 6 and Transitional Provisions Order 2006 ("the Gambling Act Order"))	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
7. Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act Order	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
8. Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(e) of the Gambling Act Order	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
9. Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 as saved for certain purposes by article 4(2)(l) and (m) of the Gambling Act Order	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
10. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
11. Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act Order	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
12. Power to issue cinema and cinema club licences.	Section 1 of the Cinemas Act 1985	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
13. Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
14. Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933, section 52 of, and Schedule 12 to, the London Government Act 1963, section 79 of the Licensing Act 1964, sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
	Government (Miscellaneous Provisions) Act 1982	
14A. Any function of a licensing authority	Licensing Act 2003 and any regulations or orders made under that Act	<ul style="list-style-type: none"> <li>• Adoption of Policy – COUNCIL</li> <li>• Determination of contested applications – LICENSING COMMITTEE</li> </ul> <i>Uncontested applications - Executive Director Development &amp; City Services</i>
14AZA. Powers and functions relating to late night levy requirements.	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and regulations made thereunder	COUNCIL See para. 1.4 of Home Office <a href="#">guidance</a>
14AA. Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the Gambling Act 2005	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
14AB. Functions relating to exchange of information.	Section 30 of the Gambling Act 2005	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
14AC. Functions relating to occasional use notices.	Section 39 of the Gambling Act 2005	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
14B. Power to resolve not to issue a casino premises licence	Section 166 of the Gambling Act 2005	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
14C. Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises.	Section 304 of the Gambling Act 2005	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
14CA. Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises.	Section 284 of the Gambling Act 2005	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
14D. Power to institute criminal proceedings	Section 346 of the Gambling Act 2005	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
14E. Power to exchange information	Section 350 of the Gambling Act 2005	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
14F. Functions relating to the determination of fees for premises licences.	The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007	COUNCIL See Gambling Act 2005 s.154(2)(b)
14G. Functions relating to the registration and regulation of small society lotteries.	Part 5 of Schedule 11 to the Gambling Act 2005	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
15. Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
16. Power to license performances of hypnotism.	The Hypnotism Act 1952	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
17. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
18. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
20. Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
23. Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874 and section 213 of the Local Government Act 1972	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
24. Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
25. Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
26. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
27. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
29. Power to grant or renew a licence for a licensable activity (selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs or keeping or training animals for exhibition).	Regulation 4 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
32. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
33. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
34. Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974 and the Animal By-Products Order 1999	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
39. Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
40. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
56. Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
57. Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
58. Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
59. Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
60. Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
61. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
62. Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
63. Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
64. Power to register fishing vessels on board which shrimps or molluscs are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
65. Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
66. Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
67. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
68. Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
71. Power to register motor salvage operators.	Part I of the Vehicles (Crime) Act 2001	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
<b>C. Functions relating to health and safety at work</b>		
Functions under any of the "relevant statutory provisions", to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974	COUNCIL
<b>D. Functions relating to elections</b>		
1. Duty to appoint an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983	COUNCIL
2. Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983	COUNCIL
4. Power to dissolve small parish councils.	Section 10 of the Local Government Act 1972	COUNCIL
5. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	Section 11 of the Local Government Act 1972	COUNCIL
6. Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983	COUNCIL
8. Duty to divide constituency into polling districts.	Sections 18A to 18E of, and Schedule A1 to, the Representation of the People Act 1983	COUNCIL

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
9. Power to divide electoral wards into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983	COUNCIL
10. Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983	COUNCIL
11. Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983	COUNCIL
12. Power to fill vacancies in the event of insufficient nominations at an ordinary election of parish councillors.	Section 21 of the Representation of the People Act 1985	COUNCIL
13. Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972	COUNCIL
Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972	COUNCIL
15. Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972	COUNCIL
17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000	COUNCIL
18. Duty to consult on change of scheme for elections.	Sections 33(2), 38 (2) and 40(2) of the Local Government and Public Involvement in Health Act 2007	COUNCIL
19. Duties relating to publicity.	Sections 35, 41 and 52 of the 2007 Act	COUNCIL
20. Duties relating to notice to Electoral Commission.	Sections 36 and 42 of the 2007 Act	COUNCIL
21. Power to alter years of ordinary elections of parish councillors.	Section 53 of the 2007 Act	COUNCIL
22. Functions relating to change of name of electoral area.	Section 59 of the 2007 Act	COUNCIL
<b>E. Functions relating to name and status of areas and individuals</b>		
1. Power to change the name of the council.	Section 74 of the Local Government Act 1972	COUNCIL
2. Power to change the name of a parish.	Section 75 of the Local Government Act 1972	COUNCIL
3. Power to confer title of honorary alderman or to admit an honorary freeman.	Section 249 of the Local Government Act 1972	COUNCIL



<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
4. Power to petition for a charter to confer borough status.	Section 245b of the Local Government Act 1972	COUNCIL
<b>EB. Functions relating to community governance</b>		
1. Duties relating to community governance reviews.	Section 79 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
2. Functions relating to community governance petitions.	Sections 80, 83 to 85 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
3. Functions relating to terms of reference of review.	Sections 81(4) to (6) of the Local Government and Public Involvement in Health Act 2007	COUNCIL
4. Power to undertake a community governance review.	Section 82 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
5. Functions relating to making of recommendations.	Sections 87 to 92 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
6. Duties when undertaking review.	Section 93 to 95 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
7. Duty to publicise outcome of review.	Section 96 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
8. Duty to send two copies of order to Secretary of State and Electoral Commission.	Section 98(1) of the Local Government and Public Involvement in Health Act 2007	COUNCIL
9. Power to make agreements about incidental matters.	Section 99 of the Local Government and Public Involvement in Health Act 2007	COUNCIL
<b>F. Power to make, amend, revoke, re-enact or enforce bylaws</b>		
	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978	COUNCIL
<b>FA. Functions relating to smoke-free premises, etc</b>		
1. Duty to enforce Chapter 1 and regulations made under it.	Section 10(3) of the Health Act 2006	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
2. Power to authorise officers.	Section 10(5) of, and paragraph 1 of Schedule 2 to, the Health Act 2006	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>
3. Functions relating to fixed penalty notices.	Paragraphs 13, 15 and 16 of Schedule 1 to the Health Act 2006 Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007	LICENSING COMMITTEE <i>Executive Director Development &amp; City Services</i>

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
4. Power to transfer enforcement functions to another enforcement authority.	Smoke-free (Premises and Enforcement) Regulations 2006	LICENSING COMMITTEE
<b>G. Power to promote or oppose local or personal Bills</b>		
	Section 239 of the Local Government Act 1972	COUNCIL
<b>I. Miscellaneous functions</b>		
<b>Part I: <i>functions relating to public rights of way</i></b>		
23. Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
30. Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1985	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
31. Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway.	Section 257 of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
32. Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
<b>Part II: <i>other miscellaneous functions</i></b>		
36. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972	COUNCIL
37. Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).	Section 112 of the Local Government Act 1972	COUNCIL (for Chief Executive, Chief Finance Officer & Monitoring Officer). <i>Head of Paid Service</i> (for all others)
38. Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972	COUNCIL
39. Duty to make arrangements for proper administration of financial affairs etc.	Section 151 of the Local Government Act 1972	COUNCIL <i>Executive Director Corporate &amp; Commercial Services</i>
40. Power to appoint officers for particular purposes (appointment of proper officers).	Section 270(3) of the Local Government Act 1972	COUNCIL
43. Duty to designate officer as the head of the authority's paid service, and to provide staff, etc.	Section 4(1) of the Local Government and Housing Act 1989	COUNCIL

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>	<b>RESPONSIBILITY/DECISION MAKER</b>
44. Duty to designate officer as the monitoring officer, and to provide staff, etc.	Section 5(1) of the Local Government and Housing Act 1989	COUNCIL
44A. Duty to provide staff, etc to person nominated by monitoring officer.	Sections 82A(4) and (5) of the Local Government Act 2000	COUNCIL <i>Chief Executive</i>
44B. Powers relating to overview and scrutiny committees (voting rights of co-opted members).	Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000	COUNCIL <i>Monitoring Officer</i>
45. Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be).	The Accounts and Audit Regulations 1996	COUNCIL
46. Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
47. Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
47A. Powers relating to complaints about high hedges.	Part 8 of the Anti-Social Behaviour Act 2003	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
48. Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000	COUNCIL
50. Power to make or revoke an order designating a locality as an alcohol disorder zone.	The Local Authorities (Alcohol Disorder Zones) Regulations 2008	
51. Power to apply for an enforcement order against unlawful works on common land.	Section 41 of the Commons Act 2006	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
52. Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	Section 45(2)(a) of the Commons Act 2006	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>
53. Power to institute proceedings for offences in respect of unclaimed registered common land and	Section 45(2)(b) of the Commons Act 2006	PLANNING APPLICATIONS COMMITTEE <i>Head of Planning &amp; Regulatory Services</i>

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
unclaimed town or village greens.		

## Executive Scheme of Officer Delegation

Commented [GW20]: This a new section.

### Introduction, general principles and interpretation

Certain types of decision must by law be delegated to an officer rather than being determined by members, e.g. the appointment and dismissal of officers below Director level; the discharge of Returning Officer duties in elections; and Proper Officer functions. Other council functions must by law be determined by members and not officers, e.g. setting the Budget and adopting the plans or strategies constituting the council's Policy Framework. For the majority of functions, it is a matter of local choice for the council whether they are exercised by members or delegated to officers.

This scheme delegates powers and duties in relation to Executive functions that are the responsibility of Leader and Cabinet members under section 9E of the Local Government Act 2000. The scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation within those descriptions and all powers and duties incidental to that legislation.

Where functions that are the responsibility of the Leader are delegated through Cabinet members to officers or other structures outside the Cabinet, the Leader will nevertheless remain accountable to the council for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way the function is carried out, although the specific decision is the responsibility of the officer or other delegated body.

The Leader may make ad-hoc variations in relation to the scheme. Any variation affecting the generality of any delegation shall be made in writing. The variation shall be effective from the date the written notice is received by the Monitoring Officer.

The Monitoring Officer shall have the power, subject to notifying all elected members, to:

- a) amend the scheme to reflect re-organisations, changes in job titles and vacancies, where the changes result in redistributing existing delegations and not the creation of new ones
- b) amend the Constitution to correct any typographical errors or inconsistencies subsequently identified

The scheme does not delegate to officers the following:

- a) any matter expressly reserved to the Cabinet within its terms of reference or otherwise, by standing orders or financial regulations, or withdrawn from delegation by this scheme or by the Leader or Cabinet;
- b) the making of an order for the compulsory acquisition of land;
- c) the acquisition of land in advance of requirements;

- d) the adoption, amendment (other than minor amendments) or delegation of any strategic plan or policy;
- e) the incurring of any capital or revenue expenditure in excess of the estimates allocated to a function under the relevant head of expenditure, but subject to such modifications as may be made in accordance with financial regulations;
- f) to respond to planning consultations by government departments or statutory undertakers where objection or adverse comment is proposed to be made, unless in consultation with the relevant Cabinet member;
- g) the taking of decisions in contravention of any existing council policy.

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

Certain Executive decisions taken by officers must be recorded and published, in accordance with the rules for Recording and Publishing Officer Decisions (see Part 2 Section 13).

### General principles/common officer Executive delegations

Chief Officers and their direct reports (including any persons appointed on an interim basis to such posts) are authorised within their areas of responsibility, subject to the following conditions:

- a) The Chief Executive will maintain and publish a list of services for which each Director is responsible, and in relation to which they have delegated powers under this scheme. The Chief Executive has authority to amend that list and this scheme, to reflect operational necessity and in order to deliver continually improving services;
- b) Powers shall be exercised in accordance with the law, the council's procedure rules, financial regulations, contract procedure rules and any policies relevant to the functions delegated;
- c) Chief Officers are empowered to:
  - (i) Make such decisions and initiate such actions as they deem necessary in the interests of efficient delivery and improvement of services within their area of responsibility.
  - (ii) Implement, manage and deliver all policies and decisions within the framework of plans and budgets approved by the Council or the Cabinet.
  - (iii) Take decisions that result in expenditure or savings to the council below £500k (calculated on a whole life basis). Decisions between £200k - £499k will be taken in consultation with the relevant Portfolio Holder. All material or significant decisions (see page 84) affecting individual Wards will be notified to the local Ward member(s).
  - (iv) Make amendments to the structure of their department.
  - (v) Appoint and dismiss staff (with the exception of Statutory Officers) within their approved budget and take such decisions in relation to human resources as are appropriate for the proper management of the service.
  - (vi) Implement the council's human resources policies as shall apply at any time.
  - (vii) Authorise officers to carry out the council's functions under all legislation, regulations, orders and statutory codes of practice, to include entry of premises, inspections and signing and service of notices in relation to the council's enforcement functions.

**Commented [GW21]:** Corresponds with new Key Decision financial threshold.

- (viii) In an emergency, to take such action as is necessary within the law to protect life, health, and safety, the economic social or environmental well-being of the City, and to preserve property belonging to the council or others.
- (ix) Procure works, supplies and services, enter into contracts, review their operation, establish and maintain approved lists of contractors or suppliers and the appointment of consultants, subject to the financial regulations, the Contract Procedure Rules and budgetary provision.
- (x) Authorise legal proceedings in respect of offences under acts, regulations, bylaws or orders within the remit of the service area.
- (xi) Authorise named officers under any statutory or regulatory provision to enable those officers to exercise specific functions (e.g. to enter onto and inspect land, to acquire information or conduct covert surveillance, to issue fixed penalty notices, etc).
- (xii) Sign and serve any notices, counter notices, or make any formal notifications for the purposes of the functions for which they are responsible.
- (xiii) Exercise all other functions incidental, ancillary or conducive to the carrying out of the main service functions for which they are responsible.
- d) Once a member-level decision has been taken, the implementation of that decision should be delegated to officers, so that multiple member decisions are not required in respect of the same matter
- e) The fact that a function is delegated to an officer does not prevent that officer from referring any decision to the Cabinet at their discretion, especially if the decision is controversial or of strategic importance
- f) When exercising delegated powers, officers should consider referring a decision to Cabinet where the decision:
  - (i) involves significant expenditure to the service budget, or wider council budget
  - (ii) affects the reputation or carries a significant risk for the service and/or council
  - (iii) is significant with regard to one or more wards
  - (iv) impacts reputationally or financially on service users, partner organisations or committees outside the council
- g) The Leader or the relevant Cabinet member may direct that a delegated Executive power should not be exercised by an officer but should instead be referred to the Cabinet. Such direction should be exercised in consultation with the relevant Director.
- h) Chief Officers have responsibility to report to Full Council, Cabinet, Cabinet member, the appropriate committee or relevant local members (and following this the relevant Parish/Town Council) matters that are of a political or strategic significance where that body or person is not required to make a decision but where it is proper for them to be aware of the position
- i) Officers authorised to exercise delegated powers are required to keep members properly informed of activity arising within the scope of their delegations and to ensure a proper record of such activity is kept and available for inspection in accordance with the legislation
- j) 'Function' is construed broadly and includes the doing of anything that is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions
- k) A Director is not required to exercise all delegations personally and may authorise officers of suitable experience and seniority to exercise delegated powers, either generally or specifically, on their behalf. A Director must maintain a list of all such authorisations, as part of a comprehensive service scheme of delegation
- l) Officers exercising delegated powers related to financial matters (such as raising

invoices, writing-off debts, paying invoices or disposing of assets) shall be aware at all times of the statutory responsibility of the Executive Director Corporate & Commercial Services under the Local Government Act 1972 and of the need to comply with the Financial Regulations (see Part 4) and all the instructions and guidance issued by them and to seek their advice as necessary

- m) If the office of any employee of the council is vacant, or the employee is absent or otherwise unable to act, the most suitable senior officer available is authorised to exercise the responsibilities of the vacant office and such action shall be recorded in writing by the relevant Director, or in the event of a Director, by another Director
- n) Any post specifically referred to below shall be deemed to include any successor post, or a post that includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded or discharging the functions of the post on an interim basis

An officer shall not have the power to exercise any functions or take any decisions:

- a) where the Leader or the Cabinet has resolved to suspend that delegated power;
- b) outside or contrary to the council's Budget and Policy Framework;
- c) where the council's Head of Paid Service or Monitoring Officer has formally notified the officer concerned that the delegated function should not be exercised;
- d) where there is a conflict of interest or where any code of conduct for council employees in force from time to time prevents the exercise of such a function.

### Specific Officer Delegations

The officer delegations (below) set out the officers empowered to undertake the specified Executive decisions or actions on behalf of the council:

Post	Summary of Functions and Areas of Responsibility
<b>Chief Executive (Head of Paid Service)</b>	<p>The Chief Executive holds the statutory designation of Head of Paid Service and, in addition to those functions listed below, is responsible for the following functions:</p> <ul style="list-style-type: none"> <li>(a) Overall corporate management and operational responsibility for all officers</li> <li>(b) Reviewing the staffing structure, capacity, skills and performance of the council to ensure that they match the needs of the community, financial constraints, strategic priorities and statutory obligations.</li> <li>(c) Determining the management structure and the deployment of staff</li> <li>(d) Ensuring: <ul style="list-style-type: none"> <li>(i) human resource management complies with current council policy and standards</li> <li>(ii) propriety and observance of codes of conduct by all council staff</li> <li>(iii) compliance with and observance of all established council policies</li> </ul> </li> <li>(e) Having all the powers of any other officer in the event of their absence or inability to act, except insofar as the exercise of such powers is by law limited to a specific post holder, e.g. the Chief Executive may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.</li> <li>(f) Reporting 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</li> </ul>

	<p>discharge of functions and the organisation, appointment and proper management of officers</p> <p>(g) To do or authorise to be done any act or thing necessary to effect any decision of the council, the Cabinet or any committee, sub-committee or joint committee of the council</p> <p>(h) To do or authorise to be done any act in pursuance of the council's overall policies and programmes</p> <p>(i) Fostering a culture that demonstrates a positive outlook and continuous improvement</p> <p>(j) Managing the interface between elected members and officers to ensure effective delivery of the Vision and Corporate Plan.</p> <p>(k) Leading the medium-term budget strategy, change management and overall council performance.</p> <p>(l) Exercising the relevant functions of the Leader in relation to the overall strategic direction, policies and priorities of the Cabinet, including the overall corporate revenue and capital budget strategy and ensuring that appropriate systems are in place to assure the performance management of the authority</p> <p>(m) Overseeing the implementation of the council's policies and developing mechanisms to enable priorities to be set and choices to be exercised by elected members in the allocation of finance and other resources</p> <p>(n) Ensuring strategically led improvements in the quality and efficiency of service delivery and devising and maintaining systems to deliver good governance, including performance management, risk management and ethics/probity structures</p> <p>(o) Ensuring a sound strategic framework exists so that council policy is informed, helped and clarified, giving such policies a clear strategic direction, supported by realistic action plans</p> <p>(p) Working with elected members to build and develop strong relationships with existing and potential key partners (local, regional and national) across all sectors to develop effective partnership working and collaboration for the benefit of the local community.</p> <p>(q) Providing professional advice to all parties in the decision-making process</p> <p>(r) Maintaining a system of record keeping for all the council's decisions, together with the Monitoring Officer</p> <p>(s) Authorising urgent action between Cabinet meetings where necessary, in consultation with the Monitoring Officer, Chief Finance Officer, political groups, the Leader and/or relevant Cabinet members, and ensuring the chair of the Scrutiny Committee is (where practicable) notified before the decision is made and then notified once the decision has been made</p> <p>(t) Taking any action necessary during any gaps in governance that arise, such as the period during a year of elections to the Council between the day 4 days after the date of the elections and the date of Annual Council</p> <p>(u) Arranging for the council to be represented on partnership and external bodies as required by statute or the council</p> <p>(v) Ensuring that the council communicates with those who receive its services, its partners in service delivery and its various communities, explaining, interpreting, listening and consulting in a wide ranging and effective way</p> <p>(w) Leading and managing Emergency Management, including incurring expenditure in the event of a civil emergency</p>	
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	(x) During the period between the date of retirement of councillors following council elections and the next Annual Meeting of the council, where a matter requires a decision (whether an Executive or a Non-Executive function), having consulted with the Leader-elect (when notified in writing) and such members of the council as they consider appropriate, make the decision and authorise on an exceptional basis the relevant action
<b>Executive Director Corporate &amp; Commercial Services (s.151 Officer)</b>	<p>The Executive Director Corporate &amp; Commercial Services is responsible for the financial affairs of the council in accordance with s.151 of the Local Government Act 1972 and the Chief Finance Officer Protocol<sup>9</sup>, ensuring lawfulness and financial prudence of decision-making, including:</p> <ul style="list-style-type: none"> <li>(a) Acting as the council's Chief Finance Officer to ensure the proper administration of the council's financial affairs and that appropriate financial practices and procedures are in place to meet these requirements</li> <li>(b) all functions relating to local government finance and local taxation</li> <li>(c) After consulting with the Chief Executive and the Monitoring Officer, reporting to Council (or the Cabinet in relation to an Executive function) and the council's external auditor if any proposal, decision or course of action is unlawful, involves the incurring of unlawful expenditure or the use of inappropriate funds</li> <li>(d) Administration of the financial affairs of the council, including the provision of an Internal Audit function</li> <li>(e) Delivering a balanced budget and sustainable Medium Term Financial Strategy for the council, including reporting to the council at its annual budget meeting on the robustness of the estimates and the adequacy of the reserves</li> <li>(f) Monitoring the council's financial performance and advising the council of the robustness of its budgets and the adequacy of its reserves Promoting the development of improved financial practices, procedures, controls and business processes, to ensure the services enabled and delivered by the council continue to be affordable</li> <li>(g) Ensuring all reports submitted to members for consideration meet the required quality of accuracy and assessment of the financial issues to be considered</li> <li>(h) Contributing to the corporate management of the council, in particular through the provision of professional financial advice</li> <li>(i) Providing 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 supporting and advising councillors and officers in their respective roles</li> <li>(j) Giving financial information to the media and members of the public and the community</li> <li>(k) all functions relating to the appointment of staff and of human resources services, learning and union and employee relations</li> <li>(l) all functions relating to the making and renewing of insurance arrangements</li> <li>(m) all functions relating to the administration and management of revenues and benefits</li> <li>(n) all functions relating to elections, legal services, member services and the democratic process of the council</li> <li>(o) all functions connected with the civic and ceremonial functions of the city, the Lord Mayoralty and other offices of dignity.</li> </ul>

<sup>9</sup> [https://www.norwich.gov.uk/download/downloads/id/2037/9c\\_chief\\_finance\\_officer\\_protocol.pdf](https://www.norwich.gov.uk/download/downloads/id/2037/9c_chief_finance_officer_protocol.pdf)

	<p>(p) all functions relating to twinning</p> <p>(q) all functions connected with public procurement and contract award, management and termination</p> <p>(r) administer any charities for which the council or its officers are trustees</p>
<b>Executive Director Community Services</b>	<p>(a) all functions in the area of tourism, leisure, sport, culture, events and recreation</p> <p>(b) all functions in the area of communications, publicity, information and public relations</p> <p>(c) the land charges function</p> <p>(d) all functions relating to customer contact, ICT and digital support within the council</p> <p>(e) all functions relating to information management including being Senior Information Risk Owner for the council</p> <p>(f) all the council's functions as a local housing authority including tenancy management, tenancy support, rents and income collection, home ownership, housing options and overall operational responsibility for housing property</p> <p>(g) all functions concerning the prevention of crime and antisocial behaviour, including community safety</p> <p>(h) all functions of the council relating to CCTV provision and management</p> <p>(i) all functions relating to community development, play, community liaison, community engagement, the council's private sector leasing scheme, and neighbourhood agenda</p> <p>(j) all functions concerned with the safeguarding of children and adults</p> <p>(k) all functions relating to financial inclusion and reducing inequalities</p> <p>(l) all functions relating to risk management, transformation and efficiency</p>
<b>Executive Director Development &amp; City Services</b>	<p>(a) all functions relating to parks, open spaces and natural areas</p> <p>(b) all functions related to the collection of household waste, recycling and composting</p> <p>(c) all functions related to management of the street scene, including highway cleansing, graffiti removal, emptying litter bins, fly-posting, street naming and numbering, and street furniture management</p> <p>(d) all functions with regard to tree and woodland management</p> <p>(e) all functions related to the removal of abandoned vehicles</p> <p>(f) all functions relating to enforcement issues regarding fly-tipping, graffiti, fly-posting, dogs, pest control, trade and household waste abuse, filthy and verminous premises, powers under appropriate legislation and drainage issues</p> <p>(g) all the functions of the council under any and all licensing and regulatory legislation</p> <p>(h) all environmental protection (including food safety), emergency planning, disaster recovery and health and safety functions</p> <p>(i) all functions of the council as a markets and fairs authority</p> <p>(j) all functions of the council as a local planning authority</p> <p>(k) all functions relating to conservation and quality of the built environment</p> <p>(l) all functions of the council as a building control authority.</p> <p>(m) all economic development functions of the council</p> <p>(n) all property functions of the council and the management of council occupied premises (except housing property operations), including asset realisation</p> <p>(o) all functions relating to car parking</p> <p>(p) all functions relating to assessing, planning for and delivering the development</p>

	<p>of new housing</p> <p>(q) all functions relating to the regulation of private sector housing</p> <p>(q) the council's functions related to river safety</p> <p>(r) all functions relating to business continuity</p>
<b>Head of Legal &amp; Procurement (Monitoring Officer)</b>	<p>The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service and undertakes the responsibilities defined in law, the Constitution and the Monitoring Officer Protocol (<a href="https://www.norwich.gov.uk/download/downloads/id/2036/9b_monitoring_officer_protocol.pdf">https://www.norwich.gov.uk/download/downloads/id/2036/9b_monitoring_officer_protocol.pdf</a>), including:</p> <p>(a) acting as the council's chief legal and governance advisor to ensure it operates lawfully and within the agreed Constitution</p> <p>(b) maintaining an up-to-date version of the Constitution and ensuring it is widely available to members, staff and the public</p> <p>(c) ensuring lawfulness and fairness of decision making. After consulting with the Chief Executive and Chief Finance Officer, the Monitoring Officer will report to Council (or the Cabinet in relation to an Executive function) if any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration</p> <p>(d) ensuring that all reports submitted to members for consideration meet the required quality of accuracy and assessment of the legal issues to be considered</p> <p>(e) conducting investigations into alleged breaches of the Member Code of Conduct and arranging for such reports to be considered by the Standards Committee, where appropriate</p> <p>(f) dealing with requests for dispensations relating to Disclosable Pecuniary Interests without the need for a meeting of the Standards Committee, where appropriate</p> <p>(g) advising whether Cabinet decisions are within the Budget or Policy Framework</p> <p>(h) providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Policy Framework issues to all councillors</p> <p>(i) to appoint from time to time and in consultation with the Chief Executive independent members to the Standards Committee</p>

### Statutory and Proper Officers

The council designates proper officers to carry out functions allocated by law. Power to appoint Proper Officers is delegated to the Chief Executive, following consultation with the Monitoring Officer, unless legislation requires the appointment to be made by Full Council.

The Chief Executive and each Director shall be authorised to act as the Proper Officer for the statutory responsibilities that fall within their areas of responsibility set out below:

PURPOSE OF APPOINTMENT	PROPER OFFICER
Any reference to the Clerk of a council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the Proper Officer of the council	Monitoring Officer

**Commented [GW22]:** This is a new and comprehensive list of Proper Officers.

Any reference to the Treasurer of a council which, by virtue of the Local Government Act 1972, is to be construed as reference to the Proper Officer of the council	S.151 Officer
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#### **PUBLIC HEALTH ACT 1936**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
85(2)	Serving a notice requiring action to deal with verminous people and things	Executive Director Development & City Services

#### **LOCAL GOVERNMENT ACT 1972**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
83	Witness and receive declarations of Members' acceptance of office	Monitoring Officer
84	Receive written notice of Members' resignation from office	Monitoring Officer
88(2)	Convene Council meeting for election to vacant office of Chairman	Monitoring Officer
89(1)(B)	Receive notice of casual vacancy from two local government electors	Executive Director Corporate & Commercial Services
100B(2)	Decide on the exclusion of reports and agendas from public inspection	Monitoring Officer
100B(7)(c)	Decide whether copy documents supplied to Members should also be supplied to the press	Monitoring Officer
100C(2)	Produce a written summary of proceedings taken by a committee in private	Monitoring Officer
100D(1)(a)	Compile a list of background papers to a committee report.	Officer in whose name the report is written
100D(5)(a)	Identify background papers that disclose facts or matters on which a report is based	Officer in whose name the report is written
100F(2)	Identify which documents contain exempt information not open to inspection by Members	Monitoring Officer
115(2)	Receive from officers any money and property committed to their charge in connection with their office	S.151 Officer
146(1)	Sign the statutory declaration to enable the transfer of securities in the event of a change in the name or status of the council	S.151 Officer
151	Responsibility for the administration of the council's financial affairs.	S.151 Officer
191(2)	Receive applications from Ordnance Survey for assistance in surveying disputed boundaries.	Executive Director Development & City Services

210(6)-(7)	Exercise residual functions relating to charities.	Executive Director Development & City Services
225(1)	Receive and retain documents deposited with the council	Executive Director Development & City Services
229(5)	Certify, for the purpose of any legal proceedings, that a document is a photographic copy of the original	Monitoring Officer
234(1)	Sign public notices, orders and other documents on behalf of the council	Monitoring Officer (generally) and the officers listed in the Scheme of Delegation within their area of responsibility
238	Certification of copy bylaws	Monitoring Officer
248(2)	Maintaining the roll of persons admitted to the freedom of the city	Monitoring Officer
Sch.12 Para.4(2)( b)	Sign and send to all Members of the council the summons to attend meetings of the council	Monitoring Officer
Sch.12 Para 4(3)	Receive written notice from a Member of the address to which a summons to the meeting is to be sent	Monitoring Officer
Sch.14, Para 25	Certifying copy resolutions of the council passed before 1975 disapplying public health statutes	Monitoring Officer
Schedule 29, Para.4	Undertake duties at council elections which, under the Representation of the People Acts, are required to be undertaken not by the Returning Officer but by the Proper Officer	Chief Executive
Sch.29 Para.4(1)(b) )	Adaptation, modification and amendment of enactments	Monitoring Officer

#### **LOCAL GOVERNMENT ACT 1974**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
30(5)	Give public notice of receipt of Local Government Ombudsman's report	Chief Executive

#### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

<b>Section</b>	<b>Purpose</b>	<b>Officer</b>
41	Certifying copy resolutions and minutes of proceedings	Monitoring Officer

#### **REPRESENTATION OF THE PEOPLE ACT 1983**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
8	Electoral Registration Officer	Chief Executive

35	Returning Officer	Chief Executive
67(7)(b)	Receive declarations and give public notice of election agents' appointments	Chief Executive
81, 82 and 89	Appropriate officer for the election of councillors	Chief Executive
82(4)	Receive declarations and give public notice of election agents' or candidates' election expenses	Chief Executive
131	Providing accommodation for holding election count	Chief Executive

#### **PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
48 (as amended by the Health and Social Care Act 2008)	Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately	Executive Director Development & City Services
59	Authentication of documents	Executive Director Development & City Services

#### **PUBLIC HEALTH (INFECTIOUS DISEASES) REGULATIONS 1988**

<b>Regulation</b>	<b>Purpose</b>	<b>Proper Officer</b>
6	Reporting of infectious diseases to the Chief Medical Officer	Executive Director Development & City Services
8	Submission of weekly or quarterly returns to the Registrar General	Executive Director Development & City Services
10	Arrangements for immunisation and vaccination	Head of Planning & Regulatory Services
Sch.3 and 4	Reporting and issuing notices to prevent the spread of infection	Executive Director Development & City Services

#### **LOCAL GOVERNMENT FINANCE ACT 1988**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
114, 115 and 115B	Responsibility for Chief Financial Officer reports	S.151 Officer
116(1)	Notify the external auditor of a meeting (and decisions made at such a meeting) to consider a report from the Chief Financial Officer (under section 114 and 115 above)	S.151 Officer

#### **LOCAL GOVERNMENT AND HOUSING ACT 1989**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
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2(4)	Hold the council's list of politically restricted posts	Monitoring Officer
3A	In consultation with the Monitoring Officer, determine applications for exemption from political restriction or for designation of posts as politically restricted	Monitoring Officer
4	Designation as Head of Paid Service	Chief Executive
5(1)	Designation as Monitoring Officer	Monitoring Officer
15-17	Undertake all matters relating to the formal establishment of political groups within the membership of the council	Monitoring Officer

**THE LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990**

Regulation	Purpose	Proper Officer
8(1), 8(5), 9(b), 10, 13(1), 14 and 17	Notifications to and by the Proper Officer	Monitoring Officer

**CRIME AND DISORDER ACT 1998, SECTION 115  
CRIME AND DISORDER (FORMULATION AND IMPLEMENTATION OF STRATEGY) REGULATIONS 2007/1830**

Regulation	Purpose	Proper Officer
4(3)	Primary Designated Officer for information sharing	Executive Director Community Services

**LOCAL GOVERNMENT ACT 2000 SECTIONS 9G, 9GA AND 22**

**LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012**

Regulation	Purpose	Proper Officer
7	Exclusion of whole or part of any reports to the Cabinet or Cabinet Member where they relate only to items during which the meeting is likely not to be open to the public	Monitoring Officer
10	Inform the relevant Select Committee Chairman or the Committee Members by notice in writing of decisions to be made, where it has been impracticable to comply with the publicity requirements (in the Cabinet Notice) and make available for public inspection notices relating to this	Monitoring Officer
12	Produce a written statement of Cabinet decisions made at meetings	Monitoring Officer
13	Produce a written statement of decisions made by individual Cabinet Members	Monitoring Officer
14	Make a copy of written statements of Cabinet and Cabinet Member and officer executive decisions and associated reports available for inspection by the public	Monitoring Officer
15 and 2	Make available for inspection a list of background papers	Monitoring Officer

16(5)	Determine whether certain documents contain exempt information	Monitoring Officer
16(7)	Determine whether certain documents contain advice provided by a political adviser or assistant	Monitoring Officer
20	Determine whether documents contain confidential information, exempt information or the advice of a political adviser or assistant	Monitoring Officer

**LOCAL GOVERNMENT ACT 2000, SECTION 34  
LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS AND DIRECTIONS)  
REGULATIONS 2000**

Regulation	Purpose	Proper Officer
4-5	Publish the verification number of local government electors for the purpose of petitions under the Local Government Act 2000	Executive Director Corporate & Commercial Services

**REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000  
THE REGULATION OF INVESTIGATORY POWERS (PRESCRIPTION OF  
OFFICES, RANKS AND POSITIONS) ORDER 2000**

Section	Purpose	Proper Officer
21, 22, 27, 28 and 29	The Senior Responsible Officer for RIPA	Head of Planning & Regulatory Services

**REGULATION OF INVESTIGATORY POWERS ACT 2000, SECTIONS 22(2)(B) AND  
25(2)  
THE REGULATION OF INVESTIGATORY POWERS (COMMUNICATIONS DATA)  
ORDER 2010  
THE REGULATION OF INVESTIGATORY POWERS (COVERT SURVEILLANCE AND  
PROPERTY INTERFERENCE: CODE OF PRACTICE) ORDER 2010  
THE REGULATION OF INVESTIGATORY POWERS (COVERT HUMAN  
INTELLIGENCE SOURCES: CODE OF PRACTICE) ORDER 2010**

Regulation	Purpose	Proper Officer
-	Designated Senior Responsible Officer	Head of Planning & Regulatory Services

**FREEDOM OF INFORMATION ACT 2000**

Section	Purpose	Proper Officer
36	Qualified person to confirm or deny whether disclosure of information is likely to prejudice the effective conduct of public affairs	Monitoring Officer

**THE LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS 2001**

Regulation	Purpose	Proper Officer
Sch.1,	Notifications to the Cabinet concerning appointments and	Executive Director



Pt.II, Paras 5-6	dismissals	Corporate & Commercial Services
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#### **LOCAL GOVERNMENT ACT 2003**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
25	When the annual budget report is considered by Cabinet or by the Council, the Chief Financial Officer must make a report on the robustness of the estimates made in determining the budget requirement and on the adequacy of the proposed level of financial reserves	S.151 Officer

#### **MONEY LAUNDERING REGULATIONS 2003**

<b>Regulation</b>	<b>Purpose</b>	<b>Proper Officer</b>
7(1)(a)	Nominated officer to receive disclosures	S.151 Officer

#### **LOCALISM ACT 2011**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
29	Establish, maintain and publish a Register of Members' Interests	Monitoring Officer
33(1)	Receiving applications for dispensations	Monitoring Officer
33(2)	Grant dispensations to Members to speak only or to speak and vote on matters where they have a Disclosable Pecuniary Interest	Monitoring Officer

#### **THE LOCAL ELECTIONS (PRINCIPAL AREAS) (ENGLAND AND WALES) RULES 2006**

<b>Regulation</b>	<b>Purpose</b>	<b>Proper Officer</b>
54	Registration officer for the retention and destruction of documents following an election	Monitoring Officer

#### **THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012**

<b>Regulation</b>	<b>Purpose</b>	<b>Proper Officer</b>
2, 7, 10, 12, 13-16, 20	Functions relating to the recording and publication of information relating to Executive decisions	Monitoring Officer
12-13	Grant dispensations in respect of conflicts of interest declared by an Executive member making a decision, or declared by an Executive member consulted by a member or officer taking such a decision	Chief Executive

#### **DATA PROTECTION ACT 2018**

<b>Section</b>	<b>Purpose</b>	<b>Proper Officer</b>
69, 70 and 71	The designated Data Protection Officer to discharge functions associated with the Data Protection Act 2018	Executive Director Corporate & Commercial Services

In the event of the Chief Executive being unavailable to deal with matters for which they have been designated the Proper Officer, another Director may be authorised by them to act as Proper Officer in their absence.

In the event of any other designated officer being unable to fulfil their duties as Proper Officer, their deputy shall be authorised to undertake such duties instead.

Notwithstanding the above, any proper officer authority may be exercised in the name of the designated proper officer by any other senior officer authorised in writing to do so by the proper officer. All such authorisations will be deposited with the Monitoring Officer.

## Recording and Publishing Officer Decisions

**Commented [GW23]:** New section inserted to meet statutory obligations.

This protocol sets out the procedural framework to decision making and establishes a system to document decisions taken by officers under delegated authority.

### Types of officer decisions

An 'Executive decision' is one made in connection with the discharge of a function which is the responsibility of the Leader and Cabinet and which has been delegated to officers.

A 'Non-Executive decision' is one made in connection with the discharge of a function that is the responsibility of Full Council and its committees and which has been delegated to officers.

The significance of decisions taken under delegated powers will vary, and officers authorised to make delegated decisions need to exercise judgment in determining whether decisions are significant enough to require formal recording and publishing.

Although administrative and operational decisions are not required to be formally reported, they must be recorded within the service area so as to provide an audit trail.

Key Decisions, Material Decisions, Significant Decisions and Urgent Decisions are defined below:

**Key Decisions** are Executive decisions that are 'significant':

- (a) in relation to the budget for the service or function in question, i.e. if they result in the council incurring expenditure or making savings of £500k or more (calculated on a whole life basis); or
- (b) in terms of the effect on communities living or working in two or more electoral wards

**Material Decisions** are Executive decisions (other than purely operational or administrative in nature) taken by officers under powers delegated by a specific resolution of the Cabinet/Cabinet member or under the Scheme of Delegation:

- (a) That are contentious, controversial or politically sensitive; or
- (b) Where there is likely to be a strong public interest; or
- (c) Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or
- (d) Raise new issues of policy

**Significant Decisions** are Non-Executive decisions (other than purely operational or administrative in nature) taken by officers under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/interest; where the effect of the decision:

- (a) is to grant a permission or licence
- (b) affects the legal rights of an individual
- (c) is to award a contract or incur expenditure which 'materially' affects the authority's financial position

**Urgent Decisions** are decisions made in circumstances where:

- (a) a decision is required by statute or otherwise within a specified timescale; or
- (b) any delay likely to be caused by not making the decision would seriously prejudice the council's or the public's interests; or
- (c) any delay likely to be caused by not making the decision would be likely to expose the council, its members or the public to a significant level of risk, loss, damage or disadvantage

Officers do not have authority to make Key Decisions except where:

- (a) they are specifically authorised by the Leader, Cabinet, Full Council or a committee; or
- (b) the Chief Executive or (in their absence) is acting under urgency powers.

The following types of officer decision must be formally recorded and published subject to the exceptions set out:

Type of Officer Decision	Exception	Publication
<b>Key Decisions</b> Executive decisions that are: <ul style="list-style-type: none"> <li>• likely to result in the council incurring expenditure or making savings of £500k or more (calculated on a whole life basis); or</li> <li>• are significant in terms of the effect on communities living or working in two or more electoral Wards</li> </ul>	Officers are only to take Key Decisions where: <ul style="list-style-type: none"> <li>(i) specifically authorised by the Leader or Cabinet; or</li> <li>(ii) where the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers.</li> </ul>	As soon as reasonably practicable after an officer has made a Key, Material or Significant decision, they must produce a written statement, available for inspection at City Hall and published on the council's website, that includes details of: <ul style="list-style-type: none"> <li>• the decision and the date it was made;</li> <li>• the reasons for it;</li> <li>• any alternative options considered and rejected;</li> <li>• any conflicts of interests declared by any Cabinet member consulted by the officer and any dispensations granted by the Chief Executive in respect of any declared conflict;</li> <li>• the report considered by the decision-maker;</li> <li>• any background documents disclosing facts or matters on which the decision was based and which were relied on to a</li> </ul>
<b>Material Decisions</b> Executive decisions under powers delegated by a specific resolution of the Cabinet/Cabinet member or under the Scheme of Delegation: <ul style="list-style-type: none"> <li>• That are contentious, controversial or politically sensitive; or</li> <li>• Where there is likely to be a strong public interest; or</li> <li>• Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or</li> </ul>	Does not apply: <ul style="list-style-type: none"> <li>(i) To routine operational, organisational or administrative decisions;</li> <li>(ii) Where the expenditure or saving has already been approved by Cabinet or Cabinet Member and the decision has been published;</li> <li>(iii) Confidential or Exempt Information; or</li> <li>(iv) Where the expenditure or saving is already recorded and published under separate statutory requirements.</li> </ul>	

• That raise new issues of policy.		material extent in making the decision.
<b>Significant Decisions</b> Non-Executive decisions under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/ interest; where the effect of the decision: <ul style="list-style-type: none"> <li>• is to grant a permission or licence</li> <li>• affects the legal rights of an individual</li> <li>• is to award a contract or incur expenditure which 'materially' affects the authority's financial position</li> </ul>	Does not apply: <ul style="list-style-type: none"> <li>(i) To routine operational, organisational or administrative decisions;</li> <li>(ii) Confidential or Exempt information;</li> <li>(iii) Where the date, details of and reasons for the decision are already required to be produced under a statutory requirement;</li> <li>(iv) If only the rights of an individual or business are affected, unless there is a wider public impact/ interest in the action.</li> </ul>	The decision record must be kept for inspection for 6 years and the background papers for 4 years.

## The process

Before taking any decision, the authorised officer must consider the principles of decision making set out in Part 2 Section 1.

Details of all proposed Key Decisions must be published at least 28 clear days before the decision is made (unless the general exceptions procedure or special urgency procedure is applicable) via the Cabinet Notice (Forward Plan).

Where an officer makes an urgent Key Decision they must comply with the legal requirements set out in the Access to Information Rules (see Part 4).

## Call-In

Key Decisions made by officers are subject to call-in by Scrutiny Committee and cannot be implemented until either the call-in period has expired or the Scrutiny Committee has made a decision regarding the call-in. The Call-in procedure is set out in Part 2 Section 9.

Although the formal call-in process only applies to officer Key Decisions, Scrutiny Committee can call an officer to account over any decision made.

## Recording and publishing the decision

The officer decisions for publication (listed above) are recorded in the same manner as Cabinet decisions. The officer must provide Democratic Services with a completed Officer Decision Record (available on the council's intranet site) within two clear days of the date of taking the decision. Any such forms must be copied to the relevant Director. The Decision Record will be accompanied by any relevant background papers and, where appropriate (for

example, in respect of a controversial or complex matter) a full report (based on the Cabinet report template).

Democratic Services will maintain a record of all officer decisions referred for publication, including any report upon which each decision was made and background papers. Subject to any exemption from publication, they will ensure that this decision is available for public inspection via the website, at City Hall or by post if requested and on receipt of payment for copying and postage.

A written record of such decisions must be available for public inspection for at least 6 years and the background papers for at least 4 years.

### **Consultation with members**

Officers to whom specific decision-making powers have been delegated following a Cabinet decision subject to consultation with Cabinet members, will ensure that such consultation takes place prior to making the decision.

Officers acting within the remit of their general delegated powers within the Constitution will ensure that they identify issues upon which members should be consulted and will ensure that appropriate consultation takes place.

## **PART 3 – RULES GOVERNING HOW THE COUNCIL OPERATES**

### **COUNCIL, CABINET AND COMMITTEE PROCEDURE RULES**

#### **Annual Meetings**

1. In a year when there is an ordinary election of councillors, the Annual Meeting of the council will take place within 21 calendar days of the retirement of the outgoing councillors. In any other year, the Annual Meeting will take place in March, April or May, as determined by the Council.
2. In the period after ordinary council elections and before the Annual Meeting, any member who holds office within the council immediately prior to the election and is re-elected, shall continue in that office until the date of the Annual Meeting.
3. The Annual Meeting will:
  - (a) if the Lord Mayor or Deputy Lord Mayor is not present, elect a member of the council to chair the meeting;
  - (b) elect the Lord Mayor for the new civic year;
  - (c) elect the Sheriff for the new civic year;
  - (d) elect the Deputy Lord Mayor for the new civic year if the Sheriff elected is not a councillor;
  - (e) receive any announcements from the Lord Mayor and/or Head of the Paid Service;
  - (f) receive any declarations of interest from members;
  - (g) approve a programme of Ordinary Meetings of the Full Council for the year, one of which will be to consider the council's budget only;
  - (h) elect the Executive Leader;
  - (i) appoint at least one overview and scrutiny committee and such other committees as the council considers appropriate and decide the size and terms of reference for those committees;
  - (j) appoint the chairs and members of the Scrutiny Committee and such other committees or sub-committees appointed by council;
  - (k) decide the allocation of seats to political groups in accordance with the political proportionality rules;
  - (l) receive nominations of councillors to serve on outside bodies that are required to be appointed by the council;
  - (m) formally adopt a Members' Allowances Scheme;
  - (n) consider any other business set out in the notice convening the meeting.

#### **Ordinary Meetings**

4. Ordinary meetings will:
  - (a) if the Lord Mayor or Deputy Lord Mayor is not present, elect a member of the council to chair the meeting;
  - (b) approve the minutes of the last meeting;

- (c) receive any declarations of interest from members;
- (d) receive any announcements from the Lord Mayor;
- (e) in exceptional circumstances and at the discretion of the Lord Mayor, receive announcements from a councillor or an officer;
- (f) in accordance with these rules to:
  - (i) receive any questions from, and provide answers to, the public;
  - (ii) receive any petitions;
  - (iii) receive any questions from and provide answers to councillors.
- (g) deal with any business from the last council meeting;
- (h) receive any reports on current issues from the Cabinet, the council's committees, select committees, joint committees, panels or officers;
- (i) receive any reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (j) consider any motions;
- (k) consider any other business specified in the summons to the meeting;
- (l) present any long service awards.

### **Budget Meetings**

- 5. The meeting convened to consider the Budget shall follow the procedure set out in paragraph 4(a) to (d) above only, but in addition shall receive any questions from, and provide answers to, the public and consider proposals from the Cabinet in relation to the council's Budget and Policy Framework.
- 6. Any vote (including procedural and on amendments) relating to budget setting and council tax decisions made by Full Council must be undertaken by a named vote.
- 7. Section 106 of the Local Government Finance Act 1992 bars a councillor from voting on the council's budget if they have an outstanding council tax debt of over two months. If a member is present at any meeting at which relevant budgetary matters are discussed, they must disclose that s.106 applies and may not vote. Failure to comply is a criminal offence.

### **Extraordinary Meetings**

- 8. A request may be made to call an Extraordinary Meeting of Full Council by:
  - (a) the Full Council by resolution;
  - (b) the Lord Mayor/chair;
  - (c) the Monitoring Officer;
  - (d) any five members of the council if they have signed a requisition presented to the Lord Mayor and they have refused to call a meeting, or have failed to call a meeting within seven days of the presentation of the requisition
- 9. The requisition must specify by motion, or by report from officers, the issue to be considered at the meeting.
- 10. When considering a requisition, the Lord Mayor shall decide, in consultation with the



Chief Executive and Monitoring Officer, whether to call the Extraordinary Meeting on the same date as the next scheduled Ordinary Meeting of the council or on an earlier date in exceptional circumstances. Among the factors that shall be taken into account by the Lord Mayor when deciding are:

- (a) whether the subject matter of the requisition is a single, major issue;
  - (b) whether the subject matter was genuinely unforeseen at the time of the last meeting;
  - (c) whether any significant decision to which the subject matter relates has yet to be taken and, if so, any associated deadlines;
  - (d) the degree of urgency, if any, and the consequential ability to have a matter considered by council before it is too late to alter a course of events (the greater the urgency, the earlier the meeting should be held);
  - (e) whether the issue has been the subject of Call-In in the previous six months;
  - (f) subject to the above, administrative convenience/inconvenience and maximising the attendance of members.
11. Once the decision is made, the Lord Mayor should keep their decision under review in case of any substantial changes in circumstances that might require or justify a meeting to be called earlier.
12. The business to be transacted at an Extraordinary Meeting shall be restricted to the matters for which the meeting was called as set out in the summons/agenda, and no other business shall be considered.
13. The Lord Mayor may amend the order of business on the agenda and at the meeting as they see fit.
14. There are also special meetings of the council that may be convened for a specific statutory purpose (such as, for example, the appointment of honorary aldermen and honorary alderwomen).

#### **Cancellation or Rescheduling of Meetings**

15. The Lord Mayor, having consulted the Leader and the leaders of the other political groups, may agree to cancel a meeting of the Council, the date of which has been agreed by the council at its Annual Meeting, if they are satisfied that there is an insufficient amount of business to be transacted and providing the summons/agenda for the meeting has not been issued.
16. The Lord Mayor having consulted the Leader and the leaders of the other political groups, may agree to reschedule a meeting of the council the date of which has been agreed by the council at its Annual Meeting, if satisfied that this is an appropriate course of action and providing the summons/agenda for the meeting has not been issued.
17. Cancellation or rescheduling of all other meetings in the event of there being no substantive items of business may be made at the discretion of the chair.

### Time and Place of Meetings

18. The time and place of meetings will be determined by the Head of Legal & Procurement and notified in the summons/agenda.

### Notice of and Summons to Meetings

19. The Head of Legal & Procurement will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules (see Part 4).
20. At least five clear working days before a meeting, the Head of Legal & Procurement shall send a summons they have signed to every councillor by post or email or leave it at their usual place of residence.
21. 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.

**Commented [GW24]:** Standardised notice periods are used throughout the Constitution unless prescribed by law, using multiples of 'five clear working days' as the norm. In other words, do away with other variants, such as 'days', 'clear days' and 'working days'.

### Chair of Meetings

22. At its Annual Meeting, Full Council elects from amongst its members (other than the Leader or a Cabinet Member) the Lord Mayor and Deputy Lord Mayor to act as chair and vice-chair of the Council respectively. No member can hold the post of Lord Mayor or Deputy Lord Mayor for more than one year unless the council resolves to appoint them for a second year. A chair cannot preside at their own election.
23. In the absence of both the Lord Mayor and Deputy Lord Mayor, members will elect a chair for the meeting concerned by a simple majority vote. The person presiding at the meeting may exercise any power or duty of the Lord Mayor for that meeting. In so doing, they will act apolitically, impartially and in the interests of the whole council.
24. Where these rules apply to Cabinet, committee or sub-committee meetings, reference to the Lord Mayor shall mean the chair of the meeting.

### Quorum

25. The quorum of a meeting of the council, committee or sub-committee will be one quarter of the whole number of voting members of that body, with the exceptions of Cabinet, Scrutiny Committee and Audit Committee, where the quorum is four voting members; and Standards Committee where the quorum is three voting members.
26. If during a meeting the Lord Mayor 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 Lord Mayor. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

### Duration of Meetings

27. After two hours have passed since the start of a Council meeting, the Lord Mayor will ask if each of the remaining items can be taken as unopposed business. When unopposed business has been dealt with the meeting will then deal with opposed items. If there is opposed business to take after two hours have elapsed since the beginning of the meeting, a short break of up to ten minutes will be taken before continuing with the business of the meeting.
28. After three hours have passed since the start of a Council meeting, or at a convenient point before, unless the majority of members present vote for the meeting to continue, the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Lord Mayor. If the Lord Mayor does not fix a date, the remaining business will be considered at the next ordinary meeting.

#### **Questions by the Public**

29. Any person living in the administrative area of Norwich City Council or any other person entitled to stand as a candidate for election to the council may ask questions of the Leader, a Cabinet member or the chair of a committee at ordinary meetings of the council and at Cabinet. Such questions must be within the remit of the relevant meeting.
30. The rights of a person under paragraph 28 shall not extend to asking questions of the chairs of Standards Committee, Planning Applications Committee, Licensing Committee or Licensing Sub-Committee.
31. Questions will be asked in the order that notice was received, except that the Lord Mayor may group together similar questions.
32. A question may only be asked if it has been received in writing or by email by Democratic Services no later than 10am five clear working days before the council meeting.
33. Democratic Services will send a copy of the question to the councillor to whom it is to be put.
34. At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of one organisation.
35. Democratic Services may reject a question if it:
  - (a) is not about a matter:
    - (i) for which the council has a responsibility or
    - (ii) which particularly affects the city;
  - (b) is defamatory, frivolous or offensive;
  - (c) is a statement rather than a question;
  - (d) relates to an individual or the questioner's own particular circumstances;
  - (e) is substantially the same as a question which has been put at a meeting of the council in the past six months;
  - (f) requires the disclosure of confidential or exempt information as defined in the Access to Information Procedure Rules (see Part 4);

- (g) names or identifies individual service users, officers or members/staff of partner agencies;
- (h) is not submitted within the requisite time frame;
- (i) does not give the name and address of the questioner;
- (j) exceeds 150 words.

**Commented [GW25]:** Note: word count introduced to enable more public questions to be considered.

36. A maximum of five questions will be allowed at the beginning of each meeting (apart from Planning and Licensing Committees) for questions from members of the public.
37. A maximum of three minutes will be allowed for each question and a further maximum of a minute will be allowed for one supplementary question.
38. Questions shall be answered orally at the meeting by the relevant councillor, or their nominee, but shall not be the subject of any further debate. Answers shall not exceed 150 words. Where the reply cannot be given orally, a written answer shall be provided to the questioner within 10 working days of the meeting.
39. A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to the original question. A supplementary question must arise directly out of the original question or the reply. The Lord Mayor may reject a supplementary question on any of the grounds in this section of these rules.
40. Unless the Lord Mayor decides otherwise, no discussion will take place on any question, but any councillor may move that a matter raised by a question be referred to the Cabinet or the relevant committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

**Commented [GW26]:** Note: word count introduced to enable more public questions to be considered.

## Petitions

41. Any person qualified to ask a question as set out in these rules, may present a petition to a meeting of the council.
42. A petition may only be presented if the wording of the petition has been received in writing or by email by Democratic Services at least five clear working days before the council meeting.
43. No petition may be presented which:
  - (a) is not about a matter:
    - (i) for which the council has a responsibility or
    - (ii) which particularly affects the city;
  - (b) contains intemperate, inflammatory, abusive or provocative language;
  - (c) is defamatory, frivolous, vexatious, discriminatory or otherwise offensive;
  - (d) contains false statements;
  - (e) does not relate to a subject matter which is within the direct control of the council, e.g. request to lobby central government;
  - (f) discloses confidential or exempt information, including information protected by a court order or government department;

- (g) discloses material that is commercially sensitive;
- (h) names individuals, or provides information where they may be easily identified, e.g. individual officers of public bodies, or makes criminal accusations;
- (i) contains advertising statements;
- (j) refers to an issue which is currently the subject of a formal council complaint, local ombudsman complaint or any legal proceedings
- (k) is directed to an individual or small group;
- (l) likely to cause a breach of the peace;
- (m) concerns planning applications, or any licence, notice or order issued, served or made by the council;
- (n) is substantially the same as a petition which has been presented to a meeting of the council in the past six months.

44. When considering whether a petition is vexatious, the council will use as a starting point the guidance under the Freedom of Information Act 2000, which states: *"Deciding whether a Freedom of Information request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause."*
45. No petitioner shall present more than one petition in any six-month period.
46. The number of signatories to a petition must be at least fifty.
47. Petitions shall be presented in the order in which Democratic Services receives notice of them provided that not more than two petitions shall be presented at any one council meeting.
48. When a petition is received that relates to a local matter (particularly affecting specific electoral Wards), a copy of the petition will be sent to each relevant councillor at the same time as acknowledging receipt of the petition to the petition organiser.
49. In presenting a petition the petitioner may speak for not more than five minutes regarding the subject matter of the petition but shall say nothing which would be in breach of the restrictions in these rules. The relevant councillor or their nominee will have up to five minutes to respond.
50. Democratic Services may with the consent of the petitioner arrange for the petition to be presented direct to the Cabinet or the relevant committee.

#### **Questions by Councillors**

51. Councillors may ask questions of the Leader, a Cabinet member or the chair of a committee at ordinary meetings of Full Council; and, of a member of the Cabinet at Cabinet meetings.
52. At the discretion of the relevant chair, a councillor may ask a committee or sub-committee a question on any matter in relation to which it has powers or duties.

53. At a meeting no member may ask more than one question unless the time taken by questions has not exceeded thirty minutes in which case second questions will be taken in the order that they are received.
54. A councillor may only ask a question if either:
- (a) it has been received in writing or by email by Democratic Services at least five clear working days before the council meeting; or
  - (b) the question relates to urgent matters, they have the consent of the person to whom the question is to be put and the content of the question is given to Democratic Services in writing by 12 noon on the day of the meeting.
55. Democratic Services may reject a question if:
- (a) it is not about a matter:
    - (i) for which the council has a responsibility; or,
    - (ii) which particularly affects the city;
  - (b) it is defamatory, frivolous or offensive;
  - (c) it requires the disclosure of confidential or exempt information as defined in the Local Government Act 1972;
  - (d) it relates to a day to day council function or the provision of a council service and has not been asked first of the relevant service area;
  - (e) is not related to policy or budget issues
  - (f) is a statement rather than a question;
  - (g) relates to an individual or the questioner's own particular circumstances;
  - (h) is substantially the same as a question which has been put at a meeting of Full Council in the past six months
  - (i) requires the disclosure of confidential or exempt information;
  - (j) names or identifies individual service users, members of staff or members/staff of partner agencies;
  - (k) is not submitted within the requisite timeframe;
  - (l) exceeds 150 words.
56. Written replies will be given to questions by the relevant Cabinet member or committee chair or their nominee, but shall not be the subject of any further debate. Answers shall not exceed 150 words. Where the reply cannot be given at the council meeting, a written answer will be provided to the questioner within 10 working days of the meeting.
57. The councillor to whom the question is asked may decline to answer, in which case that shall be recorded in the minutes of the meeting.
58. A questioner may also ask one supplementary question without notice to the councillor who has replied to the original question. A supplementary question must arise directly out of the original question or the reply. The Lord Mayor may reject a supplementary question on any of the grounds set out in this section of these rules.
59. Unless the Lord Mayor decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to

**Commented [GW27]:** Note: new time limit for submitting member questions.

**Commented [GW28]:** Note: word count introduced to enable more member questions to be considered.

the Cabinet or the relevant committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

### Motions on Notice

60. Except for motions which can be moved without notice under these rules, written notice of every proposed motion, together with the name of the proposed mover and seconder of the motion, shall be delivered to Democratic Services not earlier than 20 clear working days and not later than five clear working days before the meeting.
61. No more than one motion may be submitted by a member for each meeting.
62. Motions for which notice has been given will be listed on the agenda in the order received, unless the member giving notice states in writing that they propose to move it at a later meeting or withdraw it.
63. A motion must relate to a council function, or, if not, it must particularly affect the City or one of the council's key partners.
64. Each motion must be clear, succinct, with no lengthy preamble, must clearly identify the matter to be debated and have a clear question to be put. Motions must:
  - (a) be about matters for which the council has a responsibility; and/or
  - (b) significantly affect the City; and
  - (c) be about a single issue.
65. Any amendments to motions must comply with (a)-(c) above and the procedure rule on amendments.
66. Any motion the subject matter of which comes within the province of the Cabinet or any committee, panel, sub-committee or joint committee may, after it has been moved and on the decision of the Lord Mayor, be:
  - (a) referred without discussion to the Cabinet or relevant committee, panel, sub-committee or joint committee; or
  - (b) referred without discussion to such other meeting as the chair may decide; or
  - (c) dealt with at the meeting at which it is moved.
67. Any motion which is moved at a Full Council meeting that would have the effect of materially increasing the expenditure of any service or would involve capital expenditure shall, unless that motion has been previously considered by the Cabinet, stand adjourned without discussion to the next Ordinary Meeting of the council, and Cabinet shall consider whether it desires to report thereon back to Full Council.
68. Any notice of motion included on the agenda for a council meeting shall not be dealt with in the absence of the councillor in whose name it stands, unless that councillor has agreed that it may be moved by another councillor.
69. If a notice of motion cannot be taken at a meeting of the council, it shall be included on

**Commented [GW29]:** Note: new time frame for submitting motions on notice, to prevent advance booking or late submission.

**Commented [GW30]:** Note: defined parameters for motions on notice.

the agenda for the next meeting and take precedence at that meeting over all business after statutory business, proceedings and reports of Cabinet, committees or officers.

70. A councillor may alter a motion that they have moved, in which case the amendment becomes part of the substantive motion without debate. Only alterations which could be made as an amendment may be made.

### **Motions Without Notice**

71. The following motions may be moved without notice and will move to the vote without debate:
- (a) to appoint a chair of the meeting;
  - (b) in relation to the accuracy of the minutes;
  - (c) to change the order of business in the agenda;
  - (d) to withdraw a motion;
  - (e) to extend the time limit for speeches;
  - (f) to suspend a particular council procedure rule;
  - (g) to exclude the public and press in accordance with the Access to Information Procedure Rules (see Part 4);
  - (h) to not hear further a councillor named or to exclude them from the meeting;
  - (i) to give the consent of the council where such consent is required by this Constitution;
  - (j) to proceed to the next business:
    - (i) if a motion to proceed to next business is seconded, the Lord Mayor will ensure that each political group's spokesperson has had the opportunity to speak before giving the mover of the original motion the right to reply on the procedural motion;
    - (ii) the procedural motion is then put to the vote.
  - (k) that the matter be put to the vote without further debate:
    - (i) if such motion is seconded, the Lord Mayor will put it to the vote;
    - (ii) if such motion is passed, the Lord Mayor will ensure that each political group's spokesperson has had the opportunity to speak before giving the mover of the original motion the right to reply;
    - (iii) the original motion is then put to the vote.
  - (l) to adjourn a debate or a meeting.
72. The Lord Mayor, with or without notice, may propose a resolution on any subject they may deem a matter of urgency and which is within the functions or powers of the meeting.
73. The following motions may be moved without notice and after debate will move to the vote:
- (a) to refer something to an appropriate body or individual for consideration or reconsideration;
  - (b) to appoint a committee or member arising from an item on the summons for the meeting;



- (c) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (d) to amend a motion.

## **Amendments**

74. An amendment to a motion must:

- (a) be relevant to and intelligible with the motion;
- (b) add and/or delete a word or words;
- (c) not introduce a new topic;
- (d) not negate the motion;
- (e) be worded so that, if it is agreed by the council, it can be passed as a valid resolution;
- (f) not be, in the opinion of the Monitoring Officer, defamatory, frivolous, offensive or otherwise out of order.

75. 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.

76. If an amendment is not carried, other amendments to the original motion may be moved.

77. Not more than one amendment may be made to a motion by any one councillor.

78. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

79. After an amendment has been carried, the chair will read out the amended motion before accepting any further amendments or, if there is none, put it to the vote.

80. Amendments to the Budget and Policy Framework at Budget council meetings must be received by the Executive Director Corporate & Commercial Services at least five clear working days before the meeting.

81. Amendments to motions set out in the council agenda shall only be considered if they have been delivered in writing to Democratic Services by 5pm on the day before the meeting.

82. The exceptions to the above rule are:

- (a) technical amendments may be moved to correct factual errors;
- (b) Democratic Services have discretion to permit amendments from members if they are satisfied that the need for the amendment could not have been anticipated before the 5pm deadline and that advance notice of such amendments was given as soon as reasonably practical.

83. If notice of an amendment to a motion on the agenda has been received prior to the meeting, the Lord Mayor will ask the mover of the original motion to indicate if they agree to accept the amendment. If so, the amendment becomes part of the substantive motion without debate.
84. If an amendment is moved and seconded during debate, the Lord Mayor will ask the mover and seconder of the original motion if they are content to accept the amendment. If so, the amendment becomes part of the substantive motion without debate.

### **Rules of Debate**

85. When a member speaks at a meeting, they will address the meeting through the Lord Mayor. Councillors must remain silent whilst another councillor is speaking unless they wish to make a point of order or a point of personal explanation.
86. During debate, when the Lord Mayor indicates a wish to speak, any councillor speaking at the time must stop and the meeting must be silent.
87. If a member persistently disregards the ruling of the Lord Mayor by behaving improperly or offensively or deliberately obstructs business, the Lord Mayor may move that the member be not heard further. If seconded, the motion will be voted on without discussion.
88. If the member continues to behave improperly after such a motion is carried, the Lord Mayor may either adjourn the meeting for a specified time or move that the member leaves the meeting. If, the motion that a member leaves the meeting is seconded, the motion will be voted on without discussion.
89. If there is a general disturbance making orderly business impossible, the Lord Mayor may adjourn the meeting for as long as they think necessary.
90. No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.
91. Unless notice of a motion or an amendment has already been given, the Lord Mayor may require it to be written down and handed to them before it is discussed.
92. When seconding a motion or amendment, a councillor may reserve the right to speak later in the debate.
93. Speeches must be relevant to the matter under discussion or to a personal explanation or point of order.
94. No speech may exceed:
  - (a) ten minutes in the case of the mover of an original motion:

- (b) five minutes in the case of a spokesperson for any political group whose name has been notified in advance to Democratic Services as its main speaker on an original motion moved otherwise than by a member of that group;
- (c) three minutes in any other case.

95. A member shall only speak once on a motion and on an amendment, except:

- (a) to move a further amendment;
- (b) in exercise of a right of reply;
- (c) on a point of order;
- (d) by way of personal explanation.

### **Right of Reply**

96. The mover of a motion or an amendment has a right to reply at the end of the debate on the motion or the amendment respectively, immediately before it is put to the vote.
97. If an amendment is moved, the mover of the original motion may speak on the amendment and may also waive the right of reply to the original motion at the close of the debate.

### **Point of Order**

98. A member may raise a point of order at any time. The Lord Mayor will hear them immediately. A point of order may only relate to an alleged breach of these council rules of procedure or the law. The councillor must indicate the rule or law and the way in which he or she considers it has been broken. The ruling of the Lord Mayor on the matter will be final.

### **Personal Explanation**

99. 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 Lord Mayor on the admissibility of a personal explanation will be final.

### **Previous Decisions and Motions**

100. 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 or amendment is signed by at least ten members of the council.
101. A motion or amendment in similar terms to, or which has the same effect as, 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 ten members of the council. Once the motion or amendment is dealt with, no councillor can propose a similar motion or amendment for six months.

## **Voting**

102. Votes on all matters other than budget setting and council tax will be by a show of hands or, if there is no dissent, by affirmation of the meeting, unless six members present at the meeting demand, before the vote is taken, that a recorded vote be taken. A named vote shall not be made on procedural decisions.
103. Unless these rules provide otherwise, any matter will be decided by a simple majority of those members voting and present at the time the question was put.
104. If there are equal numbers of votes for and against, the Lord Mayor may exercise a second or casting vote. There will be no restriction on whether or how the Lord Mayor chooses to exercise a casting vote.
105. If a councillor requests a recorded vote and this request is supported by at least five other councillors, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes and the Lord Mayor will immediately announce the numerical result of the vote.
106. Where any member requests it either before or immediately after a vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
107. 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 fewest 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.

## **Minutes**

108. The Lord Mayor will initial each page and sign the minutes of the proceedings at the next suitable meeting.
109. The only part of the minutes that can be discussed is their accuracy.
110. Minutes will contain all motions and amendments in the exact form and order the Lord Mayor put them.

## **Disturbance by Public**

111. If a member of the public interrupts proceedings, the Lord Mayor will warn the person concerned. If they continue to interrupt, the Lord Mayor will order their removal from the meeting room.
112. If there is a general disturbance in any part of the meeting room open to the public, the Lord Mayor may call for that part to be cleared.

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

113. All of these council procedure rules except rules 1 and 105 may be suspended either by motion on notice or, if at least one half of the whole number of members of the council are present, without notice.
114. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Part 2 Section 1. As a maximum, suspension can only be for the duration of the meeting.
115. Any motion to add to, vary or revoke these council procedure rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the council.

### **Substitute Members**

116. Political groups may nominate some or all their councillors to be substitutes for appointed members of committees, joint committees, sub-committees, working groups and panels, provided that in the case of the:
  - (a) council's regulatory committees and sub-committees (Licensing, Planning Applications and Standards Committees and the Personnel Appeals Panel) substitutes must have received suitable training;
  - (b) Scrutiny Committee and Audit Committee, where all councillors except Cabinet members are permitted to be substitutes.
117. Notice of substitution stating the name of the substitute must be given to Democratic Services before the commencement of the meeting concerned.
118. Cancellation of the intention to substitute will not be effective unless Democratic Services is notified before the commencement of the meeting.
119. If, after notice of substitution has been given, the original appointed member is present when the meeting begins, the substitution will not have effect for that meeting.
120. If the original appointed member arrives when the meeting is in progress, the substitution will remain effective and the original appointed member will not be allowed to participate in the decision making. It is not possible to substitute for part of a meeting only.
121. The chair shall inform the meeting of any substitutions before the commencement of the meeting.

### **Rights to Attend and Speak**

122. Any member of the council may attend any meeting of a committee, including those parts of the meeting from which the public and press are excluded. They do not have a right to vote or move a motion or amendment, but may speak with the consent of the

chair (such consent to be sought before the meeting and should not normally be withheld).

123. If a committee is considering an item of business in private that relates to the personal or financial affairs of an individual employee or member of the public, it may resolve to exclude from the meeting any member who is not a member of the committee. Before doing so, a member representing a member of the public should be given the opportunity to speak.
124. To ensure a fair and proper debate, the chair may:
  - (a) prevent any member from speaking more than once on any item, motion or amendment
  - (b) require a member to cease speaking if they have spoken for more than five minutes
125. Members of a committee who have voting rights on that committee but are not members of the council, may propose or second motions and amendments as if they were members of the council.

#### **Members' Interests**

126. A member with a Disclosable Pecuniary Interest in a matter to be considered at a meeting must, before the matter is discussed or when that interest becomes apparent:
  - (a) disclose the interest
  - (b) explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent; and unless they have been granted a dispensation
    - (i) not participate in any discussion of, or vote taken on, the matter at the meeting
    - (ii) withdraw from the meeting room whenever it becomes apparent that the business is being considered
    - (iii) not seek improperly to influence a decision about that business
127. Members can only stay to speak as a member of the public (where a member of the public is permitted to speak) if the Monitoring Officer has granted the member a dispensation to do so but must leave the room as soon as they have finished speaking as a member of the public.
128. A member shall disclose a Personal Interest at a meeting where they consider that interest to be relevant to an item of business considered at that meeting. The disclosure shall be made at the commencement of the meeting, or when the interest becomes apparent, and shall be recorded in the minutes of the meeting.
129. Disclosure of a Personal Interest will only affect the ability of the member to participate in discussion or vote on the relevant item if it is also a Disclosable Pecuniary Interest OR if it is so close that it could give rise to actual or apparent impartiality, bias or pre-determination (e.g. the matter directly affects themselves, a close friend or a family

member). In that case, the member should exclude themselves from the meeting.

130. The Lord Mayor may request that a member declare a Disclosable Pecuniary Interest or a close Personal Interest and, if appropriate, leave the meeting room, should they have reason to believe that the provisions of the Member Code of Conduct and/or this procedure rule are being breached.
131. Where a member with a Disclosable Pecuniary Interest or close Personal Interest in a matter under discussion (unless a dispensation has been granted) chooses to participate in the discussion and vote, the Lord Mayor will refuse to count the 'vote' of the member concerned, as it will have been cast improperly and should not be considered to be a vote at all.
132. Where a Disclosable Pecuniary Interest or a close Personal Interest has been agreed by the Monitoring Officer as being a Sensitive Interest (one where disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation), the Member need only disclose the existence of the interest but not its nature.

#### **Party Whip**

133. Any instruction given by or on behalf of a political group to any member of that group as to how they should speak or vote on any matter, or the application or threat to apply any sanction by the group in respect of that member should they speak or vote in any particular manner, must be notified to the Monitoring Officer by the group before the debate on that item commences and recorded in the minutes. In particular, the party whip must not be applied to any proceedings of the Licensing and Planning Applications Committees.

#### **Political Assistants**

134. When the council is divided into different political groups the following will apply:
  - (a) there shall be no appointment of any political assistant to a political group unless Full Council has allocated such a post to each of the political groups that qualify for one;
  - (b) no political assistant will be allocated to a political group that does not qualify for one;
  - (c) no more than one political assistant will be allocated to a political group;
  - (d) the prohibition on the involvement of members of the council in the appointment of officers does not apply to the appointment of political assistants.

#### **Remote Meetings**

135. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations

2020 make provision for remote attendance at, and remote access to, council meetings held on or before 7 May 2021.

136. The regulations enable the council to hold meetings without all, or any, of the members being physically present in a room. This allows for remote meetings through electronic, digital, virtual locations, live webcast, live interactive streaming, video and telephone conferencing.
137. The 'place' at which the meeting is held may be a council building, where the organiser of the meeting is located, or an electronic, digital or virtual location, a web address, or a conference call telephone number.
138. In order for members to be able to attend meetings of the council remotely, they need not be physically present, provided they are able to hear and be heard (and, where possible, see and be seen by) other councillors and members of the public attending remotely or in person.
139. For the purposes of maintaining public health and compliance with the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020, and since the venue for remote meetings is digital rather than physical, there will be no designated council premises used as the venue for such meetings. The only circumstances in which it might be necessary or appropriate for a member to attend City Hall for a remote meeting is where a chair requires the support of an officer and it is not reasonably possible for them to chair the meeting from home. All other members should attend such meetings remotely, as there is no 'reasonable excuse' under the regulations for them to leave home to attend City Hall, nor is gathering in City Hall 'essential for work purposes'.
140. The procedure rules in this constitution apply to remote meetings in the same way as they do for other meetings of the council except where they conflict, in which case this procedure rule takes precedence over other procedure rules in relation to the governance of remote meetings.

## **Process**

- a) The remote meeting will be held using both the audio and video functionality of Zoom or Teams to allow all participants to be seen and heard. All decision makers must, as a legal minimum, be able to maintain an audio connection to the meeting but can be muted when not speaking at the meeting. If a member is unable to see a participant or is unable to be seen, this does not affect the legality of the meeting as long as the audio connection is made.
- b) Meetings that deal with public items will be live streamed to allow members of the public and other interested parties to observe the meeting. The public will only be able to participate if sections 5 and 8 below are applicable; committee meetings are meetings held in public (via a digital connection) but are not public meetings.
- c) The chair of the committee will be provided with advice on procedure and the constitution by a committee officer, lawyer or senior officer as appropriate.
- d) Minutes will be taken and published on the council's website as usual.
- e) The ruling of the chair will be final on points of order and application of this rule,



including any decision of the chair to ask for participants to be muted.

### **Meeting preparation**

- a) Agendas will be published on the council's website within the statutory timescales, but no printed copies will be made available.
- b) Matters of urgency are subject to rules under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012
- c) Members of the committee will be asked to confirm to democratic services 48 hours in advance whether they intend to attend the meeting to assist the chair and the committee officer in the running of the meeting.
- d) Members will receive a meeting ID and a password for the meeting in advance.
- e) Members must be aware that remote meetings are formal meetings of the council and they should dress appropriately and be aware of the background to their video call.

### **Conduct of the meeting**

- a) The committee officer will begin the remote meeting 15 minutes prior to the advertised start time of the meeting to allow members to join and test their video/audio feed.
- b) At the beginning of each meeting, the chair will confirm attendance by calling the name of each of the members expected to be in attendance, asking them to confirm their attendance and that they can hear the meeting.
- c) The rules around conduct of meetings as set out in the constitution apply to remote meetings, including quorum, declarations of interest and member's conduct.
- d) The first item on each agenda will be to note these procedure guidelines and any changes, then will follow the published agenda.
- e) If a member has made a declaration of interest that would usually mean they needed to leave the room for an item, they will be placed in the 'waiting room' within Zoom and will re-join the meeting once the item has concluded.
- f) Committee members will indicate if they would like to speak by using the chat function within Zoom. The chat will not form part of the minutes of the meeting and will not be considered as a formal contribution to the meeting, therefore it should only be used to indicate to the chair that a member would like to speak or to indicate that they have lost their audio. If a member has had to dial in, the chair will, at relevant points during the meeting, invite those participants to address the meeting or confirm that they have no comments. The chat function will not be used for regulatory meetings.
- g) When not speaking, committee members will be muted as this improves the audio quality of the meeting.

### **Interruptions to connections**

- a) If a member's audio feed cuts out during the meeting, they will need to alert the chair immediately using the chat function.
- b) Where the chair has been notified that a member of the committee has lost audio, the meeting will be adjourned for up to fifteen minutes to allow the member to re-establish their connection. Where connection is re-established, members may be asked to repeat in summary, any part of the discussion the chair believes the member may have missed.
- c) In terms of regulatory meetings, a member will not be permitted to vote on an item if a

loss of connection means that they have missed part of the discussion.

- d) If after the fifteen minute adjournment, the member is not able to re-establish a connection, the meeting will continue (as long as there is still a quorum) and the member will be deemed as having left the meeting and will not be able to participate in the vote on that item.
- e) If the chair is affected by point a) above and is unable to re-join the meeting, the vice chair will take the chair. If there is no vice chair, a chair will be elected to temporarily take the chair. The usual chair will be able to resume their role at the start of the next item if the connection has been restored.
- f) If a loss of connection renders a meeting inquorate, the meeting will adjourn.

#### **Public questions, petitions and representations including Planning Applications Committees**

- a) Anyone meeting the criteria under the procedure rules of the constitution will be allowed to ask a question or present a petition at a remote meeting. Anyone meeting the criteria under the terms of reference for the Planning Applications Committee will be allowed to make representations at a Planning Applications Committee. The member of the public will be given access to the meeting for the duration of that item and once their right to speak has been exercised, the member of the public will be muted for the remainder of the item and will be removed from the meeting as a participant at the conclusion of that item.
- b) If a member of the public would like to participate in a Planning Applications Committee meeting (where allowed) but is constrained by technology, they may submit their representation in writing, and it will be circulated to the committee.
- c) Those parties entitled to participate in meetings of the Planning Applications Committee will be invited to do so remotely or will be informed that they can make their representations in writing for the committee to consider.
- d) Objectors who are entitled to participate in meetings of the Licensing Committee, Licensing Sub-Committees and regulatory sub-committees will be invited to do so remotely or will be informed that they can make their representations in writing for the committee to consider.

#### **Voting**

- a) The chair may, at their discretion, consider that there is agreement amongst committee members, will announce this to the meeting and will not call for a formal vote. If a member would like a formal vote on an item, the chat function should be used to indicate this.
- b) When the chair elects to put a matter to a formal vote, the chair will call each member in turn to cast their vote on the item.

#### **Confidential or exempt items**

- a) Should the agenda contain exempt or confidential items, the committee may make the usual resolution to exclude the public as set out in schedule 12A of the Local Government Act 1972.
- b) The meeting will adjourn until the chair is satisfied that the live stream of the meeting has been paused and any participants who are not entitled to take part in the meeting

have been removed. Each member will be asked to confirm that there are no other persons present with them who are not entitled to see or hear the proceedings.

- c) When moving back into public items, the meeting shall be adjourned until the chair is satisfied that eligible participants have re-joined the meeting satisfactorily.

### **Equalities**

The council understands that not all members of the public will have the means to view a live stream of a remote council meeting, but it is believed that this will only be a small minority of people. In passing the legislation to allow remote meetings, the council deems that the Government has considered this but understands the importance of committee meetings continuing with the current prohibition on public gatherings. The council will monitor Government advice and will amend this procedure as appropriate.

## PLANNING APPLICATIONS COMMITTEE PROCEDURE RULES

### Terms of Reference

1. The terms of reference for the Planning Applications Committee are set out in Part 2 Section 8.

### Scheme of Delegation

2. The committee's scheme of delegations is as follows:

#### **A. Planning applications, listed building applications and hazardous substances consent applications**

All applications will be determined by the area development managers with the exception of the following:

- (1) approval of major<sup>10</sup> applications if:

- (a) subject to two or more objections raising material planning issues provided that said objections are received within the statutory consultation period or, in the case of revised plans, any subsequent formal consultation period; or
- (b) the proposal would represent a serious departure from the development plan.

- (2) approval of minor<sup>11</sup> applications if:

- (a) subject to two or more objections from neighbours and/or other third parties citing material planning issues provided that said objections are received within the statutory consultation period or, in the case of revised plans, any subsequent formal consultation period;
- (b) the proposal would represent a significant departure to the approved development plan.

- (3) Where a member of the council requests, within six weeks of a major application becoming valid or within four weeks of a minor or other application becoming valid, and an appropriate planning justification is made, that the application be referred to the committee for decision.

- (4) Applications submitted by a member of the council, a member of staff, or the immediate family<sup>12</sup> of an elected member or member of staff who works in the planning service.

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<sup>10</sup> major is defined by central government as applications for 10 or more dwellings, outline applications for residential development on sites over 0.5ha, or offices, research, industrial, warehousing or retail development over 1,000 sq. m or over 1ha for outline applications.

<sup>11</sup> minor is defined as proposals involving 1-9 dwellings and/or up to 1,000sqm of new build non-dwelling development (including non-residential extensions). For the avoidance of doubt this excludes proposals involving no increase in floor area, residential extensions, changes of use, adverts and listed building consent applications.

<sup>12</sup> immediate family is defined as a husband/wife/partner/son/daughter/mother/father/brother/sister and equivalent in-laws.

This excludes applications where Norwich City Council is the applicant.

- (5) Non-major and non-minor applications where Norwich City Council is the applicant and if subject to four or more objections from neighbours and/or third parties citing material planning issues provided that said objections are received within the statutory consultation period or, in the case of revised plans, any subsequent formal consultation period.

#### **B. Prior notifications**

All applications will be determined by the area development managers with the exception of the following:

- (1) In the case of telecoms Cabinets, masts or antennae under Part 25 of The Town and Country Planning (General Permitted Development) Order 2015 as amended which are subject to two or more objections from neighbours and/or other third parties citing issues of siting and/or appearance (these being the only matters for which prior approval is required) that the area development managers decision must be subject to consultation with the chair and vice chair of the Planning Applications Committee if one or more ward councillors so request within 21 days of advertisement, neighbour consultation or publication of the weekly list.

#### **C. Planning enforcement**

All decisions will be made by the area development managers

#### **D. Tree Preservation Orders (TPOs) and applications for tree works in conservation areas or protected by TPOs**

All decisions will be made by the area development managers with the exception of:

- (1) The confirmation of a tree preservation order served where there are 5 or more objections to that order UNLESS the order relates to a site upon which there is an existing order.

#### **E. Applications for Permission in Principle and for Technical Details Consent**

All decisions will be made by the area development managers.

#### **F. Other**

Any items which the Head of Planning & Regulatory Services considers appropriate to refer to the Planning Applications Committee.

#### **Neighbour notification procedure**

3. The neighbour notification procedure was approved by Planning Applications Committee on 2 April 2009.

4. The following procedure will be used in advertising all planning and related applications. It should be noted that they exceed the statutory minimum required by the regulations in a number of areas.

**A. Neighbour notification**

- (1) There is a requirement under the regulations to notify neighbours or erect a site notice for all planning applications. In all but exceptional circumstances then neighbour notification rather than site notice will be undertaken as it provides direct notification to people's homes and contact details to occupiers. In most cases it would normally be more cost effective than the erection of site notices.
- (2) The definition of 'neighbours' is based on the advice in Circular 15/92 Publicity for Planning Applications, but with key additions to go beyond the immediately adjoining property in some cases:
  - (a) land which is coterminous with the boundary of the land for which development is proposed, plus one additional property where such property's curtilage is less than 10m from the edge of the application site boundary;
  - (b) in the case of a multi-occupied building it shall include units immediately above and below the unit being proposed for development;
  - (c) if the property fronts a road, the width of the road will be disregarded when assessing neighbouring land opposite (except where the development is at the rear and would not be visible from properties on the opposite side of the road) i.e. neighbours opposite a site would be notified in most cases;
  - (d) In the case of telecommunications development, all properties which fall within 40m of the proposal (when measured from the proposed site of the facility to the curtilage of the property).
- (3) The additional property(ies) notified under bullet point a) and the telecoms applications under bullet point d) are beyond the minimum required by central government.
- (4) Letters will be sent addressed to "the Occupier" in envelopes clearly branded with the message "Important planning documents enclosed".

**B. Site notices**

- (5) These will be utilised in lieu of direct notification to neighbours in very limited circumstances (e.g. where there are no obvious neighbours (such as a rural site), or a very large site with a complex site boundary and with wide implications for the area, (such as Anglia Square) or where the application is of a nature which means individual notification is impractical (such as window and door replacement applications for several properties in one area). In these cases site notices rather than neighbour notification will be undertaken and be more practicable than neighbour letters.
- (6) In addition there is a statutory requirement to advertise on site the following:

- (a) Applications accompanied by an environmental statement;
- (b) Developments affecting the setting of a listed building;
- (c) Developments affecting the character or appearance of a conservation area;
- (d) Applications considered to be a departure from the development plan;
- (e) Major developments - only in cases where neighbour notification is not practicable;
- (f) Applications affecting a public right of way.

**C. Press notices**

- (7) There is also a statutory requirement to advertise some applications in a newspaper circulating in the locality. These are currently published in the Evening News on a Wednesday:
- (a) Applications accompanied by an environmental statement;
  - (b) Developments affecting the setting of a listed building;
  - (c) Developments affecting the character or appearance of a conservation area;
  - (d) Affecting a public right of way; • Major developments (i.e. developments of 10 dwellings or more, or 0.5 ha in area or 1,000sq.m of development);
  - (e) Applications considered to be a departure from the development plan.

**D. Website**

- (8) All applications are listed in a weekly list on the website. All applications are available to view on the Public Access part of the website.

**E. Other applications**

- (9) Advertisement applications:
- (a) There is no neighbour notification or press/site advertising.
- (10) Listed buildings and conservation area consent applications:
- (a) Required to publish in the press and put up a site notice.
  - (b) No requirement to notify neighbours.
- (11) Applications for hazardous substances consent:
- (a) Applicants are required to carry out pre-submission publicity;
  - (b) Due to the sensitivity of the applications no further publicity to be carried out post submission, and will not be included in the weekly list or viewable via the website.

**Making representations on planning applications**

5. Written representations from persons or parties are incorporated into the officer's

committee report and considered as part of the appraisal of the application process. However, representations received after the publication of the committee report will be reviewed by the case officer but not reported or taken into account unless they raise new issues or material considerations which need to be taken into account.

### **Planning Applications Committee public speaking procedures**

6. The procedures for speaking at Planning Applications Committee are as follows:

- (1) Persons or parties who have made representations on planning proposals which are referred to committee may address the committee provided that they have notified the committee officer by 10:00 am on the working day before the meeting. Only persons or parties that have submitted written representations will be allowed to speak, unless in exceptional circumstances, the chair has chosen to exercise discretion. Members of the public who have submitted written submissions in advance will be allowed to appoint an advocate to speak on their behalf if they so wish.
- (2) Ward councillors or other councillors who have commented on the planning proposal may speak provided they have given notice by 10:00 am on the day before the meeting.
- (3) The chair will consider changing the order of the agenda where there is public interest to avoid numbers of objectors having to wait.
- (4) The chair will advise those speaking that they may:-
  - (a) speak for up to three minutes;
  - (b) direct their comments to planning issues;
  - (c) make their points concisely.
- (5) The chair may allow a longer period for representations to be made in complex cases.
- (6) Any speaker will be stopped by the chair where they:
  - (a) report comments already made;
  - (b) introduce non planning issues;
  - (c) make defamatory comments about councillors, officers or any other individual or party involved in the matter under discussion;
  - (d) have spoken for three minutes.
- (7) The applicant or agent may also address the committee provided that there are other speakers registered to speak. The applicant or agent will be permitted to address the committee for 3 minutes. However, the applicant or agent may address the committee for up to 6 minutes where more than one objector is registered to speak.



- (8) Where the application is recommended for approval and no speakers have registered, the applicant or agent will not be invited to address the committee. Where the application is recommended for refusal the applicant or agent will be permitted to address the committee for 3 minutes.
- (9) Where a virtual meeting is held and the person registered to speak is unable to participate in such a meeting they will be allowed to appoint an advocate to speak on their behalf if they so wish and subject to the committee officer being made aware by 10:00am on the working day before the meeting. Alternatively a written statement may be submitted and which will be read out by officers at the meeting and circulated to members of the committee, subject to the statement being no longer than 500 words (longer statements may be summarised) and subject to the statement being received by the committee officer by 10:00am on the working day before the meeting.

Translation services are available on request.

#### **Procedures of debate/decision making**

- 7. In reaching decisions, the committee will follow good practice as set out in the Local Government Association's "Probity in Planning for Councillors and Officers" guidelines.
- 8. The procedures of debate/decision making at committee is as follows:
  - (1) Presentation by officers (not to repeat the report but provide brief scene setting, introduction of presentational material (if any) and summary of recommendation), update on late responses/implications.
  - (2) Representation(s) by objectors/supporters (if any) to time limit (3 minutes per speaker) – no opportunities for debate/questions.
  - (3) Representation by applicant/agent (if any) to time limit (3 minutes per speaker) – no opportunities for debate/questions.
  - (4) Comment by officers on representations (matters of fact or view on materiality of matters raised to planning decision only).
  - (5) Members' questions where necessary to seek clarification or explanation on the details of the application.
  - (6) Debate – members discuss planning merits of the application.
  - (7) Any alternative motion proposed (and reason for it).
  - (8) Officers' chance to comment on alternative motion (in extremis request deferral of decision).
  - (9) Members declare their views and whether they are minded to vote for or against.

If a substantial number of members indicate they are against the officers' recommendations, the chair asks for motion supported by reasons. Officers comment.

(10) Move to a vote which will be recorded unless unanimous.

### **Site visit procedure**

9. The committee has agreed the following site visit procedure:

#### **Selection of site visits**

- (1) The decision of the Planning Applications Committee to hold a site visit is made by members of the committee, sometimes on the recommendation of the area development managers.
- (2) A site visit enables councillors to ensure that they have sufficient information about the effects of proposed development. Site visits should be held selectively, where there is a clear substantial benefit, such as where the impact of a particular scheme is difficult to judge from the submitted material, or where the concerns expressed by objectors cannot be adequately expressed in writing.
- (3) Site visits are fact finding meetings and are not formal committee meetings. No recommendations are made at the site visit and no decisions are made.

#### **Attendance at site visits**

- (4) All members of the Planning Applications Committee will be invited to attend. Attendance at site visits is optional. Ward councillors will also be notified and are welcome to attend if they so choose. The applicants' agent will be notified of the proposed site visit and requested to give permission for access to the land and to inform them of the fact finding nature of the visit and the general procedure. Please note that members of the public may attend to observe but access to privately owned land is subject to the landowner's permission.

### **Site visit procedure**

(5) The site visit procedure will be:

- (a) The chair welcomes councillors and others attending indicating:
  - (i) that the purpose of the site visit is fact finding;
  - (ii) that the application will not be determined at the site visit, but will be decided at the formal meeting of the Planning Applications Committee;
  - (iii) the procedure of the site visit.
- (b) The chair should endeavour to ensure that explanations and representations from members of the public are given to the committee collectively. Members should be mindful of their obligations to keep an open mind and not to reveal bias when hearing such representations and when determining the application.

- (c) The committee officer will declare and record apologies for absence.
  - (d) The planning officer will point out the key features of the application site.
  - (e) Comments of other officers as appropriate.
  - (f) Inspection.
  - (g) Councillors' questions to the planning officer.
  - (h) Chair closes the inspection.
- (6) At the site meeting councillors should ensure that they do not express opinions as to their likely decision.

## **PART 4 – CODES AND PROTOCOLS**

### **ACCESS TO INFORMATION RULES**

#### **Scope**

1. These rules apply to all formal meetings of the Council, Cabinet, Scrutiny Committee, Regulatory committees, and any sub-committees, panels and joint committees (together called meetings).

#### **Councillors Rights to Information**

2. Members are free to request from the council such information as they may reasonably need in order to assist them in discharging their role as councillors, having regard to any special responsibility, for example as Cabinet member or committee chair. Such request should normally be directed to the relevant Director.
3. The legal rights of members to inspect council documents arise partly from statute and partly from the common law (judicial decisions).
4. In principle, councillors have, in addition to the ordinary rights of access to information enjoyed by the general public, the right to access any information held by the council of which they are a member. This right of access may not extend to publishing or otherwise making public such information and, indeed, councillors may be asked to sign a confidentiality undertaking before being provided with certain information.

#### **The statutory position**

5. Section 100F of the Local Government Act 1972 (as amended) (the Act) provides that any document, which is in the possession or under the control of a principal council, and contains material relating to any business to be transacted at a meeting of the council or a committee or sub-committee of the council, shall be open to inspection by any member of the council.
6. This does not require the document to be disclosed if it appears to the Proper Officer that it contains exempt information under Schedule 12A of the Act. However, under the Local Government (Access to Information) (Variation) Order 2006, the document will still be open to inspection by members if it contains the following:
  - (a) Information relating to the financial or business affairs of any particular person (including the authority holding that information), except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
  - (b) Information which reveals that the authority proposes:
    - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

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

7. The Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012 (the Regulations) apply to local authorities in England that operate Executive arrangements under Part 1A Local Government Act 2000, as amended by s.21 and Schedule 2 of the Localism Act 2011. The Regulations:
- (a) clarify and extend the circumstances in which Executive decisions are public. There is a presumption that a meeting will be open to the public unless the nature of the business being transacted would result in confidential information being disclosed
  - (b) make provision for the publicity that must be given before a Key Decision is taken by the Executive and for the inclusion of prescribed information in a written statement of the Executive decision
  - (c) set out additional rights of members generally, and members of overview and scrutiny committees in particular, to access documents; and general provisions relating to information that is exempt from disclosure (including advice from a political adviser)

#### **All Members**

8. Regulation 16 contains rights for any member to access documents that:
- (a) are in the possession or under the control of the Executive; and
  - (b) contain material relating to any business to be transacted at a public meeting.
9. Any such document must be available for inspection for at least five clear days before the meeting, except that:
- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
  - (b) where an item is added to the agenda at shorter notice, a document that would be required to be available in relation to that item, must be available for inspection when the item is added to the agenda.
10. Any document which:
- (a) is in the possession or under the control of the Executive and
  - (b) contains material relating to:
    - (i) any business transacted at a private meeting;
    - (ii) any decision made by an individual member in accordance with executive arrangements; or
    - (iii) any decision made by an officer in accordance with executive arrangements

must be available for inspection by any member when the meeting concludes or, where an Executive decision is made by an individual member or an officer, immediately after the decision is made. Any such document must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made.

11. Neither of these provisions applies if it discloses exempt information. However, the document will still be open to inspection if it contains information:

- (a) information relating to the financial or business affairs of any person (including the authority holding that information), except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract, or
  - (b) information which reveals that the authority proposes:
    - (i) to give a notice under which requirements are imposed on a person; or
    - (ii) to make an order or direction
12. All agendas, reports and other documents and proceedings of committees and sub-committees shall be treated as confidential and shall not be disclosed unless and until they become public in the ordinary course of the council's business.

### **Overview and Scrutiny Members**

13. Regulation 17 provides additional rights of access for members of overview and scrutiny committees who are entitled to a copy of any document that:
- (a) is in the possession or under the control of the Executive; and
  - (b) contains material relating to:
    - (i) any business that has been transacted at a meeting of a decision-making body of the authority;
    - (ii) any decision that has been made by an individual member of the Executive; or
    - (iii) any decision that has been made by an officer in accordance with Executive arrangements.
14. The Executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after it receives the request.
15. No member of an overview and scrutiny committee is entitled to a copy:
- (a) of any document or part of a document that contains exempt or confidential information unless that information is relevant to:
    - (i) an action or decision that the member is reviewing or scrutinising; or
    - (ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
  - (b) of a document or part of a document containing advice provided by a political adviser or assistant.
16. Where the Executive determines to refuse such a request it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.

### **FOIA and EIA**

17. Local councillors can, like a member of the general public, also resort to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. The Information Commissioner's Office provides two very helpful publications; first, the Guide to Freedom of Information and second, the Guide to the Environmental Information. In addition, there is detailed guidance on the exemptions that may be

applicable.

### **Local authority accounts**

18. The Local Audit and Accountability Act 2014, and the Accounts and Audit Regulations 2015 provide a right to inspect, question and make objections to the council's auditor, take copies of statements of accounts and auditors' reports. These rights are explained fully in the National Audit Office guidance, but are restricted to prevent access to documents containing personal information about staff.
19. In addition, s.228(3) of the Act provides that "The accounts of a local authority and of any proper officer of a local authority shall be open to the inspection of any member of the authority, and any such member may make a copy of or extract from the accounts".

### **The common law 'need to know'**

20. Under common law principles, all members have the right to access information held by their authority where it is reasonably necessary to enable them to properly perform their duties as a councillor.
21. However, if the member's motive for seeing documents is indirect, improper or ulterior, this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go on a 'fishing expedition' through their council's documents.
22. If a councillor is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the councillor would have to show good cause why sight of them is necessary to perform their duties.

### **Notice of Meetings**

23. The council will give at least five clear days' notice of any meeting by posting details of the meeting at City Hall and on its website. Where exceptionally this period of notice cannot be given, notice will be given as soon as the meeting is convened.

### **Key Decisions**

24. At least 28 clear days before a Key Decision is made, the Cabinet Notice (Forward Plan) must contain the following information:
  - (a) that a Key Decision is to be made on behalf of the council;
  - (b) the matter in respect of which the decision is to be made;
  - (c) where the decision maker is an individual, that individual's name, position and, where the decision maker is a decision-making body, its name and list of members;
  - (d) the date on which, or the period within which, the decision is to be made;
  - (e) a list of the documents the decision-maker is likely to consider, including what other documents may be submitted to the decision-maker;

- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - (g) that other documents relevant to those matters may be submitted to the decision maker;
  - (h) the procedure for requesting details of documents;
  - (i) whether the public are likely to be excluded from the meeting at which the matter is to be discussed, or whether papers relating to the matter may be excluded from publication.
25. Except in cases of urgency, where the publication of the intention to make a Key Decision is impracticable, that decision may only be made:
- (a) where the clerk has informed the chair of the Scrutiny Committee or, in their absence, each member of the Scrutiny Committee by notice in writing, of the matter about which the decision is to be made and setting out the reasons why publication is impracticable;
  - (b) where the clerk has made available for inspection and published on the website a copy of the notice given under (a); and
  - (c) after five clear days have elapsed following the day on which the clerk made available the notice referred to under (b).
26. If the Scrutiny Committee considers that a decision taken should have been treated as a Key Decision but was not, it may require the Leader to report to Full Council within a specified reasonable time, giving details of the decision, the reasons for it, who made it and why it was not considered to be a Key Decision.
27. In accordance with Regulation 19 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the Leader will submit an annual report to Full Council containing particulars of all Key Decisions taken as urgent since the last annual report.

#### **Access to agendas and reports before meetings**

28. The council will publish the agenda and reports (that are not exempt from publication) on its website at least five clear days before the meeting, or if a meeting is convened at less than five clear days' notice as soon as it is convened.
29. 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.
30. Where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

#### **Background Papers**

31. The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:



- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report; and
- (c) do not include:
  - (i) published works or
  - (ii) exempt or confidential information or
  - (iii) in respect of reports to Cabinet, the advice of a political assistant.

32. Background papers are published on the council's website and available for public inspection at City Hall.

33. The council will make background papers available for public inspection for four years after the date of the meeting/decision.

#### **Supply of copies**

34. The council will supply copies of any agenda, reports and background papers that are open to public inspection to any person, electronically (wherever possible) or, on payment of a charge for copying and postage, in hard copy.

#### **Access to minutes etc after meetings**

35. The council will retain and make available copies of the following for six years after a meeting or the taking of a decision:

- (a) the minutes of the meeting and/or records of decision taken, together with the reasons, excluding any part of the minutes that discloses exempt or confidential information and also excluding, if appropriate in the opinion of the Monitoring Officer any part of the minutes of proceedings when the meeting was not open to the public;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

#### **Public Rights to Attend Meetings**

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

#### **Exclusion of the Public**

37. Where a 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 below for the meeting to go into private session.

38. The public must be excluded from meetings whenever it is likely in view of the nature of

the business to be transacted that confidential information would be disclosed.

39. 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.
40. 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.

### **Exempt Information**

41. Exempt information means information falling within the following categories, determined by reference to the description in Schedule 12A of the Local Government Act 1972:
  - (a) information relating to any individual;
  - (b) information which is likely to reveal the identity of an individual;
  - (c) information relating to the financial or business affairs of any particular person (including the authority holding that information), unless it is required that the information be registered under the Companies, Friendly Societies, Industrial and Provident Societies, Building Societies or Charities Acts;
  - (d) information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority of a Minister of the Crown and employees of, or office holders under, the authority;
  - (e) information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
  - (f) information which reveals that the authority proposes:
    - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
    - (ii) to make an order or direction under any enactment.
  - (g) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
  - (g) information which is subject to any obligation of confidentiality;
  - (h) Information which relates in any way to matters concerning national security
42. Information that falls within (a)-(g) above is exempt information if and so long as in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information. This requires the council to make a judgment about the public interest. Where the balance between disclosure and withholding the information is seen as equal, the information must be released.

### **Public Interest Test**

43. There is no legal definition of 'public interest', but the following should be considered relevant considerations in favour of disclosure:
  - (a) The information would assist public understanding of an issue that is subject to

current public debate.

- (b) Proper debate cannot take place without wide availability of all the relevant information.
  - (c) The issue affects a wide range of individuals or companies.
  - (d) Facts and analysis behind major policy decisions.
  - (e) Allowing individuals to understand decisions made by public authorities affecting their lives and, in some cases, assisting individuals in challenging those decisions.
  - (f) Accountability for proceeds of sale of assets in public ownership.
  - (g) Openness and accountability for tender processes and prices.
  - (h) Public interest in public bodies obtaining value for money.
  - (i) Public health or public safety.
  - (j) Damage to the environment.
  - (k) Contingency plans in an emergency.
  - (l) Promoting accountability and transparency for decisions taken by public authorities and the spending of public money.
44. A practice of applying "Exempt" status to a report without reasons being set out and consideration of the public interest is not acceptable.
45. Information is not exempt information if it relates to proposed development for which the Local Planning Authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

**Commented [GW31]:** Introduced at the request of the CWP.

#### **Private Meetings of the Cabinet**

46. At least 28 clear days before a private meeting of the Cabinet, e.g. where one or more of the reports on the agenda includes exempt or confidential information, a notice of the intention to hold part or all of the meeting in private must be included in the Cabinet Notice (Forward Plan) published on the council's website and be available for inspection.
47. The notice must state the reasons for the meeting to be held in private and advise that any representations about why the meeting should be open to the public must be received at least 10 clear days before the meeting (so these can be considered by the Monitoring Officer and responded to).
48. At least 5 clear days before a private meeting, a further notice of the intention to hold part or all of the meeting in private must be included in the agenda published on the council's website and be available for inspection.
49. The notice must:
- (a) state the reasons for the meeting to be held in private;
  - (b) provide details of any representations received about why the meeting should be open to the public;
  - (c) include a statement of the council's response to any such representations.

50. Where the whole or any part of a report for a public meeting or as part of a decision is not available for inspection by the public:
- (a) every copy of the whole report or the part of the report, as the case may be, must be marked "not for publication"; and
  - (b) there must be stated on every copy of the whole or the part of the report:
    - (i) that it contains confidential or exempt information;
    - (ii) by reference to the categories in Schedule 12A to the Local Government Act 1972, the description of exempt information by virtue of which the decision-making body discharging the function is likely to exclude the public during the item to which the report relates.

#### **Urgent decisions in private meetings**

51. Where the date by which a private meeting must be held makes compliance with the notice periods above impracticable, the meeting may only be held in private where agreement has been obtained in writing from the chair of the Scrutiny Committee or, in their absence, the Lord Mayor or, in their absence, the Deputy Lord Mayor, that the meeting is urgent and cannot reasonably be deferred.
52. As soon as reasonably practicable after such agreement has been obtained, a further notice must be published on the agenda on the website and be available for inspection, setting out the reasons why the meeting is urgent and cannot reasonably be deferred.
53. If the matter is confidential or exempt from publication, then the item will not be made available to the public. However, the clerk will be required to ensure that a separate public report and minute is produced containing all information that is not confidential or exempt from publication.
54. If an item is later added to the agenda, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the report author shall make each such report available to the public as soon as the report is completed.
55. In the case of items or reports that fail to meet the deadline of five clear days, the report will only be included on the agenda where the Monitoring Officer is satisfied that:
- (a) the item/report is genuinely urgent and cannot wait until a later meeting; and
  - (b) the report author will be responsible for including those reasons in the report.

## **FINANCIAL REGULATIONS**

### **Status of Financial Regulations**

1. Financial regulations provide the framework for managing the council's financial affairs and are part of the Constitution. They apply to every member and employee of the council and anyone acting on its behalf. The council's detailed financial procedures set out how the regulations will be implemented.
2. The regulations identify the financial responsibilities of the council, its members, the Head of Paid Service (Chief Executive), the Monitoring Officer and the Chief Finance Officer.
3. All members and employees have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
4. The Chief Finance Officer is the Responsible Financial Officer under regulation 2(2)(a) of the Accounts and Audit Regulations 2003. They are "the person who, by virtue of section 151 of the Local Government Act 1972, is responsible for the administration of the financial affairs of a relevant body or, if no person is so responsible, the person who is responsible for keeping the accounts of such a body". They are responsible for maintaining a continuous review of these regulations and submitting any additions or changes necessary to the council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the financial regulations to the Council and/or to the Cabinet and portfolio holders.
5. The Chief Finance Officer is responsible for issuing financial procedures (and other advice on the application of the financial regulations) that members, employees and others acting on behalf of the council are required to follow.
6. The Chief Finance Officer can allow exceptions to these regulations if they believe that the interests of the council would be best served if the regulations were not applied. The Chief Finance Officer must keep a written record of any such exceptions and submit an annual report to Full Council summarising their decisions. The Deputy s.151 Officer is authorised to act on behalf of the Chief Finance Officer in agreeing exceptions.

### **Financial management**

7. Financial management covers all financial accountabilities in relation to the running of the council, including the Budget and Policy Framework.

### **The Cabinet**

8. The Cabinet is responsible for proposing the financial Policy Framework and Budget to Full Council, and for discharging Executive functions in accordance with the Policy Framework and Budget.

9. Executive decisions can be delegated to a committee of Cabinet members, an employee or a joint committee.

## **The Statutory Officers**

### **Head of Paid Service**

10. The Head of Paid Service for the purposes of the Local Government Act 1989 is responsible for the corporate and overall strategic management of the council as a whole. The Head of Paid Service must report to and provide information for the Council, the Cabinet, the Scrutiny Committee and other committees.
11. The Head of Paid Service is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Executive Director Corporate & Commercial Services, for the system of record keeping in relation to all the council's decisions.

### **The Monitoring Officer**

12. The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to Full Council and/or to the Cabinet.
13. The Monitoring Officer is responsible for advising all members and employees about who has authority to take a particular decision.

### **The Chief Finance Officer**

14. The Chief Finance Officer undertakes the duties of the Responsible Financial Officer and has statutory duties in relation to the financial administration and stewardship of the council. This statutory responsibility cannot be overridden. The statutory duties arise from:
- (a) Section 151 of the Local Government Act 1972;
  - (b) The Local Government Finance Act 1988;
  - (c) The Accounts and Audit Regulations (as updated and amended from time to time).
15. The Chief Finance Officer is responsible for:
- (a) the proper administration of the council's financial affairs;
  - (b) setting and monitoring compliance with financial management standards;
  - (c) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
  - (d) providing financial information;
  - (e) preparing the revenue budget and capital programme;
  - (f) treasury management and banking.

16. The Chief Finance Officer is responsible for advising the Cabinet or council about whether a decision is likely to be considered contrary or not wholly in accordance with the Budget. Such actions include:

- (a) initiating a new policy;
- (b) committing expenditure in future years to above the Budget level;
- (c) incurring interdepartmental transfers above virement limits;
- (d) causing the total net expenditure financed from council tax, grants and corporately held reserves to increase or to increase by more than a specified amount beyond the approved budget.

17. Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the council, the Cabinet and external auditor if the council or one of its employees:

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

18. The Chief Finance Officer must also make a report under this section if it appears that the expenditure of the authority (including expenditure it is proposing to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to meet that expenditure.

19. Section 114 of the 1988 Act also requires:

- (a) the Chief Finance Officer to nominate a properly qualified member of staff to deputise should they be unable to perform the duties under section 114 personally;
- (b) the council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under section 114.

## **Other financial accountabilities**

### **Virement**

20. The Chief Finance Officer is responsible for agreeing procedures for virement of expenditure between budget headings.

21. The Cabinet (with advice of the Chief Finance Officer) is responsible for determining the use of balances to fund expenditure not covered elsewhere in the Budget.

22. The Chief Finance Officer is responsible for approving any virements of revenue budgets where it is for the release of earmarked sums from contingency provisions.

23. The Chief Executive or the Chief Finance Officer (in consultation with the leader or the Cabinet member for resources) may exercise the virement powers of the Cabinet where a matter is urgent.

24. Fortuitous savings, or additional income, cannot be used for revenue virement purposes. These must be reported to the Cabinet for consideration of how these additional monies are to be used. Fortuitous savings are deemed to be savings not already assumed in the Budget.

#### **Treatment of year-end balances**

25. The Chief Finance Officer is responsible for agreeing procedures for carrying forward under- and overspendings on budget headings.

#### **Accounting policies**

26. The Chief Finance Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

#### **Accounting records and returns**

27. The Chief Finance Officer is responsible for determining the accounting procedures and records for the council.

#### **The annual statement of accounts**

28. The Chief Finance Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom based on International Financial Reporting Standards. The Audit Committee is responsible for approving the annual statement of accounts.

#### **Financial planning**

29. Full Council is responsible for agreeing the Policy Framework and Budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:

- (a) the Medium Term Financial Strategy;
- (b) the Budget;
- (c) the Capital Programme.

#### **Policy framework**

#### **Preparation of the Corporate Plan**

30. The Head of Paid Service is responsible for proposing a Corporate Plan to the Cabinet for consideration before its submission to the council for approval.



## **Budgeting**

### **Revenue budget format**

31. The general format of the Budget will be proposed by the Cabinet on the advice of the Chief Finance Officer and approved by the Council. The draft Budget should include allocations to different services and projects, proposed taxation levels and contingency funds, where appropriate.

### **Revenue budget preparation**

32. The Chief Finance Officer is responsible for ensuring that a revenue Budget on an annual basis and a Medium Term Financial Strategy covering at least three years are prepared for consideration by the Cabinet, before submission to the council. The Cabinet shall, after considering the effect on the council's finances and any directives from central government, submit to the Council:
- (a) recommended budgetary requirements;
  - (b) recommended revenue estimates (incorporating any amendments);
  - (c) a report thereon;
  - (d) the council tax base for the year;
  - (e) a recommendation as to the council tax to be levied for the following financial year;
  - (f) the calculation of the non-domestic rating income.
33. The Council may amend the Budget or ask the Cabinet to reconsider it before approving it.
34. The Cabinet is responsible for issuing guidance on the general content of the Budget in consultation with the Chief Finance Officer as soon as possible following approval by the Council.
35. It is the responsibility of the Head of Paid Service and the Directors to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet and Chief Finance Officer.

### **Preparation of the capital programme**

36. The Chief Finance Officer is responsible for ensuring that a Capital Programme is prepared on an annual basis for consideration by the Cabinet before submission to the council.

### **Monitoring and control of the revenue budget and capital programme**

37. The Chief Finance Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. They must monitor and control expenditure and income against budget allocations and report to the Cabinet on the overall position

on a regular basis.

38. It is the responsibility of the Head of Paid Service and the Directors to control income and expenditure and to monitor performance, taking account of financial information provided by the Chief Finance Officer. The Head of Paid Service reports on variances within service areas and takes any action necessary to avoid exceeding the Budget allocation and alerts the Chief Finance Officer to any problems.

#### **Resource allocation**

39. The Chief Finance Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the council's Policy Framework.

#### **Maintenance of reserves**

40. It is the responsibility of the Chief Finance Officer to advise the Cabinet on prudent levels of reserves for the council.

#### **Risk management and control of resources**

41. It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant risks to the council. This should include the proactive participation of all those associated with planning and delivering services.

#### **Risk management**

42. The Audit Committee is responsible for reviewing the council's risk management strategy and for reviewing the effectiveness of risk management. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.
43. The Chief Finance Officer is responsible for preparing the council's risk management strategy, for promoting it throughout the council and for advising the Cabinet on proper insurance cover.

#### **Internal control**

44. Internal control refers to the systems of control devised by management to help ensure that the council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the council's assets and interests are safeguarded.
45. The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

#### **Audit requirements**

46. The Accounts and Audit Regulations 2003 (as amended) require every local authority to undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control.
47. External auditors are appointed to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.
48. The council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.
49. A continuous internal audit, under the direction of the Head of Internal Audit and in consultation with the Chief Finance Officer, shall be arranged to appraise and review:
- (a) the completeness, reliability and integrity of information, both financial and operational;
  - (b) the systems established to ensure compliance with policies, plans, procedures, laws and regulations;
  - (c) the means of safeguarding assets;
  - (d) the economy, efficiency and effectiveness with which resources are employed;
  - (e) whether operations are being carried out as planned and objectives and goals are being met.
50. It shall be the responsibility of internal audit to review, appraise and report to the Head of Paid Service:
- (a) the extent to which the council's assets and interests are accounted for and safeguarded from losses of all kinds arising from:
    - (i) fraud and other offences;
    - (ii) waste, extravagance and inefficient administration, poor value for money or other cause;
  - (b) the suitability and reliability of financial and other management data developed within the council.
51. The Head of Internal Audit will provide an opinion on the effectiveness of the internal control environment to the Audit Committee on an annual basis.
52. The internal auditors shall have sufficient independence in order to enable them to perform their duties in a manner which will allow their professional judgement and recommendations to be effective and impartial. This shall include the right to report directly to the Monitoring Officer or the Cabinet in appropriate circumstances.

### **Preventing fraud and corruption**

53. The Chief Finance Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy and reporting suspicious transactions to the appropriate

enforcement agency.

54. It is the responsibility of the Head of Paid Service to maintain the internal control systems and to ensure that the council's resources are properly applied in the manner and on the activities intended, including the prevention and detection of fraud and other illegal acts.

### **Treasury management and banking**

55. The council must have regard to the CIPFA Code of Practice for Treasury Management in the Public Services.
56. The Cabinet is responsible for approving the treasury management policy statement. The Chief Finance Officer has delegated responsibility for implementing and monitoring the statement.
57. The Cabinet is responsible for approving a treasury management strategy for the coming financial year at or before the start of each financial year. The strategy is proposed by the Chief Finance Officer and reported to the Council by the Cabinet.
58. All Executive decisions on borrowing, investment or financing shall be delegated to the Chief Finance Officer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in the Public Services. Should the Chief Finance Officer wish to depart in any material respect from the main principles of the code of practice, the reasons should in the first instance be disclosed in a report to the Cabinet.
59. The Chief Finance Officer is responsible for reporting to the Cabinet, on the activities of the treasury management operation and on the exercise of their delegated treasury management powers. These reports will include an annual report on treasury management for presentation to the council by 30 September of the succeeding financial year and a mid-year review.
60. The Chief Finance Officer is responsible for the opening and closing of bank accounts in the name of the council. All cheques drawn on the council's bank accounts shall bear the facsimile signature of the Chief Finance Officer or be signed by the Chief Finance Officer, or such other employee as may be authorised from time to time under the scheme of delegation of the council.
61. All cheques drawn for an amount in excess of £2,500 that bear the facsimile signature of the Chief Finance Officer, shall also be countersigned by one of the employees authorised from time to time under the scheme of delegation of the council.

### **Staffing**

62. The Head of Paid Service is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a post.

### **Financial systems and procedures**

63. Sound systems and procedures are essential to an effective framework of financial accountability and control. The Chief Finance Officer is responsible for the operation of the council's accounting systems, the form of accounts and the supporting financial records. Any changes proposed to be made by the Head of Paid Service to the existing financial systems or the establishment of new systems must be approved by the Chief Finance Officer before they are implemented. However, the Head of Paid Service is responsible for the proper operation of financial processes.
64. Any changes to agreed procedures by the Head of Paid Service to meet specific service needs shall be agreed with the Chief Finance Officer.
65. The Head of Paid Service shall ensure that staff receive relevant financial training that has been approved by the Chief Finance Officer.
66. The Head of Paid Service shall ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. The Head of Paid Service shall ensure that staff are aware of their responsibilities under freedom of information legislation.

#### **Income and expenditure**

67. It is the responsibility of the Head of Paid Service and Directors to ensure that a proper scheme of delegation (operational arrangements) has been established within their area and is operating effectively. The operational arrangements should identify staff authorised to act on the manager's behalf, or on behalf of the Cabinet, in respect of committing expenditure, payments and income collection, together with the limits of their authority.
68. The Chief Finance Officer is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

#### **Payments to employees and members**

69. The Chief Finance Officer is responsible for approving the system of payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to members.

#### **Taxation**

70. The Chief Finance Officer is responsible for advising of the Head of Paid Service, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the council.
71. The Chief Finance Officer is responsible for maintaining the council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date.

#### **Trading accounts/business units**

72. It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts and business units.

### **Partnerships**

73. The Cabinet can delegate functions, including those relating to partnerships, in accordance with the scheme of delegation set out in the Constitution. Where functions are delegated, the Cabinet remains accountable for them to the council.

74. Representation of the council on partnership and external bodies will be decided in accordance with the scheme of delegation.

75. The Chief Finance Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory, including the verification of third party identities.

76. The Head of Paid Service is responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

### **External funding**

77. The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the council's accounts.

### **Work for third parties**

78. The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies unless this is delegated to an officer.

### **Financial procedures**

79. The detailed financial procedures set out how the Financial Regulations shall be implemented.

### **Contract procedures**

80. The Contract and Procurement Procedures (see below) set out the rules which are designed to ensure that all contracts for works, services and supplies (goods and services) are entered into by the council in a manner which secures the best possible value for money and is demonstrably free from impropriety.

### **Review of the regulations**

81. The Constitution Working Party shall review Financial Regulations periodically and recommend any amendments to Cabinet or Council as appropriate.

## CONTRACT PROCEDURE RULES

**Commented [GW32]:** Revised Contract Procedure Rules inserted.

### 1.0 General

- 1.01 Under s.135 Local Government Act 1972, every local authority must make standing orders with respect to the making of contracts for the supply of goods or materials or for the execution of works.
- 1.02 The scope of these Contract Procedures Rules is that of both the council and the councils wholly owned company Norwich City Services Ltd (NCSL)
- 1.03 The use of the word 'council' in this document should be deemed as meaning both the council and NCSL unless explicitly stated. See paragraphs 7.04-7.06, 22.07-22.08, 25.04.
- 1.04 The primary objective of these contract procedures is to ensure that all contracts for works, services and supplies (goods and services) are entered into by the council in a manner which:
  - 1.04.1 secures the best possible value for money;
  - 1.04.2 ensures probity, transparency and equality;
  - 1.04.3 protects those involved in the procurement process.
- 1.05 To do this the selection and award procedures for contracts must be conducted fairly, transparently and in an open and regularised way. The council must conform to relevant legal requirements.
- 1.06 References to the corporate leadership team, chief finance officer and the monitoring officer in these procedures shall have the same meaning as defined in financial regulations.

### 2.0 Application

- 2.01 These contract procedures are made pursuant to the Local Government Act 1972 Section 135 and shall apply to contracts and contracting procedures, whether formal or otherwise, for the purchase of works, goods or services. They relate to both revenue and capital expenditure.
- 2.02 No contract, extension of contract or purchase may be made unless an approved budget exists for the expenditure.
- 2.03 Officers responsible for purchasing must comply with these contract procedures. They lay down minimum requirements and a more thorough procedure may be appropriate for a particular contract. (For example, it may not always be appropriate to make use of an exemption in accordance with section 6 below even if one might apply or be granted.)
- 2.04 For the purposes of these procedures, where there is a requirement for

communication to be in writing, this shall be deemed to include e-mail and fax transmissions as well as hard copy.

**2.05 Officers responsible for purchasing must:**

- 2.05.1 follow the procedures for the purchase of goods or services or order works;
- 2.05.2 take all necessary legal, financial and professional advice;
- 2.05.3 declare any personal or financial interest in a contract. Corruption is a criminal offence;
- 2.05.4 conduct a value for money review and appraise the need to purchase;
- 2.05.5 check whether there is an existing corporate contract that can be used before undergoing a competitive process;
- 2.05.6 normally allow at least four weeks for submission of bids subject to any minimum timescales prescribed by law;
- 2.05.7 keep bids confidential;
- 2.05.8 ensure adequate terms and conditions are in place;
- 2.05.9 only commence the supply or works once a council purchase order has been issued;
- 2.05.10 identify a contract manager with responsibility for ensuring the contract delivers as intended;
- 2.05.11 keep records of dealings with suppliers;
- 2.05.12 assess each contract afterwards to see how well it met the purchasing need and value for money requirements.

**3.0 Requirement for compliance**

**3.01 Subject to procedures in section 6 (below) every contract and procurement made by or on behalf of the council shall comply with:**

- 3.01.1 these contract procedure rules;
- 3.01.2 the financial regulations and the financial procedures;
- 3.01.3 all relevant statutory provisions or other legal requirements; and
- 3.01.4 any direction by the council or cabinet having appropriate delegated power.

**4.0 Officer conduct**



- 4.01 Officers employed by the council must comply with Paragraph 10 of the council's "Code of Conduct for Local Government Employees", relating to conflicts of interest.
- 4.02 Procurement should only be undertaken by officers adhering to the strictest professional and ethical standards. The council recognises the Chartered Institute of Procurement & Supply (CIPS) Code of Conduct<sup>13</sup> as the appropriate standard relevant to procurement activity.

## **5.0 Segregation of duties**

- 5.01 The activities relating to the contracting and procurement processes are segregated in particular between the following phases:
- requisition
  - authorisation
  - purchase Order
  - receipt
  - payment

Segregation of duties must exist between raising purchase orders and commitment of expenditure and also receipt and payment.

## **6.0 Exceptions and collaborative arrangements**

- 6.01 These contract procedures do not apply or may be varied where or to the extent that:
- 6.01.1 the contract is for the acquisition, disposal or transfer of land (for which other financial procedures apply) where there is no development or other agreement attached to the disposal/ transfer;
- 6.01.2 the lending or borrowing of money;
- 6.01.3 the contract is for the employment of individual members of staff;
- 6.01.4 the engagement of counsel;
- 6.01.5 statute or legislation prescribes otherwise;
- 6.01.6 goods or materials to be purchased are on sale by public auction.
- 6.02 The council and its cabinet have power to waive any requirements within these contract procedures for specific projects subject to compliance with the law, and any such decision may be a key decision. A record of the reason for exception

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<sup>13</sup> <https://www.cips.org/aboutcips/CIPS-Code-of-Conduct/>

shall be included in the minutes. No exemption can be used if the Public Contract Regulations 2015 (PCR15), or other legislation applies as these will take precedent.

- 6.03 In exceptional circumstances, the business relationship and procurement manager is authorised to exempt any requirements within these contract procedures, provided that, where the contract is likely to exceed £50,000, the chief finance officer must also authorise the exempting of these procedures.
- 6.04 Chief finance officer authorisation shall be required on any subsequent requests for exemptions linked to an original exemption request on that contract where the cumulative sum of the exemption requests exceed £50,000.
- 6.05 Exemption arrangements do not override any other obligations including those requirements in the constitution for key, material and significant decisions.
- 6.06 Any exemption must be recorded in the appropriate register of exemptions maintained by the business relationship and procurement manager.
- 6.07 A request to exempt from requirements in these contract procedures may also be made where goods or materials to be purchased are:
  - 6.07.1 proprietary articles or are sold by one manufacturer only at a fixed price
  - 6.07.2 controlled by trade organisations or if for other reasons there would be no genuine competition
- 6.08 Where an exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to council services, the relevant officer can approve the exemption. This should then be reported to the business relationship and procurement manager as soon as practical, but for contracts over £50,000 a report should be made to cabinet by the relevant council director to seek retrospective approval. If the contract party is NCSL the managing director shall seek retrospective approval from NCSL Board.
- 6.09 The monitoring officer must monitor the use of all exemptions.
- 6.10 In order to secure value for money, the council may enter into collaborative procurement arrangements. The officer must consult the business relationship and procurement manager where the purchase is to be made using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.
  - 6.10.1 All purchases made via a local authority purchasing and distribution consortium are deemed to comply with these contract procedures and no exemption is required. However, purchases above the PCR 2015 thresholds must be let under the 'above threshold' requirements of PCR

2015, unless the consortium has satisfied this requirement when letting their contract on behalf of the authority and other consortium members.

6.10.2 Any contracts entered into through collaboration with other local authorities or other public body, where a competitive process has been followed that complies with the contract procedures of the leading organisation, will be deemed to comply with these contract procedures and no exemption is required. However, advice must be sought from the procurement service.

6.11 E-procurement technology should be used in all cases where appropriate and does not negate the requirement to comply with all elements of these contract procedures, particularly those relating to openness, transparency, honesty and fairness.

## **7.0 Estimate of contract value**

7.01 Before any invitation to quote or tender is released the relevant officer in the service area is required to draw up in writing a specification of the council's requirement. This is to make clear all aspects of the goods, works and services the council intends to procure and over what period.

7.02 From this an estimate is to be made of the value of a contract or purchase to allow for the correct procedure to be followed. This estimate and the basis of it is to be recorded in writing by the relevant officer.

7.03 The applicability of any part of these procedures referring to value or amount shall, where relevant, be determined on the basis of that estimate whether or not the contract relates to capital or revenue expenditure.

### **Contract Award - Key Decisions**

7.04 Paragraphs 7.05 and 7.06 are only applicable where the contracting party is the council.

7.05 The Constitution shall determine the key decision criteria.

7.06 Before entering into a contract for the supply of goods, services or the execution of any work which is first estimated to be over the council's key decision value or meets another of the key decision criteria the appropriate service area director shall submit to the cabinet a report giving an estimate of the expense and seeking approval to award or seeking delegated authority to award a contract. The report must be marked as a key decision.

7.07 Those contracts below the key decision value shall not be entered into unless the delegated approvals and notifications are made as required in the constitution.

### **Calculation of estimate**

7.08 For the purpose of deciding the correct procedure to be followed it is a requirement that all foreseeable purchases or contracts for the required goods, works or service be aggregated. In compliance with PCR 2015 the requirement must be calculated across the whole council, and not just a single department, as the organisation is deemed to be a single procuring body. The estimate shall be calculated on the basis of any continuing purchase of a number of similar items and where the requirement is for an indeterminate period exceeding 12 months the contract value should be calculated over a 4-year period. No attempt shall be made to avoid obtaining tenders by:

7.08.1 estimating the price for one article only when the order is for several articles;  
or

7.08.2 placing two or more orders to keep the total sum below the financial limit, or if potentially likely to exceed threshold limits, the guidance as stated in regulation 8 of the PCR 2015.

7.09 Estimates shall be calculated on the total value over the whole term of the contract including all fees, insurance premiums and any other amounts payable. For avoidance of doubt this may not just be the direct cost to the council.

## **8.0 Contracts register and awarded contracts**

8.01 A detailed contract register for those contracts £25,000 and over will be maintained by the council for the council and NCSL and made publicly available.

8.02 Service areas and NCSL are responsible for maintaining records of those agreements under £25,000. Those records to be disposed of in lines with the councils document retention policy.

8.03 Where a contract has been awarded it must be used for all requirements that relate to that contract.

8.04 The council and its contracted suppliers make a considerable investment in negotiating and preparing contracts and when a contract has been awarded to a contractor it must be honoured. To place purchase orders / contracts with alternative suppliers other than the contract holder may frustrate the contract and open the council to expensive litigation.

8.05 On the exceptional occasions where a budget holder feels that better value can be obtained from sources alternative to those that have been awarded a council contract, approval to use those alternatives must be first obtained from the business relationship and procurement manager.

## **9.0 Procedures to be followed**

(See appendix A for flow chart)

**Up to £25,000**

- 9.01 Orders for goods, works and services below £25,000 in value will require at least three quotations in writing wherever possible.
- 9.02 The service area and NCSL shall be responsible for undertaking the quotes exercise. They should ensure the exercise is undertaken following the principles outlined in paragraph 1 and the Procurement Strategy and should retain supporting documentation.
- 9.03 Paragraph 7.01 refers to the need for a specification prior to obtaining quotes. Also in advance of the quote return date the service area shall have determined the method of evaluation. The methodology shall be recorded.
- 9.04 Subsequent returned quote evaluations should be based on this recorded methodology and records retained.
- 9.05 Where the estimated value falls below £5,000 and three competitive quotations cannot be obtained the service area manager may place an order with the most appropriate supplier, giving consideration to any relevant factors, retaining a record of their decision making.
- 9.06 Where the value is £5,000 or above but below £25,000 and three competitive quotations cannot be obtained the service area manager must seek approval of the business relationship and procurement manager via an exemption.
- 9.07 For goods, works and services that are likely to be a regular requirement estimates should be undertaken of the likely annual procurement as set out in 7 above.
- 9.08 The service area should undertake appropriate due diligence before any agreement is entered into.

**£25,000 – to PCR 2015 threshold**

- 9.09 Any contract between £25,000 and the PCR threshold for the supply of goods, services or the execution of any work will require at least three written tenders to be obtained by the procurement service.
- 9.10 For an open tender the contract opportunity shall be advertised on Find a Tender service. In exceptional circumstances where this is not possible the circumstances shall be detailed in the 'recommendation to award report' and must be approved by the appropriate head of service or director.
- 9.11 If the contract is a result of a direct award or via a framework, the opportunity need not be advertised on Find a Tender service and an award notice will be submitted. Care should be taken to ensure all frameworks accessed have been procured following current public contract procedures.

**Over PCR 2015 threshold**

- 9.12 The Government transferred the EU procurement Directives (2014/24/EU) into UK law in the form of the Public Contracts Regulations 2015 and others.
- 9.13 For contracts exceeding the PCR 2015 procurement thresholds the procurement team will advise on the appropriate procedure to be used and will manage the procurement process.
- 9.14 UK public procurement opportunities from 1 January 2021 will need to be published on the UK e-notification service called Find a Tender service (FTS). The FTS means new UK opportunities will no longer be sent to the Official Journal of the European Union (OJEU) or Tenders Electronic Daily (TED).

## **10.0 Market research and pre-procurement engagement**

- 10.01 Access to accurate and relevant commercial intelligence and knowledge of the marketplace is necessary in deciding which procurement option is best. Relevant markets need to be researched and understood, however, care must be taken to ensure this does not distort competition or prejudice any bidder or potential bidder.
- 10.02 There are instances where it is beneficial to undertake pre-procurement market engagement. This may be to better understand the capacity of the market or to allow potential bidders to position themselves appropriately in order to tender effectively. In any case care must be taken and pre-procurement activity should only be undertaken following the guidance of the business relationship and procurement manager.

### **Joint procurement**

- 10.03 Where specific procedures have not been agreed and procurement is being undertaken jointly with other public sector bodies or organisations, where one of those other bodies or organisations acts as the lead authority, then the contract and procurement procedures for that organisation will apply together with the appropriate legislation.

## **11.0 Framework agreements**

- 11.01 The term of a framework agreement must not exceed four years and, while an agreement may be entered into with one provider, multi-supplier framework agreements can comprise just two suppliers (previously minimum of three).
- 11.02 Call-off contracts based on framework agreements may be longer than four years, and may extend beyond the expiry date of the framework.
- 11.03 Contracts based on framework agreements must be awarded by applying the terms laid down in the terms of the framework agreement. Where direct award is allowable and appropriate this may be utilised if best value can be determined, or in other circumstances a further competition must be undertaken as

determined by the framework provider.

## **12.0 Tendering**

- 12.01 All tenders shall be undertaken using the council's e-procurement system and all communications to tenderers will be made using the system. Any exceptions to this requirement must be approved by the business relationship and procurement manager.

## **13.0 Advertising a tender**

- 13.01 All opportunities will be published and made visible to all potential providers that are registered on the e-procurement system. This will also facilitate the publishing of opportunities to Find a Tender service where necessitated by the value of the contract. The transparency obligations of the council require that all contracts over £25,000 are advertised on Find a Tender Service in addition to any other media that may be used.
- 13.02 There may be circumstances however when it will also be necessary to place an advertisement in a local newspaper, trade journal, local partnership network, or social media as appropriate, to invite potential suppliers to register on the e-procurement system. This will particularly be the case where it is deemed that insufficient suppliers are registered for a specific category of products or services to achieve a reasonable level of competition. Any advertisement shall be raised in conjunction with the business relationship and procurement manager and will include the website address for the e-procurement system.
- 13.03 Where the contract value exceeds the PCR 2015 threshold the opportunity must not be advertised elsewhere before it has been published in the Find a Tender service. The council's e-procurement system links through to this service.

## **14.0 Information to potential suppliers**

- 14.01 All potential suppliers must receive the same detailed information that accurately reflects the business requirements. Information given to tenderers that relates to anticipated volumes or value of business is for guidance only. It must be clearly stated that the council will not be bound by this information.
- 14.02 Tenderers must not be informed of the identity of competitors, as this can lead to supplier collusion and cartels and a potential loss of confidence among tenderers.
- 14.03 All questions and answers to clarification points that may be raised by tenderers are to be administered through the e-procurement system to ensure that all tenderers receive the same information. Care should be taken to ensure that further clarification information is made anonymous before sharing with other tenderers.
- 14.04 No meetings or discussions shall take place during the tendering process with

tenderers without the prior agreement of the business relationship and procurement manager.

## **15.0 Supplier selection**

- 15.01 The council is committed to obtaining value for money through the procurement of all goods, services, works and capital projects. It is essential to ensure that only the most capable suppliers are selected as contractors to the council.
- 15.02 The selection and elimination of suppliers within a procurement exercise can only be made on grounds of capability and that assessment should include a balance of technical, professional and financial issues as appropriate. It is essential that any criteria used to select suppliers are notified to them in advance. This information should be contained within tender documents.
- 15.03 Selection criteria must be proportional and should reflect the level of risk to the council, not imposing arbitrary minimum requirements, as this may have the unintended effect of barring new businesses from bidding. In the spirit of encouraging supplier growth, the supplier evaluation process should not rule out a potential supplier unless there is clear evidence that the supplier's financial position places the council or services at unacceptable risk.
- 15.04 There are two ways in which a selection process can be used and these follow the principles of the PCR 2015. The first option may only be used for contracts valued above the PCR 2015 threshold and even then only where allowed within the procurement process. The options are:
  - 15.04.1 either, the pre-qualification questionnaire is made available to all suppliers expressing an interest and only the suppliers that meet the required standard are then allowed access to the full tender documents.
  - 15.04.2 or, suppliers are issued with the full Invitation to Tender (ITT) document of which the qualification section forms the first element.

## **16.0 The invitation to tender**

- 16.01 The invitation to tender shall be made available for any supplier via the e-procurement portal, unless it was predetermined that some selection process was to be used to limit the numbers. The invitation to tender must include the main contract terms required and is to specify:
  - 16.01.1 that no tender will be considered unless it is submitted using the e-procurement system.
  - 16.01.2 the period for which a tender must remain valid
  - 16.01.3 whether variant tenders will be considered and if so in what form
  - 16.01.4 whether a bond or parent company guarantee will be required



16.01.5 professional, employer's and public liability and other insurance required

16.01.6 that the council is not obliged to accept the lowest (or highest as the case may be) or any tender.

## **17.0 Receipt of tenders**

17.01 All tenders will be managed in accordance with the defined procedures on the e-procurement system. Submitted tenders will be dealt with as soon as possible after the closing date and time for receipt. Tenders will not be accepted after the closing date and time for receipt.

17.02 Where an error is discovered in tender documents before the closing date/time, all suppliers will be notified via a clarification on the e-procurement system of the correction and if necessary the closing date and time may be extended. If a supplier has already submitted their tender, they must be allowed an opportunity to submit a new tender before the closing date/time.

17.03 After the opening of tenders, if there is an obvious error in a tender submitted (for example the result of a calculation is incorrect or there is a typing error in a value), the business relationship and procurement manager may allow the supplier to be contacted and afforded the opportunity to correct the error or withdraw their submission. All communication must be undertaken through the e-procurement system.

## **18.0 Tender evaluation**

18.01 Evaluation of tenders must be carried out by at least two suitable persons capable of evaluating the tenders, if necessary including (in addition) external advisors. Where external advisors are to be appointed they are normally to be involved at the contract specification (pre tender) stage of these procedures. The evaluation process must be objectively followed using a team approach and by moderating scoring. All evaluation will either be carried out on the e-procurement system or if this is not suitable then an appropriate spreadsheet will be used and the records of the evaluation process retained for audit purposes. Further information can be found in the Procurement Guide

18.02 The purpose of the evaluation is to identify the most economically advantageous tender, which will be a balance of cost and quality. The service area must draw up the evaluation criteria and methodology early in the process and this will be shared with the tenderers as part of the e-procurement process. It is good practice to allot a weighting system to the scoring to enable greater emphasis to be attributed to the key outcomes required.

18.03 The evaluation criteria should support the Procurement Strategy outcomes however must be relevant and proportionate and linked to the subject matter of the contract These criteria will often include the following:

Quality - Technical merit, aesthetic and functional characteristics, environmental characteristics, after sales service, technical assistance, delivery date and delivery period and period of completion.

Costs - Whole life cost, including price, running costs, maintenance, consumables, spares and disposal costs.

## **19.0 Clarification procedures and post-tender negotiation**

- 19.01 All supplier tender clarification should be controlled and led by the head of service with delegated procurement authority. The head of service should determine a strategy for the clarification, irrespective of whether it concerns a new purchase, a renewal, or a supplier generated change. The head of service may decide to involve other specialists as appropriate.
- 19.02 Neither good practice nor the EU Directives permit price negotiation, however clarification is utilised to explore and understand the technical aspects of a tender. The result of clarification discussions may be an adjustment to the cost proposal.
- 19.03 Where clarification discussions do not lead to an agreement between the supplier and the council it may well be necessary to undertake a second procurement exercise and re-engage the market.

## **20.0 Acceptance of tenders**

- 20.01 Where less than three valid tenders are received then no tender shall be awarded until a report detailing the results of the tender evaluation has been considered by the business relationship and procurement manager.
- 20.02 In these cases the head of service or director shall be authorised to accept the most economically advantageous tender where one tender achieves an overall highest combined quality and cost score and after taking legal advice on the impact of PCR 2015 if appropriate.
- 20.03 Consideration must also be given to the original estimate of the value of the contract and an explanation given for any significant difference. A report summarising these findings and recommending which (if any) of the tenders is to be accepted and on what terms must then be submitted to the director or head of service and the business relationship and procurement manager.
- 20.04 Appropriate due diligence should be undertaken before contract award.

## **21.0 Commencement of work**

- 21.01 Except in cases especially authorised by the business relationship and procurement manager, contractors shall not be allowed to commence work until the contract has been signed and, where required, the necessary bond has been secured or other security accepted.

## **22.0 Award of contracts**

- 22.01 When a contract is awarded, notification must be given to the successful supplier and the unsuccessful suppliers. For successful suppliers the notification must state the basis of the acceptance.
- 22.02 Where the contract is over threshold the unsuccessful supplier notification should comply with Reg 86 of PCR 2015 and provide the relative advantages of the successful tenderer as compared to their bid.
- 22.03 In below threshold it would be best practice to mirror the principles of the information provided in Reg 86.
- 22.04 If required under PCR 2015 a 10-day standstill period must then be observed between notification of award and entering in to a contract.
- 22.05 Those tenders where PCR 2015 does not apply the council should follow the best practice of a 10-day standstill period where possible. The business relationship and procurement manager and service area director shall be required to approve any standstill less than 10 days.
- 22.06 The notification of award must make clear that it is subject to a formal contract and that any challenge may negate the ability of the council to enter in to such a contract.
- 22.07 For council contracts only, if awards are of key decision value the notice of award shall state it is subject to cabinet approval, unless delegation has already been sought.
- 22.08 For council contracts only, any contract award should have reference to the constitution and key, material and significant decisions requirements.

## **23.0 Contract extension and novation**

- 23.01 Contracts may be extended only if the original contract allowed this option.
- 23.02 Prior to a contract extension or novation the service area shall ensure
  - 23.02.1 there is continued need for the contract
  - 23.02.2 there is evidence of good performance to date by the existing supplier, in line with any service level agreement or performance indicators in the contract
  - 23.02.3 that value for money is still being obtained with the existing contractor in the current market and other consideration of options
  - 23.02.4 appropriate authority is in place for example an earlier key decision for award of contract covered the extension period. If not authority shall be obtained before extension awarded

## **24.0 Transparency requirements**

- 24.01 The details of all contracts awarded by the council will be held and maintained by the procurement team and these details shall be made publically available in accordance with the Local Government Transparency Code 2015.
- 24.02 To facilitate this requirement, the details of any contract entered into other than through the e-procurement system will be provided to the procurement team by service areas if the value is £25,000 or above.
- 24.03 Supplier agreements of less than £25,000 the service area and NCSL shall be responsible for maintaining appropriate records to satisfy the transparency requirement.

## **25.0 Form of Contract**

- 25.01 All contracts must be in writing. For purchases up to £25,000 a purchase order referring to the terms and conditions may be used where the contract is of a non-complex nature.
- 25.02 For all other contracts the form of contract must be agreed with the business relationship and procurement manager. Those £25,000 and above but below the PCR 2015 threshold should be signed by at least two authorised officers or made under the common seal of the council attested by at least one authorised officer.
- 25.03 Every contract which exceeds PCR 2015 procurement limits in value shall be sealed.
- 25.04 NCSL contracts shall not require a council seal however should be signed in accordance with the appropriate Companies Act regulations.
- 25.05 The service area contract manager shall be responsible for ensuring the content of the contract is adequate, seeking legal advice if required.
- 25.06 In exceptional cases of low risk, low value contracts between £25,000 and the PCR 2015 thresholds, the form of contract may consist only of an award notification referring to the tender details. This must be with the approval of the business relationship and procurement manager.
- 25.07 The contract must, as a minimum, contain the following:
  - 25.07.1 the council's standard purchase terms and conditions, together with any special terms agreed through the tender process,
  - 25.07.2 General Data Protection Regulation (GDPR) required clauses as appropriate
  - 25.07.3 a clause stating that the supplier may not sub-let, assign or transfer to

any person/legal entity all or part of the contract without the written permission of the council

25.07.4 the details of the goods, services or works to be supplied,

25.07.5 the price to be paid including any discounts,

25.07.6 the period for compliance/term of the contract,

25.07.7 any insurance requirements,

25.07.8 termination rights.

## **26.0 Liquidated damages and security**

### **Liquidated damages**

26.01 Consideration is to be given for every contract which is estimated to exceed £100,000 in value or amount (and in any other contract of a lesser amount if the business relationship and procurement manager considers it appropriate), for the execution of works (or where appropriate for the supply of goods or materials by a particular date or series of dates) shall provide for the payment of liquidated damages by the contractor in case the terms of the contract are not duly performed.

### **Breach of contract**

26.02 In every written contract for the supply of goods or materials the standard procurement terms and conditions shall include a clause securing that, should the contractor fail to deliver the goods or materials or any portion thereof within the time or times specified in the contract, the council, without prejudice to any other remedy, shall be at liberty to determine the contract either wholly or to the extent of such default in breach of contract.

26.03 In such case as set out in 26.02 above, the council may purchase other goods or materials as the case may be, of the same or similar description to make good such default or, in the event of the contract being wholly determined, the goods or materials remaining to be delivered.

26.04 The clause shall further secure that the amount by which the cost of so purchasing other goods or materials exceeds the amount which would have been payable to the contractor, shall be recoverable from the contractor.

### **Performance bonds**

26.05 Where a tender exceeds £100,000 in value or amount and is for the execution of works or for the supply of goods or materials by a particular date or series of dates, a performance bond or other sufficient security amounting to 10% of the contract sum for the performance of the contract must be considered.

26.06 An assessment must be made to evaluate the risk and where this risk is above the council's risk appetite a performance bond of other sufficient security amounting to 10% of the contract sum for the performance of the contract shall be obtained.

26.07 In other cases, a bond shall be obtained where the business relationship and procurement manager deems it necessary.

## **27.0 Prevention of bribery and corruption**

27.01 Members and officers involved in the letting of contracts and the purchase of goods and services must ensure they comply with the relevant code of conduct and shall state at the earliest stage of the procurement procedure if they have any foreseeable conflicts of interest.

27.02 Any gift offered, either during a contract process or prior to or after the procedure must be reported in accordance with the council's procedures for these matters. If any person believes such a gift to have been offered as an inducement the appropriate member of the corporate leadership team and the monitoring officer are to be informed immediately.

27.03 Every written contract shall include 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 the contractor shall have:

27.03.1 offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the council; or

27.03.2 for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the council; or

27.03.3 if the like acts shall have been done by any person employed by the contractor or acting on his or her behalf (whether with or without the knowledge of the contractor); or

27.03.4 if in relation to any contract with the council the contractor or any person employed by him or her or acting on his or her behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or Bribery Act 2010 or any amendment or re-enactment of them; or

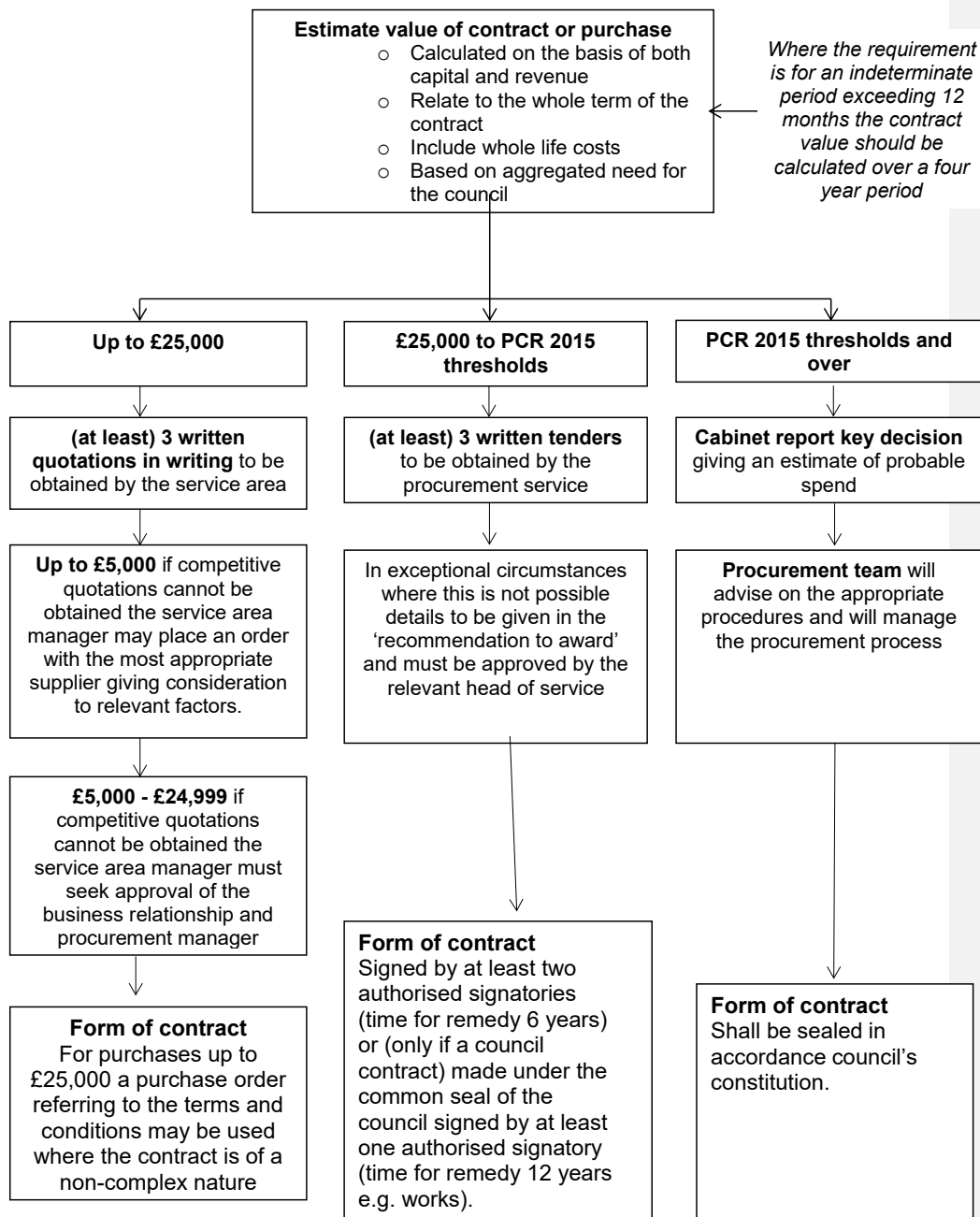
27.03.5 shall have given any fee or reward the receipt of which is an offence under subsection 2 of Section 117 of the Local Government Act 1972; or

27.03.6 shall have offered, promised or given a bribe (a financial or other advantage) to another person to induce that person to perform improperly a relevant function, which is an offence under the Bribery Act 2010.

## **28.0 Review of the procedures**

- 28.01 The Chief Finance Officer will review and amend these contract procedures periodically as appropriate and is authorised to make changes that are minor or reflect new or updated legislation.
- 28.02 Major changes to the contract procedures, such as revision of values determining procurement process are delegated to the Chief Finance Officer in consultation with the appropriate portfolio holder.

## Appendix A – Procurement Procedures and form of contract





## **EMPLOYEE CODE OF CONDUCT**

The City Council has chosen to adopt a Code of Conduct, which sets out minimum standards that employees should observe. It lays down guidelines for employees to help maintain and improve standards and protect employees from misunderstanding or criticism.

### **1. INTRODUCTION**

- 1.1 The public is entitled to expect the highest standards of conduct from all local government employees.
- 1.2 This Code is based on a model produced, after consultation, by the local authority associations and the Local Government Management Board. It has been developed to take into account Norwich City Council corporate policies. Consultations have also taken place locally with the Trade Unions. A copy is issued to every employee.
- 1.3 This Code takes into account "The Seven Principles of Public Life" which are included in the Nolan Committee's report on "Standards in Public Life". They are; selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

### **2. STATUS OF THE CODE**

- 2.1 The City Council has chosen to adopt the Code of Conduct. The code sets out minimum standards that employees should observe. It lays down guidelines for employees to help maintain and improve standards and protect employees from misunderstanding or criticism.

### **3. SCOPE OF THE CODE**

- 3.1 The Code applies to all employees of Norwich City Council. Activities carried out by City Council employees acting as members of companies or voluntary organisations are subject to the minimum standards within this code.

### **4 STANDARDS**

- 4.1 As a Norwich City Council employee you are expected to give the highest possible standard of service to the public. You have the following duties;
  - (i) A duty of service - to work in accordance with your contract of employment; e.g. not to be absent or late without permission.
  - (ii) A duty to obey reasonable instructions, procedures and regulations.
  - (iii) A duty to care - to be competent and capable and not to be negligent in work.
  - (iv) A duty of good faith - to be honest and not accept a fee or commission or gifts from those who do business with the council or to divulge confidential information about the council.

#### ***Personal Standards***

- 4.2 Norwich City Council employees are expected to:

- (i) Be positive, helpful and co-operative in dealing with colleagues, members and the public. You should read and comply with the leaflet on Service Standards;
- (ii) Provide impartial advice to councillors and colleagues;
- (iii) Remember that as a council employee your primary responsibility is to the community as expressed by the corporate policies of the City Council. You should not allow departmental or sectional or other interests to take precedence over corporate policies. Within these policies you should respect the defined roles of departments, service centres and colleagues and avoid conflict and disharmony within the organisation;
- (iv) Remember that you are accountable for your actions and decisions and be prepared to submit yourself to whatever scrutiny is appropriate to your office;
- (v) Ensure that your personal appearance is consistent with the public's expectations, bearing in mind the work you do;
- (vi) Bring to the attention of the appropriate level of management any deficiency in the provision of service;
- (vii) Report to the appropriate manager any serious impropriety or breach of procedure (see Whistleblowing Policy)

#### ***Competence Standards***

4.3 All employees are expected to perform their duties with:

- (i) due care,
- (ii) competence,
- (iii) diligence and continue to maintain such standards.

4.4 If you hold a specific technical and professional qualification you should:

- (i) carry out your duties in accordance with the standards set by your professional body;
- (ii) conform with any guidelines on ethics produced by your professional body.

#### ***Council Policies, etc.***

4.5 The council has a Constitution, Financial Regulations and a number of corporate policies.

4.6 Your section or Directorate will have specific rules, procedures and codes of practice which apply to the particular department workplace and type of work in which you are engaged. These rules are communicated by management in various ways, including oral instructions, procedure manuals, notices, information sheets and memoranda/email.

4.7 You are expected to comply with these rules and policies in carrying out your duties.

### **5 DISCLOSURE OF INFORMATION**

5.1 The law requires certain types of information to be available to councillors, auditors, government departments, and the public. These are outlined in the council's

Publication Scheme, which has been produced in accordance with the Freedom of Information Act. Copies are available from your manager or on the council's website.

- 5.2 Employees are expected to be open, informative and truthful in dealing with colleagues, members and the public and to provide the information to which each is entitled in accordance with the Freedom of Information Act. If you are not sure what should be made available, you should find out from your manager or from elsewhere.
- 5.3 There is a balance between freedom of information and confidentiality for commercial reasons that must be considered at all times by employees in services where commercial sensitivity is essential.
- 5.4 Any information obtained in the course of your employment should not be used for your personal gain or benefit, and you should not pass it on to anyone else who could use it for his or her benefit. Do not divulge any personal information about a fellow employee or a councillor without permission unless disclosure is required by law.
- 5.5 Only employees authorised to do so may talk to the press or otherwise make personal statements on behalf of their service, Directorate or the council. If you are so authorised you should make sure you read the council's policy on "Dealing with the Media". This contains detailed advice and can be obtained from the Communications Unit.

## **6 POLITICAL NEUTRALITY**

- 6.1 Employees serve the authority as a whole. You must ensure that the individual rights of all councillors are respected.
- 6.2 You may be invited to advise political groups. Do so in a way that does not compromise your political neutrality. If you are in a politically restricted post you must ensure that you comply with the requirements of such posts.
- 6.3 All employees whether or not politically restricted must follow all lawful policies of the council and must not let their own personal or political opinions interfere with their work.

## **7 RELATIONSHIPS WITH:**

### ***Councillors***

- 7.1 You are responsible to the council through your senior managers. Mutual respect between you and councillors is essential to good local government. Avoid familiarity with individual councillors, which could damage your relationship with and/or prove embarrassing to other employees and councillors.

### ***The Local Community and Service Users***

- 7.2 Always remember the council's responsibility is to the community and give a courteous, efficient and impartial service to all groups and individuals within the

council's policies. Try to be positive, constructive and inclusive. When necessary make extra efforts to communicate with people with disabilities in accordance with council policies.

### **Contractors**

- 7.3 All relationships of a business or private nature with external contractors, or potential contractors, should be made known to your Head of Service (see paragraph 10.1 below). If you engage or supervise contractors or deal with suppliers on behalf of the council then you must record any past or present business/private relationships with those organisations with Democratic Services and keep your Head of Service or your Director informed.
- 7.4 Orders and contracts must be awarded on merit, by fair competition against other tenders, in accordance with the council's procedures and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

## **8 APPOINTMENT AND OTHER EMPLOYMENT MATTERS**

- 8.1 If you are involved in the appointment of staff you must follow the council's recruitment guidelines. If you are related to an applicant, or have a close personal relationship with one outside work, you must declare it to the HR officer.
- 8.2 You should not be involved in decisions about discipline, promotion or pay adjustments for someone with whom you have a close personal relationship.

## **9 OUTSIDE COMMITMENTS**

- 9.1 You should not take outside employment which conflicts with the council's interests. If you are paid above spinal column point 28 you are required to obtain consent from your Head of Service (see paragraph 10.1 below) before taking any outside employment.
- 9.2 You should comply with any council rules about the ownership of intellectual property and copyright in work done by you during your employment with the council. If in doubt you must consult your Head of Service.

## **10 PERSONAL INTERESTS**

- 10.1 You must declare to your Head of Service (\*see table below) any financial or non-financial interests that you consider could conflict with the council's interests, or could cause your conduct to be questioned. Such interests must be registered with Democratic Services.

<b>Reporting hierarchy for financial and non-financial interests</b>	
<b>Officer:</b>	<b>Reports to:</b>
Chief Executive	Monitoring Officer

Director	Chief Executive
Head of Service	Director
All other employees	Head of Service

10.2 You must declare to your Head of Service membership of any organisation not open to the public without formal membership and commitment of allegiance, and which has secrecy about rules, membership or conduct. If you are a member of an organisation of this type you must register this with Democratic Services.

10.3 When attending meetings of the Council or its committees you should declare any financial interest in any item and withdraw from the meeting while the matter is under consideration unless authorised to remain in the meeting by the members present.

## **11 EQUALITY ISSUES**

11.1 You must comply with and promote the council's equality policies and other corporate policies. The public and employees have a right to be treated with fairness and equity.

## **12 SEPARATION OF ROLES DURING TENDERING**

12.1 If you are involved in the tendering for council contracts or dealing with contractors you should be clear about the separation of client and contractor roles within the authority. You must comply with the council's Contract and Procurement Procedures. You must be aware of the need for accountability and openness but also respect the need for commercial confidentiality.

12.2 If you are in a contractor or client unit you must deal with customers, suppliers, other contractors and sub-contractors fairly and impartially.

12.3 If you see confidential information on tenders or costs for either internal or external contractors you must not disclose that information to any unauthorised person.

12.4 If you intend to participate in a management or employee buyout you must inform the Chief Executive or your Head of Service and record this with Democratic Services, you must withdraw from the contract awarding processes immediately.

12.5 You must not treat current or former employees or their partners, close relatives or associates more or less favourably than other people when considering the award of contracts to businesses run by them or employing them.

## **13 CORRUPTION**

13.1 It is a serious criminal offence to corruptly receive or give any gift, loan, fee, reward or advantage. If an allegation is made you may have to demonstrate that any such rewards have not been corruptly obtained.

## **14 USE OF FINANCIAL RESOURCES**

14.1 You must ensure that you use public funds entrusted to you in a responsible and

lawful way. You should try to obtain value for money to the local community and avoid legal challenge to the authority. You must comply with the council's Financial Regulations.

## **15 HOSPITALITY AND GIFTS**

### **15.1 Introduction**

As public service employees, council staff must act, and be seen to act, with the highest standards of integrity. In the course of your work you may encounter situations, which, if not handled properly, could call your integrity into question. Examples of such situations include being offered tokens of appreciation or opportunities to meet socially with contractors or suppliers to the council. This guidance aims to help you to deal with such situations.

The overriding principle is that you, your family, your friends or any organisation of which you are a member or with which you are closely associated should not accept any gift, consideration or hospitality that would call into question:

- your honesty;
- your ability to deal impartially and equitably with all service users, potential or actual contractors or suppliers;
- your commitment and ability to pursue the best interests of the City Council.

If you would feel uncomfortable giving an account of your actions to management or reading an account of your actions on the front page of the local newspaper – don't take the action.

To protect you and the council there is a Register of Disclosures and Interests and a Register of Gifts and Hospitality held by Democratic Services.

This guidance should help you to understand what to register. If you need any guidance or advice on matters raised in this document, speak to your manager or to Democratic Services.

### **15.2 Gifts**

You must not solicit gifts, additional payments or any other personal advantage (such as discounts or free services) from any service user, potential or actual contractor or supplier.

You must not accept payments or any other form of personal advantage from any service user, potential or actual contractor or supplier. The only exception to this is that some service users like to "tip" employees such as housing wardens, particularly at Christmas. Small tokens of appreciation may be accepted in such circumstances but a record must be kept of tips received. The record should be given to the most senior employee at the work place who will then pass it to their 'off-site' manager.

You may accept gifts of token value such as pens, diaries, etc, from potential or

actual contractors or suppliers. Such gifts may be kept for your personal or business use. You should, however, be aware of the adverse impression that may be created for competitors seeking to do business with the council.

You may accept gifts with nominal value from visitors to the City Council when the gifts are proffered as tokens of friendship between Norwich and the visitors' hometown or country.

If you receive a gift of more than token or nominal value and it would cause offence or be impracticable to return it, you should register the gift (see below) and inform your manager. Such gifts will normally either be donated to a charity or may, if suitable, be kept for use on City Council premises.

If you are offered a gift and you believe or suspect that the offer is made with the intention of influencing you to give favourable treatment to a service user, potential or actual contractor or supplier, you must inform your Manager, Head of Service or Director, or the Chief Executive.

### **15.3 Hospitality**

You must not solicit hospitality (for example meals, tickets to sporting or cultural events) from any service user, potential or actual contractor or supplier.

You must not accept offers of hospitality unless you have the permission of your Head of Service, Director or the Chief Executive. Hospitality, which you have permission to accept, must be registered in the Register of Gifts and Hospitality. Permission will not normally be granted for hospitality that requires overnight accommodation at the host's expense.

You should not allow a potential or actual contractor or supplier to pay for you to visit their sites or premises to inspect their goods or services. If such visits are necessary, the City Council will meet the costs involved. When visiting potential or actual contractors or suppliers you may accept refreshments appropriate to a work situation.

You do not need prior permission to accept a meal which is offered in work-related circumstances and which would enable your work to be expedited, provided that the costs are reasonable in the circumstances.

You do not need prior permission to accept modest hospitality offered at conferences and courses provided that the hospitality is offered to numbers of people in similar roles (i.e. is corporate) rather than personal.

If you are offered hospitality and you believe or suspect that the offer is made with the intention of influencing you to give favourable treatment to a service user, potential or actual contractor or supplier, you must inform your Head of Service/Director, or the Chief Executive.

### **15.4 Registers of Disclosures and Interests and Gifts and Hospitality**

The council's Register of Disclosures and Interests and Register of Gifts and Hospitality are held by Democratic Services.

Electronic copies of forms for registering interests, gifts, hospitality etc. can be obtained from on-line forms on the intranet. Completed forms should be emailed to Democratic Services or, if in hard copy format, sent to them at City Hall in an envelope clearly marked as "Declaration of ...", as appropriate.

### **15.5 Whistleblowing**

If you believe or suspect that a colleague in the City Council or any service user, potential or actual contractor or supplier is involved in corrupt or questionable practices, you must inform your Head of Service, Director, or the Chief Executive. The City Council's Policy on Whistleblowing (section J5 of the Personnel Policies Handbook) covers such matters.

## **16 SPONSORSHIP - GIVING AND RECEIVING**

- 16.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 16.2 When the council sponsors an event or service neither you nor your partner, any relative or personal friends must benefit from the sponsorship in a direct way without there being full disclosure to your Head of Service. You must register any such interest with Democratic Services.
- 16.3 Where the council through sponsorship, grant aid, financial or other means is giving support in the community, and you are giving advice ensure that it is impartial and that there is no conflict of interest involved.

## **17 DISCIPLINARY RULES**

- 17.1 This code forms part of the council's disciplinary rules. The rules applied are those of normal good conduct. The rules are expressed in the council's Disciplinary Procedure, which has the aims of establishing and maintaining a fair and equitable standard of discipline throughout the council and encouraging improvements in conduct.
- 17.2 All employees should have a copy of the council's Disciplinary Procedure. If you do not have one please contact your Manager or HR Services.



## OFFICER EMPLOYMENT RULES

### Appointment of Officers

1. The council may appoint such officers as it thinks necessary for the proper discharge of such of its (or another authority's) functions as falls or is agreed to be discharged by it<sup>14</sup>.
2. Every appointment of a person to a paid office or employment by the council must be made on merit<sup>15</sup>.
3. There are regulations establishing various mandatory standing orders (procedure rules) giving effect to obligations or restrictions on delegation of authority to bring these principles into effect. These rules are set out below<sup>16</sup>.

### Chief Officers, Deputy Chief Officers and Other Officers

4. Local government employment rules differentiate between categories of officers, including:
  - (a) Chief Officers
  - (b) Deputy Chief Officers
  - (c) other statutory officers
  - (d) proper officers
5. Statutory Chief Officers are:
  - (a) Head of Paid Service (LGHA 1989, s.4)
  - (b) Monitoring Officer (LGHA 1989, s.5)
  - (c) Chief Finance Officer (LGA 1972, s.151)
6. Statutory Chief Officers have additional statutory employment protection due to the nature of their roles, including the involvement of an independent third-party in any proposed disciplinary investigation<sup>17</sup>.
7. Non-Statutory Chief Officers<sup>18</sup> are:
  - (a) a person for whom the Head of Paid Service is directly responsible
  - (b) a person who reports directly or is directly accountable to the Head of Paid Service
  - (c) any person who reports directly or is directly accountable to the local authority itself or any committee or sub-committee of the authority; but
  - (d) excludes any person whose duties are solely secretarial or clerical or are otherwise in the nature of support services.

<sup>14</sup> Local Government Act 1972, s 112

<sup>15</sup> Local Government and Housing Act 1989, s 7

<sup>16</sup> Local Authorities (Standing Orders) Regulation 1993, SI 1993/202

<sup>17</sup> Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

SI 2001/3384, reg 6

Local Government Act 2000, s 9FB

<sup>18</sup> Local Government and Housing Act 1989, s.2(7)

8. Deputy Chief Officers are people who report directly or are directly accountable to one or more of the statutory or non-statutory chief officers, subject to the same exclusion concerning administrative and support staff<sup>19</sup>.
9. Proper Officers are officers appointed by the council to discharge particular statutory functions but are not necessarily chief officer posts in their own right (see Part 2 Section 13).

#### **Who Makes the Decision?**

10. Where Executive arrangements are in place, the appointment of staff, including their dismissal and the terms and conditions upon which they are appointed, is a Non-Executive function<sup>20</sup>. This means that these decisions are either taken by Full Council itself, a committee or an officer, although there are a number of exceptions to this, as outlined below.

#### **Recruitment and appointment declarations**

11. 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 officer of the council; or of the partner of such persons. No candidate so related will be appointed without the authority of the relevant corporate Director or an officer nominated by them.

#### **Seeking support for appointment**

12. The council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the council. The content of this paragraph will be included in any recruitment information. No councillor will seek support for any person for any appointment with the council.

#### **Recruitment of Head of Paid Service and Directors**

13. Where the council proposes to appoint a Head of Paid Service or a Director and it is not proposed that the appointment be made exclusively from among their existing officers, officers acting on behalf of the council will draw up a statement specifying: the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed; 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 make arrangements for a copy of the statement to be sent to any person on request.

#### **Appointment of Head of Paid Service**

14. The appointment or dismissal of the Head of Paid Service may only be made by a meeting of the Full Council, which may either be direct or as confirmation of a

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<sup>19</sup> Local Government and Housing Act 1989, s 2(8)

<sup>20</sup> Local Authorities (Functions and Responsibilities) (England) Regulations 2000, SI 2000/2853, Sch 1, para 37  
LGA 1972, s 101

recommendation from a committee or sub-committee of the council<sup>21</sup>. That committee or sub-committee must include at least one member of the Cabinet.

### **Appointment of Directors and heads of service**

15. Appointments of Directors and heads of service (other chief officers or deputy chief officers) will be made by a panel comprising the Chief Executive (Head of Paid Service) or their nominee, appropriate corporate Directors and up to five councillors nominated by the Leader and the leaders of the other political groups, the political balance of the council to be reflected in the composition of the panels over time. The leaders may decline to make nominations and failure of those nominated to attend will not prevent a panel from proceeding. That panel must include at least one member of the Cabinet.

16. An offer of employment as an executive head of service or head of service shall not be made until:

- (a) the panel has notified the proper officer of the name of the person to whom they wish to make the offer and any other particulars which they consider are relevant to the appointment;
- (b) the proper officer has notified every Cabinet member of the name of the person and any particulars the panel think are relevant to the appointment and the period within which any objection to the making of the offer can be made by an Cabinet member to the proper officer; and
- (c) either:
  - (i) the Cabinet member has, within the period specified under paragraph 7(b) notified the proper officer that they have no objection to the making of the offer;
  - (ii) the period for objection has elapsed without objection; or
  - (iii) in the event of an objection being received, the panel is satisfied that it is not material or is not well-founded<sup>22</sup>.

### **Appointment of officers other than Head of Paid Service, Directors and heads of service**

#### **Officers below Director or heads of service**

17. Appointment of officers below Director or heads of service (other than assistants to political groups) is the responsibility of the Head of Paid service or their nominee, and may not be made by councillors.

#### **Assistants to political groups**

18. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

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<sup>21</sup> SI 2001/3384, Sch.1, para 4

<sup>22</sup> SI 2001/3384, Sch.1, Pt II, paras 5, 6

## **Disciplinary action**

19. Councillors will not be involved in the disciplinary action against any officer below Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although the council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to members in respect of disciplinary action.

## **Dismissal**

20. Councillors will not be involved in the dismissal of any officer below Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although the council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to councillors in respect of dismissals.

## **Disciplinary action – Statutory Chief Officers**

21. No disciplinary action or dismissal in respect of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, except action described in paragraph 28 (below) may be taken by the council, or by a committee, a sub-committee, or a joint committee on which the council is represented or any other person acting on behalf of the council, until the procedure, set out in paragraphs 22 to 28 (below), has been complied with.
22. The authority will invite relevant independent persons (meaning persons appointed under section 28(7) of the Localism Act 2011) to be considered for appointment to the Personnel Appeals Panel, with a view to appointing at least two such persons to the panel.
23. The “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
24. The authority must appoint to the panel at least two such relevant independent persons who have accepted an invitation issued in accordance with the following priority order:
- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
  - (b) any other relevant independent person who has been appointed by the authority;
  - (c) a relevant independent person who has been appointed by another authority or authorities.
25. The authority must appoint any panel at least 20 working days before the relevant meeting. The panel will make a recommendation to Full Council for decision.
26. Before the taking of a vote at the relevant meeting on whether or not to approve disciplinary action or dismissal, the Council must take into account, in particular:

- (a) any advice, views or recommendations of the panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer.

27. Statutory Chief Officers may only be dismissed on the vote of two-thirds of all the members of Full Council, i.e. not just those present and voting.
28. The action mentioned in paragraph 21 is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the date on which the suspension takes effect.

### **Appeals**

29. If any decision to dismiss an officer is taken by Full Council, it is not possible to provide an internal appeal process against the dismissal. Instead, the officer may appeal to an appeals panel formed from a neighbouring local authority under sharing arrangement in accordance with s.101 Local Government Act 1972.
30. Any other appeal by an officer must be lodged with the Head of Paid Service within 10 working days of written confirmation to the officer of the dismissal or disciplinary action and must include a written statement of the grounds on which the appeal is made.

## **PROTOCOL FOR MEMBER/OFFICER WORKING ARRANGEMENTS**

### **1. Introduction**

- 1.1 Good member/officer relations, based on mutual respect and understanding, are essential to the effective operation of the council. Both members and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. At the heart of the Members' and Officers' Codes of Conduct and this protocol, is the importance of mutual respect. Member/officer relationships are to be conducted in a positive and constructive way.
- 1.2 This protocol should be read and applied in conjunction with those codes of conduct. The principles and procedures set out in this protocol are already, to a large extent, established and form the basis of the council's working arrangements. The purpose of this protocol is to provide guidance on member/officer working arrangements particularly in the case of doubt or difficulty.
- 1.3 In particular, this protocol aims to support the enhancement of local democracy by:
  - facilitating the participation of members and officers in the council's policy development and decision making processes;
  - assisting members and those officers who support them in their role as representatives of the community within the council and externally; and
  - clarifying arrangements for the provision of the information and support for members and their political groups.
- 1.4 This protocol is intended to assist members and officers in maintaining the highest standards of integrity and propriety and ensuring that all they do is as seen by others to be done properly, fairly and where possible openly.
- 1.5 It is important therefore that any dealings with members and officers should observe reasonable standards of mutual courtesy and respect, and that neither should seek to take unfair advantage of their position in any circumstances.

### **2. Role of Members**

- 2.1 Members are responsible to the electorate and serve only so long as their term of office lasts. The Constitution sets out detailed job profiles reflecting the many and varied roles and responsibilities which members may take on at various times whilst they sit on the council. In undertaking those roles and responsibilities, elected members are required to operate within the law, the Constitution and within local and national codes and protocols. Members must always act in the public interest. Ultimately however, members are accountable to the electorate through the ballot box.

### **3. Role of Officers**

- 3.1 Officers are paid employees of the council (not of elected members). Officers are also

required to operate within the law, the Constitution, local and national codes and protocols and must always act to achieve the objectives of the council. Ultimately, as employees, officers are accountable under their contracts of employment. Some employees are in politically restricted posts and cannot stand for election, nor hold certain posts in political parties.

- 3.2 Officers have a duty to provide information, advice and recommendations to elected members. Such information, etc, can be given both formally and informally, but where significant or potentially controversial issues are at stake should be given formally and in writing.
- 3.3 It must be recognised by all officers and members that in discharging their duties and responsibilities, officers serve the council as a whole and not any political group, combination of groups or any individual member of the council.
- 3.4 Proper, open dialogue between elected members and members of staff of all grades and seniority is essential to good governance. In order to ensure that dialogue is mutually respectful, productive and contributes to the effective running of the council, certain principles should be followed.

#### **4. Member Decision Making**

- 4.1 Officers should never lobby members or otherwise improperly seek to influence their decision making, nor should they seek to act for personal rather than professional motives.
- 4.2 The principal focus of member decision making is to determine policy and strategic objectives. Members will only exceptionally be involved in operational or managerial decisions designed to deliver those policies and strategic objectives. One exception to this principle is that members sitting in a regulatory capacity will take decisions which affect the rights of individuals, for example in relation to development management and licensing matters, to which specific codes of practice apply.
- 4.3 Member decision making is always formal, public and auditable on the basis of written reports and advice from relevant officers.
- 4.4 Accordingly, members should not purport to give instructions directly to officers on an informal basis, except to the small number of officers employed specifically to provide support services to elected members.
- 4.5 Members need to be aware that some, particularly more junior, members of staff can feel intimidated by direct approaches by members, and in particular should avoid being in a position where they could be seen as asking an officer to act against council policy, against the officer's professional judgement or otherwise under pressure from the member.

#### **5. Member/Officer Communication**

- 5.1 Members should communicate with officers at the appropriate level. Routine service related enquiries should be initiated through normal departmental enquiry/contact

points. Other matters will normally involve the appropriate Director or other Senior Manager.

- 5.2 In communicating with members, officers should have regard to the Council's Code of Conduct for employees, the requirements of this protocol and any instructions issued by their departmental management.

## **6. Officer Advice to Political Groups**

- 6.1 Advice by officers must be confined to council business and must be sought and given, in a manner which will avoid compromising the political neutrality required of employees.
- 6.2 It is common practice for political groups to give preliminary consideration to matters of council business in advance of such matters being considered by the Council or the relevant committees. Officers may properly be called upon by political groups to support and contribute to such deliberations.
- 6.3 The support provided by officers can take many forms ranging from a brief meeting with a Portfolio Holder, Chair or spokesperson prior to a Council meeting, to a presentation to a full Party Group meeting. Whilst in practice such officer support is likely to be in most demand from whichever political group is for the time being in control of the council, such support is available to all political groups.
- 6.4 Certain points must however be clearly understood by all those participating in this type of process, members and officers alike. In particular:
- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party political business. The observance of this distinction will be assisted if officers are not expected to be present at meetings or parts of meetings when matters of party political business are to be discussed.
  - (b) Political group meetings, whilst they form part of the preliminaries to council decision making, are not empowered to make decisions on behalf of the council. Conclusions reached at such meetings do not therefore rank as council decisions and it is essential that they are not communicated (inside or outside the organisation), interpreted or acted upon as though they have that official status.
  - (c) Similarly, where officers provide information and advice to a political group meeting in relation to a matter of council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet or relevant committee when the matter in question is considered.
- 6.5 Special care needs to be exercised whenever officers are involved in providing information and advice to a political group meeting which includes persons who are not members of the council. Such persons will not be bound by the Member Code of



Conduct, in particular the provisions concerning the declaration of interest and confidentiality, and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a meeting of members only.

- 6.6 Officers must respect the confidentiality of any political group discussions at which they are present and should not, in particular, relay the content of any such discussion to another political group.
- 6.7 Any request for an officer to attend a meeting arranged by a political group, for the purpose of presenting information to the meeting (in relation to an issue or proposal affecting or involving the council) must be made to the relevant Director, who will consult with the Chief Executive, or to the Chief Executive. Where it is agreed that an officer will attend for this purpose, the same facility will be made available to other political groups. Any officer who so attends will do so in their official capacity, will be politically neutral, and attendance will not signify support for any particular political view, proposal or response.
- 6.8 Attendance at any public meeting will generally be avoided during the period between the announcement and conclusion of any local or parliamentary election affecting the area involved, and will only occur during such a period if representatives of all parties supporting candidates in the election have been invited to take part in the meeting.
- 6.9 At any public meeting organised by any political group, or by any individual member (rather than by the council) officers will attend only to provide information which is publicly available. **No such officer attendance will take place during the 'pre-election' period referred to in paragraph 3.7.**
- 6.10 Any particular difficulty or uncertainty concerning officer advice to political groups should be raised with the Chief Executive who will where appropriate discuss with the relevant political group leaders.

## **7. Support Services and Facilities for Members and Party Groups**

- 7.1 Secretarial and other support services and facilities (for example stationery, typing, printing etc) are provided for members to assist them in discharging their role as members of the council. The council also appoints political assistants to the main political groups. Such support services and facilities must only be used in accordance with specific guidance issued by the council. They should never be used in connection with party political or campaigning activity or for private business purposes.
- 7.2 Support services for members will normally be provided by the Democratic Services.

## **8. Officer/Member/Chair Relationships**

- 8.1 It is clearly important that there should be a close working relationship between the Leader of the Council, Cabinet member and chair of a committee and the Director

and other senior officers of any department which reports to that member or committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other members and other political groups, or with any other individual or organisation.

- 8.2 The Leader of the Council, Cabinet member or chair will routinely be consulted as part of the process of drawing up an agenda for a forthcoming meeting. It must, however, be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on the agenda and that the Leader/member/chair is not entitled to require the removal of such an item from the agenda. Directors will always be fully responsible for the content of any reports submitted in their name.
- 8.3 Any issue concerning the inclusion of any item on an agenda and the submission of any particular report that cannot be agreed between the Leader, Cabinet member or chair and a Director should be referred to the Chief Executive, the Monitoring Officer or the Chief Finance Officer (the statutory officers), who will review the issue and submit a report of their findings to be considered by the relevant committee or Cabinet.
- 8.4 In relation to any action under delegated powers, it is important to remember that the law allows for decisions relating to the discharge of any of the council's functions that are not specifically reserved to the Council to be taken by the Cabinet. Normally, wherever the authority to make a decision is delegated to an officer it is on the basis that the officer will exercise that authority in consultation with the Cabinet member and/or other nominated members.
- 8.5 It must be remembered that officers within a department are accountable to their Director and that whilst officers should also seek to assist a Cabinet member or chair (or indeed any member), they must not in so doing go beyond the bounds of whatever authority they have been given by their Director. It should also be noted that the Chief Executive has a statutory responsibility as Head of Paid Service for ensuring the proper organisation and management of the council's staff, and has therefore an overall responsibility for the direction and management of all officers.

## **9. Complaints and Criticism**

- 9.1 Neither officers nor members should pass comment about officers in a way which could be taken as personally critical of, or as undermining, that officer. Similarly, it is never the role of an officer to criticise or undermine a member.
- 9.2 A member should not raise matters relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this protocol. This is a longstanding tradition in public service. An officer has no means of responding to such criticisms in public. Complaints about officers should be made to their head of service, or where necessary, to their Director or the Chief Executive. Such complaints will be dealt with by appropriate disciplinary, capability or other established

procedure.

- 9.3 Complaints about elected members should be made to the Monitoring Officer. A breach of this protocol may be evidence of a breach of the Member Code of Conduct.
- 9.4 Except as part of an appointment or appeals panel, members are prevented by law from becoming involved in matters relating to individual employees. Information about disciplinary, capability or other employment processes are one of the exceptions to the rights of members to access information.

## **10. Correspondence**

- 10.1 Correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member except at the discretion of the Chief Executive or Director where necessary for the proper conduct of business. Where exceptionally it is necessary to copy the correspondence to another member, this should be made clear to the original member. In other words, 'blind' copies of such correspondence should not be circulated.
- 10.2 Official letters on behalf of the council should normally be sent out in the name of the appropriate officer rather than in the name of a member. It may be appropriate in certain exceptional circumstances, for example representations to a government minister or correspondence with a Leader of another local authority, for a letter to be issued in the name of the Leader of the Council. Letters which, for example, create obligations, confirm or deny the acceptance of any liability, or give instructions on behalf of the council, should always be sent out by the Chief Executive, the appropriate Director or other senior officer.

## **11. Publicity and the Media**

- 11.1 Contact with the media on issues related to the council or to council business is handled through, or with advice/support from, the Communications Unit.
- 11.2 Any member who approaches the media on any item involving or affecting the council without first approaching or consulting the council (through the relevant Cabinet member/chair, department or Communications Unit) will be personally responsible for such action. Any member who does so should make it clear that they are speaking on their own behalf and not representing or speaking for the council.
- 11.3 Members and officers should be mindful of the prohibition on the publication by the council of any information intending to promote or canvass support for any political party or candidate for elections. In case of doubt advice should first be obtained from the Monitoring Officer.

## **12. Personal Relationships**

- 12.1 No member or officer should allow any personal connection or relationship with any other member or officer to affect the performance of their official responsibilities or the

taking of any action or decision by or on behalf of the council. This includes, for example, any family relationship, membership of the same household or any business connection. Members and officers should always consider how such a relationship or connection would be likely to be regarded by anyone outside the council, or by any other member or officer, and avoid creating any impression of bias or unfairness.

12.2 An officer who is personally connected or related to any member should notify their Director in writing.

12.3 Members should take into account any personal relationship or connection with any other member or officer, in considering the need to register or declare a personal or disclosable pecuniary interest whenever appropriate.

### **13. Involvement of Area Committee/Ward Councillors**

13.1 Ward councillors will be notified of work proposed in or close to the area they represent prior to it being commenced. This will not include routine maintenance (although a schedule will be supplied to councillors where requested), repairs to council housing stock or emergency repairs. The advance notice will be sufficient to enable councillors to comment on, influence or consult with their constituents about the issue if necessary. Where a ward councillor makes any suggestion or raises an objection, work will not begin for at least one month after the date of that suggestion or objection is received (or sooner if the matter is agreed to be resolved) in order to allow the concerns to be addressed.

### **14. Further Guidance**

14.1 Any member of the council who needs further guidance on any of the matters referred to in the code or on any similar or related issue is advised to contact the Chief Executive or Monitoring Officer. Any officer needing such guidance should refer initially to their manager who will consult senior management and obtain advice as necessary.

## COMMUNITY RIGHTS

**Commented [GW33]:** This is a new section, clarifying the public's community rights.

### The Community Rights

The Localism Act 2011 introduced rights and powers for individuals and communities to take over public services, community assets and influence planning and development.

The community rights are a set of powers that give local people a greater say over how their community develops. They give local people the chance to decide what is built and how their area should develop. Groups of people have the chance to deliver local services and develop them into community enterprises.

There are four Community Rights

#### Community Right to Bid

*'We want to save our local pub, shop, library, park, football ground'*

The Right to Bid allows communities and parish councils to nominate buildings or land for listing by the local authority as an 'asset of community value'. An asset can be listed if its principal use furthers (or has recently furthered) the community's social well-being or social interests (which include cultural, sporting or recreational interests) and is likely to do so in the future.

The council must keep a 'List of Assets of Community Value'. The legislation outlines the definition of an asset of community value, what groups can nominate, the appeals process for land owners, timescales for groups interested in buying land or property on the list, and compensation available to the owners of land or property on the list. The council's list can be found here:

[https://www.norwich.gov.uk/info/20011/about\\_your\\_council/1342/assets\\_of\\_community\\_value](https://www.norwich.gov.uk/info/20011/about_your_council/1342/assets_of_community_value)

If the asset comes up for sale, the community can 'pause' the sale and take up to six months to find the funding required to buy the asset.

Several community organisations can nominate land and buildings for inclusion on the list, provided they have a local connection, which means their activities are wholly or partly concerned with the area, or with a neighbouring authority's area. These include parish councils, neighbourhood forums (as defined in Neighbourhood Planning regulations), unconstituted community groups of at least 21 members and not-for-profit organisations (e.g. charities).

#### Community Right to Build

*'We want to build affordable housing and other community facilities'*

The Right to Build gives communities the power to build new shops, housing or community facilities without going through the normal planning process. It gives local organisations the right to bring forward small-scale community-led developments.

A Community Right to Build Order is a type of Neighbourhood Development Order and forms part of the Neighbourhood Planning provisions in the Localism Act that give parish councils or neighbourhood forums the right to develop plans for their area.

Development proposals in neighbourhood plans and Community Right to Build need to be agreed through an independent examination and have the agreement of 50% of people who vote through a community referendum. Local authorities have a duty to assist and advise community organisations, which are also free to involve partners such as developers or housing associations.

If your community wants to construct or rebuild community buildings such as a community centre or community-led housing, a Community Right to Build Order could be the best route to take.

### **Community Right to Challenge**

*'We can do this better – I want to deliver a local service and set up a social enterprise'*

The Right to Challenge gives local groups the opportunity to express their interest in taking over a local service where they think they can do it differently and better.

Community Right to Challenge is the right for community organisations to say that they are interested in running a particular public service and potentially get the chance to bid to do this. If a community group, charity, parish council or group of public sector staff identifies a service they would like to run, then they can submit an expression of interest to the council that runs the service. If accepted, this will trigger a procurement exercise. The interested group will then most likely need to compete with others in a competitive tendering process.

### **Community Right to Reclaim Land**

*'We can use this land in a better way'*

The Community Right to Reclaim Land allows communities to challenge local councils and some other public bodies to release their unused and underused land. As land is held on the behalf of the taxpayer, councils have a duty to use it effectively. This right gives communities the power to ensure that they do so.

Anyone can submit a request to the Secretary of State for Communities and Local Government requesting that the council be directed to dispose of the land so that it can be brought back into use. If it is found that the land is being held without being adequately utilized, and that the council has no plans to bring the land into use, the Secretary of State can direct the council to dispose of the land, usually on the open market.

Submitting requests is a simple and easy process, with request forms and detailed guidance available on the government website.

## **Community Asset Transfer**

Community Asset Transfer is the transfer of management and/or ownership of land or buildings from a public body to a community-based organisation, at less than market value, in order to promote social, economic or environmental well-being.

The Community Right to Bid is sometimes confused with Community Asset Transfer.

Although they share some of the same objectives, they are substantively different mechanisms that communities can use to acquire land and buildings. The main differences are:

- (a) Community Asset Transfer is the transfer of ownership or management of publicly owned assets, whereas the Community Right to Bid applies to some public and some privately owned assets.
- (b) Community Asset Transfer is the transfer of management or ownership at less than market value. Community Right to Bid gives a window of opportunity for a community group to compete to buy an asset on the open market.
- (c) Community Asset Transfer is a voluntary process entered into proactively by public bodies. The Community Right to Bid is a pre-emptive legal right pertaining to communities.

## MEMBERS' CODE OF CONDUCT

**Commented [GW34]:** Review (together with other Norfolk authorities) in light of the Committee for Standards in Public life recommendations and the new LGA model code of conduct, including investigation procedures. Take through Standards Committee.

### INTRODUCTION

1. This code of conduct is made under section 27(2) of the Localism Act 2011 ("the Act") and applies to all members of Norwich City Council ("the council").
2. The purpose of this code is to promote and maintain high standards of conduct by members and co-opted members of the council when they are acting in that capacity.
3. This code is intended to promote and maintain behaviour consistent with the following principles:

**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. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**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 impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**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 should be truthful. They must declare any private interests relating to their public duties and take steps to resolve any conflicts in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

4. You must register and declare interests as required by the Act.

### GENERAL PROVISIONS



## Introduction and interpretation

5. This code applies to you as a member<sup>23</sup> of an authority.
6. You should read this code together with the general principles contained in the Act.
7. It is your responsibility to comply with the provisions of this code.
8. In this code - "meeting" means any meeting of:
  - (a) the authority;
  - (b) the executive of the authority, i.e. the Cabinet;
  - (c) any of the authority's or its Cabinet's committees, sub-committees, joint committees<sup>24</sup> and joint sub-committees.

## Scope

9. Subject to paragraphs 10 to 13, you must comply with this code whenever you:
  - (a) conduct the business of the council (which, in this code, includes the business of the office to which you are elected or appointed); or,
  - (b) act, claim to act or give the impression you are acting as a representative of the council;and references to your official capacity are construed accordingly.
10. Subject to paragraphs 11 and 12, this code does not have effect in relation to your conduct other than where it is in your official capacity.
11. In addition to having effect in relation to conduct in your official capacity, paragraphs 14(b), 16, and 17(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
12. Conduct to which this code applies (whether that is conduct in your official capacity or conduct mentioned in paragraph 10) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
13. Where you act as a representative of the council:
  - (a) on another relevant authority, you must, when acting for that other authority,

<sup>23</sup> **"member"** includes a co-opted member and an appointed member. **"co-opted member"** means a person who is not a member of the authority but who: (a) is a member of any committee or sub-committee of the authority, or (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

<sup>24</sup> Reference to a joint committee or joint sub-committee is a reference to a joint committee on which the authority is represented or a sub-committee of such a committee.

- comply with that other authority's code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with the council's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **General obligations**

14. You must treat others with respect.

15. You must not:

- (a) do anything which may cause the council to be in breach of any statutory obligations;
- (b) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the council.

16. You must not:

- (a) 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:
    - (aa) reasonable and in the public interest; and,
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or,
- (b) prevent another person from gaining access to information to which that person is entitled by law.

17. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

18. You:

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and,
- (b) must, when using or authorising the use by others of the resources of the council:
  - (i) act in accordance with the council's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

19. When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
- (a) the council's Chief Finance Officer; or
  - (b) the council's Monitoring Officer, where that officer is acting pursuant to his or her statutory duties.
20. You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the council.

### **Interests**

21. All elected and co-opted members of the council are required by law to complete a register of interests form to provide details of any interests that might give rise to a conflict of interest, when undertaking their duties as a councillor.
22. Each councillor must register their interests as soon as they take up office, and they are obliged by law to keep their statutory register up to date and to inform the council's Monitoring Officer of any changes within 28 days of the change occurring.
23. The register of interests of all councillors is a public record and must be available online for members of the public to view.
24. Under the provisions of the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, you must give the Monitoring Officer written notice of any pecuniary or other interests (and any changes), which apply to you or where it is an interest of your spouse or partner (a person with whom you are living as a husband and wife; or a person with whom you are living with as if you are civil partners) within 28 days of:
- (a) election or appointment to office (if that is later);
  - (b) any change to the interests;
  - (c) disclosing an interest at a meeting (where not otherwise entered on the register);
  - (d) becoming aware of the interest when solely discharging a function of the authority as a member of the council's Cabinet.
25. It is a prosecutable offence to fail to notify the Monitoring Officer of your interests or knowingly/recklessly provide false or misleading information.
26. The pecuniary interests which are specified for these purposes in the Act are:
- (a) Employment, office, trade, profession or vocation that you or your spouse/partner undertake for profit, remuneration or other gain;
  - (b) Sponsorship: any payment or provision of any other financial benefit (other than from the council) made or provided within the relevant period in relation to any expenses you have incurred in carrying out your duties as a member, or towards your election expenses. This includes any payment of financial benefit from a trade union.

- (c) Any contract which is made between you (or your spouse/partner or a body in which you or your spouse/partner has a beneficial interest) and the council:
  - (i) under which goods or services are to be provided or works are to be executed; and,
  - (ii) which has not been fully discharged;
- (d) Land: Any beneficial interest in land that you or your spouse/partner have which is within the area of the council;
- (e) Licences: Any licence (whether you alone, your spouse/partner's or held jointly with others) to occupy the land in the area of the council for a month or longer;
- (f) Corporate tenancies: any tenancy where to your knowledge:
  - (i) the landlord is the council; and,
  - (ii) the tenant is a body in which you or your spouse/partner has a beneficial interest.
- (g) Securities: any beneficial interest in securities of a body where that body to your knowledge has a place of business or land in the area of the council; and, 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) either the total nominal value or the shares of any one class in which you or your spouse/partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

27. You must also register other interests you may have which impact on your role within the council, including:

- (a) Membership of political parties; pressure groups; trade unions; charitable, voluntary or social enterprise organisations;
- (b) Membership of another public sector organisation;
- (c) Any other bodies not declared as a pecuniary interest in which you have a position of general control or management;
- (d) Outside bodies to which you have been appointed by the council;
- (e) Non-remunerated advice, guidance or consultancy you have provided on an ongoing basis, or specifically within a past 12 month period;
- (f) Lobbying you have participated in, or Lobbying you have participated in, or matters you have been lobbied on (particularly where you may be predetermined on an individual matter);
- (g) Organisations in which you have a beneficial interest which does not meet the requirements of 22 (g), (i) or (ii) above;
- (h) Any other matters you consider should be disclosed;
- (i) Pecuniary interests held by other members of your family or close associates which are likely to impact on your role as a councillor.

28. You may apply to the Monitoring Officer if you have a pecuniary interest which is sensitive and would cause you harm or victimisation as a result of the interest being made public. If the Monitoring Officer agrees the only notification that will be required is that you have a pecuniary interest and you will not need to disclose the details.

26. A member with a pecuniary or other interest in a matter, who attends a meeting of the authority at which the matter is considered, must disclose to that meeting the existence

and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

27. You have a legal requirement to declare pecuniary interests at a meeting and must not take part in any discussion or vote on the matter.
28. If you are dealing with matters as a Cabinet member and become aware of the interest, you must not take any further action in relation to it.
29. You may apply to the Monitoring Officer for a dispensation where you wish to participate in the consideration of an item and vote and you have a disclosable pecuniary interest where:
  - (a) a committee may not be quorate without the dispensation being given;
  - (b) a disproportionate political representation on a committee may arise;
  - (c) it is in the public interest to give a dispensation;
  - (d) the Cabinet could not make a decision without a dispensation;
  - (e) it is otherwise appropriate.
30. It is a prosecutable offence to continue to act where you have a disclosable pecuniary interest.
31. You will be required to withdraw from the meeting during the discussion of matters where you have a disclosable pecuniary interest. You have the same rights as a member of the public to speak at the meeting (i.e. you cannot vote or participate in the debate).
32. You must declare other interests, which impact on your role as a councillor, where it is relevant, but not prejudicial, to the matter under consideration. You may participate in discussion and the vote on the matter.
33. When participating in quasi judicial/regulatory decision making, you should also approach the matter with an open mind. If you appear to the public to have a closed mind on a matter you will be considered to have pre-determined the matter and therefore should not vote on the issue. If you have a pre-determined view in a matter under consideration, you will be required to withdraw from the room during the discussion and not participate in the discussion or vote.

## DISPENSATIONS PROTOCOL

Commented [GW35]: This is a new section.

### Guide to Dispensations

The council is responsible for determining requests for a dispensation by a member under s.33 of the Localism Act 2011. The council may grant a dispensation to an elected or co-opted member on a matter with which they would otherwise not be permitted to deal, as a result of having a Disclosable Pecuniary Interest.

This guide explains:

- (a) The purpose and effect of dispensations
- (b) The procedure for requesting dispensations
- (c) The criteria applied in determining dispensation requests
- (d) The terms of dispensations

Until a dispensation is granted, a member may not participate in the consideration of the matter before the council (or any committee or sub-committee) in which they have a Disclosable Pecuniary Interest.

### Purpose and effect of dispensations

In certain circumstances, members may be granted a dispensation that enables them to take part in council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest. Provided members act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.

Section 31(4) of the Localism Act 2011 states that dispensations may allow a member to:

- (a) participate, or participate further, in any discussion of the matter at a meeting;  
and/or
- (b) participate in any vote, or further vote, taken on the matter at a meeting

**Please note: if a member participates in a meeting where they have a Disclosable Pecuniary Interest and they do not have a dispensation, they may be committing a criminal offence under section 34 of the Localism Act 2011.**

### Process for making requests

A request for dispensation must be made on an individual basis. Any member who wishes to apply for a dispensation should fully complete a Dispensation Application Form (Appendix 1) and submit it to the Monitoring Officer, explaining why it is desirable and appropriate to grant the dispensation.

### Approval Process

The Monitoring Officer may only grant a dispensation to a member who has a Disclosable Pecuniary Interest allowing them to participate in any discussion of a matter at a meeting and/or to participate in any vote on the matter (as per paragraph 2 above), if they consider

that:

- (a) without the dispensation, the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (c) without the dispensation, each member of the authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive,
- (d) granting the dispensation is in the interests of persons living in the authority's area, or
- (e) it is otherwise appropriate to grant a dispensation.

In the absence of the Monitoring Officer, the Deputy Monitoring Officer is authorised to execute the functions of the Monitoring Officer. The Standards Committee also has the delegated power to agree dispensations.

Applications dealt with by the Monitoring Officer will normally be determined within 10 working days. Applications made to the Standards Committee will go to the next ordinary meeting or it may be appropriate to arrange a special meeting at the discretion of the chair of the committee. Applications must be received at least 10 clear working days before a meeting to enable a report to be prepared and the agenda published five clear days before the meeting.

The Monitoring Officer will formally notify the member of the decision and reasons in writing at the earliest opportunity and in any event within five clear working days of the decision.

#### **Criteria for determination of requests**

In reaching a decision on a request for a dispensation, the Monitoring Officer will consider:

- (a) the nature of the member's interest
- (b) the extent to which the request could have been avoided or other arrangements could be made
- (c) the need to maintain public confidence in the conduct of the council's business
- (d) the extent to which there is some personal benefit and the extent of the public benefit obtained by agreeing to a dispensation
- (e) the possible outcome of the proposed vote
- (f) the need for efficient and effective conduct of the council's business
- (g) any other relevant circumstances

#### **Terms of dispensations**

Dispensations may be:

- (a) Granted for one meeting or for a period not exceeding 4 years
- (b) Subject to specific conditions, e.g. notification of any material change in circumstances arising from the dispensation

### **Disclosure of decision**

Any member who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.

A copy of the dispensation will be kept with the Register of Members' Interests.

### **Dispensations for Conflicts of Interest when taking Executive decisions**

Under regulations 12 and 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the record of an Executive decision made either at meetings or by individuals, must include:

- (a) details of any conflict of interest either declared by any member of the body which made the decision or declared by any Executive member consulted by the member or officer taking the decision which relates to that decision;
- (b) In respect of any such conflict of interest, a note of dispensation granted by the Chief Executive.

Please note: A conflict of interest is broader than a Disclosable Pecuniary Interest. It can be any interest that conflicts (or may reasonably be perceived to conflict) with a member's duty to take decisions only in the public interest in the light of material considerations.

### **Appendix 1**

To: The Monitoring Officer

#### **APPLICATION FOR A DISPENSATION UNDER SECTION 33 OF THE LOCALISM ACT 2011 IN RESPECT OF A DISCLOSABLE PECUNIARY INTEREST**

##### **Name of member:**

A member who has a Disclosable Pecuniary Interest in a matter that is under consideration may not participate in the consideration of that matter by the council, a committee or sub-committee or by the Executive or a committee of the Executive unless they have first obtained a dispensation from the council.

You may apply for a dispensation by completing this form and sending it to the Monitoring Officer.

##### **1. What is the matter for which dispensation is sought?**

Please provide full details including amounts where the matter involves funding or finance.

##### **2. For which type of meeting is dispensation sought?**

(Full Council, Cabinet, Committee or Sub-Committee)



**3. What is the nature of the Disclosable Pecuniary Interest?**

Please provide full details.

**4. What is the date of the meeting(s) at which this matter is to be considered?**

**5. For how long is the dispensation needed?**

Please note that it cannot be longer than 4 years nor exceed the term of office of the member concerned.

**6. Do you benefit personally from the business to which this application relates?**

If "yes" the full details must be provided of the nature and extent.

**7. How is the business of the council being impeded in the absence of a dispensation?**

**8. Are there any other factors that might help the council to reach a decision on the application?**

**9. Are you seeking a dispensation to speak and vote?**

Yes/No

**10. Are you seeking a dispensation to speak but not vote?**

Yes/ No

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Please complete, sign and return this form to the Monitoring Officer

## GIFTS AND HOSPITALITY FOR COUNCILLORS

### 2. Introduction

- 2.1 The acceptance of gifts and hospitality by councillors is not merely an administrative issue. It reflects directly upon the perception of councillors and of the City Council as acting in the public interest or as acting for the personal advantage or friends and for what personal benefit councillors can get out of their position.
- 2.2 A member must within 28 days of receiving any gift or hospitality over the value of £25 in their capacity as a councillor, provide written notification to the Monitoring Officer of the existence and nature of that gift or hospitality. Failure to comply with this requirement is a breach of the Code of Member Conduct.
- 2.3 In addition, the Bribery Act 2010 provides an offence of bribing another person or being bribed. This could apply to the holder of a public office where the intention is to bring about an improper performance of a relevant function or an activity by another person or to reward such improper performance. Conviction could result in a fine or imprisonment.
- 2.4 If you are uncertain whether you are being offered a gift or hospitality as a councillor or in your private capacity then raise this with the Monitoring Officer.
- 2.5 Against this background, the purpose of this Code is to set out:
  - (a) the principles which a councillor should apply whenever they have to decide whether it would be proper to accept any gift or hospitality;
  - (b) a procedure for obtaining consent to accept a gift or hospitality, when a councillor considers that it would be proper to accept it;
  - (c) a procedure for declaring any gift or hospitality which a councillor receives and for accounting for any gift to the authority.
- 2.6 This Code does not apply to the acceptance of any facilities or hospitality which may be provided by the City Council itself.
- 2.7 In addition, the Code of Member Conduct only applies to offers of gifts or hospitality made to a councillor in their role as such. However, in this respect, there may be circumstances where a councillor needs to be cautious as to the basis on which an offer is made.

### 3. General Principles

- 3.1 In deciding whether it is proper to accept any gift or hospitality, the following principles should be applied. Even if the gift or hospitality comes within one of the general consents set out below, it should not be accepted if to do so would be in breach of one or more of these principles:
  - (a) Never accept a gift or hospitality as an inducement or reward for anything done**

### **as a Councillor**

- 3.2 A councillor must act in the public interest and must not be swayed in the discharge of their duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.
- 3.3 As already explained the acceptance of such an offer amounts to a criminal offence.
- 3.4 Councillors must act in the public interest, serving the authority and the whole community, rather than acting in the interests of any particular individual or section of the community. It is a breach of the Code of Member Conduct improperly to confer any advantage or disadvantage on any person, including oneself.

### **(b) A gift or hospitality should only be accepted if there is a commensurate benefit to the authority**

- 3.5 The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the authority, which would not have been available but for the acceptance of that gift or hospitality.
- 3.6 Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority expeditiously through a working lunch, or to canvass the interests of the authority and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the authority is clear and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for councillor's personal benefit.
- 3.7 Councillors must not improperly confer any advantage on anyone, including themselves. Acceptance as a councillor of a gift or hospitality for their own benefit or advantage, rather than for the benefit to the authority, would be a breach of the Code of Member Conduct.

### **(c) Never accept a gift or hospitality if acceptance might be open to misinterpretation**

- 3.8 The appearance of impropriety can be just as damaging to the authority and to a councillor as actual impropriety. The council's ability to govern rests upon its reputation for acting fairly and in the public interest. Councillors must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that they or the authority favours any particular person, company or section of the community or as placing themselves under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, a councillor must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.
- 3.9 Certain occasions are particularly sensitive and require the avoidance of any opportunity for such misunderstanding. These include:

- (i) occasions when the authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer;
- (ii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination;
- (iii) funding decisions, when the authority is determining a grant application by any person or organisation.

**(d) Never accept a gift or hospitality if that places a councillor under an improper obligation**

3.10 It is important to recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If a councillor accepts a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade the councillor to determine an issue in their favour. Equally, if others note that a councillor has been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the council.

**(e) Never solicit a gift or hospitality**

3.11 Councillors must never solicit or invite an offer of a gift or hospitality in connection with their position as a councillor unless the acceptance of that gift or hospitality would be permitted under this Code. Councillors should also take care to avoid giving any indication that they might be open to such an improper offer.

**4. Consent Regimes**

**(a) General consent provisions**

4.1 For clarity, the authority has agreed that councillors may accept gifts and hospitality in the following circumstances:

- (i) civic hospitality provided by another public authority;
- (ii) modest refreshment in connection with any meeting in the ordinary course of their work, such as tea, coffee, soft drinks and biscuits;
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the authority;
- (iv) small gifts of low intrinsic value of £25 or less, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, care should be taken not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise;
- (v) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom a councillor has done business on behalf of the council if that person is met accidentally in a public house, café or bar. In such cases, reasonable efforts should be made to return the offer where this is practicable;
- (vi) a modest working lunch or dinner not exceeding £25 a head in the course of a meeting in the offices of a party with whom the council has an existing business

connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £25 a head;

- (vii) modest souvenir gifts with a value of £25 or less from another public authority given on the occasion of a visit by or to the authority;
- (viii) hospitality received in the course of an external visit or meeting which has been duly authorised by the authority. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for councillors and officers is to be no more than commensurate with the nature of the visit;
- (ix) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the councillor deals with the gift strictly in accordance with the following procedure: The councillor must, as soon as practicable after the receipt of the gift, pass it to the Lord Mayor's office together with a written statement identifying the information set out in Paragraph 3(b) below. The Lord Mayor's office will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that the councillor has donated the gift to the Lord Mayors charity, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Lord Mayor.

#### **(b) Special consent provisions**

4.2 Councillors who wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 2, but is not within any of the general consents set out in Paragraph 3(a), may only do so if they have previously obtained specific consent in accordance with the following procedure:

4.3 A written application must be made to the Monitoring Officer, setting out:

- (i) the nature and an estimate of the market value of the gift or hospitality;
- (ii) by or on behalf of whom the invitation or offer has been made;
- (iii) the connection which the councillor has with the person or organisation making the offer or invitation, such as any work which the councillor has undertaken for the authority in which they have been involved;
- (iv) any work, permission, concession or facility which the councillor is aware that the person or organisation making the offer or invitation may seek from the authority;
- (v) any special circumstances which lead the councillor to believe that acceptance of the gift or hospitality will not be improper.

4.4 The gift or hospitality must not be accepted until consent has been given by or on behalf of the Standards Committee.

4.5 The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the authority's accounts for the relevant year. But note that this does not relieve the councillor of the obligation to register the receipt of gift or hospitality in accordance with Paragraph 4

below.

## 5. Reporting

- 5.1 Where a councillor accepts any gift or hospitality which is estimated to have a market value or cost of provision of more than £25, the councillor must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out in Paragraph 3(b) above. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the authority's accounts for the year in question.
- 5.2 Even if the value of the gift or hospitality is £25 or less, if the recipient is concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, they may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

## 6. Gifts to the Authority

- 6.1 Gifts to the authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority. A councillor should not solicit any such gift on behalf of the authority except where the authority has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances developers' contributions under Section 106 Agreements. A councillor who receives such an offer on behalf of the authority must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any dis-benefits). A councillor who does not have delegated authority to accept the gift, should report the offer directly to the Monitoring Officer who, together with a recommendation as to whether the gift should be accepted. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the authority. A councillor who has concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer directly.

## 7. Refused Offers

- 7.1 As a result of this protocol, there will be a number of circumstances when offers of gifts and hospitality must be refused. In addition, there will be circumstances where a member wishes to refuse an offer even though the protocol allows its acceptance. Whilst it is not considered necessary in every case that such offers are recorded there will be circumstances when it is in the public interest that they should be. These are:
- (i) when the offer appears to be an inducement or reward for something expected

- from the councillor (see paragraph 2(a));
- (ii) offers from commercial organisations or private individuals over £25 in value.

7.2 In these circumstances, details should be passed to the Monitoring Officer within 28 days of the offer being made.

## 8. Definitions

- (a) "Councillor" includes outside appointments to committees.
- (b) "Gift or hospitality" includes:
  - (i) the free gift of any goods or services;
  - (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public;
  - (iii) the opportunity to obtain any goods or services which are not available to the general public;
  - (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.
- (c) References to the "value" or "cost" of any gift or hospitality are references to the higher of:
  - (i) the estimate of the cost to the person or organisation of providing the gift or consideration;
  - (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which the councillor would be required to make towards that price to the person or organisation providing or offering the gift or hospitality.

## MEMBERS' ALLOWANCE SCHEME

This Member' Allowances Scheme has been established under the Local Authorities (Members' Allowances) (England) Regulations 2003 (and any amendments to those regulations). References to "year" means the 12 months ending with 31 March.

The Basic Allowance will be uplifted each year in line with the annual percentage increase agreed for the majority of council employees to whom the National Joint Council for Local Government Services terms and conditions apply. This will be applied once the pay settlement rate is known and will apply from April in each year unless a further review by the Independent Remuneration Panel determines otherwise.

### Part-Year Entitlements

In the case of Basic Allowances, Special Responsibility Allowances (SRA), or Dependants' Carer's Allowances, payment will only be made for the period during which a person performs the duties for which these allowances are payable. This provision applies where a member becomes, or ceases to be a member, or becomes or ceases to hold a role for which an SRA is payable.

Where, in the course of a year, this scheme is amended, any change in an allowance will be effective from the date the amended scheme is approved by the Council. With effect from 1 April 2013, the following scheme of members allowances will be increased annually on 1 April, indexed pay linked to the increase awarded to staff by the National Joint Council for Local Government Services:

	£
<b>BASIC ALLOWANCE</b> (Payable to all councillors) (for the year 2021-22)	6,687
<b>SPECIAL RESPONSIBILITY ALLOWANCES</b>	
Tier 1 Executive Leader	11,145
Tier 2 Cabinet members and leader of the major minority group	5,573
Tier 3 Chairs of Audit, Licensing, Planning Applications and Scrutiny Committees, and the leader of any minority group that comprises minimum of 10% of the council	2,788
Tier 4 Other members of Audit, Licensing, Planning Applications, and Scrutiny Committees	1,671
Tier 5 Co-opted members of Standards Committee	366
Lord Mayor	6,588
Sheriff	3,294

- Only one SRA to be paid from Tiers 1, 2 and 3
- Only one SRA to be paid from Tier 4
- A councillor shall not get a Tier 3 allowance as chair as well as a Tier 4 allowance as a member of the same committee.

### Travel and Subsistence Allowances



To be paid at the same rates as Norwich City Council employees and are subject to the same requirements for claims and payments. The current levels are:

#### ***Travel Allowances***

All vehicles – 46.9p per mile

Travel outside Norwich - cheapest public transport option to be used. When own vehicle used, with prior agreement of democratic services, reimbursement is based on equivalent to cheapest public transport option.

#### ***Subsistence Allowances***

Breakfast	£7.74 (£6.45 with non-VAT receipt)
Lunch	£10.69 (£8.91 with non-VAT receipt)
Tea	£4.22 (£3.52 with non-VAT receipt)
Evening Meal	£13.24 (£11.03 with non-VAT receipt)

To be paid at the same rates as Norwich City Council employees and be subject to the same requirements for claims and payments.

#### ***Out of Pocket Allowance***

(Claims for miscellaneous out of pocket expenses should not exceed £25 per night)

#### ***Overnight Subsistence***

Hotels to be booked on basis of best deal available taking into account the needs of the councillor and the event attended.

#### ***Dependants Carers' Allowance***

The scheme of allowances includes the payment of dependants' carers allowance to those councillors who incur expenditure for the care of children or other dependants whilst attending council meetings or other approved duties. To be paid at the rate of £10 per hour per dependent child or adult, which allowance should be increased in accordance with the percentage increase in the living wage from time to time.

(The Executive Director Corporate & Commercial Services is authorised to make additional payment in cases where specialist care is required)

**Membership of the Local Government Pension Scheme is not available as part of the Members Allowances Scheme**

**The Independent Panel to be reconvened no later than 4 years after the implementation of the scheme.**

**Commented [GW36]:** Wording added at the request of the CWP.

## PARENTAL LEAVE POLICY FOR COUNCILLORS

### Introduction

1. This policy sets out councillors' entitlement to maternity, paternity, shared parental and adoption leave and relevant allowances.
2. The objective of the policy is to ensure that insofar as possible members of the council are able to take appropriate leave at the time of birth or adoption, that both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for Cabinet members and others in receipt of Special Responsibility Allowances (SRAs) during any period of leave taken.
3. Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of local authority councillors. It will also assist with retaining experienced councillors – particularly women – and making public office more accessible to individuals who might otherwise feel excluded from it.

### Leave Period

4. Members giving birth are entitled to up to 6 months maternity leave from the due date, with the option to extend up to 52 weeks by agreement, if required.
5. In addition, where the birth is premature, the member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months' period. In such cases, any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.
6. In exceptional circumstances, and only in cases of prematurity of 29 days or more, additional leave may be taken by agreement, and such exceptional leave shall not be deducted from the total 52 week entitlement.
7. Members shall be entitled to take a minimum of 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren).
8. A parent who has made Shared Parental Leave arrangements with their employment is requested to advise the council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from council.
9. Where both parents are members leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.
10. A member who adopts a child through an approved adoption agency shall be entitled to take up to six months adoption leave from the date of placement, with the option to extend up to 52 weeks by agreement if required.

**Commented [GW37]:** The primary relevance of this policy is to avoid the impact of section 85 of the Local Government Act 1972, which states that a member of a local authority loses office if they do not attend a meeting at least once in any six-month period (see para.11).

Members are not employees or otherwise contracted to the council, and do not need permission to take 'leave'.

Better to state that approval will be given by the Council to a members' absence if it is by reason of maternity, shared parental or adoption, subject to a maximum period of 52 weeks.

11. Any member who takes maternity, shared parental or adoption leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period unless the council meeting agrees to an extended leave of absence prior to the expiration of that six month period.
12. Any member intending to take maternity, paternity, shared parental or adoption leave will be responsible for ensuring that they comply with the relevant notice requirements of the council both in terms of the point at which the leave starts and the point at which they return.
13. Any member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

#### **Basic Allowance**

14. All members shall continue to receive their Basic Allowance in full whilst on maternity, paternity or adoption leave.

#### **Special Responsibility Allowances**

15. Members entitled to a Special Responsibility Allowance shall continue to receive their allowance in full in the case of maternity, paternity, shared parental or adoption leave.
16. Where a replacement is appointed to cover the period of absence that person shall receive an SRA on a pro rata basis for the period of the temporary appointment.
17. The payment of Special Responsibility Allowances, whether to the primary SRA holder or a replacement, during a period of maternity, paternity, shared parental or adoption leave shall continue for a period of six months, or until the date of the next Annual Meeting of the council, or until the date when the member taking leave is up for election (whichever is soonest). At such a point, the position will be reviewed, and will be subject to a possible extension for a further six month period.
18. Should a member appointed to replace the member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one Special Responsibility Allowance shall apply.
19. Unless the member taking leave is removed from their post at an Annual Meeting of the council whilst on leave, or unless the party to which they belong loses control of the council during their leave period, they shall return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began.

#### **Resigning from Office and Elections**

20. If a member decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the council at the earliest opportunity. All allowances will cease from the effective resignation date.
21. If an election is held during the member's maternity, paternity, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election, their Basic Allowance and SRA if appropriate will cease from the Monday after the election date when they would technically leave office.