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| GA.35 14/15 |
| Committee Governance and Audit |
| Date 20 November 2014 |

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Subject: Commencing the Review of the Constitution

Report by:

Director of Resources

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Purpose / Summary:

To allow the Governance and Audit Committee the opportunity to discuss Sections of the Constitution to assist the Monitoring Officer in undertaking his annual review of the Constitution

RECOMMENDATION(S): That Members consider and discuss issues around the two attached sections of the Constitution to assist the Monitoring Officer in undertaking his annual review of the Constitution

IMPLICATIONS

Legal: The Council is required by law to prepare and keep up to date the Constitution.

Financial :

Staffing :

Equality and Diversity including Human Rights :

NB: Please explain how you have considered the policy's impact on different groups (for example: young people, elderly, ethnic minorities, LGBT community, rural residents, disabled, others).

Risk Assessment :

Climate Related Risks and Opportunities :

Title and Location of any Background Papers used in the preparation of this report:

Wherever possible please provide a hyperlink to the background paper/s

If a document is confidential and not for public viewing it should not be listed.

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

1 Introduction

- 1.1 The Council is required by law to prepare and keep up to date a Constitution which explains how the Council operates, how decisions are made and the procedures which are to be followed to ensure that these are efficient, transparent and accountable to local people.
- 1.2 Article 14 of the Constitution stipulates how such a review should be conducted namely:
 - a) by observing meetings of different parts of the member and officer structure;
 - b) by undertaking an audit trail of a sample of decisions
 - c) by recording and analysing issues raised with Monitoring Officer by members, officers, the public and other stakeholders; and
 - d) by comparing practices in this authority with those in comparable authorities, or national examples of best practice.
- 1.3 It is important the Constitution is owned by all, and this year, we would like to engage Members at the earliest opportunity and provide them with an opportunity to share their views on some key sections of the Constitution.
- 1.4 This is the first of an ongoing programme of review.
- 1.5 The following sections are attached

Sections 3 – Codes and Protocols – Protocol on Operational Conventions
Section 5 – Rules of Procedure – Council Procedure Rules
- 1.6 Members are asked to discuss and share their views on these elements of the Constitution, in order that any views expressed can be taken into consideration by the Monitoring Officer in preparing his Annual Review of the Constitution report .

West Lindsey District Council

Protocol on Operational Conventions



Protocol on Operational Conventions

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Protocol on Operational Conventions

1. Underlying Principles

- 1.1 Both members and officers serve the public. They depend on one another, but their responsibilities are distinct. Members are responsible to the electorate and are responsible for setting policy. Officers are responsible to the Council; their job is to give advice to members and to carry out the Council's work.
- 1.2 Mutual respect between members and officers is essential to good local government. Close personal familiarity between individual members and officers can damage this relationship and prove embarrassing to other members and officers. It is clearly important that there should be a close working relationship between members, chief officers and heads of service. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an officer's ability to deal impartially with the member(s) concerned or other members.
- 1.3 Members must respect the impartiality and integrity of all the Council's officers. Similarly, all officers must respect the role of members as elected representatives. It is important that any dealings between members and officers should observe proper standards of courtesy and that neither party should seek to take unfair advantage of their position.
- 1.4 On occasions, members may have reason to make a formal complaint about the conduct or performance of an officer. All such complaints should be made personally to the appropriate Chief Officer or the Chief Executive. It is important that complaints are made this way and the details noted.
- 1.5 If an officer is concerned about a member's conduct, it should be brought to the attention of the Monitoring Officer, who may inform the member. If appropriate, matters of concern will be dealt with through the adopted procedures.

2. Roles of Members

- 2.1 Members have four main areas of responsibility -
 - a) determining the policy of the Council and giving it leadership;
 - b) monitoring and reviewing the performance of the Council in implementing that policy and delivering services;
 - c) representing the Council externally; and
 - d) acting as advocates on behalf of their constituents and the wider community.

3. Roles of Officers

- 3.1 Officers give advice and information to members, implement the policies determined by the Council and manage the day to day business of the Authority.
- 3.2 In giving such advice to members and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an officer might report the views of individual members on an issue, a member should not seek to pressure the officer to make a recommendation contrary to the officer's professional view because the member wishes to express a contrary view, neither should the member seek to have a report withdrawn from the agenda for such reasons. Where a recommendation is contrary to current Council policy, the officer shall draw attention to this in the report.
- 3.3 Certain officers, e.g. Head of Paid Service, Monitoring Officer and Chief Finance Officer, have responsibilities in law over and above their obligations to the Council and to individual members. Members must respect these obligations, must not obstruct these officers in the discharge of their responsibilities and must not victimise officers for discharging these responsibilities.
- 3.4 Officers below Director level are accountable to their Director. Whilst they should always seek to assist members, they must not, in so doing, go beyond the bounds of whatever authority they have been given.

4. Relationship between Chairman of the Council and Leader of Council and Officers

- 4.1 The Chairman of the Council and Leader of the Council shall be bound by the same provisions set out in section 2 above when acting as Chairman or Leader as he/she would be when acting as an ordinary Council member.

5. Relationship between Group Leaders and Chief Executive

- 5.1 Group Leaders shall meet informally with the Chief Executive from time to time to discuss matters of common interest or concern either raised directly by a Group Leader or by the Chief Executive. Such meetings will have no formal standing or powers and shall, unless otherwise agreed, be confidential other than to members of the Leaders' Groups.
- 5.2 Officers will regularly brief chairmen on matters affecting their committee.
- 5.3 Any chairman or spokesman may have a briefing from officers, at a mutually agreed time, on matters to be discussed at a forthcoming committee meeting. With the exception of the Planning Committee, such briefings shall be held not less than 24 hours before the meeting unless otherwise agreed.

- 5.4 Reports always contain a recommendation unless the issue is clearly one where political judgement is required. They will also always include the name of the contact officer. Members should raise issues with that officer prior to the committee meeting where practicable
- 5.5 A director will always be fully responsible for the contents of any report submitted in his/her name. Wherever possible, chairmen will be given the opportunity to view, and discuss the draft agenda and reports for their committee. All agendas should be agreed by the Chairman of a committee before publication. Any issues arising between a Chairman of a committee and a director in this area will be referred to the Chief Executive for resolution in consultation with the Leader of the Council.
- 5.6 The Chairmen and members of the policy committees shall give officers the opportunity to give any advice they wish to give.
- 5.7 In relation to action between meetings, it is important to remember that the law only allows for decisions (in relation to the discharge of any of the Council's functions) to be taken by a committee or an officer.
- 5.8 All members shall seek the advice of the Monitoring Officer where they consider there is doubt about the vires for a decision or the Monitoring Officer and other appropriate officers where they consider a policy committee decision might be contrary to the policy framework.
- 5.9 Members and officers should be mutually supportive in order to minimise any potential embarrassment to the Council. Criticism of officers should be dealt with in private and, by the same token, officers will never be publicly critical of the Council or its policies.

6. Relationships between Chairman and Members of Overview and Scrutiny Committee and Officers

- 6.1 The Chairman and members of the Council's Overview and Scrutiny Committee shall be bound by the same provisions set out in section 5 above. In addition, they shall -
- consider the seniority of the officers asked to appear before it to ensure that more junior officers are not put under undue pressure;
 - when asking officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions;
 - where they consider it appropriate, ask officers to explain and justify advice given to members of the policy committees prior to decisions being taken; and
 - not question officers in such a way as to be in breach of the Council's policy on harassment nor deal with matters which are of a disciplinary nature.

6.2 Officers are required at all times to serve the whole Council. Given the respective roles of elected members and officers, it is accepted that officers, while remaining politically neutral, will inevitably give advice on a wide range of issues. Members must continue to respect the political neutrality of officers and accept that officers are obliged to respond positively to any requests from the Overview and Scrutiny Committee for appropriate information and advice relevant to the issue being considered by the Committee.

7. Relationships between Chairmen and Members of Other Committees and Officers

7.1 This shall apply to the Taxi and Licensing Sub-Committee, Licensing Sub-Committee and Standards Sub-Committee and any others appointed in the future. The chairmen and members of these shall be bound by the same provisions set out in section 5 above.

8. Officer Relationships with Party Groups

8.1 There is statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of consideration by the relevant Council body. Meetings between the Chief Executive and/or the Management Team, the Leader and Deputy Leader (if there is one), committee chairmen and/or group leaders will be held when appropriate albeit that they have no executive powers.

On Relations with Party Groups

8.2 In order to ensure that members are properly briefed on complex matters any political group may request via the Chief Executive that senior officers be asked to brief the group and offer appropriate professional advice concerning Council business. Any such invitation will be deemed to include an invitation to the Chief Executive.

8.3 Officers have the right to refuse such requests, and will not normally attend a meeting of a party group where some of those attending are not members of the Council (but excluding official officers of the Group).

8.4 Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.

8.5 Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.

- 8.6 Where officers provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.
- 8.7 Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.
- 8.8 In their dealings with party groups, officers must treat each group in a fair and even-handed manner. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
- 8.9 An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.
- 8.10 No member will refer in public or at meetings of the Council to advice given by officers to a party group meeting.
- 8.11 Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Chief Executive and the relevant party group leader.

9. Members in their Ward Role and Officers

- 9.1 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the ward or wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward members should be notified at the outset of the exercise.
- 9.2 Some decisions delegated to officers can only be made following consultation with relevant ward members. Any requirements to consult are set out in the "Responsibility for Functions" in Part IV of this Constitution.
- 9.3 Further to paragraph 9.2 when a Member refers a planning application for his/her Ward to the Planning Committee for determination, there is an expectation that the Member will attend the Committee meeting to explain their reasons for referral.
- 9.4 Officers will seek both to inform and to keep members informed about any initiative(s) which they are developing. However, members must be aware of the pressures on officers' time and that officers may exercise judgement as to how much information is provided.
- 9.5 It is the duty of the Chief Executive and Directors to ensure that all relevant staff are aware of the requirement to keep local members

informed and that the timing of such information allows members to contribute to the decision making process.

10. Meetings of Members and Officers with the Public and Representatives of Other Organisations

10.1 It will be necessary, from time to time, for officers and members to hold meetings with members of the public or representatives of other organisations. Where such meetings relate to planning or contractual issues, they will be held on Council premises or, if absolutely necessary, at an application site. The meeting shall be attended by at least two officers and two members. One officer shall be responsible for arranging the meeting, keeping notes of all significant discussion and sending a follow up letter to all attendees confirming the content of the meeting. In the case of meetings relating to planning applications, members of the Planning Committee will be informed when they consider the relevant planning application if any such meeting was held and, if so, the outcome. Similarly, the relevant committee will be advised of any such meetings relating to contracts when considering the contract in question.

11. Inter Member Relations

11.1 Notwithstanding the differences of political opinion which will inevitably arise, it shall be unacceptable for members to submit notices of motion or questions which name another member or Group.

11.2 Where such a motion or question is submitted but is withdrawn following publication in the public domain, the member or Group named in the motion or question shall have the right to make a statement.

12. Member Access to Documents and Information

12.1 The Council believes in open government. Information will generally be freely available to all members, but any rules on confidentiality must be observed.

12.2 The approach to information being freely available has to be qualified, however, in relation to certain appropriately confidential information.

Moreover, devoting a significant amount of staff resources to identify and collate information with marginal benefit could not be justified.

12.3 Where, in a Head of Service's view, a request for information will require a significant amount of staff resources to provide the information, which he/she feels unable to commit, he/she should seek guidance from his/her Director so that a satisfactory solution, in consultation with members, can be found. In the event of a dispute, a decision will be made by the Chief Executive in consultation with the leader of the group whose member is requesting the information.

- 12.4 Members have a statutory right to inspect any Council document which contains material in relation to any business which is to be transacted at a Council, committee or sub-committee meeting. This right applies irrespective of whether the member is a member of the committee or sub-committee concerned and extends not only to reports which are submitted to the meeting, but also to any relevant background papers.
- 12.5 In addition to the inspection of reports to Council, committees and sub-committees, and papers on which the production of those reports relied, which are available to the public under the access to information legislation, the common-law right of members is much broader. It is based on the principle that any member has a right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. There is, however, no right for a member to conduct a roving commission.
- 12.6 The proper exercise of this common-law right is on a need to know basis and depends on whether it is reasonably necessary for the member to have the information in order properly to perform his/her duties. The propriety of a request for information must initially be determined by the particular Director who holds the document in question. In the event of a dispute, a decision on the point will be made by the Monitoring Officer, in consultation with the Chairman of the Standards Sub-Committee.
- 12.7 Any Council information provided to a member must only be used by the member for the purpose for which it was provided, i.e. in connection with the proper performance of the member's duties as a member of the Council. A member should never disclose or use non public information for the personal advantage of him/herself or of anyone known to him/her, or to the disadvantage or discredit of the Council or anyone else.

13. Other Individuals Who are Members of Council Bodies

- 13.1 This applies to all those people who are not elected members of the Council but who are members of or attend any of the Council's committees or any other bodies.
- 13.2 This Protocol applies equally to such non Council members on Council bodies as it does to Council members.

14. Press Releases

- 14.1 Relations with the media need to be handled with care to ensure the Council's position on any issue is represented properly. Day to day contact with the press and media will normally be handled by the Communications Team, together with the appropriate Committee Chairman, Leader and relevant officers.
- 14.2 On occasions, members may be approached directly by the media and asked to make a comment or to appear for interview. Members are asked,

where practicable, to ensure the Chief Executive and/or the Communications Team is made aware of the approach. Unless members have been authorised to speak on behalf of the Council, they should make it clear that any views they express are not necessarily those of the Council. In all cases, members should uphold the good name and integrity of the Council.

- 14.3 Council press releases are drafted by officers and will often contain quotations (within the limits of the Local Government Act 1986) from members. Such press releases are issued on behalf of the Council and it would not, therefore, be appropriate when repeating quotations from members to indicate their party political affiliation or to attribute the policies or initiatives to a particular group.
- 14.4 Similar considerations apply to the Council's newspaper. The timing and content of the newspaper is controlled by an editorial team advised by the cross party editorial board who must ensure that the content reflects a corporate point of view.

15. Correspondence

- 15.1 Correspondence between an individual member and an officer should not be copied by the officer to any other member without the member's consent unless it constitutes a 'background paper' to a committee report. Where correspondence relates to Council policy, or the interpretation of Council policy, a copy may be sent to the chairman of the relevant committee, the Chief Executive and/or the relevant director and this will be made clear to the original member. Under no circumstances should 'silent copies' be made available to a third party, and copies should only be sent to third parties with the express permission of the member involved.
- 15.2 Similarly, members should not copy for third parties correspondence from officers without the author's consent unless it is apparent that the content is to be shared.
- 15.3 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 circumstances (e.g. representations to a Government minister) for a letter to appear in the name of a member, but this should be the exception rather than the rule. Moreover, it is not legal for letters which, for example, create obligations or give instructions on behalf of the Council to be sent out in the name of a member as this would constitute an act which cannot be delegated to an individual member.

16. Behaviour at Meetings

- 16.1 Members involved in taking a decision must be fully aware of all of the facts and it is suggested, therefore, that if a member leaves the room during a debate he/she should consider not taking part in the ensuing decision making.

16.2 Following on from this, it is suggested that as attention may be distracted by the use of communication devices, such as mobile 'phones or blackberries, their use during a meeting be not allowed.

Note:

- Members need to be aware that the Freedom of Information Act 2000 gives a general right of access to information recorded in any form, which is 'held' by the authority at the time a request is received. This includes information which is held by another body, for example, a contractor, on behalf of the authority

Council Procedure Rules

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These Procedure Rules regulate the proceedings of the council meetings and the range of committees.

If a member requires any advice on the operation of these Rules or the statutory provisions which affect council or committee meetings, or on the declaration of interests at meetings, would you please contact the Monitoring Officer or Deputy Monitoring Officer, or any of the directors, before the meeting and they will be pleased to assist you. This does not preclude members seeking advice during any council or committee meeting.

1. Annual Meeting of the Council

Timing and business

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

1.2 The annual meeting will -

- a) elect a person to preside if the Chairman of Council is not present;
- b) elect the Chairman of Council;
- c) appoint the Vice-Chairman of Council;
- d) approve the minutes of the last meeting;
- e) consider the Monitoring Officer's report on the constitution – if any;
- f) receive any declarations of interest from members;
- g) appoint the Leader of the Council;
- h) appoint the Deputy Leader(s) of the Council;
- i) appoint such Committees as the Constitution requires;
- j) consider any business set out in the notice convening the meeting.

Selection of Councillors on Committees and Outside Bodies

1.3 At the annual meeting, the Council will -

- a) decide which committees to establish for the municipal year;
- b) decide the size and terms of reference for those committees;
- c) decide the allocation of seats to political groups in accordance with the political balance rules;
- d) receive nominations of councillors to serve on each committee and outside body; and
- e) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council.

2. Ordinary Council Meetings

2.1 Ordinary meetings of the Council will take place in accordance with the agreed programme. Ordinary meetings will -

- a) elect a person to preside if the Chairman and Vice-Chairman are not present;
- b) approve the minutes of the last meeting;
- c) receive any declarations of interest from members;
- d) receive any announcements from the Chairman, Leader of the Council or Head of Paid Service;
- e) receive questions from, and provide answers to, the public in relation to matters which, in the opinion of the person presiding at the meeting, are relevant to the business of the meeting;
- f) deal with any business from the last council meeting;
- g) receive recommendations from the council's committees and receive questions and answers on any of those reports;
- h) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- i) consider motions;
- j) consider petitions submitted in accordance with the council's petitions scheme;
- k) consider any other business specified in the summons to the meeting and reports of the Challenge and Improvement Committee for debate; and
- l) receive the minutes of committees which have been previously circulated.

2.2 Subject to the following provisions of this Rule, business shall be taken in the order in which it stands upon the summons to attend the meeting. The council may, by resolution, vary the order of business but no such resolution shall be passed if its effect would be -

- a) to interfere with the performance in due order of any business required to be done by statute; or
- b) to give precedence to motions submitted under Rule 10.

2.3 A motion to vary the order of business under this Rule may be moved by any member without notice at the conclusion of any item of business and, if the motion is seconded, it shall be put to the vote without debate.

3. Extraordinary Council Meetings

3.1 Calling extraordinary meetings.

Those listed below may require the Chief Executive to call a Council meeting in addition to ordinary meetings -

- a) the Council by resolution;
- b) the Chairman of the Council
- c) the Monitoring Officer; or
- d) any five members of the Council if they have signed a requisition stating the subject, presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

- 3.2 Business to be conducted at extraordinary meetings will be restricted to the item on the agenda and exclude consideration of previous minutes etc. This is in order to preserve the use of extraordinary meetings for debates concerning one-off major matters.

4. Appointment of Substitute Members of Committees and Sub-Committees

Allocation

- * 4.1 The Council will permit the allocation of seats on committees and sub-committees to substitute members. Challenge and Improvement Committee members are permitted to substitute on the policy committee(s) subject to compliance with paragraph 11(a) and (b) on page 7 of the Members' code of conduct.

Powers and duties

- * 4.2 Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

Substitution

- * 4.3 Substitute members may attend meetings in that capacity only -
- a) to take the place of the ordinary member for whom they are the designated substitute;
 - b) where the ordinary member is expected to be absent for the whole of the meeting; and
 - c) after their Group Leader/Spokesperson, Deputy Leader/Spokesperson or a majority of members of the relevant Group has notified the Chief Executive in writing of the intended substitution before the commencement of the meeting.

- * 4.4 In the event of the ordinary member who has been substituted arriving at the meeting, he/she will be treated as a non-member of the committee/sub-committee for that meeting only.

Note:

Substitution will continue on the Taxi and General Licensing Sub Committee until such time as law prohibits it.

5. Time and Place of Meetings

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

6. Notice of and Summons to Meetings

- * 6.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear working days before a meeting, the Chief Executive will send a summons, signed by him or her, by post or electronic mail to every member of the council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7. Chair of Meeting

- * 7.1 The person presiding at the meeting may exercise any power or duty of the Chairman. Where these Rules apply to committee and sub-committee meetings, references to the Chairman also include the chairmen of committees and sub-committees.

8. Quorum

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

9. Questions

9.1 Procedure for Questions

Members of the Council and members of the public may ask

- a) the Chairman or in his/her absence the Vice-Chairman of the Council
or

- b) the Chairman or in his/her absence the Vice-Chairman of any committee or sub-committee or
- c) the Leader of Council or in his/her absence the Deputy Leader of the Council

a question on any matter in relation to which the Council has powers or duties or which affects the District at ordinary meetings of the Council.

9.2 Notice of questions

- a) Questions may be asked under Rule 9.1 if at least three clear working days before the day of the meeting (excluding the day of the meeting) a question has been submitted in writing or e-mail to the Chief Executive.
- b) A member of the Council may ask the Chair of the Committee any question without notice upon a recommendation.

9.3 Number of questions/ statements

No members of the public may submit more than six questions per year.

9.4 Rejection of questions

The Chief Executive may reject a question if it breaches any Procedure Rules and if -

- a) it is not about a matter for which the local authority has a responsibility or which affects the district;
- b) it is defamatory, frivolous or offensive;
- c) it is substantially the same as a question which has previously put at a meeting of the Council or Committee;
- d) it requires the disclosure of confidential or exempt information;
- e) it relates to an item on the agenda for that council meeting;
- f) the member of the public has already asked six questions or statements in the civic year.

9.5 Response

- a) An answer may take the form of -
 - i) a direct oral answer;
 - ii) where the desired information is in a publication of the council or other published work, a reference to that publication; or
 - iii) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.
- b) Every question shall be put and answered, but the person to whom the question has been put may decline to answer.
- c) Questions or statements which are defamatory, frivolous or offensive will not be allowed and notwithstanding the differences of political opinion which will inevitably arise, it shall be unacceptable for

members of the Council to submit questions or provide answers which name another member or group.

9.6 Supplemental Question

A questioner will be allowed to ask one supplementary question after the reply to the original question.

10. Motions on Notice

10.1 Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least one member, must be delivered to the Chief Executive not later than 5pm five clear working days before the day of the meeting. These will be entered in a book open to public inspection.

Motion set out in agenda

10.2 Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that he/she proposes to move it to a later meeting or withdraw it.

Motion not moved

10.3 If a motion set out in the summons is not moved either by the member who gave notice of it or some other member on his/her behalf, it shall, unless postponed with council's consent, be treated as withdrawn and shall not be moved without fresh notice.

Automatic reference to committee

10.4 If the subject matter of any motion of which notice has been duly given comes within the remit of any committee(s), it shall, upon being moved and seconded, stand referred without discussion to such committee(s) for consideration and determination. However, the Chairman may, if he/she considers it convenient and conducive to the despatch of business, allow the motion to be dealt with at the meeting at which it is brought forward.

Scope

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

Motion not accepted

10.6 If notice is given of any motion which, in the opinion of the Chief Executive is out of order, illegal, irregular or improper, the Chief Executive shall not accept it and immediately inform the member who submitted the motion why. The rejected motion shall still be recorded in the book kept for that purpose and a note made to the effect that the motion was not accepted and why.

11. Motions without Notice

*11.1 The following motions may be moved without notice -

- a) to appoint a chairman of the meeting at which the motion is moved;
- b) in relation to the accuracy of the minutes;
- c) to change the order of business in the agenda;
- d) to refer something to an appropriate body or individual;
- e) to appoint a committee or member arising from an item on the summons for the meeting;
- f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- g) to withdraw a motion;
- h) to amend a motion;
- i) to proceed to the next business;
- j) that the question be now put;
- k) to adjourn a debate;
- l) to adjourn a meeting;
- m) to suspend a particular Council Procedure Rule;
- n) to exclude the public and press in accordance with the Access to Information Procedure Rules;
- o) not to hear further a member named under Rule 20.3 or to exclude him/her from the meeting under Rule 20.4; or
- p) to give the consent of the Council where its consent is required by this Constitution.

12. Rules of Debate

No speeches until motion seconded

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

Right to require motion in writing

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

Secunder's speech

*12.3 When seconding a motion or amendment, a member may reserve his/her speech until later in the debate.

Content and length of speeches

- *12.4 Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes in the case of a mover of a motion and three minutes in all other cases without the consent of the Chairman.

When a member may speak again

- *12.5 A member who has spoken on a motion may speak again for up to three minutes whilst it is the subject of debate, either to add something new or to respond to a new point made during the course of the debate. Where a follow-up speech does not deal with new material, the Chairman may rule the member out of order and ask him/her to stop speaking. The ruling of the Chairman on the matter will be final.

Amendments to motions

- *12.6 An amendment to a motion must be relevant to the motion and will either be -

- a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- b) to leave out words;
- c) to leave out words and insert or add others; or
- d) to insert or add words.

as long as the effect of (b) to (d) is not to negate the motion.

- *12.7 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. The Chairman, however, may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Council's business.

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

- *12.9 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.

- *12.10 After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments or, if there are none, put it to the vote.

Alteration of motion

- *12.11 A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- *12.12 A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- *12.13 Only alterations which could be made as an amendment may be made.

Withdrawal of motion

- *12.14 A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. Subject to paragraph 11.2 of the Protocol on Operational Conventions, no member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

Right of reply

- *12.15 The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- *12.16 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- *12.17 The mover of the amendment has a right of reply to the debate on his or her amendment immediately before the mover of the original motion.

Motions which may be moved during debate

- *12.18 When a motion is under debate, no other motion may be moved except the following procedural motions -
 - a) to withdraw a motion;
 - b) to amend a motion;
 - c) to proceed to the next business;
 - d) that the question be now put;
 - e) to adjourn a debate;
 - f) to adjourn a meeting;
 - g) to exclude the public and press in accordance with the Access to Information Rules; or
 - h) not to hear further a member named under Rule 18.3 or to exclude him/her from the meeting under Rule 18.4.

Closure motions

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

Point of order

- *12.23 A member may raise a point of order at any time. The Chairman will hear him/her immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The member must indicate the Rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

Personal explanation

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

Point of Information

- *12.25 When a member is speaking and obviously proceeding on the basis of information which is wrong or of which the member is ignorant, another member may properly seek to intervene to provide the correct or missing information, thereby saving the Council from being misled and saving time.

13. Previous Decisions and Motions

Motion to rescind or vary a previous decision

- 13.1 A motion or amendment to rescind or vary a decision made at a meeting of council within the past six months cannot be moved unless the notice of motion is signed by at least 10 members or upon the recommendation of a committee. Every such notice or recommendation shall refer to the resolution to be rescinded or varied.

14. Voting

Majority

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

Chairman's casting vote

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

Show of hands

- * 14.3 Unless a recorded vote is demanded under Rule 14.4, the Chairman will take the vote by show of hands or, if there is no dissent, by the affirmation of the meeting. It shall not be necessary to count the votes on a show of hands unless the issue requires a special majority or the Chairman considers it necessary or appropriate.

Recorded vote

- * 14.4 If any two members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

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

Right to require individual vote to be recorded

- * 14.5 Where any member requests it immediately after the vote is taken, his/her vote will be so recorded in the minutes to show whether he/she voted for or against the motion or abstained from voting.

Voting on appointments

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

- * 14.7 The number of votes each member has is restricted to the number of vacancies to be filled.

15. Minutes

Signing the minutes

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

No requirement to sign minutes of previous meeting at extraordinary meeting

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

Form of minutes

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

Presentation of committee recommendations

- 15.4 Recommendations shall be submitted by the Chairman or another member of the Committee who shall move “that the recommendation(s) be adopted.” Upon this motion being seconded, the Chairman of Council will present each recommendation in turn (page by page if appropriate).

16. Record of Attendance

- * 16.1 All members present during the whole or part of a meeting must sign their names in the attendance book or on any sheet provided before the conclusion of every meeting to assist with the record of attendance.

17. Exclusion of Public

- * 17.1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part IV of this Constitution or Rule 21 (Disturbance by Public).

18. Members’ Conduct

Standing to speak

- 18.1 When a member speaks at council, he/she must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

Chairman standing

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

Member not to be heard further

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

Member to leave the meeting

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

General Disturbance

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

19. Disturbance by Public

Removal of member of the public

- * 19.1 If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If he/she continues to interrupt, the Chairman will order his/her removal from the meeting room.

Clearance of part of meeting room

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

20. Suspension and Amendment of Council Procedure Rules

Suspension

- *20.1 All of these Council Rules of Procedure except Rule 14.5 and 15.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

Amendment

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

21. Application to Committees and Sub-Committees

- 21.1 All the Council Procedure Rules apply to meetings of council with the exception of the Rules 22 – 27 below which relate solely to committees and sub-committees. Rules 4-8 (except Rule 8.1) and Rules 11, 12 and 14-19 (except rules 15.4 and 18.1) above apply to meetings of committees and sub-committees (marked with an *).

Notes:

- With the exception of the Licensing and Taxi and General Licensing, Sub-Committees, all other sub-committees will be time limited.
- Public participation is permitted at meetings of Council and all committees. Full details of the schemes are set out in leaflets available from the Council.

22. Powers of Committees

- 22.1 Except as otherwise provided by statute or a resolution of the Council, committees shall have delegated powers to act as set out in Part IV of this Constitution.

23. Chairman of Committees

Election

- 23.1 Every committee shall, at its first meeting before proceeding to any other business, elect a Chairman for the year and may at any time elect a Vice-Chairman. In the absence from a meeting of the Chairman (and Vice-Chairman if elected), a Chairman shall be appointed for that meeting.

Restriction

- 23.2 An individual member shall not be Chairman and/or Vice-Chairman of more than one committee.

24. Special Meetings of Committees and Sub-Committees

- 24.1 The Chairman of a committee or sub-committee or the Chairman of Council may call a special meeting of the committee or sub-committee at any time by way of a request to the Chief Executive. A special meeting shall also be called on the requisition of a quarter of the whole number of the committee or sub-committee, delivered in writing to the Chief Executive, but in no case shall less than three members requisition a special meeting.

25. Attendance at Committees and Sub-Committees

- 25.1 A member who has moved a motion which has been referred to a committee or sub-committee shall have notice of the meeting at which it is proposed to consider the motion. He/she shall have the right to attend and the opportunity of explaining the motion if he/she does attend.

- 25.2 Members shall be entitled to attend any committee of which they are not members and, with prior notice to the Chairman, may be invited to take part in the discussion but may not move, second or vote on any motion.
- 25.3 Meetings of Task and Finish Groups shall be open to other members to observe only.

26. Quorum of Committees and Sub-Committees

Committees

- 26.1 The quorum of a committee meeting will be one quarter of the whole number of members, provided that in no case shall the quorum of the committee be less than four voting members, with the exception of the Standards Committee which is subject to paras (1) & (2) as follows -
- (1) Subject to paragraph (2) below, a meeting of a Standards Committee or sub-committee of a standards committee shall not be quorate unless at least three members (including at least one independent member) of that committee or sub-committee are present for its duration.
- (2) Where at least one independent member would have been present for the duration of the meeting but for the fact that he was prevented or restricted from participating in any business of the authority by virtue of its code of conduct, the requirement in paragraph (2) for the quorum to include at least one independent member shall not apply.

Sub-Committees

- 26.2 The quorum of a sub-committee meeting will be one quarter of the whole number of members, provided that in no case shall the quorum of the sub-committee be less than two voting members with the exception of the Licensing Sub-Committee where the quorum will be three.

27. New Committees and Sub-Committees to take up business of former Committees and Sub-Committees

- 27.1 Every committee and sub-committee shall take up all relevant matters referred to any committee or sub-committee previously appointed which may not have been fully dealt with.

28. Political Balance

- 28.1 In the event of no overall political control and in addition to applying the political balance rules as provided for in statute, the Council will allocate to each Group the chairmanships and vice-chairmanships of all committees and sub-committees and the total number of places on the following outside bodies in accordance with their share of the total number of seats on the Council -

East Midlands Regional Assembly

Local Government East Midlands or Successor
Local Government Association General Assembly

- 28.2 The above Rule will **not** apply to the Standards Sub-Committee or the Licensing Sub-Committee and will apply to all other committees/sub-committees appointed at the start of the municipal year.

29. Constitution to be given to Members

- 29.1 A copy of this Constitution shall be given to each member of the Council by the Chief Executive upon delivery of the member's Declaration of Acceptance of Office on the member being first elected to the council or re-elected following a break in service.