

# Constitution of West Lindsey District Council



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# Constitution of West Lindsey District Council

## Part I

# Introduction, Summary and Explanation



# Introduction, Summary and Explanation

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## Introduction

### By Ian Knowles, Head of Paid Service, West Lindsey District Council

West Lindsey District Council exists to serve its citizens and make decisions on their behalf. The council's vision is that:

“West Lindsey is a great place to be where people, businesses and communities thrive and can reach their potential”.

The Council's values are:

1. To put the customer at the centre of everything we do
2. To act as one council
3. To be business smart, to act on evidence and take advantage of opportunities, thinking creatively and getting things done
4. To communicate effectively with all stakeholders
5. To have integrity in everything we do

The Council's Constitution sets out the arrangements for the governance of the district. It reflects both legislation and good practice and shows how the Council acts in an open, transparent and accountable way for the people of West Lindsey.

The rules, procedures and guidance in the Constitution have been chosen to give local citizens the confidence that decisions made in their name have been taken correctly. It does not mean that everyone will agree with every decision the Council makes. But it should mean that people know what decisions are made, that they can see that decisions have been made fairly, and that proper consultation takes place wherever possible.

This Constitution is used most often by Councillors and council staff. It gives guidance, about who has the right to take different decisions and about how decisions are made. So it is for:

- the public;
- the members of the council;
- the council's staff

The Constitution is essentially a reference document and is not designed to be read like a book. It is there for people to look up the rules and solve problems of procedure. To help readers find their way round there is a table of contents at the beginning and an index at the end. It is divided into seven parts. Part I summarises the document and explains how decisions are made. In Part II the articles explain the rights of citizens and how the key parts of the council operate. Part III contains a number of codes and protocols which deal with conduct and behaviour and the way in which Councillors and staff work together. Part IV makes it clear who is responsible for every decision made by the council while Part V sets out rules of procedure that ensure that all decisions are taken properly and lawfully. Part VI sets out the allowances received by Councillors in recognition of the responsibilities they undertake. Part VII shows the Council's management structure and senior officers.

## Summary and Explanation

### The Council's Constitution

West Lindsey District Council has agreed a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Constitution is divided into 15 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### Articles of the Constitution

The Constitution contains 15 Articles which set out the principles on which West Lindsey will operate. Article 1 commits the Council to act within the provisions of this Constitution. Articles 2-15 explain the rights of the public and how the key parts of the Council operate. These are:

- The Constitution (Article 1)
- Members of the Council (Article 2)
- The Public and the Council (Article 3)
- The Council (Article 4)
- Chairing the Council – roles and functions of the Chairman of the Council (Article 5)
- Leader of the Council (Article 6)
- Overview and Scrutiny (Article 7)
- Committees (Article 8)
- Standards Sub-Committee (Article 9)
- Joint Arrangements (Article 10)
- Officers (Article 11)
- Decision Making (Article 12)
- Finance, Contracts and Legal Matters (Article 13)
- Review and Revision of the Constitution (Article 14)
- Suspension, Interpretation and Publication of the Constitution (Article 15)

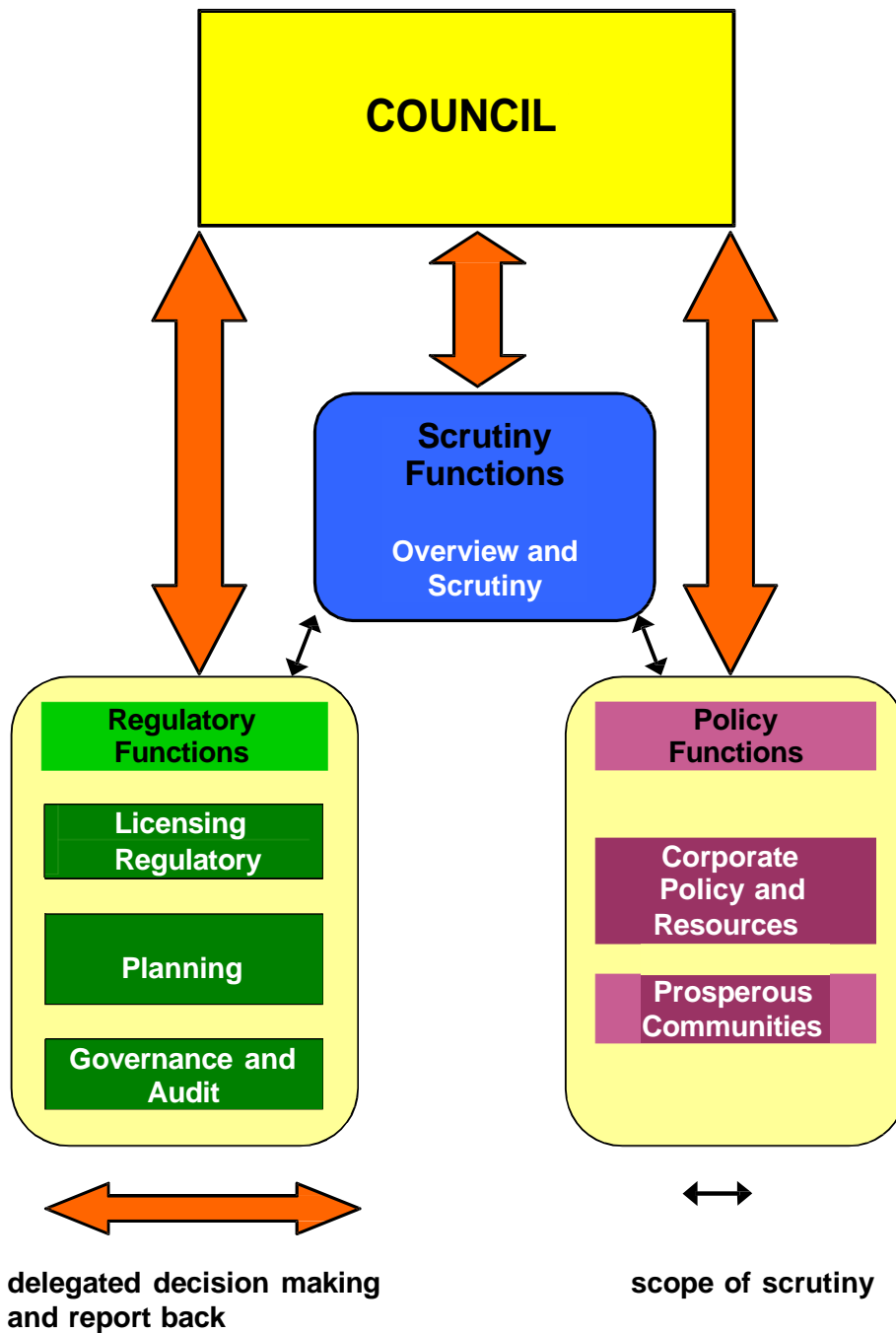
### Services

West Lindsey currently provides a range of services set out in the A-Z list, money for which comes from the following sources:

- income from fees and charges

- government specific grants
- specific reserves
- general balances
- non-domestic rates
- government general grant
- surplus on collection fund
- council tax
- commercial activity

**How Decisions are made**





Most day-to-day decisions are made by one of the Council's two policy committees. The Corporate Policy and Resources Committee is responsible for the effective use of all council resources whether land, finances, property or personnel. The Prosperous Communities Committee formulates policies which deal with economic development, housing, leisure and culture, environmental issues and community issues. The Planning, Governance and Audit, Licensing and Regulatory Committees carry out a number of regulatory functions.

### **How the Council Operates**

The Council consists of 36 Councillors (also called "Members"), elected every four years. 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 must agree to comply with West Lindsey's Members' Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Sub-Committee (a Sub-Committee of the Governance and Audit 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 is the main forum for debating the state of West Lindsey, approving the Council's annual budget and setting the policy framework within which the committees operate. The Council appoints a Leader to give clear leadership for the Council and the local community. It is also responsible for delegating functions to committees and has a role in holding those committees to account.

### **Overview and Scrutiny**

There is one committee called Overview and Scrutiny which manages this process. Operating in its own right and through the creation of time limited panels (as needed) to conduct effective scrutiny of decisions it supports the work of the policy committees and the Council as a whole. It allows the public to have a greater say in Council matters by holding public inquiries into matters of local concern. It can lead to reports and recommendations which advise the policy committees and the Council as a whole on its policies, budget and service delivery.

The Overview and Scrutiny Committee also monitors the decisions of the policy committees. It can "call-in" a decision which has been made by a policy committee but not yet implemented. This enables it to consider whether the decision is appropriate. It may recommend that the policy committee reconsider the decision. It may also be consulted by the policy committees on forthcoming decisions and the development of policy.

### **The Council's Staff**

The Council has people working for it (called "officers") to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources

wisely. The Member Officer Protocol deals with the relationships between officers and Members of the Council.

### **Citizens' Rights**

The public have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights. Where members of the public use specific council services, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are eligible and registered
- contact their local Councillor about any matters of concern to them
- obtain a copy of the Constitution
- attend meetings of the Council and its committees except where, for example, personal or private matters are being discussed
- see unrestricted reports and associated background papers and any published record of decisions made by the Council and committees
- petition to request a referendum on a mayoral form of executive
- present petitions under the Council's petitions scheme
- make a statement or ask a question at council meetings
- participate in meetings and contribute to investigations by the Overview and Scrutiny Committee
- complain to the Council about council services, action or inaction which concern them, for the matter to be investigated under the Council's complaints processes
- complain to the Local Government Ombudsman at any time if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Members' Code of Conduct
- inspect the Council's accounts and make their views known to the external auditor
- rights conferred under the Localism Act 2011

The Council welcomes participation by the public in its work. For further information please contact the Democratic Services team, Guildhall, Marshall's Yard, Gainsborough, Lincolnshire, DN21 2NA. Telephone 01427 676594/5. Details of the Council Committees, Members and Services and guidance relating to the Freedom of Information Act 2000 can be found on the Council website at [www.west-lindsey.gov.uk](http://www.west-lindsey.gov.uk)

# Constitution of West Lindsey District Council

## Part II

# Articles of the Constitution



# Articles of the Constitution

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# Article 1

## The Constitution

### Explanatory Note

**This Article sets out the fundamental provisions of the Constitution. It confirms that the Local Authority will act within the law and provisions of this Constitution. It defines those documents which comprise the Constitution.**

#### 1.1 Powers of the Council

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

#### 1.2 The Constitution

This Constitution, and all its appendices, is the Constitution of West Lindsey District Council.

#### 1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with members of the public, businesses and other organisations;
- (b) support and encourage the active involvement of members of the public in the process of local authority decision-making;
- (c) provide a framework within which Councillors can represent their constituents effectively;
- (d) enable decisions to be taken efficiently, effectively and transparently;
- (e) facilitate the effective delivery of services to the West Lindsey community.

The Constitution recognises the Council's role as a Community Leader and its strategic responsibilities for community planning and value for money in the services it delivers. Its overall objective is therefore to organise all of its activities in such a way as to ensure that they demonstrably contribute to agreed community outcomes. The Council recognises the importance of facilitative leadership by working with partners in order to effectively discharge its community/place shaping role.

Implicit in the working arrangements is the recognition of the right of the community to be involved in the Council's decision making processes.

Members of the public and other stakeholders/community organisations can exercise this right through the Council's consultation mechanisms such as the Citizens' Panel. These arrangements are set out in more detail in the Council's Consultation Strategy.

#### 1.4 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always have regard to the purposes stated above.

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

#### 1.5 Documents which comprise the Constitution:

- Part I – Summary and Explanation
- Part II – Articles of the Constitution
- Part III – Codes and Protocols
- Part IV – Responsibility for Functions
- Part V – Rules of Procedure
- Part VI – Members' Allowances Scheme
- Part VII – Management Structure

Appendices

## **Article 2**

### **Elected Members of the Council**

#### **Explanatory Note**

**This Article sets out the composition of the Council, eligibility to stand for election as a Member of the Council and the form of election to be used.**

**The Article also contains a section on the roles and functions of members of the Council.**

**The Article also deals with the rights and duties of members, especially as they affect access to land, buildings, documents and information and any confidentiality requirements surrounding the latter.**

#### **2.1 Composition and Eligibility**

##### **(a) Composition**

The Council comprises 36 members, otherwise called Councillors. One or more Members will be elected by the voters of a ward in accordance with the scheme approved by the Secretary of State.

There is a distinction to be drawn between the 'Council', being 36 Councillors formally meeting, and the 'Authority', that is the officer core led by the Head of Paid Service.

##### **(b) Eligibility**

Only registered voters of the district, or those living or working here, or those who own or rent land in the area will be eligible to hold the office of Councillor.

#### **2.2 Election and Terms of Councillors**

The ordinary election of all Councillors is held on the first Thursday in May every four years. The term of office of Councillors will be four years and will start on the fourth day after being elected and following the signing of the Acceptance of Office, and will finish on the fourth day after the date of the next regular election.

#### **2.3 Roles and Functions of all Councillors**

All Councillors will –

- (a) collectively be the ultimate policy-makers;



- (b) represent the needs and interest of the whole of the district of West Lindsey while representing their communities and bring their views into the Council's decision-making process i.e. become the advocate of, and for, their communities;
- (c) contribute to the good governance of the area and actively encourage community participation and public involvement in decision making;
- (d) effectively represent the interests of their ward and of individual constituents and act as an advocate for constituents in resolving particular concerns or grievances;
- (e) balance different interests identified within wards and represent the district as a whole;
- (f) be involved in decision making;
- (g) participate in the governance and management of the Council; and
- (h) maintain the highest standards of conduct and ethics;
- (i) Represent the Council through membership of Outside Bodies and provide feedback each year to the Annual meeting of Council.

## 2.4 **Engagement**

The Council recognises the importance of its relationship with the communities it represents and all those who receive its services in order to meet its desired outcomes. It achieves these aims in the following ways:

- By recognising the opportunity for the public and external bodies to be involved in its business through its committee structure and consultation strategy
- By making appropriate Councillor appointments to other bodies
- By ensuring that the Councillor representative role is meaningful and recognises the needs of the electorate

## 2.5 **Rights and duties**

Councillors will have such rights of access to such documents and information, land and buildings of the Council as required for the proper discharge of their functions and in accordance with the law. Councillors will not publicise information which is confidential or exempt without the consent of the Council 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 Procedure Rules in Part V of this Constitution.

## 2.6 **Member development**

Councillors will have training and development opportunities to support them in carrying out their duties and will be expected to attend those that are relevant to any role they carry out within the Council.

## 2.7 **Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Member/Officer Relations Protocol set out in Part III of the Constitution.

The Council has also adopted the International Holocaust Remembrance Alliance (IHRA) definition of Anti-Semitism, as a clear message that anti-Semitic behaviour will not be tolerated

## 2.8 **Allowances**

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

## 2.9 **Cessation of membership**

- (a) A Councillor will cease to be a member if they resign by giving notice in writing to the Head of Paid Service, or if they fail to observe the requirement to attend council meetings as prescribed by section 85 of the Local Government Act 1972 or if they are disqualified from holding office by virtue of section 80 of the Local Government Act 1972 or any other statutory provision.
- (b) With regard to the requirement to attend meetings, a member must attend at least one relevant meeting during a period of six months to remain qualified to hold office. A relevant meeting includes the full Council, any committee, sub-committee, joint committee or external body to which the member has been formally appointed.
- (c) If a member believes that there is an exceptional and unavoidable reason why s/he is unable to attend a relevant meeting during a period of six months or to otherwise perform their proper duties as a Councillor for part or all of the same period, the member concerned may seek a dispensation from the Council by writing to the Head of Paid Service explaining the reason for their unavoidable absence and the period to which the absence will relate. This will be reported to the Council at its next ordinary meeting. The Council will decide whether or not to grant such an exemption to the attendance requirement and will only do so in exceptional circumstances and with evidence that the absence is unavoidable. An exemption cannot be granted if a particular member's absence has already exceeded six months by the date of the Council meeting.

## **Article 3**

### **The Public and the Council**

#### **Explanatory Note**

**This Article sets out what citizens can expect from the council and what rights they have. However, with rights come responsibilities and it is also the role of the Constitution to show how the council expects to be treated in return.**

#### **3.1 Rights of the Public**

The public have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part V of this Constitution.

#### **3.2 Voting and petitions**

Electors on the electoral roll for the district have the right to vote for their local Councillor(s) and sign a petition to request a referendum for an elected mayor form of Constitution. For a petition to be valid to require a referendum, the number of signatories to it must equate to no less than five percent of the local government electorate of the district. Electors will have a right to vote for an elected mayor in the event of a referendum being held.

#### **3.3 Information**

The public have the right to:

- (a) attend meetings of the Council and its committees, except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (b) see committee reports and background papers, except where confidential or exempt information is likely to be disclosed, and any records of decisions made by the Council and its committees;
- (c) inspect the Council's accounts and make their views known to the external auditor; and
- (d) information pursuant to a request made in accordance with the provisions of the Freedom of Information Act 2000 and other relevant legislation.

#### **3.4 Participation**

The public can participate in the following ways:

- (a) The agenda for every ordinary meeting of the Council includes an item for questions/statements from the public. The question/statement must relate to matters which are within the powers and functions of the Council or which affect the district. Questions/statements will be dealt with on a first come first served basis and should be submitted in writing at least three clear working days before the meeting.
- (b) The Council has adopted a petition scheme under which petitions with 300 or more signatures will be debated at a council meeting.
- (c) The Council also has arrangements in place for the public to participate in meetings of Committees which consider Policy and Regulatory functions.
- (d) The West Lindsey Citizens Panel of about 1,200 residents provides ideas, opinions and feedback to the council on its services.

Full details of these various forms of public participation (and others that may be agreed by the Council) are available from the Council and on its website.

### 3.5 **Complaints**

The Public have the right to complain to:

- (a) the Council itself under its complaints scheme;
- (b) the Local Government Ombudsman, but should normally only do this after using the Council's own complaints scheme;
- (c) the Monitoring Officer about a breach of the Members' Code of Conduct.

### 3.6 **The Responsibilities of the Public**

A healthy democracy depends upon active citizenship. The public are encouraged to make conscientious use of their roles as both voters and members of a wider community.

Members of the public must not be violent, abusive or threatening to Councillors or officers and must not harm property owned by the Council, Councillors or officers.

## **Article 4**

### **The Council**

#### **Explanatory Note**

**The Local Government Act 2000 gives the Council responsibility for approving the policy framework and budget. A list of the statutory and non-statutory plans which fall within the policy framework appear below. The Council as a whole is responsible for delegating functions and has a role in holding committees to account.**

#### **4.1 Council Meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings,

and they will be conducted in accordance with the Council Procedure Rules in Part V of this Constitution. These meetings may also be webcast.

#### **4.2 Membership**

All 36 members of the Council.

#### **4.3 Role of the Full Council**

To act as a forum where all Members can meet regularly, act as a focus for the Authority, discuss and debate issues of importance to the district and decide the Authority's budgetary and policy framework.

#### **4.4 Functions of the Council**

- (a) To approve and adopt the following plans and strategies which together make up the Council's budgetary and policy framework:
  - Budget<sup>1</sup> and Council Tax including Council tax base
  - Corporate Plan
  - Local Plan
  - Local Council Tax Support Scheme
  - Housing Strategy Statement
  - Statements of Licensing Policy and Gambling Policy
  - Pay Policy Statement

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<sup>1</sup> The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the Council Tax, controlling the Council's borrowing requirement and capital expenditure in line with CIPFA's "Prudential Code for Capital Finance in Local Authorities", and the setting of virement limits.

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In addition, the Full Council will consider at its annual meeting whether any additional plans or strategies, both statutory and non-statutory, should be adopted or approved.

- (b) To adopt and change the Constitution when necessary after consideration by the Governance and Audit Committee, subject to Article 14.
- (c) At the annual meeting to appoint the Leader and Deputy Leader of the Council;
- (d) To consider a resolution to remove the Leader from office and appoint a replacement Leader;
- (e) To appoint annually the Chairman and Vice-Chairman of the Council;
- (f) To agree and/or amend the terms of reference for committees, deciding on their composition and making appointments to them;
- (g) To appoint representatives to outside bodies;
- (h) To adopt a Members' allowances scheme under Part VI of the Constitution;
- (i) To determine any changes to the name of the district;
- (j) To confirm the appointment and the dismissal of the Head of the Paid Service;
- (k) To consider advice, views and recommendations from the Independent Panel (Section 27a of the Localism Act) and agree action to be taken in relation to the Chief Executive/statutory officer disciplinary matters;
- (l) To designate the Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) and Electoral Registration Officer/Returning Officer;
- (m) To make, amend, revoke, re-enact or adopt bye laws and to promote or oppose the making of local legislation or personal bills;
- (n) To consider those matters referred to it from time to time by the policy committees, Overview and Scrutiny committee and by other council committees;
- (o) To confer the title of Honorary Alderman or Freeman;
- (p) To adopt the Council's Codes of Conduct;
- (q) To exercise all local choice functions which the Council decides should be undertaken by itself rather than the policy committees;

- (r) To receive and consider reports from the Council's three statutory officers;
- (s) To permit members of the public to ask questions of the Leader and other office holders or make statements;
- (t) To consider and debate motions raised by Councillors, the process of which is set out in the Council Procedure Rules;
- (u) To consider questions raised by Councillors, the process of which is set out in the Council Procedure Rules;
- (v) To debate issues that are the subject of petitions signed by a specified number of people (as set out in the Petitions Scheme in the appendix to the Constitution);
- (w) To approve the appointment of external auditors for five financial years commencing 1 April 2018 and the approval of the Terms of Reference;
- (x) To consider all other matters which, by law, must be reserved to Council;
- (y) To adopt neighbourhood plans following a successful referendum.

## **Article 5**

### **Chairing the Council**

#### **5.1 Role and function of the Chairman**

The Chairman of the Council and in his/her absence, the Vice-Chairman, have the following roles and functions:

- (a) Ceremonial and civic role
- (b) Chairing the full Council meeting.

#### **5.2 Ceremonial and civic role**

The Chairman of the Council shall be regarded as the 'First Citizen' of the district of West Lindsey. The Chairman is a symbol of the local authority, of an open society, and a focus for civic pride. The Chairman and his/her consort will promote the Council as a whole. The Chairman wears the Chain of Office as a symbol of his/her status.

The Chairman presides at West Lindsey Council functions and at meetings of the full Council, if present. It is customary for the entrance of the Chairman to be announced on each occasion at the Council meeting and for all members of the Council to stand when he/she enters as a mark of respect for the Office of Chairman.

#### **5.3 Chairing the Council Meeting**

The Chairman is a member of the Council elected by majority vote of the Council annually and presides at Council meetings. He/she will have the following responsibilities:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary, having regard to appropriate advice (see Article 15.2);
- (b) to preside over meetings of the Council in a manner which is even handed between the political parties represented on the Council and independent members so that its business can be carried out efficiently and with regard to the rights of all Councillors and the interests of the community;
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who do not sit on the policy committees or hold office as chairman of a committee are able to hold the members and chairmen of the policy committees to account;



- (d) to promote public involvement in the Council's activities; and
- (e) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

#### **5.4 Appointment of Chairman and Vice-Chairman**

The Chairman and Vice-Chairman will be appointed each year at the annual meeting of the Council in accordance with the Council Procedure Rules in Part V of the Constitution.

#### **5.5 Role of Chairman and Vice-Chairman**

The roles of Chairman and Vice-Chairman will be carried out having due regard to the role descriptions in the appendix to this Constitution.

## **Article 6**

### **Leader of the Council**

#### **6.1 The Leader of the Council**

The Leader is a Councillor elected by the Council to the position of Leader. The term of office for the elected Leader is one year. The Leader is elected at the annual meeting of the Council and holds office until the next following annual meeting or:

- (a) s/he resigns from the office; or
- (b) s/he is no longer a Councillor; or
- (c) s/he is removed from office by resolution of the Council in which case a new Leader shall be elected at the next appropriate meeting.

#### **6.2 Election of the Leader**

Nominations for the position of Leader will be made in writing to the Head of Paid Service of the Council no later than seven working days before the day of the annual meeting (or next appropriate meeting in respect of (a) to (d) in paragraph 6.1). The proposer must first obtain the consent of the nominee. Nominations must be proposed and seconded. In the event that more than one eligible nomination is received a ballot of the members will be held at the annual meeting. The Chairman of the Council will preside and, in the event of an equality of votes will exercise a casting vote in accordance with Council Procedure Rule 14.2.

#### **6.3 Role of the elected Leader**

The Leader of the Council will have the following roles, rights and responsibilities, in addition to those set out in Article 2.3

- (a) to be the local authority's principal public spokesman;
- (b) to give clear leadership to the Council and the community;
- (c) to be the lead member for matters regarding the priorities and aims of the administration and its political manifesto;
- (d) to report as necessary to the Council;
- (e) to be the Councillor of first choice to represent the Council at member level meetings with other local authorities and with other organisations;
- (f) to act as the principal contact for the Chief Executive and Assistant Directors in seeking views and taking soundings at the political level across all groups;
- (g) to be Chairman of the Corporate Policy and Resources Committee unless s/he signifies that s/he does not wish to serve.
- (h) To be Chairman of the Chief Officer Employment Committee.

The Leader of the Council may not be the Chairman of the Council, a member of the Overview and Scrutiny Committee, the Governance and Audit Committee or any sub-committee, working party, or panel set up by these committees. The Leader may be a member of but may not hold office on the Licensing, Regulatory and Planning Committees.

**6.4 Deputy Leader of the Council**

The Council will, at the Annual Meeting, elect a Deputy Leader to act in the notified absence of the Leader, such notice to be given in writing by the Leader to the Head of Paid Service.

**6.5 Role and Function of the Leader of the Opposition**

To be the key political contact for matters relating to the priorities and aims of the opposition.

**6.6 Leadership roles**

The roles of Leader of the Council, Deputy Leader of the Council and Leader of the Opposition will be carried out having due regard to the role descriptions in the appendix to this Constitution.

## **Article 7**

### **Overview and Scrutiny**

#### **Explanatory Note**

**The overview and scrutiny function is a central element to this Constitution. The Overview and Scrutiny Committee, which carries out the scrutiny function will meet in public to discuss and make recommendations on the development of policies and hold the policy committees to account for their actions. It will also have a key role in considering other matters of local concern and ensuring that reviews are conducted robustly.**

**The guiding principle for the work of scrutiny is that it should be consensual and positive. The emphasis of the work should be on making an active and positive contribution to the development of policy and the discharge of the Council’s functions and roles. This is best achieved by an inclusive process covering members, partners, service users and employees.**

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

The Council will appoint an Overview and Scrutiny Committee, the purpose of which is to manage and co-ordinate the overview and scrutiny process in accordance with the Overview and Scrutiny Procedure Rules set out in Part V of the Constitution. The Overview and Scrutiny Committee has the power to appoint time limited working parties, panels and one-day commissions as necessary.

#### **7.2 General role**

Within its terms of reference the Overview and Scrutiny Committee will:

- (a) conduct reviews of policy, services or aspects of service that have either been referred by a policy committee or the Council, relate to the Forward Plan or have been chosen by the committee according to the agreed criteria for selecting such reviews;
- (b) approve and keep under review an annual overview and scrutiny work programme, including the work programme of any scrutiny panels established in accordance with the Overview and Scrutiny Committee work programme;
- (c) approve the scope, timetable and method for each review by a scrutiny panel, working party or one-day commission put in place and ensure that such reviews are monitored and managed efficiently and in accordance with the Overview and Scrutiny Procedure Rules.

- (d) make reports and recommendations to the Council, the Leader, a policy committee or any other Council committee arising from the exercise of these terms of reference;
- (e) consider the Forward Plan and comment as appropriate to the decision maker on proposed decisions which relate to services within their remit (before they are taken by the appropriate policy committee);
- (f) exercise the powers of call in and scrutiny in relation to policy committee decisions made but not implemented, as set out in section 21(3) of the Local Government Act 2000 and challenge such decisions in accordance with the procedure set out in the Overview and Scrutiny Procedure Rules in Part V of this Constitution;
- (g) take an overview of the policies, forward plans and related authorities of all public bodies and agencies as they affect the Council's area or its inhabitants;
- (h) maintain under review the arrangements for the performance monitoring of council services; and
- (i) discharge the statutory functions arising under section 19 of the Police and Justice Act 2006 relating to issues of crime and disorder and to develop and implement such procedures, protocols and criteria as deemed by the Committee to be appropriate.

### **7.3 Policy development and review**

The Overview and Scrutiny Committee may:

- (a) assist the Council in the development of its 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 committees and officers about their advice on issues and proposals affecting the area; and

- (e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

#### **7.4 Scrutiny**

The Overview and Scrutiny Committee may:

- (a) review and scrutinise the decisions made by, and performance of, committees and council officers both in relation to individual decisions and the pattern of decisions;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) question members of committees and officers about their decisions, whether generally in comparison with service delivery plans and performance indicators over a period of time or in relation to particular decisions, initiatives or projects;
- (d) make recommendations to the appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (e) review and scrutinise the performance of other public bodies in the district and invite reports from them by requesting them to address the committee and local people about their activities and performance; and
- (f) question and gather evidence from any person (with his/her consent).

#### **7.5 Finance**

The Overview and Scrutiny Committee may exercise overall responsibility for any finances made available to it.

#### **7.6 Annual Report**

The Overview and Scrutiny Committee must report annually to the Council on both its proposed work plan and its work in the preceding year, and to include an update of any operating methodology put in place.

#### **7.7 Officers**

The Overview and Scrutiny Committee may require officers to attend and answer questions provided that the request is made through the Head of Paid Service or in accordance with any agreed protocol.

The Overview and Scrutiny Committee will be politically balanced, unless a decision is passed by Council to suspend proportionality; this decision could be taken on an annual basis.

## **Article 8 Committees**

### **Explanatory Note**

**The Council will appoint committees and sub-committees to carry out the various functions for which it is responsible. The detailed terms of reference of these committees are set out in Part IV of this Constitution, Responsibility for Functions.**

#### **8.1 Policy committees**

The implementation of the Council's budget and policy framework is undertaken by the following policy committees:

- Corporate Policy and Resources
- Prosperous Communities

These committees will be responsible for all the Council's functions except those which by law must be dealt with by the Full Council, by a regulatory committee or by an overview and scrutiny committee. They will consist of no more than 15 members and be politically balanced.

These committees can meet concurrently when prudent to do so.

#### **8.2 Regulatory committees**

Those functions specified by law as being regulatory functions will be undertaken by the Governance and Audit Committee, Licensing Committee, Regulatory Committee and the Planning Committee. Hearings about licensing matters will be considered by the Licensing Sub-Committee for liquor licensing or gambling (Licensing Act 2003 and Gambling Act 2005) and by the Regulatory Sub-Committee for all other matters.

#### **8.3 Overview and scrutiny committees**

The overview and scrutiny function will be carried out by the Overview and Scrutiny Committee in accordance with the arrangements in Article 7 of this Constitution.

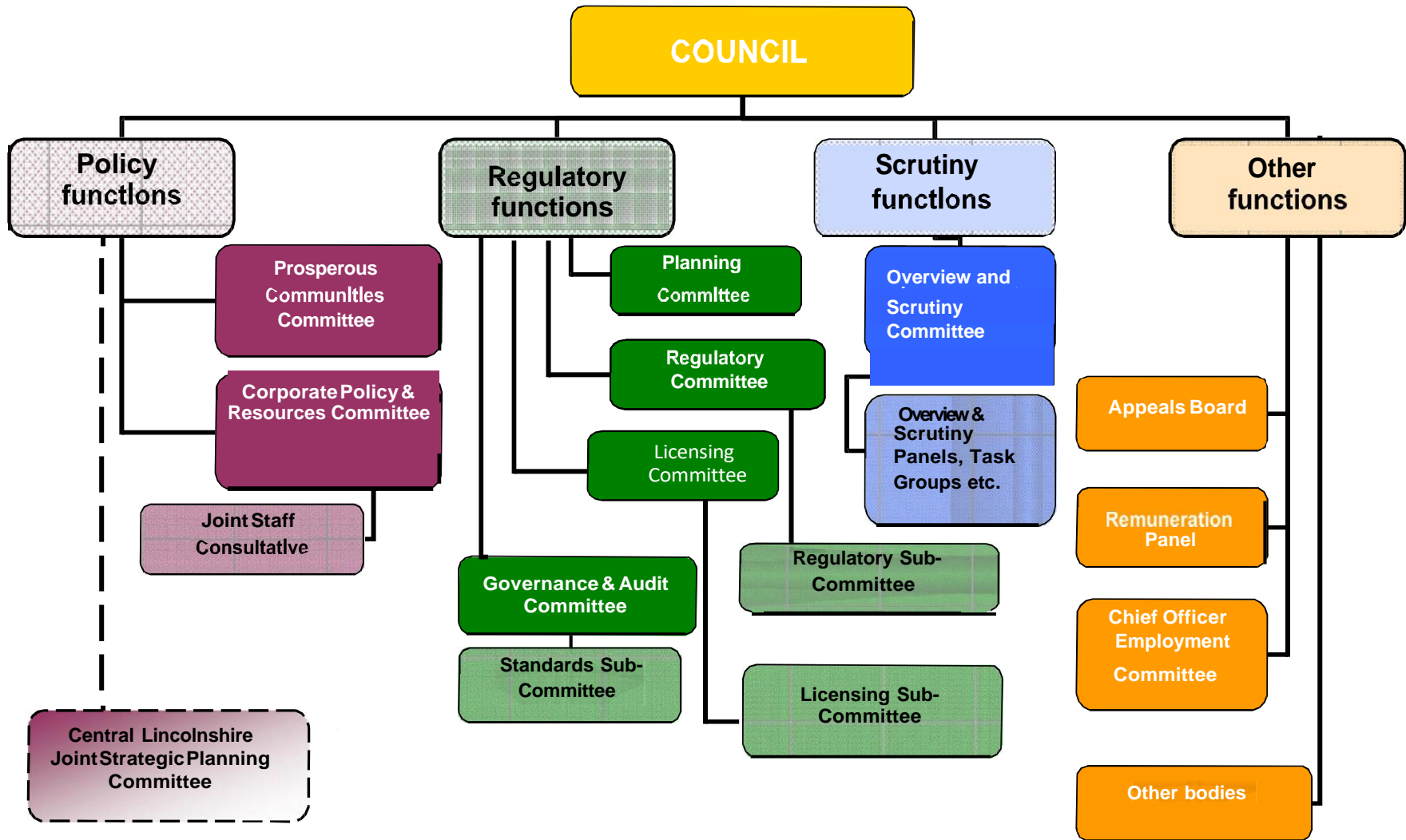
#### **8.4 Other committees**

The Council will appoint other Committees and the other bodies set out on the chart below.

**8.5 Proceedings of the committees**

Proceedings of all committees shall take place in accordance with the Council Procedure Rules set out in Part V of this Constitution insofar as they apply to committees and any specific statutory requirements.





## **Article 9**

### **The Standards Sub-Committee**

#### **Explanatory Note**

The Localism Act 2011 made fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors and no longer requires a Standards Committee, however the full Council meeting on 2 July 2012 resolved to establish a sub-committee of the Governance and Audit Committee to deal with matters of standards in public life and to hear complaints regarding breaches of the Code of Conduct.

#### **9.1 Standards Sub-Committee**

The Council has established a Standards Sub-Committee.

#### **9.2 Composition**

##### **(a) Membership**

The Standards Sub-Committee will comprise:-

- six Councillors where the membership involves cross-party working
- three members of parish councils in the Council's area (parish members)

##### **(b) Parish members**

Parish members are not entitled to vote at meetings.

At least one parish member must be present when matters relating to town/parish councils/meetings or their members are being considered.

#### **9.3 Role and Function**

The Standards Sub-Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted members;
- (b) assisting the Councillors and co-opted members to observe the Members' Code of Conduct;

- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) to hear complaints locally regarding alleged breaches of the Code;
- (h) exercising such other functions as the Council considers appropriate; and
- (i) the exercise of (a) to (g) above in relation to the town/parish councils/ meetings and their members in the Council's area.

#### 9.4 Quorum

A meeting of the Standards sub-committee shall not be quorate unless at least three members of that sub-committee are present for its duration.

**Note:** At least one parish member must be present when matters relating to town/parish councils/meetings or their members are being considered.

## **Article 10**

### **Joint Arrangements**

#### **Explanatory Note**

**The Local Government Act 2000 and Regulations enable authorities to make use of joint arrangements with other authorities and delegate to other local authorities.**

#### **10.1 Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions of any of the participating authorities or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities or local strategic partnership(s).
- (b) Details of any joint arrangements, including any delegations to joint committees, will be found in the Council's Responsibility for Functions in Part IV of this Constitution.

#### **10.2 Access to Information**

The Access to Information Procedure Rules in Part V of this Constitution and the Local Government Act 1972 apply.

#### **10.3 Delegation to and from other Local Authorities**

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

#### **10.4 Contracting Out**

The Council may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an Order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

### 10.5 Arrangements to Promote Wellbeing

The Council, in order to promote the economic, social or environmental wellbeing of its area, may:

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

## **Article 11 Officers**

This Article should be read in conjunction with the Appendices entitled Functions of the Monitoring Officer, Head of Paid Service Protocol and Chief Finance Officer Protocol.

### **Explanatory Note**

**This Article describes the structure of the senior management of the Authority and the roles of the Head of Paid Service, Monitoring Officer and Chief Finance Officer. The use of the word “officers” means all employees and staff engaged by the Council to carry out its functions. This word has also been used instead of “employees” to cover those engaged under short term, agency or other non employed situation.**

#### **11.1 Management Structure**

(a) **General**

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

(b) **Chief Officers**

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

Chief Executive

Director of Planning, Regeneration and Communities

Director of Resources

Director of Commercial and Operational Services

Director, Change Management, ICT and Regulatory Services

(c) **Statutory Officers - Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section 151 officer)**

The Council will designate the following posts as shown –

Head of Paid Service

Chief Finance Officer (S151)

Monitoring Officer

Such posts will have the functions described in Articles 11.2 – 11.4 below.

(d) **Structure**

The Head of Paid Service will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers. This is set out at Part VII of this Constitution.

## 11.2 Functions of the Head of Paid Service

### (a) Discharge of Functions by the Council

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

### (b) Restrictions on Functions

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

## 11.3 Functions of the Monitoring Officer

### (a) Maintaining the Constitution

The Monitoring Officer will make arrangements to maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by members, officers and the public.

### (b) Ensuring Lawfulness and Fairness of Decision Making

After consulting the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given, or would give, rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

### (c) Supporting the Standards Sub-Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Sub-Committee.

### (d) Conducting Investigations

The Monitoring Officer will conduct investigations into matters referred by the Standards Sub-Committee and make reports or recommendations on these referrals.

**(e) Proper Officer for Access to Information**

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

A full list of the Monitoring Officer's statutory responsibilities is in the appendix to this Constitution.

**11.4 Functions of the Chief Finance Officer**

**(a) Ensuring Lawfulness and Financial Prudence of Decision Making**

After consulting the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

**(b) Administration of Financial Affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

**(c) Contributing to Corporate Management**

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional advice.

**(d) Providing Advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors, and will support and advise Councillors and officers in their respective roles.

**(e) Giving Financial Information**

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

**(f) Money Laundering Reporting Officer (MLRO)**

The Chief Finance Officer as the Money Laundering Reporting Officer will:

- ensure compliance with the appropriate money laundering regulations;
- take an overview of the system in place for detecting money laundering and be responsible for reporting suspicious transactions to



the relevant authorities;

- ensure officers are trained to recognise transactions that may indicate money laundering and ensure officers are aware of the Proceeds of Crime Act 2002, Money Laundering Regulations 2007 and the Terrorism Act 2002;
- the Deputy Money Laundering Reporting Officer, in the absence of the MLRO is authorised to undertake the above role and responsibilities.

#### **11.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer**

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

#### **11.6 Conduct**

Officers will comply with the Member/Officer Protocol set out in Part III of this Constitution.

#### **11.7 Employment**

The recruitment, selection and dismissal of chief officers will comply with the Officer Employment Procedure Rules set out in Part V of this Constitution.

## **Article 12 Decision Making**

### **Explanatory Note**

**Some decisions are for the Council to make or to delegate to committees, sub-committees and/or officers, or to joint committees, joint arrangements or other authorities. Those delegations must be recorded in the Council's Constitution, which must be kept up to date.**

#### **12.1 Responsibility for decision making**

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

#### **12.2 Principles of decision making**

All decisions of the Council, its committees and those with delegated powers will be made in accordance with the following principles:

- (a) proportionality - the action proposed must be proportionate to the desired outcome;
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for Human Rights;
- (d) in accordance with the law;
- (e) a presumption in favour of openness;
- (f) contribute to the well-being of the area; and
- (g) clarity of aims and desired outcomes.

#### **12.3 Decision making by Council**

Subject to Article 12.6, the Council meeting will follow the Council Procedure Rules set out in Part V of this Constitution when considering any matter.

#### **12.4 Decision making by the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedure Rules set out in Part V of this Constitution when considering any matter.

**12.5 Decision making by other committees and sub-committees established by the Council**

Subject to Article 12.6, other council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part V of this Constitution as apply to them.

**12.6 Decision making by council bodies acting as tribunals**

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

## **Article 13**

### **Finance, Contracts and Legal Matters**

#### **Explanatory Note**

**This Article refers to the Authority's Financial and Contract Procedure Rules, which are contained in Part V of this Constitution.**

#### **13.1 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part V of this Constitution.

#### **13.2 Contracts**

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

#### **13.3 Legal Proceedings**

The Head of Paid Service 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 Authority or in any case where he/she considers that such action is necessary to protect the Council's interests.

#### **13.4 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Paid Service or other person authorised by him/her unless any enactment otherwise authorises or requires, or the Council has given requisite authority to, some other person.

#### **13.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Chief Executive. 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 Chief Executive or an Assistant Director, should be sealed. The affixing of the Common Seal will be attested by the Head of Paid Service, or an Assistant Director following consultation with the Monitoring Officer and Chief Finance Officer, or in their absence their appointed deputies.

## **Article 14**

### **Review and Revision of the Constitution**

#### **Explanatory Note**

**It will be important for the Council to monitor and review its Constitution and to base revisions on the available evidence. Constitutional review is a local choice activity.**

#### **14.1 Duty to monitor, review and if necessary implement changes to the Constitution**

The Council will monitor and review the operation of the Constitution annually and if necessary implement any changes to ensure that the aims and principles of the Constitution are given full effect.

#### **14.2 Change from alternative arrangements to executive arrangements**

The Council must take reasonable steps to consult local electors and other interested persons in the area when drawing up proposals.

#### **14.3 Protocol for monitoring and review of Constitution by Monitoring Officer**

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations annually for ways in which it could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

- observe meetings of different parts of the member and officer structure;
- undertake an audit trail of a sample of decisions;
- record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders;
- compare practices in this authority with those in other comparable authorities, or national examples of best practice: and
- undertake a review of each committee's effectiveness annually, the findings of which will be fed into and used to inform the annual review of the Constitution

#### **14.4 Changes to the Constitution**

Changes to the Constitution may only be made by the Full Council after prior consideration by the Governance and Audit Committee of a report by the Monitoring Officer on any proposal, with the exception of changes to the Financial and Contract Procedure Rules which are delegated to the Governance and Audit Committee between Annual Councils.

## **Article 15**

# **Suspension, Interpretation and Publication of the Constitution**

### **Explanatory Note**

**This Article ensures that the Articles of the Constitution may not be suspended. This provides certainty and stability to the fundamental aspects of the Council's governance. However, it does provide for Rules of Procedure to be suspended in certain circumstances.**

#### **15.1 Suspension of the Constitution**

##### **(a) Limit to Suspension**

The Articles of this Constitution may not be suspended. The Procedure Rules may be suspended by the Council to the extent permitted within those Rules and the law.

##### **(b) Procedure to Suspend**

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

#### **15.2 Interpretation**

The ruling of the Chairman of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article I.

#### **15.3 Publication**

- (a)** The Monitoring Officer will provide a copy of this Constitution to each member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b)** The Monitoring Officer will ensure that copies are available, and can be purchased by members of the local press and public on payment of a reasonable fee.
- (c)** The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

## **Schedule 1**

### **Description of Alternative Arrangements**

The following parts of this Constitution constitute the alternative arrangements:

- (a) Article 7 (Overview and Scrutiny) and the Overview and Scrutiny Procedure Rules; and
- (b) Article 8 (Committees).

# Constitution of West Lindsey District Council

## Part III

# Codes and Protocols





# Codes and Protocols

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The Council has also adopted the International Holocaust Remembrance Alliance (IHRA) definition of Anti-Semitism, as a clear message that Anti-Semitic behavior will not be tolerated.

# Members' and Co-opted Members Code of Conduct

Adopted by Council – 1 November 2021

## **West Lindsey District Council Members' Code of Conduct**

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### **Joint statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to

represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations. Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance.

West Lindsey District Council resolved on 1 November 2021 to adopt the LGAs model Code in its entirety.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of their Model Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation.

West Lindsey District Council will consider any the recommendations from any such reviews and adopt any changes it considers appropriate through its governance processes.

## Definitions

For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "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".

For the purposes of this Code of Conduct, "local authority" includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set

out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with

knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## General Conduct

### 1. Respect

**As a councillor:**

- **I treat other councillors and members of the public with respect**
- **I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word.

Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor- officer protocol.

## **2. Bullying, harassment and discrimination**

**As a councillor:**

- **I do not bully any person**
- **I do not harass any person**
- **I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

## **3. Impartiality of officers of the council**

**As a councillor:**

- **I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **4. Confidentiality and access to information**

**As a councillor:**

- **I do not disclose information:**
  - a. **given to me in confidence by anyone**
  - b. **acquired by me which I believe, or ought reasonably to be aware, is of confidential nature, unless**
    - i. **I have received the consent of a person authorised to give it;**
    - ii. **I am required by law to do so;**
    - iii. **the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
    - iv. **the disclosure is:**
      1. **reasonable and in the public interest; and**
      2. **made in good faith and in compliance with the reasonable requirements of the local authority; and**
      3. **I have consulted the Monitoring Officer prior to its release.**
- **I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**
- **I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

#### **5. Disrepute**

**As a councillor:**

- **I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary



members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## 6. Use of position

**As a councillor:**

- **I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## 7. Use of local authority resources and facilities

**As a councillor:**

- **I do not misuse council resources**
- **I will, when using the resources of the local authority or authorising their use by others:**
  - a. act in accordance with the local authority's requirements; and**
  - b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in

accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## 8. Complying with the Code of Conduct

**As a Councillor:**

- **I undertake Code of Conduct training provided by my local authority.**
- **I cooperate with any Code of Conduct investigation and/or determination.**
- **I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- **I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

**Protecting your reputation and the reputation of the local authority**

## 9. Interests

**As a councillor:**

- **I register and disclose my interests**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B sets** out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

### **As a councillor:**

- **I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- **I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- **I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## Appendices

### Appendix A – The Seven Principles of Public Life

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in Table 1, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]
6. A Member who has left the meeting should not be visible to the remaining committee members, or attempt to contact those taking part in the meeting via electronic means, in order as to not influence the decision in any way.

### Disclosure of Other Registerable Interests

7. Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### Disclosure of Non-Registerable Interests

8. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

9. Where a matter arises at a meeting which affects -

- 9.1. your own financial interest or well-being;
- 9.2. a financial interest or well-being of a relative or close associate; or a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

10. Where a matter (referred to in paragraph 8 above) affects the financial interest or well-being

- 10.1. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- 10.2. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

11. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council - (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge) - (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where - (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either - (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registrable Interests**

You must register as an Other Registerable Interest

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - a. exercising functions of a public nature
  - b. directed to charitable purposes or
  - c. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which you are a member or in a position of general control or management



## Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as

soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

# Guidance on Members' and Co-opted Members Code of Conduct

Adopted by Council – 1 November 2021

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## Guidance on Local Government Association Model Councillor Code of Conduct

We are pleased to publish this supporting guidance which is aimed to help understanding and consistency of approach towards the code. The code, together with the guidance, has been designed to protect our democratic role, encourage good conduct, and safeguard the public's trust and confidence in the role of councillor in local government.

08 Jul 2021

### Part 1 - Introduction

In December 2020, the Local Government Association (LGA) developed and published a **Model Councillor Code of Conduct** in association with key partners and following extensive consultation with the sector. This was in response to the recommendation of the Committee of Standards in Public life Local Government Ethical Standards 2019. The code was part of the LGAs work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance, and our civility in public life programme.

West Lindsey District Council resolved on 1 November 2021 to adopt the LGAs model Code in its entirety.

The code together with the guidance have been designed to protect our democratic role, encourage good conduct, and safeguard the public's trust and confidence in the role of councillor in local government. While it sets out the minimum standards of behaviour expected, together with the guidance, it is designed to encourage councillors to model the high standards expected of councillors, to be mutually respectful even if they have personal or political differences, to provide a personal check and balance, and to set out the type of conduct that could lead to complaints being made of behaviour falling below the standards expected of councillors and in breach of the code. It is also to protect councillors, the public, local authority officers and the reputation of local government.

This guidance embeds the provisions of the code.

The LGA will undertake an annual review of this guidance and the code to ensure it continues to be fit for purpose, incorporating advances in technology, social media, case law and changes in legislation.

West Lindsey District Council will consider any the recommendations from any such reviews and adopt any changes it considers appropriate through its governance processes.

For the purposes of this guidance, we have adopted the definitions used in the Code of Conduct, for "councillor" and "local authority".

Any comments on the use of the guidance or suggestions for improvement would be welcomed and should be sent to [ModelCode@local.gov.uk](mailto:ModelCode@local.gov.uk)

## **General principles of Councillor conduct**

The Seven Principles of Public Life (also known as the Nolan Principles) outline the ethical standards those working in the public sector are expected to adhere to. The principles apply to all public office holders at all levels including ministers, civil servants, councillors, and local authority officers, as well as private and voluntary organisations delivering services paid for by public funds. The principles are set out in [Appendix 2](#) below.

These principles underpin the standards that councillors should uphold and form the basis for the Code of Conduct, where the principles have been translated into a series of clear rules. While fundamental to the Code of Conduct, the principles are not part of the rules of the code and should be used for guidance and interpretation only.

## Application of the Model Councillors' Code of Conduct

### When does the Code apply?

S27(2) of the Localism Act 2011 says that a local authority must adopt 'a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.'

The term 'capacity' is not further defined in the Act. However, the Model Code states that:

The Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.

This means it applies when you are carrying out your official duties, for example when you are considering or discussing local authority business, either as a councillor or representing the local authority on an outside body.

There is no formal description of what the role of a councillor is, but aside from formal local authority business it would include promoting and representing the local authority in the local community and acting as a bridge between the community and the local authority. The LGA's Guidance for new councillors is a helpful reference point.

The code does not, therefore, apply solely when you are in local authority meetings or on local authority premises.

The code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communications
- in electronic and social media communication, posts, statements, and comments.

This includes interactions with the public as well as with fellow councillors and local authority officers.

### Acting as a private individual

For something to fall within the code there must be a clear link to a local authority function or your role as a councillor. For example, an argument with a neighbour which does not relate to local authority business would not engage the code, even if your neighbour happens to know you are a councillor and therefore complains to the local authority about being treated disrespectfully.

### Example

A councillor and an officer had a personal relationship. The councillor sent and encouraged the officer to send inappropriate social media messages, including messages of a sexual nature, during office hours. The panel rejected arguments that the councillor had been acting in an entirely personal capacity. It found that the councillor could not divorce himself from his role as the officer's quasi-employer and that, when sending or encouraging the officer to send the messages during working hours, he was acting in his official capacity.

It is not always immediately apparent in which capacity you are acting, therefore in situations where there may be ambiguity it may be helpful if you can make clear to people in which capacity you are engaging with them.

While the Code does not apply to your non-councillor roles, what you do as a councillor could impact on your position in those other roles.

Political party or group rules may also require you as a councillor to demonstrate certain behaviours as a private individual and failure to do so can result in sanctions from political groups.

Under the Local Government Act 1972 councillors can be disqualified from being a councillor due to matters in their private life, such as being subject to a bankruptcy order or receiving a custodial sentence of three months or longer (whether or not suspended).

### **In what circumstances might I give the impression to a reasonable member of the public that I was engaged on local authority business?**

When you use or attempt to use your position as a councillor to seek to gain an advantage for yourself or someone close to you or to disadvantage someone this is an attempt to misuse your position and therefore falls within the scope of the Code of Conduct.

A number of factors will need to be taken into account to determine whether or not you had used or attempted to use your position as a councillor.

For example:

- writing to someone on local authority headed paper or using a local authority email address may lead someone to assume you were writing in your capacity as a councillor
- handing out a business card where you describe yourself as a councillor may also lead to that assumption
- wearing official local authority regalia

## Examples

Attempting to misuse your position as a councillor would include if you threaten to use your position improperly to block someone's planning, licence or grant application. In effect you would be doing something that only a councillor could do even if as a matter of fact, you did not have the power to do so. That may include an assumption, for example, that you would put inappropriate pressure on officers or fellow councillors or lobby behind the scenes for a particular outcome. It should not be up to a member of the public to have to work out whether you are in fact on a planning committee.

Another example would be disclosing confidential information improperly you had received because of your role as a councillor.

A councillor returning from a party got into an argument with a taxi driver. When he arrived home, he refused to pay the fare and when he spoke to the manager of the taxi company, he said that he was a councillor and would make sure that the taxi driver's licence was withdrawn by the council. While he was entitled to dispute the payment if he was dissatisfied with the service he had received he was found to have breached the code by invoking his office and seeking to misuse his position to intimidate the manager and driver

## Social media postings

Simply describing yourself as a councillor in a social media posting or at the top of your page or in your username or profile, for example, does not of itself mean that every posting you make is covered by the Code. There must be a link within the individual posting or thread to your role as a councillor or to local authority business. However, even if you do not describe yourself as a councillor you may fall within the scope of the code if you are discussing local authority business.

For example, a posting which is simply discussing a recent football match is not covered by the code even if you have described yourself as a councillor. However, if you make a posting threatening a fellow councillor or officer that would fall within the code even if you have not described yourself as a councillor as it relates to local authority business or your role as a councillor.

Each matter would need to be looked at on a case-by-case basis (see Part 2 below)

You should be very careful when describing yourself as a councillor as seeing the word "councillor" may lead to assumptions amongst the community that you are acting as a councillor.

To help avoid some of these issues, some councillors have found it helpful to have separate social media profiles for personal and local authority use, though even the strictest privacy



settings are no guarantee that posts or actions will remain private. As a rule of thumb, never post anything online you would not be comfortable saying or sharing in a public meeting. If your local authority has guidance on the effective use of social media this can help.

The LGA has published [guidance on councillors \[https://local.gov.uk/councillors-and-social-media\]](https://local.gov.uk/councillors-and-social-media) and social media.

## Examples

Following a heavy snowstorm which meant a local street market could not go ahead a councillor posted on the local community Facebook page that a certain local authority officer should be sacked for failing to put adequate arrangements in place to clear the snow. Even though it was not posted on a local authority page and he did not explicitly describe himself as a councillor in the post he was found to have breached the code by treating an officer with disrespect and seeking to put undue pressure on officers.

A councillor who described himself as such in his Twitter profile made insulting and offensive comments about the Prime Minister which led to complaints being made to his local authority. He was found not to have breached the code as the comments did not directly relate to his role as a

## What does acting as a representative of my local authority mean?

You are acting as a representative of the local authority when you are sitting on an outside body to which you have been appointed by the local authority, for example.

You would also be considered a representative of the local authority where you were attending an external function or conference on behalf of the local authority or as the local authority's nominated delegate.

You would not be considered as a representative of the local authority where you were attending an event in a party-political role, for example at a political party's annual conference. In that situation you would be subject to any relevant party rules.

Matters in party group meetings would also normally not be covered by the code as they are more matters for a party to regulate. However, if you are clearly trying to improperly influence fellow councillors or put undue pressure on them in relation to local authority business for example then relevant provisions of the code would apply. The same would apply to social media groups you may be a member of, such as a WhatsApp group set up for your local authority group.

## What if I sit on more than one local authority?

If you sit on more than one local authority, you are subject to the code and associated procedures of the local authority you are representing at any one time. As such, if you are on a district council and a parish council, you would be bound by the district code when attending district council meetings or speaking to district council officers; and bound by the parish council code when attending parish council meetings or speaking to parish council officers.

Where your local authorities have the same code, the same rules would apply and, for example, your completed register of interests should be the same on both tiers.

### What is a co-opted member?

The code also applies to co-opted members under the Localism Act. A co-opted member under the Act is someone who is entitled to vote on any matter to be decided at a local authority committee or sub-committee.

A parish councillor who has been co-opted to fill a casual vacancy where an election has not been held is also covered by the Code of Conduct in the same way as if they had been elected.

It does not, therefore include co-opted members who do not have voting rights, nor does it cover, for example, an Independent Person appointed under s28 of the Localism Act to support the local authority on standards matters.

However, it would be good practice to ask such councillors to agree to abide by the code of conduct and to inform the monitoring officer of any interests they might have. While they would not formally fall within the statutory framework for complaint handling, they can be removed from their role by the local authority should they be found to have committed a serious breach of the code so it is important that they are also aware of the expected standards of behaviour.

## Part 2 – General obligations under the Code of Conduct

### Respect

As a councillor:

- **I treat other councillors and members of the public with respect.**
- **I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Showing respect to others is fundamental to a civil society. As an elected or appointed representative of the public it is important to treat others with respect and to act in a respectful way. Respect means politeness, courtesy and civility in behaviour, speech, and in the written word. It also relates to all forms of communications councillors undertake, not just in meetings. Rude, offensive, and disrespectful behaviour lowers the public's expectations and confidence in its elected representatives.

### Respect

The key roles and responsibilities of councillors; representing and serving your communities and taking decisions on their behalf, require councillors to interact and communicate effectively with others. Examples of councillor interaction and communication include talking to constituents, attending local authority meetings, representing the local authority on outside bodies, and participating in community meetings and events. In turn this means that as a councillor you are required to interact with many different people, often from diverse backgrounds and with different or conflicting needs and points of view.

You will engage in robust debate at times and are expected to express, challenge, criticise and disagree with views, ideas, opinions, and policies. Doing these things in a respectful way will help you to build and maintain healthy working relationships with fellow councillors, officers, and members of the public, it encourages others to treat you with respect and helps to avoid conflict and stress. Respectful and healthy working relationships and a culture of mutual respect can encourage positive debate and meaningful communication which in turn can increase the exchange of ideas, understanding and knowledge.

Examples of ways in which you can show respect are by being polite and courteous, listening and paying attention to others, having consideration for other people's feelings, following protocols and rules, showing appreciation and thanks and being kind. In a local government context this can mean using appropriate language in meetings and written communications, allowing others time to speak without interruption during debates, focusing any criticism or challenge on ideas and policies rather than personalities or personal attributes and recognising the contribution of others to projects.

### **Disrespectful behaviour**

Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another. The circumstances in which the behaviour occurs are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurs, who observes the behaviour, the character and relationship of the people involved and the behaviour of anyone who prompts the alleged disrespect.

Disrespectful behaviour can take many different forms ranging from overt acts of abuse and disruptive or bad behaviour to insidious actions such as bullying and the demeaning treatment of others. It is subjective and difficult to define. However, it is important to remember that any behaviour that a reasonable person would think would influence the willingness of fellow councillors, officers or members of the public to speak up or interact with you because they expect the encounter will be unpleasant or highly uncomfortable fits the definition of disrespectful behaviour.

Examples of disrespect in a local government context might include rude or angry outbursts in meetings, use of inappropriate language in meetings or written communications such as swearing, ignoring someone who is attempting to contribute to a discussion, attempts to shame or humiliate others in public, nit-picking and fault-finding, the use of inappropriate sarcasm in communications and the sharing of malicious gossip or rumours.

Disrespectful behaviour can be harmful to both you and to others. It can lower the public's expectations and confidence in you and your local authority and councillors and politicians more generally. It influences the willingness of fellow councillors, officers, and the public to speak up or interact with you because they expect the encounter will be unpleasant or uncomfortable. Ongoing disrespectful behaviour can undermine willingness of officers to give frank advice, damage morale at a local authority, and ultimately create a toxic culture and has been associated with instances of governance failure.

### **Freedom of expression**

The requirement to treat others with respect must be balanced with the right to Freedom of expression. Article 10 of the European Convention on Human Rights protects your right to hold your own opinions and to express them freely without government interference. This includes the right to express your views aloud or in writing, such as in published articles or leaflets or on the internet and social media. Protection under Article 10 extends to the expression of views that may shock, disturb, or offend the deeply-held beliefs of others.

However, Article 10 is not an absolute but a qualified right which means that the rights of the individual must be balanced against the interests of society. Whether a restriction on freedom of expression is justified is likely to depend on a number of factors, including the identity of the speaker, the context of the speech and its purpose, as well as the actual words spoken or written. Democracy depends on people being free to express, debate and criticise opposing viewpoints. The courts have generally held that the right to free expression should not be curtailed simply because other people may find it offensive or insulting. A balance must still be

struck between the right of individuals to express points of view which others may find offensive or insulting, and the rights of others to be protected from hatred and discrimination.

Freedom of expression is protected more strongly in some contexts than others. In particular, a wide degree of tolerance is accorded to political speech, and this enhanced protection applies to all levels of politics, including local government. Article 10 protects the right to make incorrect but honestly made statements in a political context but it does not protect statements which the publisher knows to be false. Political expression is a broad concept and is not limited to expressions of or criticism of political views but extends to all matters of public administration including comments about the performance of public duties by others. However, gratuitous personal comments do not fall within the definition of political expression.

Public servants such as local government officers are subject to wider levels of acceptable criticism than other members of the public when matters of public concern are being discussed. However, the limits are not as wide as they are for elected politicians such as councillors. Officers do not necessarily have the same right of reply to such comments as councillors do and councillors should take care not to abuse or exploit this imbalance.

Recent case law has confirmed that local authority officers should be protected from unwarranted comments that may have an adverse effect on good administration and states that it is in the public interest that officers are not subject to offensive, abusive attacks and unwarranted comments that prevents them from carrying out their duties or undermine public confidence in the administration. That said, officers who are in more senior positions, for example chief executives or heads of services, will also be expected to have a greater degree of robustness.

### **Is the Respect provision of the code a gag on councillors?**

This provision of the Code (Paragraph 1) is not intended to stand in the way of lively debate in local authorities. Such discussion is a crucial part of the democratic process. Differences of opinion and the defence of those opinions through councillors' arguments and public debate are an essential part of the cut and thrust of political life. Councillors should be able to express their opinions and concerns in forceful terms. Direct language can sometimes be appropriate to ensure that matters are dealt with properly. The code is not intended to stifle the expressions of passion and frustration that often accompany discussions about local authority business.

### **Can councillors criticise officers?**

Yes. In some cases, officers have been known to reject reasonable criticism appropriately made and describe it as disrespectful or bullying. The Code of Conduct is not intended to constrain councillors' involvement in local governance, including the role of councillors to challenge performance. Councillors can question and probe poor officer performance provided it is done in an appropriate way. In the everyday running of a local authority, it is inevitable that councillors may have disagreements with officers from time to time.

This paragraph of the code does not mean that councillors cannot express disagreement with officers. This disagreement might, in the appropriate context, manifest itself in criticism of the way in which an officer or officers handled particular matters.

It is important that councillors raise issues about poor performance in the correct way and at the appropriate forum in accordance with your local authority's processes and procedures, and not in a public meeting or through a published attack in the media.

All local authorities should have clearly defined policies, procedures, and occasions where such issues can be properly raised. It is only where councillors' conduct is unfair, unreasonable, or demeaning that the code will be relevant. If a councillor's criticism is abusive or offensive it is likely to breach the code.

### What kinds of conduct are not covered?

A very clear line must be drawn between the Code of Conduct's requirement of respect for others, including councillors with opposing views, and the freedom to disagree with the views and opinions of others. In a democracy, members of public bodies should be able to express disagreement publicly with each other.

### What if a member of the public is being unnecessarily disrespectful to me?

Councillors are allowed to respond to criticism, and where that criticism is robust, then they can be robust in response. However, councillors should always seek to try to be civil and demonstrate leadership in their communication. Even where councillors have been wrongly accused, responding in an angry, defensive way can often escalate the situation.

There has been a growing tendency for members of the public to use social media channels to unfairly criticise local councillors. For this reason, many local authorities now offer social media guidance to councillors in addition to the civility in public life resources available on the [LGA's website](#)

### Examples

The complaint alleged that the councillor posted on their blog a highly critical comment and an offensive caption about a former councillor, who had passed away and whose funeral had taken place the previous day. The councillor was found to have breached the provisions of his local authority's Code of Conduct relating to councillors treating others with respect; as well as conducting themselves in a manner which could reasonably be regarded as bringing their role or their authority into disrepute.

The complaint alleged that a councillor commented under a pseudonym on a local authority blog referring to possible nepotism in the awarding of a contract to a local firm by the local authority. The standards committee found that the councillor had breached the Code of Conduct in making the posts because he had failed to treat others with respect and, in doing so, he had conducted himself in a manner which brought his role and his local authority into disrepute.

The complaint alleged that a councillor had made remarks of an abusive, insulting and personal nature to the complainant, a police officer, and also made a number of unfounded allegations about him during two telephone calls to a police station made in his capacity as a ward councillor. It was found that the comments amounted to an unacceptable personal attack on the complainant and that the councillor had breached the respect provisions in his

### Bullying

As a councillor:

- **I do not bully any person.**

Bullying, harassment, discrimination, and victimisation (either directly or indirectly) are unacceptable and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider organisation in terms of morale and operational effectiveness.

Bullying may be characterised as offensive, intimidating, malicious, insulting, or humiliating behaviour, an abuse or misuse of power that can make a person feel vulnerable, upset, undermined, humiliated, denigrated or threatened. Power does not always mean being in a position of authority and can include both personal strength and the power to coerce through fear or intimidation. Bullying may be obvious or be hidden or insidious. Such conduct is usually part of a pattern of behaviour which attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

Bullying can take the form of physical, verbal, and non-verbal conduct but does not need to be related to protected characteristics. Bullying behaviour may be in person, by telephone or in writing, including emails, texts, or online communications such as social media. The standards of behaviour expected are the same, whether you are expressing yourself verbally or in writing.

Bullying can affect anyone, in any career, at any time, at any level and within any workplace. Such behaviour can take the form of easily noticed, physically threatening or intimidatory conduct with immediate impact, or it can take place behind closed doors, or be much more subtle or camouflaged and difficult to identify, at least at first. It can start, for example, with what appear to be minor instances, such as routine 'nit-picking' or fault-finding, but which become cumulative or develop into more serious behaviour over time, enabling the perpetrator to isolate and control the person.

Some bullies lack insight into their behaviour and are unaware of how others perceive it. Others know exactly what they are doing and will continue to bully if they feel they are unlikely to be challenged. Bullying can sometimes be overlooked, as a result of common euphemisms being used by way of explanation or justification, referring to someone as having a "poor leadership style" or a "bad attitude," for example, or to the problem being due to a "personality clash".

You should always be mindful of the overall potential impact of the behaviour on others. First and foremost, bullying can have a significant impact on the recipient's well-being and health. Bullying can have an impact on a local authority's effective use of resources and provision of services. Officers who are subject to bullying are frequently away from their posts, sometimes for extended periods, on sickness or stress-related leave. Bullying can impact on a councillor's ability to represent their residents effectively. It can also discourage candidates from standing in local elections, making local authorities less representative of their communities, and impacting local democracy.

Like disrespectful behaviour, bullying can be difficult to define. When allegations of bullying are considered it's likely that the person handling the complaint will consider both the perspective of the alleged victim, and whether the councillor intended their actions to be bullying. They will also consider whether the individual was reasonably entitled to believe they were being bullied.

Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature, where it is targeted at issues, rather than at an individual's conduct or behaviour, or when the behaviour by both the complainant and councillor contributed equally to the breakdown in relations. However, the cumulative impact of repeated 'minor' incidents should not be underestimated.

Examples of bullying include but are not limited to:

- verbal abuse, such as shouting, swearing, threats, insults, sarcasm, ridiculing or demeaning others, inappropriate nicknames, or humiliating language
- physical or psychological threats or actions towards an individual or their personal property
- practical jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures

- inappropriate comments about someone's performance
- abuse of authority or power, such as placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- ostracising or excluding someone from meetings, communications, work events or socials
- sending, distributing, or posting detrimental material about other people, including images, in any medium
- smear campaigns.

## **Freedom of expression 'Respect' guidance Part 2**

### **Does this mean that councillors cannot raise concerns about officers or fellow councillors?**

Bullying behaviour should be contrasted with the legitimate challenges which a councillor can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy or asking officers to explain the rationale for the professional opinions they have put forward. You are entitled to challenge fellow councillors and officers as to why they hold their views. However, if your criticism is a personal threat or abusive or offensive in nature, you are likely to cross the line of what is acceptable behaviour.

### **Preventing bullying conduct from developing**

Ideally, a culture of honest and clear communication should be sought, with respect for the individual and for the confidentiality required when managing individual performance-related issues. The bullying of officers might be reduced by establishing a specific protocol, which addresses issues such as councillor-officer work relations and appropriate behaviour.

The protocol for parish and town councils can include such simple but important matters as acceptable times to contact the clerk by telephone at home or call at the clerk's home on council business.

Local authority officers and parish clerks also need to be mindful that councillors can come from a wide range of backgrounds and may have been part of workplaces where the culture and expected standards are very different from what the clerk or officers expect; as a result, the councillor simply may not be aware of the impact that their communications have had on the clerk or officer. Early discussion about emerging issues is important to help avoid matters escalating and help establish more effective working arrangements for the future.

### **Bullying and harassment and the law**

In some cases, acts of bullying or harassment can be civil offences, which can be brought to an employment tribunal or a county court.

In some cases, conduct that amounts to bullying and harassment may also amount to criminal offences, which can be tried in the criminal courts. There is not an exhaustive list of acts of bullying or harassment that may constitute a criminal offence. Examples may include, but are not limited to:

- physical assault
- making threats of violence or death threats stalking



- hate crimes
- sexual harassment

### **Intimidation of councillors**

Councillors can face behaviours which could amount to bullying and intimidation when carrying out their role.

The LGA and the Welsh Local Government Association recognise the growing need among councillors for support related to intimidation and have jointly developed a "Councillors' guide to handling intimidation. Practical steps that you and your local authority can undertake to protect yourself as a person in a public position". The guide covers topics such as how to handle abuse, both face-to-face, letters or online, guidance on personal safety, lone working and online abuse and the legal and practical remedies, including the nature of the criminal offences involved. It will be continuously updated with the latest advice and information available.

### **Harassment**

As a councillor:

- **I do not harass any person.**

The Protection from Harassment Act 1997 states that harassment includes behaviour which alarms a person or causes a person distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a victim in a manner that could be expected to cause distress or fear in any reasonable person. Harassment of any kind whether direct or indirect is in no-one's interest and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the wider organisation in terms of morale and operational effectiveness.

Like bullying, harassment can take the form of physical, verbal, and non-verbal conduct but does not need to be related to protected characteristics. Harassment may be in person, by telephone or in writing, including emails, texts, or online communications such as social media. It may manifest obviously or be hidden or insidious.

The factors likely to be considered when assessing allegations of harassment are whether the councillor knows or ought to know that their actions constitute harassment, whether a reasonable person would consider the actions to be harassment and the impact of the behaviour/conduct on victim.

Examples of harassment include but are not limited to:

- sending unwelcome emails
- unnecessarily repetitive, intrusive questioning
- unwelcome physical contact such as touching or invading 'personal space'
- haranguing
- intimidation
- inappropriate remarks or questioning such as comments about someone's appearance,



lewd comments, and offensive jokes overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures

- inappropriate comments about someone's performance
- placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- sexual harassment

### **What does the law say about harassment?**

In some cases, acts of harassment can be civil offences, which can be brought to an employment tribunal or county court.

In some cases, conduct that amounts to harassment may also amount to criminal offences, which can be tried in the criminal courts. There is not an exhaustive list of acts of harassment that may constitute a criminal offence. Examples may include, but are not limited to physical assault:

- making violent or death threats
- stalking
- hate crimes
- sexual harassment

### **Examples**

The complaint alleged that a councillor had behaved in a disrespectful and harassing manner towards two fellow female councillors and officers. It was established that the councillor had made unwarranted and inappropriate physical contact with the councillors and officers at an official event and had also made remarks towards the officers which were patronising and demeaning. The councillor was found to be in breach of the Code of Conduct.

## **Discrimination**

As a councillor:

- I promote equalities and do not discriminate unlawfully against any person.

Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

The Equality Act 2010 imposes positive duties on local authorities to promote equality and to eliminate unlawful discrimination and harassment. Under the Act your authority may be liable for any discriminatory acts which you commit. This will apply when you do something in your official capacity in a discriminatory manner. You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders your authority's fulfilment of its positive duties under the Act. Such conduct may cause your authority to break the law, and you may find yourself subject to a complaint that you have breached this

paragraph of the Code of Conduct. If you are unsure about the particular nature of the duties of your authority you should seek advice from the monitoring officer or parish clerk.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex and sexual orientation

There are four main forms of discrimination:

**Direct discrimination:** treating people differently because of their age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, or sexual orientation.

**Indirect discrimination:** treatment which does not appear to differentiate between people because of their age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, or sexual orientation but which disproportionately disadvantages them.

**Harassment:** engaging in unwanted conduct on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, or sexual orientation, which violates another person's dignity or creates a hostile, degrading, humiliating or offensive environment.

**Victimisation:** treating a person less favourably because they have complained of discrimination, brought proceedings for discrimination, or been involved in complaining about or bringing proceedings for discrimination.

Examples of discriminatory behaviour include but are not limited to:

- exclusion or victimisation based on the Protected Characteristics
- treating someone less favourably or limiting their opportunities based on any of the Protected Characteristics
- comments, slurs, jokes, statements, questions, or gestures that are derogatory or offensive to an individual's or group's characteristics
- promoting negative stereotypes relating to individual's or group's characteristics
- racial or ethnic slurs, insults, or jokes
- intolerance toward religious customs
- mimicking, mocking, or belittling a person's disability
- homophobic, biphobic or transphobic comments or slurs
- discriminating against pregnant people or mothers

- declaring ('outing') someone's religion or sexuality or threatening to do so against their will
- deliberate, unwarranted application of an authority's practice, policy or rule in a way that may constitute indirect discrimination
- instructing, causing, inducing, or knowingly helping someone to commit an act of unlawful discrimination under the Equality Act 2010.

A councillor's personality and life experiences will naturally incline them to think and act in certain ways. They may form views about others based on those experiences, such as having an affinity with someone because they have a similar approach to life or thinking less of someone because they are from a different generation. This is known as "unconscious bias" and it can lead people to make decisions based on biases or false assumptions. Councillors need to be alert to the potential of unconscious bias and ensure they make decisions based on evidence, and not on assumptions they have made based on biases.

## Questions

### **How can councillors cause their authority to be in breach of the Equality Act?**

The Code of Conduct is not intended to stifle democratic debate. Councillors should always remember that Article 10 of the European Convention on Human Rights gives a high level of protection to comments that are genuinely made during political debate, even if most people would find them offensive.

Some councillors have particular roles which may give a higher risk for the potential for discrimination; for example, if you are on an appointment panel for a position in the local authority, or you are able to award local grants in your ward and will need to decide which organisations to support.

Merely arguing, or even voting, against a proposal which is aimed at complying with a positive anti-discriminatory duty would not be enough by itself to risk breaking this part of the code. Simply having a party-political or personal position on an issue is unlikely to amount to a breach of this provision because it does not, of itself, involve the local authority doing anything.

Under the Equality Act 2010, an authority is made liable for any discriminatory acts which a councillor commits. This will apply where they say or do something in their official capacity in a discriminatory manner.

## Examples

The complaint alleged that a councillor 'liked' several racially discriminatory comments on social media and one comment advocating violence against Travellers. The panel found that 'Liking' of the offensive comments did amount to a failure to treat those who were the subject of such comments with respect and a failure to promote equalities in breach of the Code of Conduct.

A councillor was a member of the local authority's recruitment panel to appoint a new chief executive. Five applicants were shortlisted. After one candidate had finished his presentation and left the room the councillor said, "good candidate, shame he's black". The panel found that the Code of Conduct had been breached.

## Impartiality of officers

As a councillor:

- **I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

Both councillors and officers are servants of the public and are indispensable to one another. Together, they bring the critical skills, experience and knowledge required to manage an effective local authority.

At the heart of this relationship, is the importance of mutual respect. Councillor-officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between councillors and officers should observe reasonable standards of courtesy, should show mutual appreciation of the importance of their respective roles and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

Councillors provide a democratic mandate to the local authority and are responsible to the electorate whom they represent. They set their local authority's policy framework, ensure that services and policies are delivered and scrutinise local authority services.

Councillors of the executive, chairs and vice chairs of committees have additional responsibilities. These responsibilities will result in increased expectations and relationships with officers that are more complex. Such councillors must still respect the impartiality of officers and must not ask them to undertake work of a party-political nature or compromise their position with other councillors or other officers.

Officers provide the professional advice and managerial expertise and information needed for decision making by councillors and to deliver the policy framework agreed by councillors. They are responsible for implementing decisions of councillors and the day-to-day administration of the local authority.

The roles are very different but need to work in a complementary way.

It is important for both sides to respect these differences and ensure that they work in harmony. Getting that relationship right is an important skill. That is why the code requires councillors to respect an officer's impartiality and professional expertise. In turn officers should respect a councillor's democratic mandate as the people accountable to the public for the work of the local authority. It is also important for a local authority to have a councillor-officer protocol which sets out how this relationship works and what both councillors and officers can expect in terms of mutual respect and good working relationships.

Officers may sometimes give you advice that you do not want to hear or does not suit your political views. They must be allowed to do this without fear of recriminations to allow for good decision-making looking at all relevant options.

That means in your dealing with officers you must not seek to influence them improperly or put undue pressure on them. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision.

Other than political assistants, officers are required to remain politically neutral and not demonstrate their support for specific parties or candidates.

The fundamentally held principle is that “the local government system of the UK has long resided on a bond of trust between elected members and a permanent corps of local government officer... that relationship of trust stems from the right of council members to expect that they are being assisted in their functions by officers who are politically neutral and whose loyalty is to the council as a whole (Ahmed v United Kingdom (2000) 29 EHRR 1)

### Examples

A councillor became involved in a social care case on behalf of a constituent during which time he inappropriately sought to influence operational decision-making and sent discourteous and disrespectful correspondence to the officers. In doing so, he lost sight of his overall responsibility to the local authority to allow its officers to perform their statutory functions. He was found to have breached the Code of Conduct.

A councillor who, over a period of six months, persistently sought to influence the decisions of officers dealing with a complaint by his son and daughter-in-law against their local authority tenant neighbour was found, through his actions, to have compromised the impartiality of the officers and to have used his position improperly to promote the interest of his family and to have brought the role of councillor into disrepute in breach of the Code of

### What does working on behalf of the authority mean?

Local Authorities deliver services in a range of ways. Often services will have been contracted out to outside bodies. For example, if you are in a highway authority, road repair services may be carried out by outside contractors. Their employees delivering that contract are doing so on behalf of the local authority and you should not use your position to interfere improperly in delivery of that service.

### What if I disagree with the views of an officer?

You are perfectly entitled to disagree with officers. They are there to give you impartial professional advice and you do not need to accept their advice without question. When you do question them however, you should treat them with respect and recognise that they are professionals.

If you feel dissatisfied with the advice you are given you should raise through appropriate management channels in line with your local authority's councillor-officer protocol (where you have one) – see guidance on respect, bullying and harassment in Part 2 above.

Where you have a declarable interest in a matter you are discussing with an officer you should make that clear to the officer – see guidance on declarations of interest in Part 3 below. Where

it is an interest which would stop you from taking part in a meeting you should not discuss those matters with officers except where you are seeking professional advice in the same way as any member of the public could – for example, assistance with making an application – and the officer should make a note that an interest has been declared. If you need to speak to an officer about the matter, you should arrange a meeting as a member of the public and not seek to use your position to gain preferential or quicker access.

### Having regard to Officer advice

Councillors take decisions every day that affect the lives of those who live and work within your community. It is therefore important that those decisions are made having regard to all available evidence and weighing up all sides of the argument.

Decisions can be challenged if they are unreasonable, and the local authority could find itself facing an expensive legal bill if it takes a decision which is unlawful. When considering any decision, you must have regard to any professional advice you have been offered, for example from planning or licensing officers. Both the monitoring officer and the chief finance officer have a statutory duty to report formally to the local authority where they believe a local authority action or expenditure is, or may be, unlawful. Similarly, when it comes to elections, you will need to have regard to any advice given to you by the returning officer who may well be a senior officer but in that capacity is entirely independent of and separate from the local authority and is required to be politically neutral.

You must also give reasons for all decisions in accordance with statutory requirements and any reasonable requirements imposed by your local authority. Giving reasons for decisions is particularly important in relation to regulatory decisions and decisions where people's rights are affected. Where councillors disagree with officer recommendations in making a decision, councillors will need to take particular care in giving clear reasons for the decision.

If you seek advice as an individual councillor, or advice is offered to you, for example, on whether or not you should register or declare an interest, you must have regard to this advice before you make your mind up. Failure to do so may lead to a breach of the Code of Conduct.

If in any doubt – be safe and always seek advice from your monitoring officer before taking any action.

Local authorities have protocols for councillor-officer relations in their constitutions which are accessible on their websites.

The LGA published "[A councillor's workbook on effective councillor/officer relationships 2018](#)" This workbook has been designed as a distance learning aid for local councillors. It forms part of the suite of LGA resources intended to provide councillors with insight and assistance into key skills and knowledge. It is designed to provide a foundation for effective working as you progress in your councillor career, from the ward level to holding a leading councillor position. The workbook has been updated to contain information and examples obtained from the LGA's work on the ground in local authorities and through the [Corporate Peer Challenge programme](#), and to reflect the changing nature of the councillor and officer relationship.

### Confidentiality and access to information

As a councillor:

- **I do not disclose information:**
  - a. given to me in confidence by anyone
  - b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature,

unless

- I have received the consent of a person authorised to give it;
- I am required by law to do so;
- the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- the disclosure is:
  - reasonable and in the public interest; and
  - made in good faith and in compliance with the reasonable requirements of the local authority; and
  - I have consulted the monitoring officer prior to its release.
- **I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer, or my business interests**
- **I do not prevent anyone from getting information that they are entitled to by law**

Local authorities must work openly and transparently. Their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents, and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

### Confidential information

While local authority business is by law generally open and local authorities should always operate as transparently as possible, there will be times – for example, when discussing a named individual, confidential HR matters or commercially sensitive information – when it is appropriate for local authority business to be kept confidential or treated as exempt information.

In those circumstances, you must not disclose confidential information, or information which you believe to be of a confidential nature, unless:

- you have the consent of the person authorised to give it
- you are required by law to do so
- the disclosure is made to a third party for the purposes of obtaining professional advice (for example, your lawyer or other professional adviser) provided that person agrees not to disclose the information to any other person
- the disclosure is in the public interest

### Disclosure in the public interest

Disclosure 'in the public interest' is only justified in limited circumstances, when all the following four requirements are met:

- the disclosure must be reasonable



- the disclosure must be in the public interest
- the disclosure must be made in good faith
- the disclosure must be made in compliance with any reasonable requirements of your authority

In relation to the disclosure of confidential information in the public interest, the four requirements are outlined in more detail below.

1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:

- Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.
- Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
- The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.
- The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
- The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
- The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing or is likely to reoccur.
- Whether the disclosure involves your authority failing in a duty of confidence owed to another person.

2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:

- a criminal offence is committed.
- your local authority or some other person fails to comply with any legal obligation to which they are subject. a miscarriage of justice occurs.
- the health or safety of any individual is in danger.
- the environment is likely to be damaged.
- that information tending to show any matter falling within the above is deliberately concealed.

3. The third requirement, that the disclosure is made in good faith, will not be met if you act



with an ulterior motive, for example, to achieve a party-political advantage or to settle a score with a political opponent.

4. The fourth requirement, that you comply with the reasonable requirements of your local authority, means that before making the disclosure you must comply with your local authority's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors, which may justify its disclosure despite these potential consequences. If in doubt you should always seek advice from the monitoring officer. Always keep a note of the reason for your decision.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

### **Circumstances in which a local authority can treat information as confidential**

The presumption under local government law is that local authority business is open unless it falls within a specific category of confidential or exempt information as set out in legislation. These categories are:

1. information given to the local authority by a Government Department on terms which forbid its public disclosure or
2. information the disclosure of which to the public is prohibited by or under another Act or by Court Order.

Generally personal information which identifies an individual, must not be disclosed under the data protection and human rights rules.

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

1. relating to any individual
2. which is likely to reveal the identity of an individual.
3. relating to the financial or business affairs of any particular person (including the authority holding that information).
4. relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.
5. in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. which reveals that the authority proposes:
  - a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b. to make an order or direction under any enactment
7. relating to any action taken or to be taken in connection with the prevention, investigation,

or prosecution of crime.

Where information is legally classified as 'confidential' under the above categories the public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. Likewise, public access to reports, background papers, and minutes will also be excluded.

Where an officer recommends that a report to a decision-making committee should be treated as exempt information under the above categories the committee must still agree that the matter should be heard in a closed session. The committee may disagree with any recommendation and decide that those legal tests have not been met; or they may agree that those tests have been met but nevertheless it is in the public interest that the matter be considered in an open session. Again, you should keep a record of the rationale for the decision.

Once the local authority has agreed that the matter be treated as exempt, public access to relevant reports, background papers and minutes will also be excluded and an individual councillor must abide by that collective decision or risk breaching the code if they disclose that information (papers and content of discussion) without lawful excuse.

### **Does confidentiality under the code apply only to information which is classified as confidential or exempt by law?**

No. The code goes wider than matters simply considered in a formal local authority setting. Information is a broad term. It includes facts, advice, and opinions. It covers written material, including tapes, videos, CDs, DVDs, and other electronic media. It covers material in unwritten form, including intellectual property. Information can only be confidential if all the following apply:-

- it has the necessary 'quality of confidence' about it (trivial information will not be confidential but information that you would expect people to want to be private would be);
- it was divulged in circumstances importing an obligation of confidence (information properly in the public domain will not be confidential);
- disclosure of it would be detrimental to the party wishing to keep it confidential.

For example, you may be told confidential information by a constituent in the course of your duties. That is why the code is written broadly to cover information classed as confidential which you may come across in your duties.

You should use your judgment when you are given information. An individual does not have to explicitly say that information is confidential if they tell you something which a

### **Examples**

A councillor was assisting a resident in an adoption process, which the resident decided to subsequently withdraw from. The resident's estranged parent contacted the councillor for information as to what was happening with the case and the councillor inadvertently shared confidential information as she had not realised that father and son were estranged. This was found to be a breach of the code.

A councillor circulated information about an officer's medical condition to other councillors and a local headteacher with whom he was acquainted. He was found to have disclosed information which should reasonably be regarded as being of a confidential nature and without the officer's

reasonable person would regard as sensitive. You may, however, wish to clarify if somebody tells you something whether they want you to treat it as confidential.

### **What does consent by the person authorised to give it mean?**

If somebody, for example a constituent, has told you something in confidence – for example in the line of casework – you may later want to put that in the public domain as part of pursuing that case. You should always check with the individual before you disclose something you believe is confidential to ensure that they are comfortable with that information being disclosed. You should also be clear with them as to how you may use the information, they give you to help resolve their issue.

### **In what circumstances am I required to disclose confidential information by law?**

This would be where a law enforcement or regulatory agency or the courts required disclosure of information.

### **In what way could I use information I have obtained to advance myself or others?**

As a councillor you will often receive commercially sensitive or other confidential information. You must not use that information to your own advantage. For example, if you know the local authority is considering the purchase of a piece of land, you should not use that information in your private dealings to seek to purchase the land.

### **How does this relate to the Data Protection Act?**

As part of their role councillors will receive personal information. They should seek to ensure they are familiar with how the Data Protection Act applies to their role in handling such information through training, and if they are not sure to seek advice from an appropriate officer in the council.

Although councillors are not required to register as a data controller, they will receive personal information from residents in their area. They should only use it for the purpose for which it has been given and must ensure this information is held securely and only share with others that are entitled to it.

In contrast, the local authority is responsible for information they provide to councillors and ensuring they know how it can be used.

### **Access to information**

Transparency is a very important principle underpinning local democracy and public decision-making. The public are entitled to see information about the way decisions are made unless there are specific reasons why that information is confidential. Your local authority should have a publication scheme setting out what information is accessible to the public and you as an individual councillor must not prevent any person from accessing information which they are entitled to by law. This includes information under the Freedom of Information Act 2000 or those copies of minutes, agendas, reports, and other documents of your local authority which they have a right to access.

If in doubt seek advice from the relevant local authority officers.

## The 'need to know'

As a councillor, you are not automatically entitled to access all information the local authority holds. For example, the local authority may deal with highly confidential and sensitive information about employees or about residents involved in complex cases.

In addition to rights set out in law or conferred by your local authority constitution, you have a right to inspect documents if you can demonstrate a "need to know". This isn't a right to a roving commission but must be linked to your performance of your duties and functions as a councillor. For example, the need could more easily be demonstrated by membership of a relevant committee, such as a staffing committee than simply because you are interested in seeing the information. Local authorities have more justification for denying free access to particularly sensitive papers such as childcare or staffing records. You should not seek to get information if you have a declarable interest in it.

Most local authorities will have a nominated officer you can seek advice from if you feel you are not being given access to information you seek.

You can also exercise the "need to know" in respect of attending meetings. Access to Information Rules set out an Overview and Scrutiny Committee's rights of access to documents and additional rights of access to documents for councillors to carry out their functions.

Where you are given access to documents which are not available to members of the public, you should ensure that any confidential information is used and protected in an appropriate and secure manner and shared with authorised persons only.

## Can I use local authority information for matters outside the local authority?

A councillor is entitled to access information held by the local authority for the performance of their duties as a councillor. If a councillor wishes to use local authority information for any purpose other than in connection with their duties as a councillor, and that information is not in a publicly available document, however, then that councillor should submit a freedom of information request so that it can be given to them to use freely.

The general rule is that any information held by the local authority and given directly to a councillor may only ever be used for the purpose for which it was provided. That purpose may add particular restrictions, for example where it relates to an individual constituent or sensitive matter. The purpose should not be for anything other than use in connection with the proper performance of the councillor's duties as a councillor. The exceptions to this are where the information has already been published, it has been given as a result of a request under Freedom of Information or Environmental Information Regulations or it is in the public interest ('whistleblowing') for which provisions are made in the Code of Conduct as explained above.

Please see the [ICO website \[https://ico.org.uk\]](https://ico.org.uk) for helpful guidance on data protection and freedom of information.

## Disrepute

As a councillor:

- **I do not bring my role or local authority into disrepute.**

As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. Article 10 of the European Convention on Human Rights protects your right to freedom of expression, and political speech as a councillor is given enhanced protection but this right is not unrestricted. You should be aware that your actions might have an adverse impact on your role, other councillors and/or your local authority and may lower the public's confidence in your ability to discharge your functions as a councillor or your local authority's ability to discharge its functions.

In general terms, disrepute can be defined as a lack of good reputation or respectability. In the context of the Code of Conduct, a councillor's behaviour in office will bring their role into disrepute if the conduct could reasonably be regarded as either:

- reducing the public's confidence in them being able to fulfil their role; or
- adversely affecting the reputation of your authority's councillors, in being able to fulfil their role.

Conduct by a councillor which could reasonably be regarded as reducing public confidence in their local authority being able to fulfil its functions and duties will bring the authority into disrepute.

For example, circulating highly inappropriate, vexatious or malicious e-mails to constituents, making demonstrably dishonest posts about your authority on social media or using abusive and threatening behaviour might well bring the role of councillor into disrepute. Making grossly unfair or patently untrue or unreasonable criticism of your authority in a public arena might well be regarded as bringing your local authority into disrepute.

## Questions

### **What distinguishes disrepute to “your role or local authority” from disrepute to you as a person?**

The misconduct will need to be sufficient to damage the reputation of the councillor's role or local authority, as opposed simply to damaging the reputation of the individual concerned.

Certain kinds of conduct may damage the reputation of an individual but will rarely be capable of damaging the reputation of the role of councillor or the reputation of the authority.

Here are some of the situations that might tip the balance in favour of disrepute to the role of councillor or to the authority in particular cases:

1. Situations where councillors have put their private interests above the public interest, which they are expected to promote as councillors, and therefore reduced the standing of their role. For example, councillors using their position to secure a secret personal profit.
2. Similarly, situations where a councillor defies important and well-established rules of the authority for private gain.
3. Where a councillor engages in conduct which directly and significantly undermines the authority's reputation as a good employer or responsible service provider.

## Examples

A councillor posted a tweet reading "Cllr Blogs why don't you just throw in the towel, just go before you cause any more damage to the reputation of the council. You and some members of your cabinet have failed. I hope that the SFO is brought in to investigate your conduct. #failedleadership." The complainant stated that she found the tweet 'very offensive' and bullying and also considered that the tweet would reasonably bring the councillor's office and the authority into disrepute. The councillor was found to have brought his authority into disrepute by reducing public confidence in the council.

A councillor brought his role and authority into disrepute by taking advantage of a local authority mistake and failing to prevent local authority-employed contractors from working on his privately-owned home. The local authority mistakenly sent decorators to the home, an ex-local authority property. The councillor only told the local authority about the mistake after the work had been completed and then said he could not be charged for the work.

The chair of a local authority made a deeply inappropriate remark at a local authority meeting that was reported in the local media and was accused of bringing his role and authority into disrepute. It was clear in both the meeting and the local media reporting that other councillors expressed concerns about his comments and found them inappropriate. It was found that he

## Misuse of position

As a councillor:

- **I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a councillor provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

You should not use, or attempt to use, your public office either for your or anybody else's personal gain or loss. For example, your behaviour would be improper if you sought to further your own private interests through your position as a councillor.

Involving yourself in a decision in which you have an interest, to seek to benefit yourself or another would be a breach of this paragraph of the code. For guidance on how to conduct yourself when you have an interest and how to balance your rights as an individual and your responsibilities as a public decision maker see the chapter on registration of interests.

Councillors who own land, or whose relatives or close associates own land, need to be particularly cautious where planning matters are concerned. This applies equally to parish councillors when your local authority is consulted on planning matters. Similarly, while it is reasonable to expect councillors to help constituents apply to the local authority, for example,

for housing, it is quite improper to seek to influence the decision to be taken by the officers and would also be in breach of paragraph 3 of the code.

### **What kinds of attempts to advantage or disadvantage would be improper?**

There are circumstances where it will be proper for a councillor to seek to confer an advantage or disadvantage and other circumstances where it will not.

Being a councillor can involve making hard choices and balancing a range of interests. Most decisions will inevitably benefit some people and will be to the detriment of others. It's important when you make those decisions to make them in what you think is the public interest and not be influenced by private interests.

For example, there can be no objection to councillors voicing their opposition to the closure of a local public library. This conduct is clearly intended to secure an advantage for the users of the library. What is crucial is that councillors' attempts to secure this advantage are clearly part and parcel of their duties as a local representative. Therefore, these activities are not improper.

The term 'improperly' is not defined in the Code of Conduct. This ensures that the scope of the provision is not unnecessarily limited. The underlying principle is that councillors are elected or appointed to public office to serve the public interest.

A councillor's conduct would be improper if they were to use their public position to further private interests of themselves or associates, or to settle old scores with enemies, to the detriment of the public interest. Any conduct that unfairly uses a councillor's public position to promote private interests over the public interest will be improper.

### **What if the attempt to confer an advantage or disadvantage fails?**

The wording of the Code of Conduct makes it clear that the use of position provision (paragraph 6) covers failed attempts as well as situations where an advantage or disadvantage has actually been achieved.

For example, if you have tried to influence fellow councillors to vote in a particular way which would be to your personal advantage and/or that of your family/close associates you would have breached this provision of the code even if they did not in fact vote that way.

### **Examples**

Most alleged improper uses of position are in connection with matters in which the councillors have interests.

A councillor who was a 'joint co-ordinator' of a community group did not notify the local authority of her position in this group. She took part in the considerations and voted on the decision to negotiate a new lease in respect of a workshop used by this community group. A standards committee found that she had used her position improperly as the decision on which she voted benefited a group in which she clearly had an interest which she had not disclosed to the local authority.

A local authority leader failed to declare a conflict of interest relating to land he owned. The court found that he used his position as a councillor and instructed a planning officer to alter the road route to benefit his own land's value to a considerable extent. He was found guilty of misconduct in public life for trying to influence the route of a new by-pass to enclose his land in a new development belt, which would have significantly increased its value. He received an 18-month custodial sentence.

A parish councillor was found to have improperly used his position and secured an advantage for a member of the public by asking the parish clerk to make a payment which had not been

approved by the Parish Council in breach of the Code of Conduct. The payment was for repairs to a private road used by the councillor to get to his allotment.

## Misuse of resources and facilities

As a councillor:

- **I do not misuse local authority resources.**
- **I will, when using the resources of the local authority or authorising their use by others:**
  - act in accordance with the local authority's requirements; and
  - ensure that such resources are not used for political purposes unless
    - that use could reasonably be regarded as likely to facilitate, or
    - be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by your local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

You must make sure you use the authority's resources for proper purposes only. It is not appropriate to use, or authorise others to use, the resources for political purposes, including party political purposes. When using the authority's resources, you must have regard, if applicable, to any Local Authority Code of Publicity made under the Local Government Act 1986.

The recommended code of practice for local authority publicity published by Ministry of Housing, Communities & Local Government provides guidance on the content, style, distribution, and cost of local authority publicity.

You must be familiar with the rules applying to the use of resources made available to you by your local authority. Failure to comply with the local authority's rules is likely to amount to a breach of the code.

If you authorise someone (for example a member of your family) to use your local authority's resources, you must take care to ensure that this is allowed by the local authority's rules.

You should never use local authority resources for purely political purposes, including designing and distributing party political material produced for publicity purposes.



However, your authority may authorise you to use its resources and facilities for legitimate political purposes in connection with your authority's business. For example, holding surgeries in your ward and dealing with correspondence from your constituents. In this case, you must be aware of the limitations placed upon such use for these purposes. Using your authority's resources outside of these limitations is likely to amount to a breach of the Code of Conduct. Where you are part of a formally-recognised political group, your local authority is also allowed to give you such resources as you need for local authority business, for example use of a room for group meetings.

You should never use local authority resources purely for private purposes, for example using a photocopier to print off flyers for your business unless your local authority's procedures allow for you to repay any costs accrued.

### **What are the "resources of the local authority"?**

The resources of the local authority include services and facilities as well as the financial resources of the authority.

Resources could include any land or premises, equipment, computers, and materials. The time, skills, and assistance of anybody employed by the authority, or working on its behalf, are also resources, as is information held by the authority which it has not published.

### **What constitutes using resources "improperly for political purposes"?**

The code acknowledges that party politics has a proper role to play, both in the conduct of authority business and in the way that councillors carry out their duties.

There will be times when it is acceptable for political groups to use the resources of the local authority, for example, to hold meetings in authority premises. Often it is impractical to separate a councillor's political campaigning from carrying out their duties as an elected ward member, such as when they hold surgeries or deal with correspondence from constituents.

However, councillors and monitoring officers will need to exercise considerable care to ensure that this provision is not abused. You must ensure that there is a sufficient connection between the use of resources and the business of the authority. Only improper use of resources will be a breach of the Code of Conduct.

This part of the code complements Section 2 of the Local Government Act 1986, which prevents the publication of material "designed to affect public support for a political party". The code, however, goes further than the Code of Recommended Practice on Publicity. It covers not only the publication of campaigning material but also any other activity that is intended to promote purely party-political interests.

You must have regard to any applicable local authority code of publicity made under the powers contained in Section 4 of the Local Government Act 1986. Publicity is defined as "any communication, in whatever form, addressed to the public at large or to a section of the public". It will cover meetings, websites, and social media postings as well as printed and other written material.

You should be particularly scrupulous about the use of authority resources when elections are pending, particularly those resources relating to publicity. When using the local authority's resources in these circumstances, you should not appear to be seeking to influence public opinion in favour of you, your party colleagues, or your party.

### **How do you know what the authority's requirements for the use of resources are?**

Your local authority should have a protocol dealing with use of authority resources. A typical protocol would cover the following topics:

- use of authority premises
- councillor-officer relationships including use of officer time
- information technology, for example computer equipment and the use of associated software, including the use of such equipment at home
- telephones
- photocopying
- use of stationery and headed notepaper
- postage
- use of authority transport
- allowances and expenses

Your local authority may also have a separate protocol on the use of social media which would also be relevant.

The key principle underlying all such protocols should be that public office and public resources should not be used to further purely private or party-political purposes.

It is worth noting that where you authorise someone such as a family member to use the authority's resources, you must check whether the authority's rules allow this.

#### **Examples**

The complaint alleged a councillor used his computer equipment provided by his local authority for private purposes by downloading inappropriate adult pornographic images and sending a number of letters to a local newspaper, which he falsely represented as being from members of the public. He was found to have misused the local authority's equipment in breach of the code and had brought his office into disrepute.

A councillor used local authority notepaper in an attempt to avoid parking penalties incurred by his son. He also dishonestly attempted to renew a parking permit for disabled drivers. He was convicted of attempting, by deception, to evade the parking penalties dishonestly. He was

### **Complying with the Code of Conduct**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your monitoring officer.

As a councillor:

- **I undertake Code of Conduct training provided by my local authority.**

Councillors should be competent for the work they undertake, and this includes the way in which you conduct yourself when carrying out your role as a councillor. Training helps to develop such competence, ensuring that you understand the Code of Conduct and how it applies to you.

As a councillor you are responsible for your own actions and will be held personally responsible if you breach your local authority's Code of Conduct. Therefore, it is essential that, where you are offered the opportunity by your local authority, you equip yourself with sufficient knowledge of the code to ensure that you comply with it at all times.

- **I cooperate with any Code of Conduct investigation and/or determination.**

The Code of Conduct is a cornerstone of good governance. It is important for public trust that it is seen to be taken seriously by individual councillors as well as the local authority as a whole.

While being the subject of a complaint that you have breached the Code of Conduct and having your conduct investigated may at times be unpleasant and stressful it is essential that councillors cooperate with any code investigations and determinations. Failure to cooperate will not stop an investigation but may simply drag matters and does not allow you to put your side of the story so increases the risk that inferences are drawn about your unwillingness to cooperate and that you will be found in breach of the Code.

It is equally important if you have made a complaint which the local authority has decided merits investigation that you continue to cooperate. Complaints made simply to damage the reputation of an individual through inferences but which you are not willing to support through your cooperation will damage relationships and will also damage the reputation of you and your local authority.

If you are asked to assist the investigator as a potential witness it is again important that you do so to allow as fully rounded a picture as possible to be drawn so that any determination on a case has as much evidence as necessary in order to reach the correct decision. You should let the investigator know if you need any reasonable adjustments made.

- **I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

However much you may be concerned about allegations that you or a fellow councillor failed to comply with the Code of Conduct, it is always wrong to intimidate or attempt to intimidate any person involved in the investigation or hearing. Even though you may not have breached the Code of Conduct, you will have your say during any independent investigation or hearing, and you should let these processes follow their natural course. If you seek to intimidate a witness in an investigation about your conduct, for example, you may find yourself subject to another complaint that you breached this paragraph of the Code of Conduct.

**When does the duty not to intimidate start and avoiding allegations of intimidation?**

Once there is the possibility of a complaint that the Code of Conduct has been broken, councillors need to be alert to how their behaviour towards potential witnesses or officers involved in handling of their case may be viewed. However innocently the contact is intended or may appear, great care should be taken when councillors deal with people involved with their case.

You should refer to your local authority's procedures and protocol for dealing with alleged breaches of your Code of Conduct.

- **I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

Fair, consistent, and proportionate sanctions help to ensure the integrity of the standards framework and thus maintain public trust and confidence in councillors, your role, and your authorities. It is important that councillors and local authorities take standards of conduct seriously and the use of sanctions helps to demonstrate this.

Failure to comply with sanctions can bring the standards framework into disrepute.

## **Part 3 – Protecting your reputation and the reputation of the local authority**

The code requires you to register matters under 2 separate categories:

1. Gifts and hospitality, you receive in your role as a councillor; and
2. Certain types of interests

### **Registration of gifts, hospitality and interests Gifts and hospitality**

As a councillor:

- I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- I register with the monitoring officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.
- I register with the monitoring officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered.

However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that

it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your monitoring officer for guidance.

### **What does “hospitality” mean?**

Hospitality can be defined as any food, drink, accommodation, or entertainment freely provided or heavily discounted.

### **How much detail should I include on the register?**

Where you register gifts or hospitality you should include the name of the person or organisation who gave you the gift or hospitality; the date on which you received it; the reason it was given; and its value or estimated value.

### **How do I know if gifts or hospitality have been offered to me because of my role as a councillor?**

The code says you must register any gift or hospitality received *in your capacity as a councillor* if the estimated value exceeds £50 or such other limit as agreed by your local authority.

You should ask yourself whether you would have received the gift or hospitality if you were not on the local authority. If you are in doubt as to the motive behind an offer of a gift or hospitality, we recommend that you register it or speak to the clerk or monitoring officer before deciding whether to accept it. You should also refer to the local authority's policy on gifts and hospitality.

You do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family, or gifts which you do not accept. However, you should apply common sense when you consider how receipt of a gift might be interpreted. For example, if you are the chair of the planning committee and a birthday present arrives from a family friend who is also an applicant just before a planning application is due to be considered, then you need to think about how this would be interpreted by a reasonable member of the public.

### **What about gifts or hospitality I do not accept?**

The code makes it clear that the presumption is that you do not normally accept gifts or hospitality. While gifts or hospitality can be offered for benign reasons it is important for your reputation, the reputation of the local authority and the need to reassure the public that decision-making is not being improperly influenced that you do not accept gifts or hospitality wherever possible.

Simply accepting gifts or hospitality and then registering it does not mean that it may be seen as reasonable. Accepting an expensive meal from somebody who is negotiating for a contract with the council, for example, is not 'made right' by being recorded on a public register.

There will be times, however, where turning down hospitality or gifts could be seen as causing unnecessary offence. For example, if you have been invited as a ward councillor to a local festival or faith celebration along with other members of the community then it may be entirely appropriate to accept the hospitality. However, you should always exercise particular caution if the organisers are involved in ongoing negotiations with the local authority on a particular matter.

Where you are offered a gift or hospitality but decline it you should nevertheless notify the monitoring officer. That helps the authority to identify if there are any patterns and to be aware of who might be seeking to influence the authority.

### **What about gifts or hospitality that falls below the limit in the code?**

You should always notify the monitoring officer of any gift or hospitality offered to you if it could be perceived as something given to you because of your position, especially where the gift or hospitality is from somebody who has put in an application to the local authority (or is about to) even where that hospitality falls below £50 or the limit set by the local authority.

While that would not be a matter for the public register it again allows the authority to be aware of any patterns.

Also, an accumulation of small gifts you receive from the same source over a short period of say a couple of months that add up to £50 or over should be registered in the interests of transparency.

### **What if I do not know the value of a gift or hospitality?**

The general rule is, if in doubt as to the value of a gift or hospitality, you should register it, as a matter of good practice and in accordance with the principles of openness and accountability in public life. You may therefore have to estimate how much a gift or hospitality is worth. For example, if you attend a dinner as a representative of the authority which has been pre-paid by the sponsors you would need to make an informed judgment as to its likely cost.

### **What if I'm at an event but don't have the hospitality or only have a small amount?**

The best way to preserve transparency is for you to assess the hospitality on offer, whether it is accepted or not. This is because it would clearly not be in your interests to be drawn into arguments about how much you yourself ate or drank at a particular occasion. For example, you may find yourself at a function where relatively lavish hospitality is on offer, but you choose not to accept it. You may go to a champagne reception but drink a single glass of orange juice for example.

As a guide you should consider how much a person could reasonably expect to pay for an equivalent function or event run on a commercial basis. What you have been offered is the value of the event regardless of what you actually consumed. Clearly where you are in any doubt the prudent course is to register the hospitality.

### **Is there a minimal threshold where I wouldn't have to notify the monitoring officer?**

The code is about ensuring that there is transparency and accountability about where people may be trying to influence you or the local authority improperly. However, in the course of your duties as a councillor you will be offered light refreshments or similar on many occasions. It is perfectly acceptable to have a cup of tea or biscuits at a meeting with residents at the local community centre for example and there may be times when an external meeting lasts all day and the organisers offer you a sandwich lunch and refreshments.

The Government's guide to the Bribery Act for employers says that 'the Government does not intend that genuine hospitality or similar business expenditure that is reasonable and

proportionate be caught by the Act, so you can continue to provide bona fide hospitality, promotional or other business expenditure. In any case where it was thought the hospitality was really a cover for bribing someone, the authorities would look at such things as the level of hospitality offered, the way in which it was provided and the level of influence the person receiving it had on the business decision in question. But, as a general proposition, hospitality or promotional expenditure which is proportionate and reasonable given the sort of business you do is very unlikely to engage the Act.'

You should use your discretion and think how it might look to a reasonable person but always seek the views of the monitoring officer or clerk where you are a parish councillor if in doubt.

### **What are 'normal expenses and hospitality associated with your duties as a councillor'?**

As well as the minimal threshold hospitality above there will be times when you are paid expenses which include an element for food and drink as part of your role.

The focus of the code is on the source of the hospitality and its nature. Hospitality does not need to be registered where it is provided or reimbursed by the authority or where it is clearly ancillary to the business being conducted, such as an overnight stay for an away-day. Therefore, hospitality at a civic reception or mayor's ball would not need to be registered.

However, the hospitality should be registered if it is provided by a person or body other than the authority and is over and above what could reasonably be viewed as ancillary to the business conducted. You might meet dignitaries or business contacts in local authority offices. However, if such meetings take place in other venues, such as at cultural or sporting events, this should be registered as hospitality.

If you are away at a conference and you are offered entertainment by a private company or individual or attend a sponsored event you should consider registering it.

### **What if my role involves me attending regular events or receiving gifts or hospitality?**

Some roles in a local authority will inevitably involve being offered more entertainment than others because of the 'ambassadorial' nature of the role. For example, the mayor or chair of the authority will be invited to a large number of functions and the leader of the local authority may be attending events as political leader of the local authority.

Although the mayor or chair, for example, may attend many social functions, they are not exempt from the requirement to register hospitality as individual councillors. However, where the hospitality is extended to the office holder for the time being rather than the individual, there is no requirement under the code to register the hospitality against your individual register. The question a councillor needs to ask themselves is, "Would I have received this hospitality even if I were not the mayor/chair?" If the answer is yes, then it must be registered.

If matters are recorded on a mayor or chair's register any entry on the register should make it clear that gifts or hospitality are being accepted because of the office held and, where possible, any gifts accepted should be 'donated' to the local authority or to charity or as raffle prizes for example.

Gifts that are clearly made to the local authority, for example a commemorative goblet which is kept on display in the local authority's offices, do not need to be registered in the councillor's

register of gifts and hospitality. However, such gifts ought to be recorded by the local authority for audit purposes.

## Register of interests

Section 29 of the Localism Act 2011 requires the monitoring officer to establish and maintain a register of interests of members of the local authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision-making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the monitoring officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in Table 2 (Other Registerable Interests)

You must register two different categories of interests:

1. Disclosable Pecuniary Interests – these are categories of interests which apply to you and your partner. The categories are set out in regulations made under s27 of the Localism Act 2011 and knowing non-compliance is a criminal offence
2. Other registerable interests – these are categories of interest which apply only to you and which the LGA believes should be registered as an aid to transparency.

Further details about these two categories follow. For guidance on when these interests give rise to a matter which needs to be declared at a meeting see the [guidance on declaring interests in Part 3](#).

## Disclosable Pecuniary Interests

These are interests which must be notified to the principal authority's monitoring officer within 28 days of the code being adopted by your local authority or within 28 days from when you become a councillor in accordance with the statutory requirements of the Localism Act 2011. These are enforced by criminal sanction, and failure to register or declare such an interest at a meeting is a criminal offence. You must keep your register up to date so, as soon as a new interest needs to be registered or you cease to hold an interest, you should notify the monitoring officer.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) and the categories covered are set out in Appendix A of the Code.



## Offences

It is a criminal offence under the Localism Act 2011 to

- fail to notify the monitoring officer of any disclosable pecuniary interest within 28 days of election or co-option
- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- fail to notify the monitoring officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- knowingly or recklessly provide information that is false or misleading in notifying the monitoring officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to five years.

### **Does 'office carried on for profit or gain' include allowances I may receive from another local authority I sit on?**

If you receive allowances which are treated as taxable income rather than simply being pure reimbursement of expenses, say, then they do need to be registered and declared as appropriate.

Reimbursement of expenses is separately covered by the DPI category 'sponsorship' and makes clear that it excludes the need to register or declare reimbursement of expenses from one's own authority. However, that does not exclude any allowances received from another authority. This is supported by a letter written by the then Minister Brandon Lewis to Desmond Swayne MP in 2013 when this issue was raised with Government which said: "a member being in receipt of taxable members' allowances may be considered to give rise to a disclosable pecuniary interest under the subject of 'Employment, office, trade or vocation' set out in the regulations.

That means that any member in receipt of taxable allowances from another authority would have to register such as a DPI. For example, a parish councillor who is also a district councillor and is in receipt of taxable allowances from the district would need to register that fact.

### **How much detail do I need to put about my employment?**

It is not enough simply to put, for example, 'management consultant' or 'teacher'. Sufficient detail should be given to identify your company or employer. This aids transparency and allows people to see where potential conflicts of interest may arise.

Where you have a sensitive employment, which should not be disclosed you should discuss this with your monitoring officer (see 'sensitive interests' below). While the law on sensitive interests only applies to where there is a fear of intimidation there may be employment, such as certain sections of the military, which cannot be disclosed for other reasons so you should always seek advice if in doubt.

### **What is a contract with the local authority?**

Some councillors' own businesses which may have dealings with the local authority. For example, a grounds maintenance company may contract with a parish council for grass cutting. Such contracts should be included on the register of interests.

More broadly, councillors, as residents, may have dealings with the local authority in their personal lives. For example, some councillors pay their own local authority to have garden waste collections, rent an allotment or may be a member of the gym of a local authority operated leisure centre. Such arrangements form a subscription service that are open to all residents, and do not require registration.

### **How much detail is required of landholdings?**

Sufficient detail should be given to identify the land in question.

An address and, where the address is not sufficient, details that are sufficient to identify the land will usually meet the requirement. A plan identifying the land may be useful in some situations but is not a requirement.

### **Do you have to register the landholdings of your employers or bodies you have shareholdings in?**

In general, there is no requirement to list the landholdings of companies or corporate bodies included in the register. The only requirement is to register any tenancy between such bodies and the authority (under the corporate tenancies). Obviously, you can only be expected to register those you ought reasonably to be aware of, so, for example, if you work for a large housebuilder you may not be aware of which land in the local authority's area they had options on.

You do need to be mindful of your level of control in the company and the effect this may have on your benefit from the land. For example, if you and your spouse jointly owned a farming business, you would be the sole beneficiaries of any land owned by that farm and as such it is strongly advised to register land held by companies in which you have a controlling interest.

### **What about my home and tenancies?**

The most common beneficial interest in land councillors have is their home address. You should include in here your home if you live in it; whether that be as a result of a mortgage, tenancy, or other arrangement (for example, a councillor is living with their parents but not paying a rental fee to them).

You should also include in the section for beneficial interests in land any tenancy properties you own in the local authority's area.

### **How much information do you have to give out about shareholdings?**

In general, if you hold more than £25,000 of equity in a company, or more than 1 per cent of a shareholding, you are required to declare this.

Many councillors hold investments through trust funds, investment funds or pension funds which are managed by fund managers. In that situation, you may not know if you actually hold more than £25,000 in a single company or more than 1 per cent of a shareholding. The expectation is that you should take reasonable steps to ensure you do understand what investments you may have and whether the requirement to register applies, and so:

1. It can be helpful for councillors to state on their form that they have funds invested in specific funds.
2. It can be helpful for councillors to make fund managers aware of their requirement to declare where they hold significant investments within a company that operates in the

local authority's area so that they can be notified if this is the case.

### **Do I have to separate my spouse/partners interests and my own interests?**

The law only requires you to register the interests, and you are not required specifically to state whether the interest is held by you, or by your spouse. However, many local authorities do ask for this information as it can be more transparent to separate it.

### **How much information do I need to obtain from my spouse/partner?**

You need to make sure you take all reasonable steps to obtain information from your spouse or partner about their interests. For example, you would reasonably be expected to know where they worked, or if they owned any rental properties. You would be expected to ask if they had any shareholdings in companies, but they may not know the full details of an investment fund they had and where it was invested, and if that were the case, you would not be expected to know (and register) it either.

### **Other registerable interests**

In addition to the Disclosable Pecuniary Interests above, you must, within 28 days of the code being adopted by your local authority, or your election or appointment to office (where that is later), notify the monitoring officer in writing of the details of your interests within the following categories, which are called 'other registerable interests':

- a) Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your local authority,
- b) Details of any body of which you are a member or in a position of general control or management and which –
  - exercises functions of a public nature
  - is directed to charitable purposes, or
  - is a body which includes as one of its principal purposes influencing public opinion or policy
- c) Details of any gifts or hospitality with an estimated value of more than £50 or such other limit as your local authority has agreed, that you receive personally in connection with your official duties.

With Other Registerable Interests, you are only obliged to register your own interests and do not need to include interests of spouses or partners. Therefore, a spousal interest in a local group is not registerable as an 'other registerable interest'. Failure to register these interests is not covered by the criminal offence but would be a breach of the code.

### **What is a “body exercising functions of a public nature”?**

Although it is not possible to produce a definitive list of such bodies, here are some criteria to consider when deciding whether or not a body meets that definition -

- does that body carry out a public service?
- is the body taking the place of local or central government in carrying out the function?
- is the body (including one outsourced in the private sector) exercising a function delegated to it by a public authority?
- is the function exercised under legislation or according to some statutory power?
- can the body be judicially reviewed?

Unless you answer “yes” to one of the above questions, it is unlikely that the body in your case is exercising functions of a public nature.

Examples of bodies included in this definition: government agencies, other councils, public health bodies, council-owned companies exercising public functions, arms-length management organisations carrying out housing functions on behalf of a council, school governing bodies.

### **Do local campaigning or Facebook groups need to be registered?**

Membership (which does not include simply being on a mailing list), of local campaign or Facebook groups will only need to be registered if they are bodies:

- exercising functions of a public nature;
- directed towards charitable purposes; or
- one whose principal purpose includes influencing public opinion or policy.

Generally, it is unlikely that these groups will be regarded as formal bodies to be registered. However, each case should be considered on its own merits. ‘A Body’ is defined as ‘a number of persons united or organised’. Some groups are very united on their cause and organised, but their purpose must fall under one of the functions listed above.

There must also be some formality to the membership, such as registration for example. Simply attending a meeting of a local campaign does not of itself make you a ‘member’ of that organisation.

There has been a growth in organisations which are more nebulous in nature, and no formal membership requirements exist, such as Extinction Rebellion. It can be helpful to ask yourself the question “do I consider I am a member of the organisation” and if the answer is yes, then register the membership for transparency purposes.

If you need further information or specific advice, please speak to your clerk or monitoring officer.

### **What about membership of a political party or trade union?**

The second category of other registerable interests refers to membership of a body or being in a position of general control and management of a body, one of whose principal purposes includes the influence of public opinion or policy. This includes any political party or trade union. Memberships of political parties and Trade Unions therefore need to be registered. Remember that if because of membership of a political party or a trade union any payment or financial benefit is received, it is likely to come under the Sponsorship category of DPI.

### **Sensitive interests**

Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the monitoring officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

### **What is sensitive information?**

It may include your sensitive employment (such as certain scientific research or the Special Forces) which is covered by other legislation or interests that are likely to create serious risk of violence or intimidation against you or someone who lives with you. For example, disclosure of your home address where there has been a threat of violence against you or where there is a court order protecting your whereabouts.

You should provide this information to your monitoring officer and explain your concerns regarding the disclosure of the sensitive information; including why it is likely to create a serious risk that you or a person who lives with you will be subjected to violence or intimidation. You do not need to include this information in your register of interests, if your monitoring officer agrees, but you need to disclose at meetings the fact that you have an interest in the matter concerned (see guidance on declaring interests).

### **What happens if the monitoring officer does not agree that the information is sensitive?**

It is for the monitoring officer to decide if the information is sensitive. You must notify the monitoring officer of the information which you think is sensitive and give your reasons and any supporting evidence.

If the monitoring officer agrees, this information does not need to be included in the register of interests. However, if the monitoring officer disagrees then it must be registered.

### **What happens if the information stops being sensitive?**

You must notify the monitoring officer of any change in circumstances which would mean that the sensitive information is no longer sensitive within 28 days of the change, for example a change in employment. The information would then be included in the authority's register of interests.

### **I haven't received a direct threat, but I am concerned about registering my home address.**

At present, councillors are required to register their home address as part of their local authority's register of interests which are typically published on their local authority website. There have been growing concerns about the potential for threats and intimidation to councillors by virtue of disclosing their home address. Whilst some councillors believe disclosing a home address is a core component of democracy and it is important for the public to know where a councillor may live as they may be making decisions that have an impact on their property, others are very concerned about it. Section 32 of the [Localism Act 2011](#) allows Local Authorities to withhold sensitive interests from the public register where their disclosure could lead to violence or intimidation. It is recommended that councillors should not be required to register their home addresses as a disclosable pecuniary interest. The [Committee on Standards in Public Life's](#) review of Local Government Ethical Standard recommended in January 2019 that councillors should not be required to register their home addresses as a disclosable pecuniary interest. However, at present the Government has not legislated for this.

It is important that if councillors have such concerns, they share these with the monitoring officer transparently and openly so they can be properly considered.

### **Who should you notify when registering your interests?**

The Localism Act and the Code both say that the monitoring officer is responsible for maintaining the register. You must therefore notify your monitoring officer of your interests to be registered. This is also true for parish councillors that you must notify the monitoring officer of the district, metropolitan or unitary authority for the area in which the parish council is situated.

However, the obvious point of contact for information of this type for the public is the parish clerk. The clerk needs to have an up-to-date copy of the register of interests in order to comply with public access requirements and there is a requirement for the parish council to publish the registers on their website where they have one, either directly or through a link to the relevant page on the principal authority's website. It also ensures that the clerk is aware of potential conflicts if they arise in a parish council meeting and can advise accordingly. It is therefore practical for the parish clerk to act as the point of contact between parish councillors and the

relevant monitoring officer by collecting their interests together, passing them on and regularly asking councillors to review if there have been any changes.

However, you should ensure that there is a system in place for the parish clerk to pass on immediately any information to the relevant monitoring officer as each individual councillor is ultimately responsible for ensuring that the relevant monitoring officer is in possession of all the required information.

## Declarations of interest

As a councillor:

- **I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the monitoring officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1 of the Code, is a criminal offence under the Localism Act 2011.

Appendix B of the Code sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your monitoring officer.

This part of the Code is about the registering of your interests and then how to go about declaring or managing your interests.

At heart there is a simple principle – as public decision-makers, decisions must be made in the public interest and not to serve private interests. However, the rules to set out whether you have an interest or not in any given situation can be complex given the infinite variety of issues that may arise. This guidance is to help you steer a way through those rules.

The Code therefore requires members to declare interests in certain circumstances. Disclosure, in the register and at meetings, is about letting members of the public and interested parties know where you are coming from when involved in decision making and is to enable you to be 'up front' about who you are and what your conflicts of interest might be. Conflicts of interest in decision making as a councillor, and what in public law is known as 'apparent bias', are an established part of the local government legal landscape. The Nolan Principles and the Model Code require councillors to act impartially (i.e. not be biased) when carrying out their duties. (See also guidance on bias and predetermination in Part 3)

A single councillor who is guilty of bias is enough to strike out the whole decision when challenged before the courts. This can cause huge cost and reputational damage for the local authority, yet is seldom due to actual corruption or even consciously favouring a personal



interest over the public interest on the part of the councillor involved and may have no repercussions for them personally.

The object of this part of the Code is therefore twofold.

Firstly, it is to provide an explanation and a guide to the public and councillors as to what is or isn't a conflict of interest and then how a conflict between the interest you may hold as an individual councillor and the public interest you must hold as a decision maker of a public authority can be best managed.

Secondly, the Code provides a means to hold an individual councillor to account for their actions when they fail to manage that conflict of interest properly and put the decision of the public authority, including the public purse, and decisions around individuals' daily lives, at risk.

The test at law for apparent bias is 'would a fair-minded and informed observer, having considered the facts, conclude that there was a real possibility of bias'. This is why you will see this question reflected in the Code when you are asked to consider whether or not you should participate in a meeting where you have a conflict of interest.

The code contains three different categories of interests – Disclosable Pecuniary Interests (DPI); Other Registerable Interests (ORI); and Non-Registerable Interests (NRI).

For the first two categories these are interests which must be recorded on a public register except in limited circumstances (see guidance on Registration of Interests in Part 3). The third category do not need to be recorded on the register but will need to be declared as and when they arise.

This means an interest may arise not just from interests already on your register. There will also be times when, although the interest does not personally involve you, it may involve a relative or close associate. You are not expected to register every interest of those people, but you will need to declare them as and when they might arise. These are referred to in the code as 'non-registerable interests'.

As a brief summary, the requirements of the code apply where:

1. you or someone you are associated with has an interest in any business of your authority, and;
2. where you are aware or ought reasonably to be aware of the existence of that interest, and
3. you attend a meeting of your authority at which the business is considered (or where you are making a delegated decision as an individual under executive arrangements).

You must disclose to that meeting the existence and nature of your interests at the start of the meeting, or when the interest becomes apparent. It is usual to have for any declarations of interest at the start of the meeting but it is good practice also to ask again at the start of any agenda item. For example, members of the public may only be present for a specific item so will not have heard the declaration at the start, and a member may only become aware of the interest part-way through the meeting or item in any case.

And there will be times that because your interest is so close to the matter under discussion you will not be able to take part in that item of business. Those circumstances are explained in greater detail for each category of interest below.

This means there are three types of interest which you may have to declare:

**Disclosable Pecuniary Interests (Part A of the Register)**

**Other Registerable Interests (Part B) and**

**Non-registerable interests**

Guidance is given below on each of these categories in turn.

## **Disclosable Pecuniary Interests**

(Annex B, paragraphs 4 and 5)

Disclosable Pecuniary Interests (or 'DPIs') were introduced by s30 of the Localism Act 2011. They are a category of interests which relate to the member and/or their partner, such as financial interests of you or your partner such as your house or other property, or if you have a job or own a business. The categories are set out in regulations made under the Act and are in Table 1 of Annex B of the Code

'**Partner**' is defined by regulations as your 'spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.'

They must be registered and, where they come up in a meeting, declared. Failure knowingly to register or declare a DPI is a criminal offence under the Localism Act.

The Localism Act says that if you are present at a meeting of the Council, or any committee, sub-committee, joint committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:

- you may not participate in any discussion of the matter at the meeting
- you may not participate in any vote taken on the matter at the meeting
- if the interest is not registered, you must disclose the interest to the meeting
- if the interest is not registered and is not the subject of a pending notification, you must notify the monitoring officer of the interest within 28 days.

The Act says you need to declare the nature of the interest only if it is not on the public register. In addition, your authority's rules might require you to leave the room where the meeting is held while any discussion or voting takes place.

However, the Model Code states that it is important to declare the nature of the interest and to withdraw while the item is being dealt with. This aids transparency for the public and helps avoid accusations that you may be seeking to influence the outcome by remaining in the room even if your local authority's rules don't explicitly require it.

If you have a DPI, you may in certain circumstances be granted a dispensation to take part (see guidance on Dispensations in Part3).

### **When does a Disclosable Pecuniary Interest arise?**

The Localism Act uses the phrase 'you have a DPI in any matter...'

This wording has led to some confusion as to what circumstances would lead to the need to declare a DPI. The Explanatory Notes to the Localism Act say that section 31 of the Act "requires a member of a relevant authority to disclose a disclosable pecuniary interest that they are aware of (apart from a sensitive interest), at a meeting or if acting alone, where any matter to be considered relates to their interest. It prohibits a member from participating in discussion or voting on any matter relating to their interest or, if acting alone, from taking any steps in relation to the matter (subject to any dispensations)." [our emphasis].

This means you have a Disclosable Pecuniary Interest (DPI) in a matter when the matter being discussed directly relates to your registered interest or that of your partner, rather than simply affecting it.



For example, if you have registered 1 Acacia Avenue as your address, you would have a DPI if you put in a planning application for 1 Acacia Avenue, or if the whole of Acacia Avenue was being considered for a Resident Parking Zone.

You would not have a DPI if 3 Acacia Avenue had put in a planning application as the matter does not directly relate to your registered interest. You may however have a non-registerable interest (see below) as the application may indirectly affect your property.

### **Does setting the Council Tax or precept give rise to a DPI?**

The LGA is clear that you do not have a DPI simply if you are voting to set the Council Tax or precept. Guidance issued by the Government in 2013 made clear that 'any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.'

The Council Tax and precept are charges on all relevant properties in the area and do not directly relate to any single property in such a way as to give rise to a DPI. Members are therefore fully entitled to vote on the matter (subject to rules about Council tax arrears).

Other registerable interests

(Paras 6, 8 and 9 of Annex B)

The second category of interests are 'other registerable interests' or ORIs.

If you have an 'Other Registerable Interest' – that is an interest which falls within the categories in Table 2 in Annex B - the Code says you should not participate in the relevant business in two circumstances:

1. when a matter directly relates to the finances or wellbeing of that interest. (para 6); or
2. when a matter affects the finances or wellbeing of that interest to a greater extent than it affects the majority of inhabitants; and a reasonable member of the public would thereby believe that your view of the public interest would be affected (paras 8 and 9).

An interest 'directly relates' to an outside body where the local authority is taking a decision which directly relates to the funding or wellbeing of that organisation

For example, under a) if you are a member of a group which has applied for funding from the local authority, or if you are a member of an organisation which has submitted a planning application, the decision directly relates to that organisation.

In such a case you must not take part in any discussion or vote on the matter. You can speak on the matter before withdrawing but only where the public are also allowed to address the meeting. For example, you may want to put forward the organisation's case as to why it has applied for funding, but representatives from competing organisations would also need to be able to make their case.

If the public are not allowed to address the meeting on that item, you would need, if necessary, to get another councillor who did not have an ORI to make any relevant case.

If the local authority is simply discussing that outside organisation but not making a decision which relates to its finances or wellbeing – for example discussing the annual report from the organisation – that does not directly relate to the organisation as there is no direct impact on the organisation which would give rise to a conflict of interest.

Under b) if you are on the committee of the local village hall and an application for a licence for another venue in the village is made which may take trade away from the village hall then the matter would affect the village hall and a reasonable person would believe that would affect your view of the public interest so those two tests are met.

You would not have an interest if the local authority was discussing early planning for an event, which may or may not be held in the village hall as there would be no direct financial impact at that time. When the plans crystallised then an interest would arise as a decision would be made which would have financial implications.

There will also be circumstances where you do not need to declare an interest even though the matter may be relevant to the wider aims of an organisation of which you are a member. For example, if you are a member of a charity such as the Royal Society for the Protection of Birds (RSPB), you do not need to declare an interest every time the local authority might discuss matters relating to habitats or conservation issues. Those issues may reflect the wider aims of RSPB, but they do not directly relate to or affect the organisation and your mere membership of the organisation has no bearing on the matter.

If you were in a position of control or general management in that body and the organisation was campaigning actively on the specific issue being discussed or you personally were campaigning actively on that specific issue the situation would be different. In those circumstances you may have an interest and there is a risk of predetermination. Where there is doubt you should always seek advice from the monitoring officer (or clerk if you are a parish councillor).

As with DPIs you can be granted a dispensation (see below) and if the interest has not been registered or notified to the monitoring officer you should do so within 28 days of the meeting.

### **Non-registerable interest**

(paras 7, 8 and 9 of Annex B)

The third category of interests is Non-registerable interests or NRIs.

A Non-registerable Interest arises where the interest is that of yourself or your partner which is not a DPI or of a relative or close associate (see definition below).

As a councillor you are not expected to have to register the interests of your relatives or close associates but under the Code you are expected to declare them as and when relevant business occurs which affects their finances or wellbeing. The Code says you should not participate in the relevant business in two circumstances:

1. when a matter directly relates to that interest. Or
2. when a matter affects that interest to a greater extent than it affects the majority of inhabitants and
  - a. a reasonable member of the public would thereby believe that your view of the public interest would be affected

For example, under a) if your son has submitted an application for a licence to open a bar, the matter directly relates to your relative. You must not take part in any discussion or vote on the matter.

For example, under b) there has been an application made to build several units of housing on a field adjacent to your business partner's home. It is not their application, but they will be more affected by the application than the majority of people so again you would be expected to declare the interest and withdraw.

Similarly, an application for the property next door to you does not directly relate to your property so it is not a DPI, but you would instead need to declare a Non-Registerable Interest.

In all of these cases you can speak on the matter before withdrawing but only where the public are also allowed to address the meeting. If the public are not allowed to address the meeting on that item, you would need if necessary, to get another councillor who did not have an NRI to make any relevant case or to represent the wider views of constituents.

As with DPIs you can be granted a dispensation (see below).

### **What is the difference between 'relates to' and 'affects'?**

Something relates to your interest if it is directly about it. For example, the matter being discussed is an application about a particular property in which you or somebody associated with you or an outside body you have registered has a financial interest.

'Affects' means the matter is not directly about that interest but nevertheless the matter has clear implications for the interest – for example, it is a planning application for a neighbouring property which will result in it overshadowing your property. An interest can of course affect you, your family or close personal associates positively and negatively. So, if you or they have the potential to gain or lose from a matter under consideration, an interest would need to be declared in both situations.

### **What does "affecting well-being" mean?**

The term 'well-being' can be described as a condition of contentedness and happiness. Anything that could affect your quality of life or that of someone you are closely associated with, either positively or negatively, is likely to affect your well-being. There may, for example, be circumstances where any financial impact of a decision may be minimal but nevertheless the disruption it may cause to you or those close to you could be significant. This could be on either a temporary or permanent basis. Temporary roadworks in your street may affect your wellbeing on a temporary basis. Closure of a local amenity may have a more permanent impact on your wellbeing if you use it more than the majority of people in the area.

### **What are the definitions of relative or close associate?**

The Code does not attempt to define "relative" or "close associate", as all families vary. Some people may have very close extended families, but others will have more distant relations. You should consider the nature of your relationship with the person (eg whether they are a close family member or more distant relation). The key test is whether the interest might be objectively regarded by a member of the public, acting reasonably, as potentially affecting your responsibilities as a councillor. It would be a person with whom you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts. A close associate may also be somebody to whom you are known to show animosity as you might equally be viewed as willing to treat them differently.

### **What if I am unaware of the interest?**

You can only declare an interest in a matter if you are aware of the interest. For example, a company of which your father-in-law is a director may have made an application to the local authority. You may not be aware that he is a director, and you are not expected to have to ask about the business affairs of your relatives or acquaintances simply because you are a councillor. However, you would need to declare an interest as soon as you became aware.

A reasonable member of the public would expect you to know of certain interests of course, so it is, for example, reasonable that you would be expected to know your daughter's address or job but not necessarily any shareholdings she might have. While it is therefore your decision as to whether or not to declare an interest, you should always consider how it might seem to a reasonable person and if in doubt always seek advice from the monitoring officer.

**Do I always have to withdraw if I have an 'other registerable interest' or a non-registerable interest to declare?**

Where you have declared a DPI the Localism Act says you must always withdraw from participation unless you have a dispensation.

If the matter is an 'other registerable interest' or a non-registerable interest you must always withdraw from participation where the matter directly relates to that interest unless you have a dispensation.

If it is something which affects the financial interest or wellbeing of that interest you are asked to declare it and the Code then asks you to apply a two-part test before considering whether to participate in any discussion and/or vote:

1. Does the matter affect the interest more than it affects the majority of people in the area to which the business relates? For example, if a major development affects the settlement where your sister lives and your sister would be no more affected than anybody else – for example, she lives at the other end of the settlement rather than next door to the development, the answer would be no. If the answer is yes, you then ask:
2. Would a reasonable member of the public knowing all the facts believe that it would affect your judgment of the wider public interest?

This is similar to the test for bias (*see guidance on predetermination and bias in Part 2*) and if the answer is yes to that question then you must not take part in the meeting.

You help to run a food bank and are considering a motion to investigate the causes of poverty. A reasonable member of the public would not think that fact would affect your view of the wider public interest.

You are over 65 and are taking part in a discussion about provisions for older people. You would be more affected than the majority, but a reasonable member of the public would not think that fact would affect your view of the wider public interest.

You are discussing closure of the local authority-run home where your elderly parent lives. A reasonable member of the public would think that fact would affect your view of the wider public interest because of the direct effect on your parent.

**What does 'withdraw from the meeting' mean?**

When you withdraw from the meeting that means you must not be present in the room during the discussion or vote on the matter. If the public are allowed to speak at the meeting then you would be granted the same speaking rights as the public and would need to comply with the same rules – for example, giving notice in advance or abiding by time limits. However, unlike the public you would then withdraw once you had spoken.

This would be true at a committee meeting, for example, even if you are not a member of the committee but are simply attending as a member of the public. By staying in the room, even though you are not permitted to speak or vote, it is a long-held doctrine of case law that a councillor may still influence the decision or might gather information which would help in the furtherance of his or her interest. It is therefore in the public interest that a councillor, after having made any representations, should withdraw from the room, and explain why they are withdrawing.

These rules would apply to virtual meetings as they would to physical meetings. For example, after having spoken you should turn off your microphone and camera and may be moved to a 'virtual waiting room' while the item is discussed.

### **Executive decisions**

Where you are an executive member you should follow the same rules as above when considering a matter collectively – that is you should not take part in the decision where you have an interest applying the same rules as apply to other meetings above.

Where you have delegated decision-making power, you should not exercise that delegation in relation to matters where you have a disclosable pecuniary Interest or another type of interest which would debar you from taking part in a meeting. Instead you should ask the executive to take the decision collectively without your participation.

Where you have been delegated non-executive powers under s.236 of the Local Government and Public Housing Act 2007 you should similarly follow this approach and your local authority may need to make that clear in its code if it is using that power.

### **Dispensations**

Wherever you have an interest the code allows you to apply for a dispensation. The Localism Act sets out arrangements for applying for a dispensation where you have a DPI but is silent about dispensations for other types of interest as they are not statutory interests. A similar process should however be set out in your constitution or Dispensation Policy for ORIs and NRIs.

A dispensation must be applied for in writing to the 'Proper Officer' (the monitoring officer or, in the case of a parish council, the clerk) in good time before the relevant meeting and will be considered according to the local authority's scheme of delegation for considering a dispensation. The circumstances whereby a dispensation may be granted are where -

1. It is considered that 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.
2. It is considered that 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.
3. That the authority considers that the dispensation is in the interests of persons living in the authority's area.
4. That the authority considers that it is otherwise appropriate to grant a dispensation.

### **What is a 'sensitive interest'?**

There are circumstances set out in the Localism Act where you do not need to put an interest on the public register or declare the nature of an interest at a meeting although you would have to declare in general terms that you have an interest. These are so-called 'sensitive interests'.

An interest will be a sensitive interest if the two following conditions apply: (a) That you have an interest (whether or not a DPI); and (b) the nature of the interest is such that you and the monitoring officer consider that disclosure of the details of the interest could lead to you or a person connected to you being subject to violence or intimidation.

Where it is decided that an interest is a "sensitive interest" you must inform the monitoring officer of the interest so that a record is kept but it will be excluded from published versions of the register. The monitoring officer may state on the register that the member has an interest the details of which are excluded under that particular section.

Where the sensitive interest crops up in a meeting the usual rules relating to declaration will apply except that you will only be required to disclose that you hold an interest in the matter under discussion but do not have to say what that interest is. The Localism Act sets out the scheme where the DPI is a sensitive interest. Your local authority procedures should allow for similar arrangements for other registerable or declarable interests.

For example, if your sister has been subject to domestic violence such that the perpetrator has been served with a Domestic Violence Protection Order you would not be expected to disclose your sister's address to a meeting.

### **What do I do if I need advice?**

If you are unsure as to whether you have an interest to declare you should always seek advice from the monitoring officer (or the clerk if you are a parish councillor).

**The Golden Rule is be safe –seek advice if in doubt before you act.**

No.	Type	Speak	Vote	Stay	Example	Comments
1	DPI	N	N	N	Awarding a contract to your own company Planning application for your property Resident parking zone includes your house	<i>Directly relates to DPI-foreseeable-narrow-criminal</i>
2a	ORI	If public allowed to	N	N	Awarding/withdrawing grant funding to a body of which you are a member e.g. village hall Granting planning permission to a body of which you are a member	<i>Directly relates to finances-foreseeable-narrow-can "address" meeting if public can do, but not take part in discussion.</i>
2b	ORI	Test	Test	Test	Awarding grant funding to a body other than the body of which you are a member e.g. competitor to village hall	<i>Affects finances or wellbeing-test (1) greater than majority of inhabitants and (2) reasonable public-affect view of public interest</i>
3a	NRI	If public allowed to	N	N	Determining an application submitted by your sister or your neighbour for a dog breeding licence Partner with free parking permit and policy review decision to be made Councillor objects in private capacity to neighbours planning application cannot sit on PC as statutory consultee	<i>Directly relates to finances of you, partner (not a DPI)-a relative or close associate-Unforeseeable- can "address" meeting if public can do, but not take part in discussion.</i>
3b	NRI	Test	Test	Test	Application for housing development on land near to partners business property Your neighbour applies for planning permission	<i>Affects finances or well-being-test 1) greater than majority of inhabitants and (2) reasonable public-affect view of public interest</i>
2b/3b	NRI	Test	Test	Test	Road works noise outside your house Odours from nearby refuse tip ASB from rough sleepers housed in B+B's nearby	<i>May not affect finances but Well-being=quality of life – apply 2-stage test</i>

\*speak-take part in discussion, as opposed to addressing a public meeting as a member of the public where others can also address the meeting

Proximity in personal relationship and in physical proximity are often important factors in determining ability to speak and/or vote.

## Bias and Predetermination

Bias and predetermination are not explicitly mentioned in the Code of Conduct. The code provisions on declarations of interest are about ensuring you do not take decisions where you or those close to you stand to lose or gain improperly. (See guidance on declarations of interest in Part 2)

There is however a separate concept in law dealing with bias and predetermination which exists to ensure that decisions are taken solely in the public interest rather than to further private interests.

Both the courts and legislation recognise that elected councillors are entitled, and indeed expected, to have and to have expressed their views on a subject to be decided upon by the local authority. In law, there is no pretence that such democratically accountable decision-makers are intended to be independent and impartial as if they were judges or quasi-judges.

Nonetheless, decisions of public authorities do involve consideration of circumstances where a decision-maker must not act in a way that goes to the appearance of having a closed mind and pre-determining a decision before they have all of the evidence before them and where they have to act fairly. Breaches of the rules of natural justice in these circumstances have and do continue to result in decisions of local authorities being successfully challenged in the courts. These issues are complex, and advice should be sought and given in the various situations that come up, which is why there are no direct paragraphs of the code covering this, although it does overlap with the rules on declarations of interest.

While declaring interests will to some extent deal with issues of bias, there will still be areas where a formal declaration is not required under the Code of Conduct, but councillors need to be clear that they are not biased or predetermined going into the decision-making process. Otherwise the decision is at risk of being challenged on appeal or in the Courts. To quote a leading judgment in this field "All councillors elected to serve on local councils have to be scrupulous in their duties, search their consciences and consider carefully the propriety of attending meetings and taking part in decisions which may give rise to an appearance of bias even though their actions are above reproach." [Kelton v Wiltshire Council [2015] EWHC 2853 (Admin)]

The rules against bias say that there are three distinct elements.

The first seeks accuracy in public decision-making.

The second seeks the absence of prejudice or partiality on the part of you as the decision-maker. An accurate decision is more likely to be achieved by a decision-maker who is in fact impartial or disinterested in the outcome of the decision and who puts aside any personal strong feelings they may have had in advance of making the decision.

The third requirement is for public confidence in the decision-making process. Even though the decision-maker may in fact be scrupulously impartial, the appearance of bias can itself call into question the legitimacy of the decision-making process. In general, the rule against bias looks to the appearance or risk of bias rather than bias in fact, in order to ensure that justice should not only be done but should manifestly and undoubtedly be seen to be done.

To varying degrees, these "requirements" might be seen to provide the rationales behind what are generally taken to be three separate rules against bias: "automatic" (or "presumed") bias, "actual" bias, and "apparent" bias.

The rationale behind "automatic" or "presumed" bias appears to be that in certain situations (such as if you have a pecuniary or proprietary interest in the outcome of the proceedings) then



it must be presumed that you are incapable of impartiality. Since a motive for bias is thought to be so obvious in such cases, the decisions are not allowed to stand even though no investigation is made into whether the decision-maker was biased *in fact*. In these circumstances you should not participate in the discussion or vote on the issue. These are covered by the code's requirement to declare certain interests and withdraw from participation. (see guidance on declaration of interests in Part 3).

A single councillor who is guilty of bias is enough to strike out the whole decision when challenged before the courts. This can cause huge cost and reputational damage for the local authority yet is seldom due to actual corruption or even consciously favouring a personal interest over the public interest on the part of the councillor involved and may have no repercussions for them personally.

### **Predetermination**

The Localism Act 2011 has enshrined the rules relating to pre-disposition and predetermination into statute. In essence you are not taken to have had, or appeared to have had, a closed mind when making a decision just because you have previously done anything that directly or indirectly indicated what view you may take in relation to a matter and that matter was relevant to the decision.

Predetermination at a meeting can be manifested in a number of ways. It is not just about what you might say, for example, but it may be shown by body language, tone of voice or overly-hostile lines of questioning for example.

You are therefore entitled to have a predisposition one way or another as long as you have not pre-determined the outcome. You are able to express an opinion providing that you come to the relevant meeting with an open mind and demonstrate that to the meeting by your behaviour, able to take account of all of the evidence and make your decision on the day.

### **How can bias or predetermination arise?**

The following are some of the potential situations in which predetermination or bias could arise.

### **Connection with someone affected by a decision**

This sort of bias particularly concerns administrative decision-making, where the authority must take a decision which involves balancing the interests of people with opposing views. It is based on the belief that the decision-making body cannot make an unbiased decision, or a decision which objectively looks impartial, if a councillor serving on it is closely connected with one of the parties involved.

## Examples

The complaint alleged that a councillor had behaved in a disrespectful and harassing manner towards two fellow female councillors and officers. It was established that the councillor had made unwarranted and inappropriate physical contact with the councillors and officers at an official event and had also made remarks towards the officers which were patronising and demeaning. The councillor was found to be in breach of the Code of Conduct.

A district councillor also belongs to a parish council that has complained about the conduct of an officer of the district council. As a result of the complaint the officer has been disciplined. The officer has appealed to a councillor panel and the councillor seeks to sit on the panel hearing the appeal. The councillor should not participate.

Contrast this with:

## Improper involvement of someone with an interest in the outcome

This sort of bias involves someone who has, or appears to have, inappropriate influence in the decision being made by someone else. It is inappropriate because they have a vested interest in the decision.

## Examples

A local authority receives an application to modify the Definitive Map of public rights of way. A panel of councillors are given delegated authority to make the statutory modification Order. They have a private meeting with local representatives of a footpath organisation before

## Prior involvement

This sort of bias arises because someone is being asked to make a decision about an issue which they have previously been involved with. This may be a problem if the second decision is a formal appeal from the first decision, so that someone is hearing an appeal from their own decision. However, if it is just a case of the person in question being required to reconsider a matter in the light of new evidence or representations, it is unlikely to be unlawful for them to participate.

## Commenting before a decision is made

Once a lobby group or advisory body has commented on a matter or application, it is likely that a councillor involved with that body will still be able to take part in making a decision about it. But this is as long as they do not give the appearance of being bound only by the views of that

body. If the councillor makes comments which make it clear that they have already made up their mind, they may not take part in the decision.

If the councillor is merely seeking to lobby a public meeting at which the decision is taking place but will not themselves be involved in making the decision, then they are not prevented by the principles of predetermination or bias from doing so. Unlike private lobbying, there is no particular reason why the fact that councillors can address a public meeting in the same way as the public should lead to successful legal challenges.

### Examples

A local authority appoints a barrister to hold a public inquiry into an application to register a village green. The barrister produces a report where he recommends that the application is rejected. A councillor attends a meeting in one of the affected wards and says publicly: "speaking for myself I am inclined to go along with the barrister's recommendation". He later participates in the local authority's decision to accept the barrister's recommendation. At the meeting the supporters of the application are given an opportunity to argue that the recommendation should not be accepted.

This is unlikely to give rise to a successful claim of predetermination or bias. The statement made by the councillor only suggests a predisposition to follow the recommendation of the barrister's report, and not that he has closed his mind to all possibilities. The subsequent conduct of the meeting, where supporters of the application could try and persuade councillors to disagree with the recommendation, would confirm this.

A developer entered into negotiations to acquire some surplus local authority land for an incinerator. Planning permission for the incinerator had already been granted. Following local elections there is a change in the composition and political control of the local authority. After pressure from new councillors who have campaigned against the incinerator and a full debate, the local authority's executive decides to end the negotiations. This is on the grounds that the land is needed for housing and employment uses.

The local authority's decision is unlikely to be found to be biased, so long as the eventual decision was taken on proper grounds and after a full consideration of all the relevant issues.

### What do I do if I need advice?

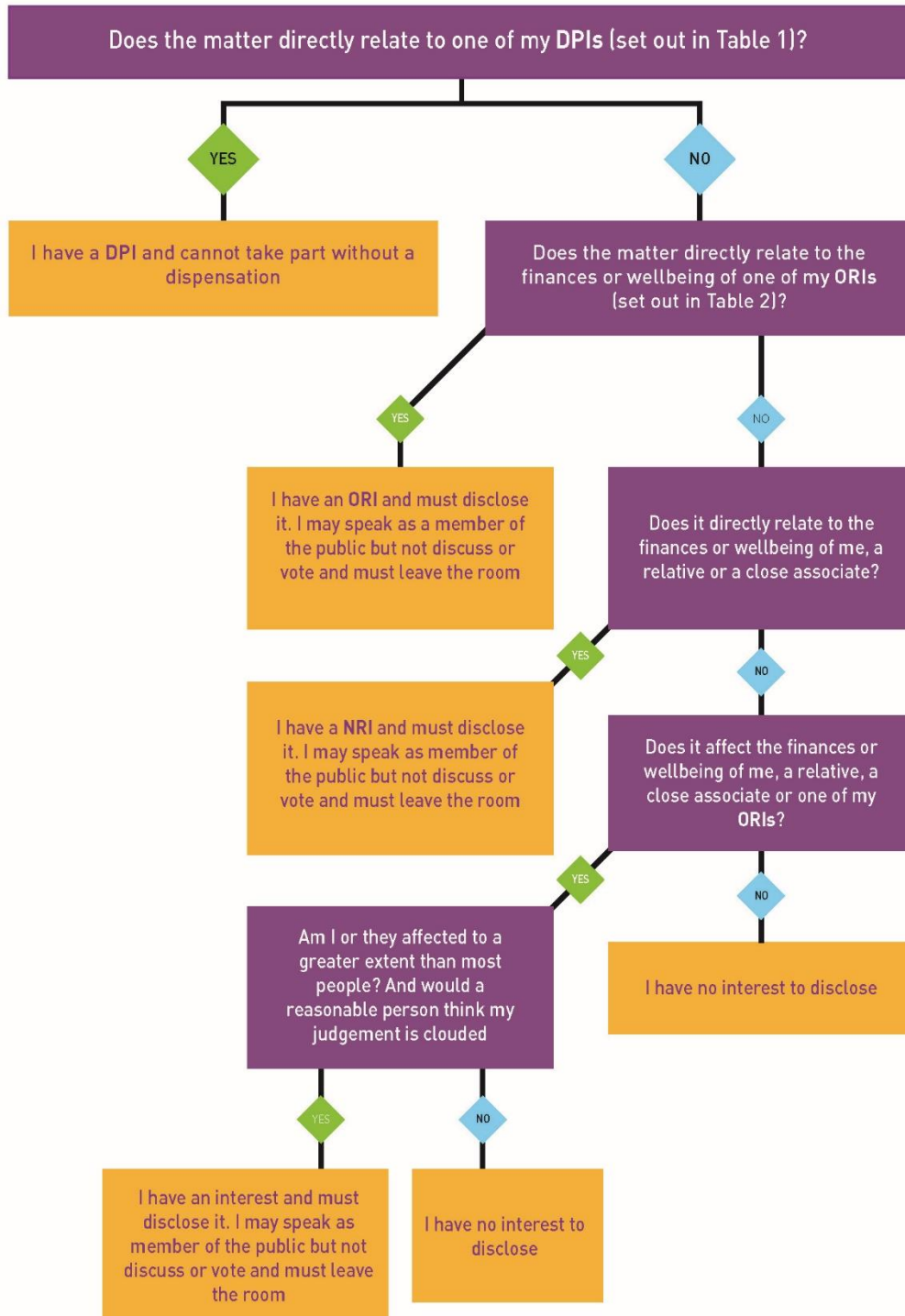
If you are unsure as to whether your views or any action you have previously taken may amount to predetermination you should always seek advice from the monitoring officer (or the clerk if you are a parish councillor).

The Golden Rule is be safe –seek advice if in doubt before you act.

# Appendix 1 - Interests Flowchart

## Interests Flowchart

The flowchart below gives a simple guide to declaring an interest under the code.



## Appendix 2 - General Principles

### General Principles

The Seven Principles of Public Life (also known as the Nolan Principles) outline the ethical standards those working in the public sector are expected to adhere to. The principles apply to all public office holders at all levels including ministers, civil servants, councillors, and local authority officers, as well as private and voluntary organisations delivering services paid for by public funds. The principles are:

<p><b>Selflessness</b> Holders of public office should act solely in terms of the public interest.</p>
<p><b>Integrity</b> Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.</p>
<p><b>Objectivity</b> Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.</p>
<p><b>Accountability</b> Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.</p>
<p><b>Openness</b> Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing</p>
<p><b>Honesty</b> Holders of public office should be truthful.</p>
<p><b>Leadership</b> Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.</p>

These principles underpin the standards that councillors should uphold and form the basis for the Code of Conduct, where the Principles have been translated into a series of clear rules. While fundamental to the Code of Conduct the principles are not part of the rules of the code and should be used for guidance and interpretation only.

# **West Lindsey District Council**

## **Member/Officer Relations Protocol**



## Member /Officer Relations Protocol

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# Member/Officer Relations Protocol

## 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, the Chief Executive, Assistant Directors and other senior officers. 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 Assistant Director. 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 and Training Requirements

- 2.1 Members have four main areas of responsibility -
  1. determining the policy of the Council and giving it leadership;
  2. monitoring and reviewing the performance of the Council in implementing that policy and delivering services;
  3. representing the Council externally in an informed and positive manner
  4. acting as advocates on behalf of their constituents and the wider community.
- 2.2 Members should undertake their role without placing undue pressure on Officers, in particular the Council's Statutory Officers have responsibilities in law over and above their obligations to the Council. Members must respect these obligations, must not obstruct these officers in their discharge of responsibilities and must not victimise officers for discharging their responsibilities.
- 2.3 In undertaking their role, Members are asked to commit to the Training and Development



opportunities that are afforded to elected Members, including a full Induction Programme at the commencement of each term of office.

- 2.4 There are also mandatory training requirements for a number of the Regulatory Committees to which Members, appointed to serve on these Committees, are required to commit to.

### **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, 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 Assistant Director level are accountable to their Assistant 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.
- 3.5 The Authority which has been delegated to Officers, is that which is set out in the Officer Scheme of Delegation (Part IV of the Constitution) and subsequent internal sub-delegations which are in writing and held by each service area.

### **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 the Chief Executive and Assistant Director**

- 5.1 Group Leaders shall meet collectively and 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 or other Statutory Officer.
- 5.2 Such meetings will have no formal standing or powers. There is an expectation, that proceedings in the main are something that Group Leaders are expected to share with the Members of the Group. Any items which are not to be shared will be clearly identified at the meeting.

- 5.3 An individual Group Leader can also request a meeting with the Chief Executive.
- 5.4 Again Such meetings will have no formal standing or powers and shall, unless otherwise agreed, be confidential other than to that Group Leader.

## **6. Relationships between Committee Chairmen and Officers**

- 6.1 Officers will regularly brief Chairmen on matters affecting their committee.
- 6.2 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.
- 6.3 Reports always contain a recommendation unless the issue is clearly one where political judgement is required. They will also always include the contact details of the report author. Members should raise issues with that officer prior to the committee meeting where practicable, in order that Officers can have the relevant information to hand. Members are also permitted and encouraged to raise queries and comments in advance of a meeting with the relevant Committee Chairman.
- 6.4 An Assistant 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 an Assistant Director regarding the content of an agenda will be referred to the Monitoring Officer for resolution in consultation with the Leader of the Council.
- 6.5 The Chairmen and members of the policy committees shall give officers the opportunity to give any advice they wish to give.
- 6.6 In relation to action between meetings, it is important to remember that the law (LGA '72/'00) 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 (where delegated to do so). No Individual Member, in any capacity, has individual decision making powers.
- 6.7 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.
- 6.8 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.

## **7. Relationships between Chairman and Members of the Overview and Scrutiny Committee and Officers**

- 7.1 The Chairman and members of the Council's Overview and Scrutiny Committee – the Overview and Scrutiny Committee shall be bound by the same provisions set out in section 2 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.

7.2 Officers are required at all times to guide/advise 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.

## **8. Relationships between Chairmen and Members of Other Committees and Officers**

8.1 The Chairmen of all Regulatory Committees and Sub-Committees shall be bound by the same provisions as set out in section 2 above.

8.2 The Chairman and Members of the Planning Committee must also act in accordance with the requirements set out in the document entitled the "Local Code of Conduct for Councillors and Officers dealing with Planning Matters".

## **9. Relationship between Policy Committee Chairmen and Officers**

9.1 The Chief Executive and/or Assistant Directors will meet jointly with the Policy Committee Chairman on a regular basis to discuss matters which cross cut both committees. Members will be permitted to share the content of such meetings with wider Members as they deem appropriate unless explicitly advised not to do so.

## **10. Officer Relationships with Party Groups**

10.1 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, Assistant Director, 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.

10.2 In order to ensure that Members are properly briefed on complex matters any political group may request via the Head of Paid Service 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 Head of Paid Service or relevant Assistant Director.

10.3 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.

- 10.4 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.
- 10.5 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. 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.
- 10.6 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.
- 10.7 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.
- 10.8 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.
- 10.9 No Member will refer in public or at meetings of the Council to advice given by officers to a party group meeting.
- 10.10 Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Monitoring Officer and the relevant party group leader.

**11. Members in their Ward Role and Officers**

- 11.1 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.
- 11.2 Any requirement to consult with Members on delegated decisions are effecting their Ward are set out in the "Responsibility for Functions" in Part IV of this Constitution.
- 11.3 Further to paragraph 10.2 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.
- 11.4 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.

11.5 Matters of a complex nature, or with significant implications, such as financial or reputational, will be the subject of an all Member Briefing/Workshop prior to them being considered by the relevant Committee. Members are encouraged to attend such briefings and workshops when requested to do so.

11.6 It is the duty of the Chief Executive and Assistant 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.

## **12. Inter Member Relations**

12.1 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. Motions which identify political positions held within the Council will be deemed acceptable.

## **13. Member Access to Documents and Information**

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

13.2 The approach to information being freely available has to be qualified in relation to certain appropriately confidential information. Any provision of information will be compliant with Data Protection. Moreover, devoting a significant amount of staff resources to identify and collate information with marginal benefit cannot be justified.

13.3 Where, in an officer'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 Assistant 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 Head of Paid Service in consultation with the leader of the group whose Member is requesting the information or the Leader of the Council.

13.4 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.

13.5 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.

13.6 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 Assistant Director who holds the source 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.

13.7 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.

#### **14. Independent / Lay Persons**

14.1 This protocol applies equally to all those people who are not elected members of the Council but who are members of any of the Council's committees or any other bodies.

14.2 This Protocol applies equally to such non Council members on Council bodies as it does to Council members.

#### **15. Press Releases**

15.1 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, and where appropriate, the relevant Ward Member.

15.2 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 Head of Paid Service 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 and Officers should uphold the good name and integrity of the Council.

15.3 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.

15.4 Council press releases will be sent to all Members in advance of them being released to the Media. This is for information only.

15.5 The timing and content of the Councils Electronic News 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.

## **16. Correspondence (including e-mails)**

- 16.1 Correspondence between an individual Member and an officer should not be copied by the officer or Member to any other Member or Officer without the consent of both parties 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 Head of Paid Service and/or the relevant Assistant Director and this will be made clear to the original Member. Under no circumstances should 'silent/blind (BCC) 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.
- 16.2 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.
- 16.3 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.

## **17. Behaviour at Meetings**

- 17.1 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.
- 17.2 In respect of licensing and planning application decisions, a Member who has left the meeting during consideration of the item or who arrived late, will not be permitted to take part in that decision. The Lead Officer in attendance will be responsible for reminding Members of this fact and enforcing the requirement.
- 17.3 The use of communication devices is permitted within meetings in accordance with the Provisions of the Openness of Local Government Regulations 2014 provisions.
- 17.4 However as a matter of courtesy mobile 'phones/ devices should not affect the business of the meeting and should remain on silent for the meetings duration.
- 17.5 The tweeting, blogging or recording of proceedings heard in closed session is strictly prohibited.

### **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

# Constitution of West Lindsey District Council

## Part IV

# Responsibility for Functions





# Responsibility for Functions

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## Council

The following functions will only be exercised by the full Council:

1. To approve and adopt the following plans and strategies which together make up the Council's budgetary and policy framework:
  - Budget<sup>1</sup> and Council Tax including council tax base
  - Corporate Plan
  - Local Plan
  - Local Council Tax Support Scheme
  - Housing Strategy Statement
  - Statements of Licensing Policy and Gambling Policy
  - Pay Policy Statement
2. To consider and determine whether any additional plans or strategies, both statutory and non-statutory, should be adopted or approved;
3. To adopt and change the Constitution when necessary after consideration by the Governance and Audit Committee;
4. At the annual meeting to appoint the Leader and Deputy Leader of the Council;
5. To consider a resolution to remove the Leader and/or Deputy Leader and appoint a replacement Leader and/or Deputy Leader;
6. At the annual meeting to appoint the Chairman and Vice-Chairman of the Council;
7. To agree and/or amend the terms of reference for committees, deciding on their composition and making appointments to them;
8. To appoint representatives to outside bodies;
9. To adopt an allowances scheme under Part VI of the Constitution;
10. To determine any changes to the name of the district;
11. To confirm the appointment and the dismissal of the Head of the Paid Service;
12. To consider advice, views and recommendations from the Independent Panel (Section 27a of the Localism Act) and agree action to be taken in relation to Chief Executive/statutory officer disciplinary matters.

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<sup>1</sup> The budget includes the allocation of financial resources, including the setting of fees and charges, for different services and projects, proposed contingency funds, the council tax base, setting the Council Tax, controlling the Council's borrowing requirement and capital expenditure in line with CIPFA's "Prudential Code for Capital Finance in Local Authorities", and the setting of virement limits.

13. To designate the Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) and Electoral Registration Officer / Returning Officer.
  14. To receive and consider reports from the Council's three statutory officers;
  15. To make, amend, revoke, re-enact or adopt bye laws and to promote or oppose the making of local legislation or personal bills;
  16. To consider those matters referred to it from time to time by the policy committees, the overview and scrutiny committee and by other council committees;
  17. To confer the title of Honorary Alderman and Freeman;
  18. To adopt the Council's Codes of Conduct.
  19. To exercise all local choice functions which the Council decides should be undertaken by itself rather than the policy committees;
  20. To consider and debate motions raised by Councillors;
  21. To debate issues that are the subject of petitions signed by a specified number of people (as set out in the Petitions Scheme in the appendix to the Constitution);
  22. To approve the appointment of external auditors for five financial years commencing 1 April 2018 and the approval of the Terms of Reference.
  23. To consider all other matters which, by law, must be reserved to Council.
  24. To adopt neighbourhood plans following a successful referendum.
-

## Corporate Policy and Resources Committee

As the principal committee of the Council to be responsible for:

1. The formulation (but not the adoption or approval) of:
  - (a) the Policy Framework,
  - (b) the budget; and
  - (c) the Council's objectives and priorities.
2. The control and management of resources, including land, property, finance and staff to further the Council's objectives, including the delegation of specific budgets to the Prosperous Communities Committee for a specific purpose, for the services quoted in their Terms of Reference.
3. Ensuring compliance with the Council's budget including its revenue and capital budgets and the management of the Council's assets.
4. The performance framework of the council.
5. The approval of the Committee timetable for each municipal year.
6. The exercise of the Council's functions relating to:
  - Equality and Diversity
  - Health and Safety (as an employer)
  - Voluntary Sector
  - Climate change
  - Information Assurance
7. The adoption and approval of strategies and policies not forming part of the Policy Framework apart from those policies for which delegated power is given to the Head of Paid Service to approve under Part IV of this Constitution.
8. The exercise of any function, duty or power of the council which is not delegated to another Committee, Sub-Committee or an officer, or reserved for decision by full Council under this Constitution or by law.
9. To recommend fees and charges for service areas within its remit or following a recommendation from the Prosperous Communities Committee, to full Council.
10. In addition to recommending fees and charges to Council on an annual basis, CP&R has the delegation to change individual fees and

charges where the Authority needs to respond to market changes or changes to the cost base.

11. Approving the creation of any new legal entity and appointments of directors or other statutory officers onto the Board of the legal entity and the nomination of the shareholder representative. This includes changing the directorship if required and this function cannot be sub-delegated to an officer.
12. Approval of the business plans of any wholly owned, companies, joint ventures or other legal entity in which the Council has an interest.
13. To make appointments to be Member Champions deemed to be relevant to the remit of the Committee.

This Committee can meet concurrently with the Prosperous Communities Committee.

## Prosperous Communities Committee

To be responsible for the following areas:

1. The regeneration, housing and planning strategies which together form the council's approach to place shaping.
2. The Council's role in the community around health and crime and disorder including the wellbeing of the community and the development of partnerships.
3. The Council's approach to community interaction and engagement.
4. To manage any budget assigned to the Committee by the Corporate Policy and Resources in relation to the service areas listed under paragraph 5.
5. All services under these strategic areas :
  - a. Strategic Housing
  - b. Home Options
  - c. Private Sector Housing
  - d. Enabling Affordable Homes
  - e. Supporting People
  - f. Economic Development
  - g. Markets and Car Park Policy
  - h. Tourism
  - i. Countryside Management and Open Space
  - j. Support to Business
  - k. Growth
  - l. Litter, Recycling, Waste and Street Cleansing
  - m. Anti-Social Behaviour
  - n. Family Intervention
  - o. Public Protection and Environmental Issues
  - p. Public Health
  - q. Transport
  - r. Leisure and Culture
  - s. Planning and Development
  - t. Land Charges
  - u. Cemeteries and Bereavement services
6. The Prosperous Communities Committee is responsible for overseeing an effective partnership approach throughout the Council. The Prosperous Communities Committee is responsible for approving protocols, delegations, including frameworks to inform decisions around partnership engagement. The Prosperous Communities Committee is the focus for forming partnerships with other local public, private, voluntary and community sector organisations **to address local needs** (where there is a financial implication this will need to be considered by the Corporate Policy and Resources Committee).

7. Exercising the Council's statutory functions in these areas.
8. Authorising the institution, prosecution or defence of any legal proceedings in connection with the functions of the committee.
9. Adopting any relevant plans, strategies and policies other than those identified for adoption by the Council or the Corporate Policy and Resources Committee.
10. To recommend fees and charges for service areas within its remit to Corporate Policy and Resources / full Council.
11. To make appointments to be Member Champions deemed to be relevant to the remit of the Committee.

This Committee can meet concurrently with the Corporate Policy and Resources Committee.



## Governance and Audit Committee

To be responsible for:

### (a) Corporate Governance

1. Monitoring the operation of the Council's Constitution and keeping its terms under review, including all procedure rules.
2. Considering and making recommendations on any proposal to make changes to the Constitution prior to its consideration by the Council.
3. To inform the work of the Remuneration Panel in advance of them making submissions to Council.
4. To keep under review the terms of reference of member level bodies and delegations of Council functions to committees and formally appointed bodies and officers.
5. Agreeing and updating regularly the Council's Local Code of Governance.
6. Monitoring its operation and compliance with it, and using it as a benchmark against performance for the Annual Governance Statement.
7. Following a decision of Council to undertake a community governance review to agree the terms of reference for and conduct such a review, making recommendations to Council who will determine the outcome of such reviews.
8. Exercising functions relating to elections and parishes set out in Part D of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (or any replacement or amendment of it).
9. Reviewing the adequacy of the Council's corporate governance arrangements (including matters such as internal control and risk management) and approving the annual governance statement.
10. To approve the financial and contract procedure rules between Annual Councils.
11. To review the number of working groups in existence, their role and terms of reference at least once per election cycle, making recommendations to Full Council prior to their Annual Meeting.

**(b) Accounts and Audit**

1. Considering the Council's arrangement relating to accounts including;
  - (i) the approval of the statement of accounts and any material amendments of the accounts recommended by the auditors;
  - (ii) to keep under review the Council's financial and management accounts and financial information as it sees fit.
2. Considering the Council's arrangements relating to the external audit requirements including the receipt of the external audit reports so as to;
  - (i) inform the operation of the Council's current or future audit arrangements;
  - (ii) provide a basis for gaining the necessary assurance regarding governance prior to the approval of the Council's accounts.
3. Considering the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
4. Considering the Council's arrangements relating to internal audit requirements including;
  - (i) considering the Annual Internal Audit report, reviewing and making recommendations on issues contained therein;
  - (ii) monitoring the management and performance of internal audit;
  - (iii) agreeing and reviewing the nature and scope of the Annual Audit Plan.
5. Considering summaries of specific internal audit reports of significance or as requested.
6. Considering reports from internal audit on agreed recommendations not implemented within a reasonable timescale.
7. Considering specific reports as agreed with the external auditor.
8. Recommending to the Council the appointment of the Council's external auditor.
9. Scrutinising the draft Treasury Management Strategy.

**(c) Regulatory Framework (Assurance Framework)**

1. Reviewing any issues referred to it by the Head of Paid Service, an Assistant Director, the Chief Finance Officer or any Council body.

2. Monitoring the effective development and operation of risk management and corporate governance in the Council.
3. Monitoring Council policies on confidential reporting code, anti-fraud and anti-corruption policy and Council's complaint process.
4. Approving payments or providing other benefits above £2,500 in cases of maladministration as required and making recommendations arising from any review of a report of the Local Government Ombudsman\*.

**Note: - \*Compensation Payments in general terms are delegated to Officers – see Corporate Scheme of Delegation .**

**(d) Ethics and standards**

1. Promote and maintain high standards of conduct by Councillors and co-opted members.

**Note:**

Any Member wishing to serve or substitute on this Committee must have undertaken such training as deemed appropriate by the Monitoring Officer, and as a minimum, within the previous two years of the date of the meeting, and in particular members must receive training prior to approval of the Annual Statement of Accounts.

Nominations be sought to form a pool of trained substitutes in order to ensure that decisions are made by fully trained members.

The Leader of the Council, Leader of the Opposition, the Chairman of the Overview and Scrutiny Committee and the Chairman of the Standards Sub-Committee may be required to attend this committee but may not be appointed to it.

The committee will include at least one independent member and the normal term of office shall be four years.

## Licensing Committee

To be responsible for:

1. Exercising the Council's functions as licensing authority so far as required or permitted by the Licensing Act 2003, as amended, in accordance with sections 6, 7, 9 and 10 of that Act, associated regulations and the delegation set out in appendix 1 of the Statement of Licensing Policy.
2. Recommending the setting and adoption of the Statement of Licensing Policy to the Council.
3. Exercising the Council's functions as licensing authority under the relevant sections of the Gambling Act 2005, associated regulations and the delegations set out in appendix 1 of the Gambling Policy (Statement of Principles).
4. Recommending the setting and adoption of the Gambling Policy to the Council.
5. Making arrangements for any hearing in relation to these responsibilities to be considered and determined by the Licensing Sub-Committee for matters relating to the Licensing Act 2003 or Gambling Act 2005.

**Note:** Any Member wishing to serve or substitute on this Committee must have undertaken such training as deemed appropriate by the Monitoring Officer, and as a minimum, within the previous two years of the date of the meeting.

Members who have not received the appropriate training will not be permitted to sit on the Committee when it is determining Policy matters and will not be eligible to sit on Hearings heard under the Sub-Committee arrangements.

## Regulatory Committee

To be responsible for:

1. Exercising the Council's full remit of licensing functions (with the exception of Licensing Act 2003 and Gambling Act 2005) under the relevant Acts and Regulations including the functions and responsibilities regulations.
2. Exercising the Council's full range of duties and responsibilities in respect of food premises and approving the Food Law Enforcement Plan.
3. Exercising the Council's full range of duties and responsibilities under the Environmental Protection Act and associated regulations.
4. Recommending the setting and adoption of policies relating to Taxi and Private Hire Licensing to the Prosperous Communities Committee.
5. Making arrangements for any hearing in relation to these responsibilities to be considered and determined by the Regulatory Sub-Committee for matters relating to all other matters, not covered by the legislation applicable to the Licensing Committee
6. Discharging the Council's functions under Part I of the Health and Safety at Work etc. Act 1974 other than in its capacity as an employer.
7. Recommending the setting and adoption of other relevant policies to the Prosperous Communities Committee as necessary.
8. The granting of Public Space Protection Orders (PSPO)

**Note:** Any Member wishing to serve or substitute on this Committee must have undertaken such training as deemed appropriate by the Monitoring Officer, and as a minimum, within the previous two years of the date of the meeting.

Members who have not received the appropriate training will not be permitted to sit on the Committee when it is determining Policy matters and will not be eligible to sit on Hearings heard under the Sub-Committee arrangements.

## Planning Committee

1. To be responsible for the following areas:
  - To determine and advise upon planning applications and local authority development proposals
  - Street naming and numbering
  - Building Regulations
  - Public Path orders
  - Certificates of lawfulness
  - Agreements under section 106 of the Town and Country Planning Act 1990
  - Other agreements associated with specific applications
  - Advertisement consents
  - Revocation/modification orders
  - Enforcement proceedings
  - Tree Preservation orders
  - Consents to fell/lop trees
  - Listed Buildings consents
  - All other notices, demands, permissions and consents or otherwise referred to in Town and Country Planning legislation
2. To make or issue observations and representations on development proposals by the County Council and neighbouring authorities.
3. Conservation and heritage.
4. To administer the registration provisions contained in Town and Country Planning legislation.
5. To exercise the Council's statutory functions in accordance with building regulations and associated legislation.
6. To authorise the institution, prosecution or defence of any legal proceedings in connection with any functions of this committee.

**Note:** Any Member wishing to serve or substitute on this Committee must have undertaken such training as deemed appropriate by the Monitoring Officer, and as a minimum, within the previous two years of the date of the meeting.

## **Regulatory Sub-Committee** **(a sub-committee of the Regulatory Committee)**

To discharge, in accordance with statutory requirements and Council policy, the council's registration, licensing and enforcement responsibilities in respect of all licensing matters, including:

- (a) hackney carriage and private hire
- (b) street and house to house collections
- (c) street trading
- (d) pet shops
- (e) animal boarding and breeding
- (f) riding establishments
- (g) skin piercing (personal and premises licences)
- (h) caravan sites
- (i) scrap metal licences
- (j) dangerous and wild animals
- (k) zoos
- (l) sex shops and sexual entertainment venues
- (m) appeals against notices served by officers in relation to these functions
- (n) performing animals
- (o) hypnotism

### **Note:**

Any Member wishing to serve or substitute on this Sub-Committee must have undertaken such training as deemed appropriate by the Monitoring Officer, and as a minimum, within the previous two years of the date of the meeting.

Any member of the Regulatory Committee may be called upon to sit on the Regulatory Sub-Committee to hear applications for review pertaining to the above matters (three Members plus one reserve).

The quorum shall be three Members.

Meetings of the Regulatory Sub-Committee be convened as and when necessary.

## **Licensing S u b -Committee (A sub-committee of the Licensing Act 2003 Committee)**

To discharge the responsibility for liquor licensing including -

- a) Application for Personal Licence – if Police Objection
- b) Application for Personal Licence – if unspent convictions
- c) Application for Premises Licence/Club Premises Certificate – if relevant representation is made and not withdrawn
- d) Application for Provisional Statement – if relevant representation is made.
- e) Application to vary Premises Licence/Club Premises Certificate – if relevant representation is made.
- f) Application to vary designated premises supervisor – if a Police objection
- g) Application for transfer of Premises Licence – if a Police objection
- h) Application for Interim Authority – if a Police objection
- i) Application to review Premises Licence/Club Premises Certificate
- j) Decision to object when local authority is a consultee and not the relevant authority considering the application.
- k) Determination of an objection to a Temporary Event Notice by the Police or Environmental Health Officer.
- l) Application for premises licences where representations have been received and not withdrawn.
- m) Application for a variation to a licence where representations have been received and not withdrawn
- n) Application for a provisional statement where representations have been received and not withdrawn
- o) Review of premises licence
- p) Application for club gaming/club machine permits where objections have been made and not withdrawn
- q) Cancellation of club gaming/club machine permits
- r) Decision to give a counter notice to a temporary use notice
- s) To make decisions relating to Personal Licences where the Authority becomes aware that a person has been convicted of a relevant or foreign offence, or been required to pay an immigration penalty after the licence was granted.



**Notes:**

Any member of the Licensing Committee may be called upon to sit on the Licensing Sub-Committee to deal with applications under the Licensing Act 2003 (three Members plus one reserve).

Meetings of the Licensing Sub-Committee be convened as and when necessary.

The provisions of the Local Government (Committees and Political Groups) Regulations 1990 do not apply.

The quorum shall be three Members.

Any Member wishing to serve or substitute on this Sub-Committee must have undertaken such training as deemed appropriate by the Monitoring Officer, and as a minimum, within the previous two years of the date of the meeting.

## Overview and Scrutiny Committee

1. To exercise the Council's responsibilities for overview and scrutiny and agree each year an operating methodology;
2. To conduct reviews of policy, services or aspects of service that have either been referred by a policy committee or the council, or have been chosen by the committee\* according to the agreed criteria for selecting such reviews
3. To approve and keep under review an annual overview and scrutiny work programme, including the work programme of any scrutiny panels established in accordance with the Overview and Scrutiny Committee work programme;
4. To approve the scope, timetable and method for each review by a scrutiny panel to put in place and ensure that such reviews are monitored and managed efficiently and in accordance with the Overview and Scrutiny Procedure Rules;
5. To make reports and recommendations to the Council, a policy committee or any other Council committee arising from the exercise of these terms of reference;
6. To consider the Forward Plan and comment as appropriate to the relevant Committee on proposed decisions which relate to services within their remit (before they are taken by the appropriate policy committee);
7. To exercise the powers of call in and scrutiny in relation to policy committee decisions made but not implemented, as set out in section 21(3) of the Local Government Act 2000 and challenge such decisions in accordance with the procedure set out in the Overview and Scrutiny Procedure Rules in Part V of this Constitution;
8. To take an overview of the policies, forward plans of related authorities, of all public bodies and agencies as they affect the council's area or its inhabitants; and acting as the 'horizon scanning' Committee for the Council, bringing matters which will have effect to the attention of the relevant Policy Committee at the earliest opportunity so they can be considered as part of Policy Development;
9. To maintain under review the arrangements for the performance monitoring of Council services and to receive and consider any improvement plans arising from undertaking this function;

10. To discharge the statutory functions arising under section 19 of the Police and Justice Act 2006 relating to issues of crime and disorder and to develop and implement such procedures, protocols and criteria as deemed by the Committee to be appropriate.
11. This Committee has an operating methodology which is agreed annually at its first full meeting.

## **Standards Sub-Committee**

(a sub-committee of the Governance and Audit Committee)

1. To promote and maintain high standards of conduct by Councillors and co-opted members.
2. To assist Councillors and co-opted members to observe the Members' Code of Conduct.
3. To advise the Council on the adoption or revision of the Members' Code of Conduct.
4. To monitor the operation of the Members' Code of Conduct.
5. To advise, train or arrange to train Councillors and co-opted members on matters relating to the Members' Code of Conduct.
6. To grant dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct.
7. To exercise such other functions as the Council considers appropriate.
8. To exercise of 1 to 7 above in relation to the town/parish councils and their members in the council's area.
9. To grant and supervise exemptions from political restriction of posts.

### **Notes:**

- The committee shall comprise six elected District Councillors and up to three non-voting parish representatives.
- The normal period of office of the parish members shall be four years and all such members shall retire along with elected Members
- Non continued compliance with the criteria for selection as an independent/parish member of the committee and the disqualifications for appointment as summarised in Sections 80 and 81 of the Local Government Act 1972 (with the exception of the requirement to attend meetings in a six month period) shall apply to the parish members.

- Quorum - A meeting of the Standards Sub-Committee shall not be quorate unless at least three elected Members (and one parish representative when the case in question concerns a Parish Councillor) of that Sub-Committee are present for its duration.
- This Sub-Committee, by formal resolution of full Council at its annual meeting, is not politically restricted.

**Note:**

Any Member wishing to serve or substitute on this Sub-Committee must have undertaken such training as deemed appropriate by the Monitoring Officer, and as a minimum, within the previous two years of the date of the meeting.

## Chief Officer Employment Committee

To be responsible for:

1. Considering all employment matters relating to the Council's Statutory Officers (Head of Paid Service, Monitoring Officer and Chief Financial Officer) (apart from disciplinary and dismissal) in accordance with the Officer Employment Procedure Rules and statutory requirements and make recommendations to the full Council.
2. Determining all employment matters relating to Chief Officers who are not Statutory Officers in accordance with the Officer Employment Procedure Rules and statutory requirements.

## Independent Disciplinary Panel

1. The Independent Disciplinary Panel (IDP) is a group of independent persons appointed under Section 28/7 of the Localism Act 2011 to form an independent panel to discuss and consider disciplinary matters in relation to the Council's Statutory Officers:
  - Head of Paid Service
  - Monitoring Officer
  - Chief Financial Officer
2. The IDP shall comprise at least two independent persons appointed in accordance with the following priority order:
  - a) A person who has been appointed by the Council and who is a local government elector;
  - b) Any other relevant independent person who has been appointed by the Council;
  - c) A relevant independent person who has been appointed by another Authority or Authorities.
3. The role of the Panel is to:
  - a) Discuss and consider disciplinary matters in relation to the Council's Statutory Officers;
  - b) Meet at least 20 working days prior to a meeting of Council to which the matter is referred.
  - c) To commission an impartial individual with the right skills and expertise to carry out an investigation.
  - d) Make recommendations to Council on disciplinary action or dismissal against the Council's Statutory Officers;
  - e) Exercise these functions in accordance with the Local Authority (Standing orders) (England) Regulations 2001 (as amended).
4. Remuneration to the IDP will be in accordance with the Localism Act 2011.

## **Joint Staff Consultative Committee**

1. To establish regular methods of communication and negotiation between the Council and employees of the Council, in order to prevent differences and to adjust them should they arise, always provided that no question of individual discipline, promotion or efficiency shall be within the scope of the Committee.
2. To consider and advise on any relevant matter referred to it by any committee of the Council, or by any of the employee groups represented on the Consultative Committee.
3. To make recommendations to the Corporate Policy and Resources Committee as to the adoption of policies affecting employee interests (except those relating to the terms and conditions on which they are employed) or on any other matter referred to it.
4. The Consultative Committee may submit for consideration by, and the advice of, the appropriate national or provincial negotiating body established to deal with National Scheme of Conditions of Service affecting employees.

## Remuneration Panel

To develop, review and recommend to the Council a scheme for the payment of members' allowances.

### Notes:

- The Panel shall comprise no less than four and no more than six independent members.
- The period of office of the members of the Panel shall be four years.
- The Chairman shall be elected by the Panel annually.
- Non continued compliance with the criteria for selection as a member of the Panel and the disqualifications for appointment as summarised in Sections 80 and 81 of the Local Government Act 1972 (with the exception of the requirement to attend meetings in a six month period) shall apply to all members of the Panel.



## Appeals Board

1. To hear appeals against decisions taken by the authority relating to homelessness cases.
2. To hear appeals against decisions taken by the authority relating to applications for housing.
3. To hear appeals against the initial decision made by the Revenues and Benefits Department on claims for discretionary housing payments.
4. To hear appeals against the decision made by the Section 151 Officer on applications for national non-domestic rate discretionary relief.

Any member of the Appeals Board may be called upon to sit on the Appeals Panel to deal with appeals under the 5 terms of reference for the committee (three members plus one reserve).

Meetings of the Appeals Board will be convened as and when necessary.

The provisions of the Local Government (Committees and Political Groups) Regulations 1990 do not apply.

The quorum shall be three Members.

## Officers

### Introduction

1. The following delegations to officers are made under Section 101 of the Local Government Act 1972 and all other powers enabling such delegations. The delegations are made with the intent that they shall lead to a streamlining and simplification of the processes of the Council and, accordingly, should be interpreted widely rather than narrowly.
2. The Chief Executive and Management Team Officers (Directors and Assistant Directors) are authorised to discharge the powers and duties necessary to carry out the Council's functions within the broad functional description set out in the following sections, together with the specific delegations which are specified, and should be taken to include powers and duties within those descriptions within all present and future legislation, and all powers incidental to that legislation, including the application of the incidental powers and duties under Section 111 of the Local Government Act 1972.
3. The delegations shall operate in addition to any previous delegations. Any reference to a specific section or statute shall be deemed to incorporate reference to any enactment amending, re-enacting or replacing that statute.

### Overall Limitations

4. The following are not delegated to Officers:
    - (a) Any matter reserved by law to the Council, a committee or sub-committee.
    - (b) Any matter which is specifically excluded from delegation by resolution of the Council, a committee or sub-committee.
  5. Officers may only exercise delegated powers in accordance with -
    - (a) Plans, schemes or strategies approved by, or on behalf of, the Council.
    - (b) Procedure Rules of the Council.
    - (c) Any statutory restrictions, guidance or statutory code of practice.
    - (d) The revenue and capital funding for the relevant service as approved by the Council, subject to any variations which are permitted by virtue of the Council's Financial Procedure Rules and Contract Procedure Rules.
-

- (e) The Council's Generic Equalities and other policies, procedures, standards and the Local and National Conditions of Service.
- 6. Where any matter contained within this Scheme of Delegation involves professional or technical considerations within the sphere of competence of another officer, the officer to whom authority has been delegated shall consult that officer before authorising action.
- 7. Where a delegated power is exercisable following consultation with the Chairman of a Committee, consultation shall take place with the Vice-Chairman in the absence of the Chairman.
- 8. Where an action is delegated to an officer via the Council, then such delegation shall be undertaken without undue delay.

### **Sub-Delegation**

- 9. Officers may further delegate any function which has been delegated to them to another officer or officers providing that there is no statutory restriction on doing so.
- 10. Every sub-delegation shall be in writing.
- 11. In exercising any delegated function, officers shall be responsible for undertaking any appropriate consultation with the Council's Head of Paid Service, Monitoring Officer and/or the Chief Finance Officer before taking any decision.
- 12. Instead of exercising his/her delegated power in any matter, an officer may refer the matter to the appropriate committee/sub-committee/board etc.
- 13. Where urgency dictates during periods of leave or sudden unexpected absence, delegations granted to the Chief Executive or Directors/Assistant Directors can be exercised by one of the Statutory Officers, except when the matter relates to a function which by law must be undertaken by either the Head of Paid Service or the Chief Finance (s151) Officer.
- 14. Functions which by law must be undertaken by the Statutory Officers cannot be sub-delegated and are set out elsewhere in this document (in the appendices).

### **Politically Sensitive Issues**

- 15. Without derogating from the discharge of functions under these arrangements -
  - (a) Maintain close liaison with the Committee Chairman in whose

scope the Chief Executive and Management Team Member's (Directors and Assistant Directors) functions exist particularly in respect of controversial and sensitive issues.

- (b) The Chief Executive shall also maintain close liaison with members representing the political groups in relation to any matter which in the opinion of the Chief Executive may be regarded as sensitive or contentious by any such group. The Chief Executive shall also notify the Committee Chairman and/or Leader of such items and keep them informed of progress.
  - (c) Where a member has made known to the Chief Executive and /or Management Team Membes (Directors and Assistant Directors) his/her legitimate interest in a matter or where a matter relates to or affects the member's ward the Chief Executive or Management Team Member ( Director / Assistant Director) shall consult with that Member and shall keep the member informed of significant developments relating to that matter and similarly brief the relevant committee chairman.
16. The existence of a delegation to a Member of the Management Team (Chief Executive/ Directors/ Assistant Directors) shall not require that officer to take a decision on that issue. Management Team Members need to be aware of particularly controversial issues of concern to the Committees of the Council. In such circumstances he/she may refer the matter for guidance or decision by the Committee or the Council if he/she considers it is appropriate to do so at the earliest opportunity. In so doing the Management Team Member shall advise the Committee concerned of the extent of his/her delegated powers relating to the matter.

## **General Delegations Granted to all Members of Management Team (Chief Executive, Directors and Assistant Directors)**

To manage the area for which he/she is responsible including:

1. the day to day administration of personnel matters in accordance with Council policy excluding decisions on discretionary pension issues;
2. the exercise of those powers specifically mentioned in the Local Conditions of Service;
3. the procurement or provision of services required to discharge the Council's functions within his/her area of responsibility;
4. the management, furnishing and equipping of premises for which he/she is responsible;
5. the incurring of any expenditure contained in approved estimates in his/her area of responsibility;
6. the taking of all decisions within the purview of his/her service; and
7. the taking of any action required to implement a decision of the Council or any of its Committees, Sub-Committees etc.
8. To arrange for the renewal, on appropriate terms, of leases and licences within the purview of their service.
9. To respond to consultations from Government (including agencies) on proposals to introduce new policies, procedures or legislation or to alter existing policies procedures or legislation within the purview of their service.
10. To submit tenders/quotations up to the value of £75,000 for work for public bodies as defined by the Local Authority (Goods and Services) Act 1970 and to any other organisations permitted by legislation within the purview of their service.
11. To make minor house-keeping amendments to any such policy as agreed by the relevant Policy Committee on its adoption.
12. To ensure compliance with all adopted policies and procedures.
13. To arrange for the renewal, on appropriate terms, of leases and licences.

14. To submit applications for planning permission, listed building consent and other necessary consents in respect of any works included in the approved capital or revenue programme.
15. Within the purview of their service, to decide, approve, determine, consider representations and applications, grant, renew, vary, issue, relax, refuse, revoke, suspend, withdraw licences, make and amend licence conditions, registrations, certificates, permits, awards and authorisations in relation to the following legislation listed in section 17.
16. To appoint, authorise, nominate, named persons to:
  - Administer, exercise powers, give direction, exercise the powers of entry, agree notices, act, take enforcement action including prosecutions, serving notice, carrying out work in default, including cost recovery;
  - Act as inspectors
  - Act as a competent person
  - Act in a statutory role
  - Administer the provisions
  - Determine confidential matters

Under the provisions in the acts, regulations, and any associated orders and regulations listed in paragraph 17 below.

17. The powers in paragraph 16 above apply to the following legislation:

Town Police Clauses Act 1847 & 1889 incorporated by the Public Health Act 1875.

The Dogs Act 1906 as amended by the Local Government Act 1988

Local Government Act 1972 s101 Lotteries,

Police, Factories, etc (Miscellaneous Provisions) Act 1916

Performing Animals Act 1925 (Amendment) Regulations 2018

Law of Property Act 1925

Public Health Act 1936

House to House Collections Act 1939

National Assistance Act 1948 as amended by the National Assistance (Amendment) Act 1951.

Prevention of Damage by Pests Act 1949

Pet Animals Act 1951 (Amendment) Regulations 2018

Hypnotism Act 1952

Caravan Sites and Control of Development Act 1960 (As amended by the Mobile Homes Act 2013)

Public Health Act 1961

Animal Boarding Establishments Act 1963 (Amendment) Regulations 2018

Scrap Metal Dealers Act 2013

Riding Establishments Act 1964 and 1970 (Amendment) Regulations 2018

Slaughter of Poultry Act 1967

The Agriculture (Miscellaneous Provisions) Act 1968 European Communities Act 1972  
Control of Pollution Act 1974  
Health and Safety at Work etc. Act 1974  
Local Land Charges Act 1975  
Dangerous Wild Animals Act 1976 (Amendment) Regulations 2018  
Land Drainage Act 1976  
Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847  
Defective Premises Act 1976  
Land Charges Rules 1977  
Protection from Eviction Act 1977  
Refuse Disposal (Amenity) Act 1978  
Zoo Licensing Act, 1981  
Animal Health Act 1981  
Acquisition of Land Act 1981  
Local Government (Miscellaneous Provisions) Act 1982  
Control of Asbestos Work Regulations and the Asbestos (Licensing) Regulations 1983.  
Building Act 1984  
Public Health (Control of Diseases) Act 1984  
Food and Environment Protection Act 1985  
Natural Mineral Waters Regulations 1985  
Landlord and Tenant Act 1972 /1985  
Housing Act 1985  
Control of Pesticides Regulations 1986  
Public Health (Infectious Diseases) Regulations 1988  
Health & Safety (Enforcing Authority) Regulations 1989  
Local Government and Housing Act 1989  
Food Safety Act 1990  
Environmental Protection Act 1990.  
Town and Country Planning Act 1990  
Water Industry Act 1991  
Dangerous Dogs Act 1991  
Private Water Supplies Regulations 1991 Land Drainage Act 1991  
Controlled Waste Regulations 1992  
Clean Air Act 1993  
Noise and Statutory Nuisance Act 1993  
Sunday Trading Act 1994  
Criminal Justice and Public Order Act 1994  
Environment Act 1995  
Noise Act 1996  
Housing Act 1996  
Housing Grants, Construction and Regeneration Act 1996  
Dogs Fouling of Land Act 1996  
Crime and Disorder Act 1998 Vehicle (Crime) Act 2001 Police Reform Act 2002  
Equality Act 2000  
Investigatory Powers Act 2000  
The Regulatory Reform (Housing Assistance) (England & Wales) Order 2002  
Homeless Act 2002 as amended by The Homeless Reduction Act 2017

Licensing Act 2003  
Anti-social Behaviour Act 2003  
Food Safety Act 1990 (Amendment) Regulations 2004  
Civil Contingencies Act 2004  
General Food Regulations 2004  
Christmas Day (Trading) Act 2004  
Housing Act 2004  
Official Feed and Food Controls (England) (Regulations 2005)  
Clean Neighbourhoods and Environment Act 2005/ 2009  
Animal Welfare Act 2006  
Health Act 2006  
Gambling Act 2005  
Sunbeds (Regulation) Act 2010  
Localism Act 2011  
The Assets of Community Value (England) Regulations 2012  
Food Hygiene (England) Regulations 2013  
The Energy Act 2013  
Food Information Regulations 2014  
Anti-Social Behaviour, Crime and Policing Act 2014  
Redress Schemes for Lettings Agency Work and Property Management Work  
(Requirement to Belong to a Scheme etc.) (England) Order 2014  
The Microchipping of Dogs (England) Regulations 2015  
The Smoke and Carbon Monoxide Alarm (England) Regulations 2015  
The Energy Efficiency (Private Rented Property) (England and Wales) Regulations  
2015  
The Housing and Planning Act 2016  
Animal Welfare (licensing of activities involving animals) (England) Regulations 2018

See point 3 above



## Head of Paid Service

1. To exercise overall responsibility for corporate management and operational issues within existing budgets (including overall management responsibility for all staff and the terms and conditions on which they are employed)
2. To determine conclusively any question which may arise as to the interpretation and application of the “Responsibility for Functions”.
3. In accordance with the provisions of the Local Government (Committees and Political Groups) Regulations 1990, to agree the overall allocation of seats to Groups resulting from the application of rounding.  
**(Limits on delegations:** Following consultation with Group Leaders).
4. To determine any matter within the referred or delegated powers and duties of a committee/sub-committee/board/ working group which is so urgent that a decision must be made before the next meeting of that committee/sub-committee/board/working group is due to be held.  
**(Limits on delegations:** Before making any decision pursuant to this delegated power, the Head of Paid Service shall consult with and take cognisance of the views of the Chairman of the relevant committee/ sub-committee/ board/ working group (or, in his/ her absence, the Vice-Chairman of that committee/ sub-committee/ board/ working group). Any decision taken by the Head of Paid Service under this delegated power shall be reported to Members within five working days of the decision being taken.
5. To determine the closing time of Council offices and depots on the last working day before Christmas Day.  
**(Limits on delegations:** Following consultation with the Chairman of the Corporate Policy and Resources Committee).
6. To appoint substitute members to serve on committees and sub-committees in accordance with nominations put forward by the Political Groups on the Council.
7. For those organisations where representation is normally determined at Annual Council, to make appointments where vacancies exist following the annual meeting of Council or where they arise in year.  
**(Limits on delegations:** Following consultation with the Chairman of the Council).
8. To take all such action and proceedings and to sign all such directions, notices applications or other process in relation to Sections 77, 78 and 79 of the Criminal

Justice and Public Order Act 1994 as deemed to be necessary and appropriate on behalf of the Council.

**(Limits on delegations:** Following consultation with the Chairman of the Prosperous Communities Committee).

9. In the event of extreme inclement weather; or insufficient business to warrant calling a meeting or other unforeseen circumstance including periods of national mourning/national emergencies to cancel or postpone a meeting of the Council, a committee, sub-committee etc. or, where business dictates that a meeting, not already set out in the timetable, be required to be held, that meeting be called, in consultation with the relevant Chairman.
10. To establish and maintain an accountability framework to implement devolved management arrangements.
11. To determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers.
12. To add entries to the Capital Programme provided that they are fully externally funded in consultation with the Leader of the Council and the Chief Finance Officer.
13. In the absence of the Head of Paid Service the delegated powers in 1-12 above may be exercised by a designated deputy.
14. To call concurrent meetings of the policy committees when it is considered prudent and efficient to do so in accordance with the agreed protocol.
15. Licensing Act 2003 – Delegated Authority be granted to Head of Paid Service to dispense with the need for a hearing when relevant representations are made in relation to the determination of a premises licence 18(3), variation of a premises licence 35(3), determination of a club premises certificate 85(3) and prior to the hearing the relevant representation(s) are subsequently withdrawn, and the authority, the applicant, and each person who has made such representation(s) agree that the hearing is unnecessary.

Sections 18(4)(a), 18(4)(b), 35(4)(a), 72(4)(a)(b) and 85(4)(a) apply as the necessary steps to deal with the application; to promote the licensing objectives and add/modify conditions.

## Chief Executive

1. To appoint Consultants where necessary within the budget to ensure compliance with the Council's Capital works Programme, or to provide technical advice on work of a specialist nature.
2. To call concurrent meetings of the policy committees when it is considered prudent and efficient to do so in accordance with the agreed protocol.
3. To determine any appeal made against a decision to not award Section 13A Council Tax Discretionary Relief. Limits on delegation – following consultation with the Leader of the Council.
4. To be the Electoral Registration Officer and to appoint deputies as required.
5. To be the Returning Officer for Local Government elections and to appoint deputies as required.
6. To keep polling districts and polling places under review and amend any such arrangements (following consultation with Local Ward Member(s)) where there is an operational need, prior to the next compulsory District review

## Chief Finance Officer / Section 151 Officer

1. To exercise the proper administration of the Council's financial affairs under section 151 of the Local Government Act 1972 and section 114 of the Local Government Finance Act 1988 including responsibility for dealing with fraud.
2. To report on apparent unlawful expenditure, unlawful action causing loss or deficiency, or unlawful items of account in accordance with section 114 of the Local Government Finance Act 1988.
3. To write off debt up to £2,500.
4. To operate the Council's bank accounts including confirmation of alterations to authorised signatory lists of agents.
5. To sign all necessary claim forms and certificates in respect of any grants or other funds payable to the Council under any statutory or other powers.
6. To maintain adequate insurance cover on behalf of the Council and to negotiate the settlement of any claims arising either with the Council's insurers or their appointed agents.
7. To approve claims on the Council's internal insurance fund.
8. To exercise the Council's statutory borrowing powers to finance capital and revenue expenditure pending the receipt of income and the lawful investment of surplus cash and external funds.
9. To make and account for appropriate deductions from pay and to make appropriate employer contributions in respect of income tax, national insurance and the superannuation fund.
10. To increase long service awards, retirement gifts and death in service awards in line with the current retail price index from 1 April each year.
11. To write down sundry debts for cases subject to bankruptcy, liquidation or administration order proceedings.
12. To administer all matters relating to Council Tax and Benefits.
13. To act on behalf of the Council on matters relating to -
  - a. making proposals for alterations to the Valuation List.
  - b. objections to proposals in rateable value/banding.
  - c. agreement to alterations to proposals in rateable value/banding.
  - d. appeals to local Valuation Tribunals.

14. To agree apportionment of rateable values in accordance with section 44a of the Local Government Finance Act 1988.
15. To write down Non-Domestic Rate and Council Tax outstanding in respect of each arrears case which is subject to formal bankruptcy or liquidation claims.
16. To authorise applications for national non-domestic rate relief up to £5,000 on hardship grounds in accordance with Section 49 of the LGFA 1988 and the Council's approved criteria.
17. To determine applications for national non-domestic rate discretionary relief in accordance with Section 47 of the LGFA 1988 and where the application accords with the Council's approved policy framework.
18. To determine applications, in accordance with the Local Government Finance Act 1992 as amended by the Local Government Finance Act 2003 Section 76, for Council Tax Section 13A Discretionary Relief.
19. To appear on behalf of the Council at a Valuation Tribunal or Benefits Appeal Tribunal.
20. To determine applications for mandatory rate relief in accordance with Section 43 and Section 45 of the Local Government Finance Act 1988 (including the additional granting of 20% discretionary relief) Responsibility for Functions.
21. To deal with renewals of applications under 19 and 22 above unless there is a change of circumstances.
22. To impose penalties in accordance with section 14(2) of the Local Government Finance Act 1992 on persons failing to supply information to or notify the billing authority regarding Council Tax liability.
23. To make the assessment and decision on claims for discretionary housing payments.
24. In accordance with the provisions of sections 101 and 223 of the Local Government Finance Act 1972, to prosecute and defend on behalf of the Council, or to appear on the Council's behalf in proceedings before a Magistrates Court relating to all and/or any of the matters referred to in the sub-paragraphs below –
  - A) proceedings relating to the obtaining of Liability Orders in respect of unpaid Council Taxes and National Non-Domestic rates;
  - B) proceedings relating to the collection and recovery of penalties;
  - C) committal proceeding relating to unpaid Council Taxes and National Non Domestic rates;
  - D) proceedings relating to the recovery of monies due to the Council either directly or under agency arrangements.

25. To determine applications for national non-domestic rate relief on hardship grounds or in accordance with Section 49 of the Local Government Finance Act 1988 and the Council's approved criteria.
26. To determine applications for national non-domestic rate discretionary relief in accordance with Sections 43, 45, 47 and 48 of the Local Government Finance Act 1988 as amended by the Localism Act 2011 and the National Non-Domestic Rating (Discretionary Rate Relief) Regulations 1989 (SI 1989/1059) and where the application accords with the Council's approved policy framework.
27. To postpone the discount charge for all organisations specified by Section 156 of the Housing Act 1985  
**(Limits on delegation:** Following consultation with the Chairman or Vice- Chairman of the Prosperous Communities Committee).
28. To authorise short term cashflow loans to subsidiary companies to a maximum of £50,000 per subsidiary company.
29. To authorise the forming of a partnership arrangement where the value of works/services is no more than £50,000.
30. With the Director of SureStaff, to agree the format and content of a Resourcing Agreement for the supply of services by the Council.
31. To approve amendments to the Capital Programme up to £50,000.
32. To authorise grants up to £50,000.
33. To authorise spend of up to £50,000 from Earmarked Reserves.
34. To approve the submission of grant bids of up to £50k where there is no requirement for additional Council resources
35. To make purchases in accordance and within the limits of the Council's Commercial Investment Strategy.

## Monitoring Officer

1. To make, under Section 91 of the Local Government Act 1972, temporary appointments of members to town and parish councils following consultation with the Chairman of the Governance and Audit Committee.

Furthermore, use of this delegation will be reported to the Governance and Audit Committee for information.

2. To make house-keeping amendments to the Constitution between Annual Councils in consultation with Chairman of the Governance and Audit Committee. Any such amendments will be reported to Governance and Audit Committee / Full Council annually.
3. To source appropriate Independent Resource to undertake the function of IP in accordance with the Localism Act , in consultation with the Chairman of the Governance and Audit Committee, when a vacancy arises suddenly, until such time as a formal appointment is made.  
Limits on delegation appointments made under this delegation are temporary for a maximum of 9 months

## **Assistant Director of People and Democratic**

1. To negotiate with the Council's external auditor on the level and type of audit resources required to carry out the statutory and management audit requirements of the Council.
2. To nominate the Council's Data Protection Officer.
3. To carry out the role of the Senior Information Risk Owner (SIRO) in accordance with Local Public Services Data Handling Guidelines (Fourth Edition (Revised)), sign Information Sharing Agreements, and determine and respond to requests under the Data protection Act 1998.
4. To take all such actions and decisions in the proceedings of the Lincolnshire Shared Legal Services Partnership.
5. To be the authorising officer for surveillance under the Regulation of Investigatory Powers Act 2000 and as such can make requests for the Magistrates' Court to consider applications made under RIPA.
6. To be the Council's Monitoring Officer, as appointed by Full Council.



## Director of Change Management, ICT and Regulatory Services

1. To deal with complaints made against “star ratings” in relation to Animal Establishments under the Animal Welfare (licensing of activities involving animals) (England) Regulations 2018.
2. To deal with and adjudicate on complaints about high hedges under the Anti-Social Behaviour Act 2003.
3. In relation to hackney carriage and private hire vehicles – to determine applications for a short term exemption (3 months) on medical grounds for drivers who cannot fulfil duties under the Equality Act (**note** - longer terms exemptions will need to be considered by the Regulatory Sub-Committee).
4. To initiate planning enforcement action (including all action related to the listed buildings and trees), including (but not exclusively):
  - (a) To serve enforcement notices
  - (b) To serve breach of condition notices
  - (c) To issue stop notices
  - (d) To issue temporary stop notices
  - (e) To serve planning contravention notices
  - (f) To serve s215 notices
  - (g) To authorise prosecution

Under all relevant statutes or any subordinate rules, orders or regulations.

5. To determine it is not expedient to take enforcement action in accordance with the Council’s enforcement policy unless the Planning Committee has authorised the enforcement action.
6. To approve new street names and numbering in respect of new development submitted by:
  - Parish Councils
  - Private developers, following approval by the local parish council concerned and Ward Councillors.

## **Director of Operational and Commercial Services**

1. To undertake the role of Strategic Commander and all associated duties in respect of Emergency Planning and Business Continuity.
2. To alter the approved fees and charges for Gainsborough Market stalls and pitches for a limited period, in exceptional circumstances e.g. relocation of the market or significant loss of traders, in consultation with the Chairman of the Corporate Policy and Resources Committee.
3. To amend the Code of Practice for Traders, should the need arise, in consultation with the Chairmen of the Corporate Policy and Resources and Prosperous Communities Committees.
4. To approve the cancellation of markets in exceptional circumstances in consultation with the Chairmen of the Corporate Policy and Resources and Prosperous Communities Committees.
5. To approve the dates of any extra markets in Gainsborough Market Place, Silver Street, Market Street, Church Street and Lord Street at any time of the year, in consultation with the Chairmen of the Corporate Policy and Resources and Prosperous Communities Committees.
6. To set charges for the collection and disposal of commercial waste (following consultation with the Chief Finance Officer).
7. To alter the approved fees and charges at the Trinity Arts Centre for a limited period, taking into account the circumstances at any given time (following consultation with the Chief Finance Officer).
8. To alter the approved fees and charges at the Crematorium for a limited period of time taking into account circumstances at any given time (following consultation with the Chief Finance Officer)

### **Building Control**

9. To carry out all of the Council's functions in respect of the necessary statutory provisions related to applications for, and enforcement action under the building regulations and issues relating to the building acts and any other associated legislation, regulations and provisions, including provisions on dangerous buildings, structures and means of escape in case of fire, including power to:
  - a) Inclusively, but not exclusively determine plans, issue completion certificates under the Building Regulations and applications for the relaxation of the Building Regulation requirement concerning means of escape and request for dispensations;
  - b) Serve notices in relation to ruinous and dilapidated property and the proposed demolition of buildings;

- c) Carry out functions of the Council in relation to dangerous structures and buildings;
  - d) Exercise powers of the Council in relation to accesses and egresses to public and other buildings, and means of escape in case of fire;
  - e) Control the use of private approved inspectors and approved bodies in relation to building regulation matters;
  - f) Discharge the functions of the Council in relation to safety certificates for sports grounds;
  - g) Serve Notices relating to lapse in time for the deposit of plans, requirements for works to be carried out in accordance with approved plans, chimneys, dangerous structures and dilapidated buildings;
  - h) Serve Notices to open up works;
  - i) Authorise action to deal with dangerous excavations; and
  - j) Appointment of Authorised Officers to exercise the powers of entry for the purposes of the Building Acts;
  - k) Exercise powers of the council in respect of Material Sampling and Testing for Conformity in pursuance of Building Regulations Compliance;
  - l) To maintain the record of Building Regulations compliance certificate issued by third parties, approved to do so, by the Secretary of State.
10. To alter the charges for all aspects of building control (following consultation with the Section 151 Officer).

## Director of Planning, Regeneration and Communities

### Development Management

1. To determine the following:

- Applications for planning permission;
- Applications for Listed Buildings and demolition in conservation areas;
- Applications made under the Hazardous Substances regulations;
- Applications for consent to display advertisements.

The above powers cannot be used if the following circumstances apply:

- a) In the case of an application it is intended to determine in conflict with a representation received from a parish or town council, a neighbour or other person or organisation, that application will be referred to the Planning Committee for determination where, in the professional opinion of the Director, or Planning Team Manager, (with consultation of the Monitoring Officer if considered appropriate):
  - (i) The representation relates to a “planning matter”; and
  - (ii) The representation and the planning matters raised are directly relevant to the application under consideration; and
  - (iii) The planning matters under consideration in the determination of the application are finely balanced.
- b) The application has been subject to a request by a Parish Council during the formal 28 day consultation period to have it determined by the Planning Committee for the following reasons: -
  - (i) In the opinion of the Parish Council making the request, it would comprise a departure from the policies of the Neighbourhood Plan (which has reached at least the Regulation 16 consultation stage) and they have set out which specific policies they consider are in conflict and why.

It will be for the Director or Planning Team Manager (with consultation of the MO) to decide in consultation with the Chairman of the Planning Committee, on the basis of the planning reasons given by the Parish Council or planning policies referred to, whether the application should be referred to the Planning Committee for determination.

- c) The application has been subject to a request by a Councillor, made during the formal 28 day consultation period and is supported by relevant planning policies and other material planning considerations that are directly relevant to the application being considered, to have it determined by the Planning Committee for one of the following reasons;
  - (i) The application is of major importance or significance to the District as a whole and therefore requires the input of Councillors in its determination

- (ii) There is, in the opinion of the Councillor making the request, a valid planning reason why the application should be determined by the Planning Committee and this is supported by relevant planning policy.

It will be for the Director or Planning Team Manager (with consultation of the Monitoring Officer if considered appropriate) to decide in consultation with the Chairman of the Planning Committee, on the basis of the planning reasons given by the Councillor or planning policies referred to, whether the application should be referred to the Planning Committee for determination.

- d) An application has been on deposit in the statutory register for a period of less than 28 days or the period allowed for consultation replies to be received has not expired, whichever is the later.
  - e) The applicant or agent is a Councillor.
  - f) The applicant or agent is from the immediate family of a Councillor.
  - g) The applicant or agent is an officer of the Council.
  - h) The applicant or agent is from the immediate family of an officer of the Council.
  - i) The Director of Planning, Regeneration and Communities or Planning Team Manager (with consultation of the Monitoring Officer if considered appropriate) considers it appropriate that the application is determined by the Planning Committee.
  - j) Any application where the recommendation is for approval which is in conflict with a policy of the adopted Central Lincolnshire Local Plan or any Neighbourhood Plan.
2. To determine all other matters which are part of the development management process, including (but not exclusively):
- a) Approve details to discharge conditions attached to planning permissions.
  - b) To enter into negotiations and reach agreements concerning obligations, agreements and undertakings – including those to do with s106 of the Town and Country Planning Act 1990 and the Community Infrastructure Levy.
  - c) To approve the details of agreements and obligations made under the planning acts (including those made under s106 of the Town and Country Planning Act 1990).
  - d) To approve non-material amendments to planning permissions.
  - e) To determine those organisations and individuals who should be consulted on planning and other applications.

- f) To deal with planning appeals. (**Note:** -“Planning Appeals which involve a member overturn will be dealt with in accordance with the Member Overturn Policy agreed on 26 June 2013/14).
  - g) To decide the need for and content of environmental statements.
  - h) To decline to determine applications where a previous application has been dismissed at appeal and the new application is substantially the same.
  - i) All applications for ‘prior approval’ made under the provisions of the Town & Country Planning General Permitted Development Order 2015 (as amended).
3. To make Tree Preservation Orders and to confirm orders where no objection – relevant under current legislation – has been made.
  4. To determine all applications to lop, top or fell protected trees.
  5. To determine notices to make safe dangerous trees in private ownership and to take action to make the tree/s safe.
  6. To determine all applications for the removal of hedgerows in accordance with the Hedgerow Regulations 1997.
  7. To confirm any unopposed footpath orders following the expiration of the statutory consultation period.
  8. To determine all applications relating to certificates of lawful use or development and related applications [NB the provisions set out in paragraph 1 points d to g with regard to officer and member applications and family relationships also apply to this category of application].
  9. To make objections to the issuing of operators’ licences under the Transport Act 1968 and the Goods Vehicles (Operators Licences Qualifications and Fees) Regulations 1984.
  10. To respond to consultations from neighbouring Councils on planning applications which might have an impact on the District, unless in the opinion of the Director of Planning, Regeneration and Communities or Planning Team Manager (with consultation of the Monitoring Officer if considered appropriate) that impact is of wider significance or of major importance to West Lindsey, under the duty to Co-operate.
  11. To respond to consultations on proposals for major infrastructure developments within or having an impact upon the District, unless in the opinion of the Director of Planning, Regeneration and Communities or Planning Team Manager (with consultation of the Monitoring Officer if considered appropriate) or senior officer that impact is of wider significance or of major importance to West Lindsey, under the duty to Co-operate.

12. To respond to consultations on pipeline consents within the District, unless in the opinion of the Director of Planning, Regeneration and Communities or Planning Team Manager (with consultation of the Monitoring Officer if considered appropriate) that impact is of wider significance or of major importance to West Lindsey, under the duty to Co-operate.
13. To respond to consultations on county matters or county developments, unless in the opinion of the Director of Planning, Regeneration and Communities or Planning Team Manager (with consultation of the Monitoring Officer if considered appropriate) that impact is of wider significance or of major importance to West Lindsey, under the duty to Co-operate.
14. To draw up service level agreements (SLAs) with other organisations for the effective delivery of services related to regeneration which includes, but is not limited to, economic development, tourism and skills and employment.
15. To enter into partnerships that increase the benefit, services and influence available to West Lindsey District Council with other organisations related to regeneration, which includes, but is not limited to, economic development, tourism and skills and employment.
16. To accept the Examiner's report and approve that a neighbourhood plan may advance to Public Referendum following a successful independent examination in accordance with the Localism Act 2011 and the Neighbourhood Plan Regulations 2012.
17. To enter into Agreements relating to the adoption of sewers.

## **Assistant Director of Homes and Communities**

1. To determine homeless applications within the term of the current homelessness legislation.
2. To approve applications to be placed on the Council's Housing Register which fall within the criteria for acceptance.
3. To make nominations to Registered Social Landlords (RSLs) and other agencies in accordance with the Council's approved housing allocation policies.
4. To be responsible for all safeguarding matters.
5. To be responsible for all corporate responsibilities under the Prevent Scheme.



## Director of Corporate Services

1. Where appropriate, to appoint a competent person to be the CDM Coordinator under the Construction (Design and Management) Regulations 2007.
2. To assign leases.
3. To agree and sign Licences and Wayleaves affecting Council land.
4. To terminate leases and licenses, including issuing Notices to Quit and Notices under the provisions of the Landlord and Tenant Act 1954, where possession is required by the Council for an approved purpose.
5. To take all such action and proceedings and to sign all such directions, notices, applications or other process in relation to obtaining possession of any part of the Council's land holding from unauthorised campers, travellers and other trespassers as deemed to be necessary and appropriate on behalf of the Council.
6. To deal with all enquiries for the disposal of small areas of land or rights over land, subject to the following conditions being satisfied –
  - a) the affected land is deemed to be surplus to the Council's requirements;
  - b) and, for sales, can be disposed of in one transaction or one series of transactions;
  - c) there is the prospect of generating some income or some other tangible benefit to the Council such as no further management or maintenance of the land; and
  - d) there are no potential long-term management problems or legal encumbrance associated with the sale or grant which would negate the value of b).
7. To approve miscellaneous short-term lettings.
8. To negotiate terms to take a lease or licence or to acquire the freehold of land or premises where a service need has been identified and budgetary provision made.
9. To determine parish lighting reviews and new requests for parish lighting in accordance with the approved policy.
10. To be the Council's Shareholder representative for the Group Holding Company and its individual subsidiaries, and to hold all such Directors of such companies to account.

## SCHEME OF MANAGEMENT: CORPORATE DELEGATIONS

**Note: delegations can only be exercised within the relevant officer's area of responsibility**

Decision		Chief Executive	Chief Finance Officer	Director/ Assistant Director	Team Manager	Notes
<b>1. Establishment</b> (Changes must be funded from within the Director/Assistant Director's approved employee budget and not commit to additional expenditure in future years. Managers to involve HR & Finance when exercising delegation)						
1.1	Making changes to the establishment. Creating and deleting posts	✓	✓			
1.2	Making changes to job documentation (JDs and person specifications)	✓	✓	✓	✓	
1.3	Making changes to the structure and reporting lines	✓				
1.4	Implement conditions of service as provided for in the national or local conditions of service	✓				
1.5	Carry out appropriate consultation with the workforce and trade union representatives about changes in work practices, payment schemes and operational matters	✓	✓	✓		
1.6	Deal with personal grading protection in cases of redeployment or changed circumstances	✓	✓			
<b>2. Appointments</b>						
2.1	Deciding to fill vacant posts	✓	✓	✓	✓	Recruitment Procedure
2.2	Taking decisions on the recruitment process for individual posts	✓	✓	✓	✓	

Decision		Chief Executive	Chief Finance Officer	Director / Assistant Director	Team Manager	Notes
2.3	Chairing appointments panels and making appointments	✓	✓	✓	✓	Posts at chief officer level, statutory officers and above are member appointments. Panels for team manager appointments must be chaired by Directors / ADs
2.4	Deciding whether to proceed with appointments in the light of references, medicals and criminal record checks	✓	✓	✓	✓	
2.5	Determining whether the probation period for a new recruit has been successfully completed	✓	✓	✓	✓	
2.6	Approving acting up and cover arrangements	✓	✓	✓	✓	
2.7	Authorising transfers and secondments	✓	✓	✓	✓	
2.8	Procuring/engaging agency and temporary staff	✓	✓	✓	✓	Within area of responsibility and budgetary limits.
<b>3. Remuneration (Managers to involve HR and Finance when exercising delegation)</b>						
3.1	Authorising a request for a post to be graded or	✓	✓	✓	✓	
3.2	Authorising essential car user status	✓	✓	✓	✓	
3.3	Approving annual increments	✓	✓	✓	✓	
3.4	Awarding honoraria and ex-gratia payments	✓	✓	✓	✓	

Decision		Chief Executive	Chief Finance Officer	Director/ Assistant Director	Team Manager	Notes
3.5	Approving acting up allowances	✓	✓	✓	✓	
3.6	Approving or authorising pay supplements that form part of a member of staff's terms of employment e.g. overtime, bonus etc.	✓	✓	✓	✓	
3.7	Authorising expenses and allowances	✓	✓	✓	✓	
<b>4. Disciplinary, capability, sickness management and grievances</b>						
4.1	Suspending a member of staff	✓	✓	✓	✓	
4.2	Instructing a member of staff to leave the premises	✓	✓	✓	✓	
4.3	Initiating disciplinary, performance, capability and managing attendance proceedings/confirming charges and taking action that may lead to warnings or dismissal	✓	✓	✓	✓	
4.4	Chairing a panel or a review meeting that may deal with any issues relating to disciplinary/capability/performance/managing attendance procedures	✓	✓	✓	✓	
4.5	Determining complaints under the Grievance Procedure	✓	✓	✓	✓	
4.6	Determining appeals under the grievance, disciplinary, capability, performance management and managing attendance	✓	✓	✓	✓	

Decision		Chief Executive	Chief Finance Officer	Director /Assistant Director	Team Manager	Notes
<b>5. Attendance</b> (Managers to involve HR and Finance when exercising delegation)						
5.1	Agreeing changes to an individual's contractual hours	✓	✓	✓	✓	
5.2	Agreeing hours of attendance	✓	✓	✓	✓	
5.3	Agreeing the application of any flexible or shift working arrangements	✓	✓	✓	✓	
5.4	Agreeing home working arrangements	✓	✓	✓	✓	
5.5	Approving annual leave and flexi leave	✓	✓	✓	✓	
5.6	Approving carry over leave	✓	✓	✓	✓	
5.7	Approving special leave	✓	✓	✓	✓	
5.8	Approving training (time off and costs)	✓	✓	✓	✓	In line with budget resource
5.9	Approving time off with pay	✓	✓	✓	✓	
5.10	Approving leave without pay	✓	✓	✓	✓	
<b>6. Leavers</b>						
6.1	Confirming resignations	✓	✓	✓	✓	
6.2	Providing references	✓	✓	✓	✓	
6.3	Agreeing terms on which staff leave the Council e.g. settlement agreements, outstanding leave, notice to be worked etc.	✓	✓	✓	✓	The Monitoring Officer should seek the advice of Legal Shared Services to agree the terms of any settlement agreement

Decision		Chief Executive	Chief Finance Officer	Director / Assistant Director	Team Manager	Notes
6.4	Designating a member of staff as a redeployee	✓	✓	✓	✓	
6.5	Agreeing redundancy/early retirement	✓				
<b>7. Budgets and expenditure</b> (any decision taken must be consistent with the Financial Procedure Rules and Contract Procedure Rules)						
7.1	Incurring expenditure within approved budget limits	✓	✓	✓	✓	
7.2	Authorising virements within approved service budget	✓	✓	✓	✓	
7.3	Authorising virements between approved service budgets	✓	✓			
7.4	Incurring expenditure in a 'state of emergency' or in order to ensure business continuity	✓	✓	✓		<p>Financial Procedure rules, where practicable. CMT and CFO in consultation with Chairman of Corporate Policy and Resources Committee.</p> <p>This delegation only applies to Directors /Assistant Directors when they are carrying out the role of Strategic and Tactical Commander in respect of emergency planning.</p>

Decision		Chief Executive	Chief Finance Officer	Director / Assistant Director	Team Manager	Notes
7.5	Incurring expenditure in taking immediate urgent action in responding to civil emergency and severe weather	✓	✓	✓		<p>Financial Procedure rules, where practicable. CMT and CFO in consultation with Chairman of Corporate Policy and Resources Committee.</p> <p>This delegation only applies to Directors/Assistant Directors when they are carrying out the role of Strategic Commander in respect of emergency planning.</p>
7.6	Authorising compensation	✓	✓	✓		<p>Officers are subject to financial limits detailed within the financial procedure rules. – please refer –</p> <p>Note: Compensation arising from LGO complaints is a function of the Governance and Audit Committee (terms of reference no.4 page 9).</p> <p>Compensation arising from LGO Complaints totalling less than £2,500 can be approved by the S151 Officer and must be reported to G and A Cttee for information</p>

Decision		Chief Executive	Chief Finance Officer	Director / Assistant Director	Team Manager	Notes
<b>8. Payroll</b>						
8.1	Authorising payroll submissions	✓	✓	✓	✓	Includes authority to include a new employee on the payroll
8.2	Authorising payroll corrections	✓	✓	✓	✓	
<b>9. Income</b>						
9.1	Determining whether income is due	✓	✓	✓	✓	
9.2	Agree changes to locally determined fees and charges in exceptional circumstances	✓				Action taken to be reported to Corporate Policy and Resources Committee
9.3	Initiating debt recovery action	✓	✓	✓		No decision required- administrative task. Decision not to pursue a debt needs to be a delegated decision- see below (writing off debts)
9.4	Cancelling and reversal of debts	✓	✓	✓	✓	Cancellation of debt raised in error; administrative task providing there is documented



Decision		Chief Executive	Chief Finance Officer	Assistant Director	Team Manager	Notes
9.5	Writing off debts		✓			Budget holders may write off debt up to the value of £250 where it is deemed irrecoverable debt. Up to £2,500; CFO Over £2,500: Corporate Policy
<b>10. Purchasing and Procurement</b> (any decision taken must be consistent with the Financial Procedure Rules and Contract Procedure Rules)						
10.1	Seeking tenders and quotations within approved limits	✓	✓	✓	✓	
10.2	Accept the most favourable tender/quotation in terms of quality, timeliness and cost providing it is within the approved budget	✓ (a)	✓ (a)	✓ (b)		(a) above whole life contract value of £75,000 (b) up to whole life contract value of £75,000
10.3	Allowing exemptions to the Contract Procedure Rules	✓	✓			In specific circumstances as detailed in the Contract Procedure Rules
10.4	Placing and authorising orders	✓	✓	✓	✓	In accordance with authorised purchasing limits
10.5	Determining purchasing limits for officers	✓	✓	✓	✓	
10.6	Authorising variations to contracts within approved limits	✓	✓	✓		Per authorised limits
10.7	Terminating contracts	✓	✓	✓		Subject to legal advice
10.8	Maintaining an inventory of assets	✓	✓	✓	✓	
10.9	Disposal of Assets	✓	✓	✓		Subject to guidance in Financial Procedure Rules

Decision		Chief Executive	Chief Finance Officer	Director / Assistant Director	Team Manager	Notes
10.10	Authorising invoices	✓	✓	✓	✓	May be delegated further within service areas to designated budget managers.
10.11	Appointing consultants	✓	✓	✓	✓	
<b>11. Authorisations</b>						
11.1	Signing off reports to committee	✓	✓			In compliance with committee report sign off procedures
11.2	Signing off Government and other returns	✓	✓	✓	✓	
11.3	Signing off bids and applications for funding	✓	✓	✓		In Compliance with Financial Procedure Rules after consulting CFO
11.4	Approving service and business plans	✓				
11.5	Approve response to consultative documents	✓	✓	✓	✓	Within area of responsibility after consultation with appropriate chairman; if politically contentious will be report to Committee

Decision		Chief Executive	Chief Finance Officer	Director / Assistant Director	Team Manager	Notes
11.6	Certified compliance 8. PCI-DSS 9. PSN 10. Plus any other other information governance standards as may be announced in due course	✓	✓			
<b>12. Complaints</b>						
12.1	Determining complaints	✓	✓	✓	✓	
<b>13. Engaging Specialists</b>						
13.1	Engaging legal advice	✓	✓	✓	✓	Subject to consultation with Officer managing the Legal Shared Services – currently MO
13.2	Engaging consultants where necessary to provide technical advice or work of a specialist	✓	✓	✓		Within budget provision and compliance with Contract Procedure Rules

Decision	Chief Executive	Chief Finance Officer	Director / Assistant Director	Team Manager	Notes
<b>14. Land Transactions</b>					
14.1	<p>Acquisitions and disposals of an item contained in the Approved Capital Programme. The purchase or sale of land up to £75,000 in value (including leases or easements where the annual rent multiplied by the length of the lease does not exceed that figure assuming that the rent is not increased on review) and between £75,001 and £250,000 only to be undertaken following consultation with the Leader of the Councillor or the Deputy Leader when the Leader is unavailable.</p> <p>In all cases of acquisition and disposals, the use of the delegated power is subject to:</p> <p>In the case of acquisitions, the capital funds to be used form an agreed allocation in the current Capital Programme adopted by Council;</p> <p>Any proposed acquisition or disposal has been subject to an independent valuation, preferably by the District Valuer or some other Royal Institute of Chartered Surveyors independent Valuer;</p> <p>Reporting the completed acquisition, lease, or disposal to the next available Corporate Policy &amp; Resources Committee.</p> <p>Where a sale is pursuant to Section 123 of the Local Government Act 1972, Section 32 Housing Act 1985 or Section 25 of the Local Government Act 1988, consent to the Secretary of State may be sought as necessary.”</p>	Subject to approval of the Chief Finance officer			Subject to reference to Corporate Policy and Resources Committee by the appropriate Director / Assistant Director re areas of open space or land in the nature of open space if there is significant public interest in the preservation of the same.

Decision		Chief Executive	Chief Finance Officer	Director / Assistant Director	Team Manager	Notes
14.2	Compulsory Disposals. Any sale or lease of land pursuant to the Right to Buy or the Right of Enfranchisement under the Housing Act 1985, the Leasehold Reform Act 1967 or The Leasehold Reform Housing and Urban Development Act 1993 subject to compliance with the statutory procedures.	✓	✓			
<b>15. Regulation of Investigatory Powers Act 2000</b>						
15.1	Authorise persons to conduct surveillance in accordance with covert surveillance policy	✓				
<b>16. Constitutional &amp; Legal</b>						
16.1	Affix the Common Seal of the Council to documents	✓	✓	✓		Following consultation with the Section 151 and Monitoring Officer
16.2	Certify that a photocopy of a document, order, report or minutes is a true copy	✓	✓	✓		
16.3	Institute, conduct and/or settle legal proceedings	✓	✓	✓		Within area of responsibility after consultation with the Officer managing the Legal Shared Services – currently MO
16.4	Determine and respond to requests under the General Data Protection Regulation (GDPR) and Data Protection Act 2018.	✓	✓	✓	✓	Following advice from the DPO

Decision		Chief Executive	Chief Finance Officer	Director / Assistant Director	Team Manager	Notes
16.5	Issue, serve, receive and act upon notices and to impose requirements under any legislation enforced by the Council incl. s16 of the Local Government (Miscellaneous Provisions) Act 1976, s19 of the Environmental Protections Act 1990 & s24 of the Town & Country Planning Act 1990	✓	✓	✓		
16.6	Obtain particulars of persons interested in land under s16 of the Local Government (Miscellaneous Provisions) Act 1976	✓	✓	✓		
16.7	Determine and respond to requests under the Freedom of Information Act 200 and the Environmental Information Regulations 2004	✓	✓	✓	✓	Corporate centre must be consulted before applying an exemption. Where s36 is engaged Monitoring Officer must make decision.
16.8	Publish statutory advertisements and notices	✓	✓	✓	✓	
16.9	Signing off of contracts	✓	✓	✓		In compliance with the Financial Procedure Rules

## Proper Officers

The following officers have been designated “proper officers” for these functions:

<b>Statute</b>	<b>Function</b>	<b>Proper Officer</b>
Sections 84 and 85 Public Health Act 1936	Cleansing of filthy or verminous articles, persons or clothing persons or clothing	Chief Executive
Section 47 National Assistance Act 1948 as amended by the National Assistance Act 1951	Removal of persons to suitable accommodation in specified circumstances	Chief Executive
Section 37 Public Health Act 1961	Disinfestation of verminous articles offered for sale	Chief Executive
Section 83 Local Government Act 1972 (LGA 1972 )	Witness and receipt of declarations of acceptance of office of Chairman, Vice-Chairman and Councillors	Head of Paid Service
Section 84 LGA 1972	Receipt of written notice of resignation of office of Chairman, Vice-Chairman and Councillors	Head of Paid Service
Section 88 LGA 1972	Convene a Council meeting for the election to the vacant office of Chairman of the Council.	Head of Paid Service
Section 89 LGA 1972	Receipt of notice in writing of a casual vacancy occurring in the office of Councillor given by two local government electors for the electoral area.	Head of Paid Service
Section 100f (2) LGA 1972	Relates to the exclusion from Council agendas any information which is likely to be dealt with in the absence of the press and public	Head of Paid Service/Monitoring Officer
Section 100b(2) LGA 1972	Relates to the circulation of Committee Reports and Agendas	Chief Executive

Statute	Function	Proper Officer
Section 100B(7)c LGA 1972	Supply to any newspaper copies of documents supplied to Members of the Council in connection with an item to be considered at a meeting.	Monitoring Officer
Section 100C (2) LGA 1972	Preparation of a written summary of proceedings of committees and sub-committees of the Council.	Head of Paid Service
Section 100D(1)a LGA 1972	Preparation of a list of background documents for reports considered by committees and sub-committees of the Council	Head of Paid Service
Section 115 LGA 1972	Receipt of monies from accountable officers	Chief Finance Officer
Section 146 LGA 1972	Certificates as to securities on alteration of local authority area or name	Head of Paid Service/Chief Finance Officer
Section 151 LGA 1972 (and Section 114 Local Government and Finance Act 1988)	Responsibility for the proper administration of the Council's financial affairs.	Chief Finance Officer
Section 225 LGA 1972	Deposit of any documents pursuant to any enactment, instrument or parliamentary standing orders	Head of Paid Service
Section 229 LGA 1972	Certification of any photographic copy of a document in the custody of the council or of any document destroyed while in which custody, or any part of such document	Head of Paid Service



Statute	Function	Proper Officer
Section 231 LGA 1972	Receive documents required to be served on the council	Head of Paid Service
Section 234 LGA 1972	Signature or authentication of any notice or other document which the local authority is authorised or required to give or make or issue	Chief Executive
Section 238 LGA 1972	Certification of printed copies of by-laws	Head of Paid Service
Schedule 12 (para. 4(2)(b)) LGA 1972	Signature of summons to attend council meetings and receipt of notices regarding the address to which a summons to a meeting is to be sent.	Head of Paid Service
Schedule 14 (para. 25(7)) LGA 1972	Responsibility for true copies of resolutions.	Head of Paid Service
Sections 3 and 19 Land Charges Act 1975  Section 41 Local Government (Miscellaneous Provisions) Act 1976.	Act as the Local Registrar.  Certification of minutes, resolution, orders & reports as evidence of resolutions of proceedings	Head of Paid Service
Section 28 Representation of the People Act 1983 (RPA 1983)	Acting Returning Officer for a parliamentary election.	Chief Executive
Section 35 RPA 1983	Returning Officer for local government elections.	Chief Executive
Section 8 RPA 1983	Electoral Registration Officer.	Chief Executive

Statute	Function	Proper Officer
Sections 11, 18, 20, 21, 22, 24, 29, and 31 – Public Health (Control of Disease) Act 1984; Regulations 8 and 9 and Schedules 3 and 4 – Public Health (Infectious Diseases) Regulations 1988	Notification and control powers for communicable diseases	Chief Executive
S.2 Local Government and Housing Act 1989 (LG&HA 1989 )	Hold on deposit the list of politically restricted posts.	Head of Paid Service
Section 3 LG&HA 1989 as amended by Section 202 Local Government and Public Involvement in Health Act 2007	Issue employer’s certificate for exemption from politically restricted posts.	Head of Paid Service
Section 4 LG&HA 1989	Head of the Paid Service.	Head of Paid Service
Section 5 LG&HA 1989	Monitoring Officer.	As designated
Section 15 LG&HA 1989 & Local Government (Committees & Political Groups) Regulations 1990	Receipt of notices relating to the membership of political groups.	Head of Paid Service
Regulation 23 Non-Domestic (Collection & Enforcement) (Local Lists) Regulations 1989	Certification of the Local Non-Domestic List	Chief Finance Officer
Local Authorities (Referendums) (Petitions & Directions) Regulations 2000	Functions relating to verification and publicity of petitions	Chief Executive
Section 36 Freedom of Information Act 2000	Act as the ‘qualified person’	Monitoring Officer Deputy Monitoring Officer
Local Authorities (Standing Orders) Regulations 2001	Notices regarding proposed appointments of staff	Head of Paid Service

Statute	Function	Proper Officer
Local Authorities (Conduct of Referendums) (England) Regulations 2001	All references to the proper officer	Chief Executive
Section 100 (f) (2) of the Local Government Act 1972	Relates to the exclusion from council agendas any information which is likely to be dealt with in the	Head of Paid Service/Monitoring Officer
Section 100 (b) (2) of the Local Government Act 1972	Relates to the circulation of committee reports and agendas	Head of Paid Service
Section 13 (3) of Part III of Schedule 12 of the Local Government Act 1972	Relates to holding the Office of Parish Trustee where there is a parish meeting with no separate	Monitoring Officer

# Constitution of West Lindsey District Council

## Part V

# Rules of Procedure



# Procedure Rules

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## 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, they should contact the Chief Executive, Monitoring Officer or Deputy Monitoring Officer, before the meeting and they will be pleased to assist. 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 (where vacancies exist); and
  - e) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council.
  - f) Appoint Chairmen and Vice-Chairmen\* to serve on each Committee and determine the normal commencement time for each Committee.

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\* A Committee may have no more than two Vice-Chairmen.

## **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 Authority provided it is not an agenda item for that 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 Overview and Scrutiny Committee for debate; and
- 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 Head of Paid Service 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, subject to appropriate training having been undertaken. Overview and Scrutiny Committee members are permitted to substitute on the policy committee(s) subject to compliance with paragraph VI on page 5 of Part 3 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, Group/Deputy Whip (where applicable) or a majority of members of the relevant Group has notified the Head of Paid Service 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.

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

- \* 5.1 The time and place of meetings will be determined by the Head of Paid Service and notified in the summons. Where necessary and expedient, the Head of Paid Service can vary the time of committee meetings in consultation with the Chairman of the Committee, and where practicable, the Committee as well.

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

- \* 6.1 The Head of Paid Service 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 Head of Paid Service 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 where possible specify the business to be transacted, and will be accompanied by the reports.

## **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 one quarter of the total elected seats available.
- \* 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.
- \* 8.3 Where a meeting of Council or Committee is inquorate the Chairman will immediately bring this to the attention of the Head of Paid Service, who will write to all Members reminding them of their responsibilities and duties.

## **9. Questions**

### **9.1 Procedure for Questions**

Members of the Council 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, in the case of motions, which affects the District at ordinary meetings of the Council.

Members of the public should refer to the 'Public Question Time at Council Meetings' document available at <https://www.west-lindsey.gov.uk/my-council/decision-making-and-council-meetings/public-participation-and-questions-at-committee-meetings/>.

## 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 Head of Paid Service i.e. normally by 5 pm on the Tuesday for a meeting the following Monday.
- 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 Head of Paid Service 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, in the case of motions, which affects the district;
- b) it is defamatory, frivolous or offensive;
- c) it is substantially the same as a question which has previously been 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.
- g) it is to be put to Council during the formal Purdah period and is, in the view of the Head of Paid Service, politically motivated and therefore an unjust use of Council resources and time.
- h) the question names an individual member or Group to which the question submitter does not belong.
- i) the use of Council resources for such a matter is questionable.

## 9.5 Putting of Questions and Response

- a) Members must only put the question as submitted (as this has been assessed for compliance) and should not deviate to any great degree. Preambles and post-ambles should be requested through the Chairman and are at his/her discretion to accept.
- b) 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.
- c) Every question shall be put and answered (with the exception of defamatory or inappropriate questions), but the person to whom the question has been put may decline to answer.
- d) 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

Only the questioner will be allowed to ask one brief, relevant supplementary question after the reply to the original question. This is at the Chairman's discretion.

- 9.7 There will be no debate on hearing the response to questions under Rule 9 unless a motion to suspend the relevant procedure rule is moved and passed by the majority of members present and voting.

## 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 received by the Head of Paid Service by close of play seven clear working days prior to the meeting (excluding the day of the meeting); i.e. for a meeting on Monday 15th of the month this would be by 5pm on Wednesday 3rd. 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. In putting the motion to Council at the meeting, Members must only put the motion as set out in the agenda and not deviate from the words printed.

### 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 Head of Paid Service is out of order, illegal, irregular or improper, the Head of Paid Service 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 18.3 or to exclude him/her from the meeting under Rule 18.4; 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

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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.

#### **Withdrawal of motion**

- \*12.13 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. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### **Right of reply**

- \*12.14 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.
- \*12.15 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.
- \*12.16 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**

- \*12.17 When a motion is under debate, no other motion may be moved except the following procedural motions -
  - a) to withdraw the motion;
  - b) to amend the 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**

- \*12.18 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.
- \*12.19 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.
- \*12.20 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.
- \*12.21 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**

- \*12.22 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**

- \*12.23 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**

- \*12.24 When a Member is speaking and obviously proceeding on the basis of information which is wrong or of which the Member is ignorant, another



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Member may properly seek to intervene to provide the correct or missing information, thereby saving the Council from being misled, and saving time. Previous Decisions and Motions

### **13 Motion to rescind or vary a previous decision 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.
- 13.2 A motion or amendment to rescind or vary a decision made at a meeting of Committee within the past six months cannot be moved unless the notice of motion is signed by 5 members or upon recommendation of the committee who made the decision.

### **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. Votes will be asked for in the following order, those in favour (for), and those against, abstentions will only be sought and noted where a recorded vote has been request (unless Rules 14.4 or 14.5), it will be assumed that a member who fails to indicate they are for or against is abstaining, whether they indicate this or not.

#### **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 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 the budget decision meeting of full Council there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

In the event that Full Council and/or a Committee chooses to make use of the electronic voting system, the names and way in which

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those Elected Members present voted will automatically be recorded within the minutes.

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

- \* 14.5 Where any Member requests it immediately after a 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.
- \*15.3.1 On occasion it may be necessary for discussions to be recorded in the absence of a Democratic Services Officer/ Clerk. However no decisions or votes will be taken in the absence of such an officer.

### **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 19 (Disturbance by Public).

## **18 Members' Conduct Speaking at meetings**

- \*18.1 When a Member speaks at Council, he/she must address the meeting through the Chairman. If more than one Member wishes to speak, the Chairman will ask one to speak and the others must refrain. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

### **Chairman standing**

- \* 18.2 When the Chairman stands during a debate, any Member speaking at the time must stop. 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.
- \* 18.4.1 Any Member required to leave the meeting room under Procedure Rule 18.4 should on leaving ensure they are not visible to the remaining committee members, or attempt to contact those taking part in the meeting via electronic means. This also applies to those Members who leave due to pecuniary/prejudicial interest.

### **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 above apply to meetings of committees and sub-committees (marked with an \*).

### **Notes:**

- With the exception of the Licensing and Regulatory Sub-Committees, all other sub-committees will be time limited.
- Public participation is permitted at meetings of Council and all Policy and Regulatory 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 Chairmen of Committees Election**

- 23.1 In the absence from a meeting of the Chairman (and Vice-Chairman if elected), a Chairman shall be appointed for that meeting by those Committee Members present.

All Committee Chairmen and Vice-Chairmen will commit to undertake any training deemed necessary to undertake this role, over and above those requirements set out for regulatory committees in Section 4 of this Constitution subsequent to being elected to the role.

Attendance at such training will be monitored and Group Leaders will use the attendance stats in determining who it recommends for such roles.

The Committee Chairman must take the Chair for the meeting if they are present.

## **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 Head of Paid Service. 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 Head of Paid Service, 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.
- 25.4 Notwithstanding the legal requirement to attend at least one committee meeting to which the member has been appointed to serve or substitute on, in any one six month period, where an individual Member fails to attend a Committee to which they have been appointed, on more than three occasions without due reason, it will be within the gift of the Committee Chairman to report this matter to the relevant Group Leader, or Head of Paid Service (if it relates to attendance by a Group Leader).

## **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 Sub-Committee which is subject to paras (1) & (2) as follows-
- (1) Subject to paragraph (2) below, a meeting of the Standards Sub-Committee shall not be quorate unless at least three Members (and at least one independent member if the hearing relates to a parish councillor) of that 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 Council
- 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 provided to each member of the Council, in an appropriate format, by the Head of Paid Service 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.

## **Access to Information Procedure Rules**

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## **Access to Information Procedure Rules**

### **1. Scope**

- 1.1 These Rules apply to all meetings of the Council, the Overview and Scrutiny Committee, policy and other committees and the Standards Sub-Committee (together called meetings).

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

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

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

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules.

### **4. Notices of Meeting**

- 4.1 The Council will give at least five clear working days' notice of any meeting by posting details of the meeting. Working days means days when the offices are open so weekends and public holidays do not count.

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

- 5.1 The council will make copies of the agenda and reports open to the public available for inspection at least five clear working days before the meeting. Clear days means not counting the day the agenda was made available nor the day of the meeting. If an item is added to the agenda later, the revised agenda (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) will be open to inspection from the time the item was added to the agenda.

### **6. Supply of Copies**

- 6.1 The Council will supply copies of -
- a) any agenda and reports which are open to public inspection;
  - b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - c) if the Head of Paid Service thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and other costs.



## **7. Access to Minutes etc. after the Meeting**

- 7.1 The council will make available copies of the following for six years after a meeting -
- a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - c) the agenda for the meeting; and
  - d) reports relating to items where the meeting was open to the public.

## **8. Background Papers**

### **List of Background Papers**

- 8.1 The Proper Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion -
- a) disclose any facts or matters on which the report or an important part of the report is based; and
  - b) which have been relied upon to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined by Rule 10).

### **Public Inspection of Background Papers**

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

## **9. Summary of Public's Rights**

- 9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept available to the public at The Guildhall, Gainsborough.

## **10. Exclusion of Access by the Public to Meetings Confidential Information – Requirement to Exclude Public**

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

### Exempt Information – Discretion to Exclude Public

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

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

### Meaning of Confidential Information

- 10.3 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.

### Meaning of Exempt Information

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

Category	Condition
1. Information relating to any individual.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2. Information which is likely to reveal the identity of an individual	Exempt information if and so long, as in all the circumstances, of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	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.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	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.
5. Information in respect of which a claim to legal professional	Exempt information if and so long, as in all the circumstances of the case, the

privilege could be maintained in legal proceedings	public interest in maintaining the exemption outweighs the public interest in disclosing the information.
6. Information which reveals that the authority proposes - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or b) to make an order or direction under any enactment	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.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

<b>Exempt Information Relating to Standards Committee Only</b>	
8. Information which is subject to any obligation of confidentiality	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
9. Information which relates in any way to matters concerning national security	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
10 The deliberations of a Standards Committee or of a sub-committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60 (2) or (3) 64 (2) 70 (4) or (5) or 71 (2) of that Act.	Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10.5 Information falling within any of the paragraphs 1 to 10 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

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

11.1 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “not for publication” together with the category of information likely to be disclosed.

## **Budgetary and Policy Framework Procedure Rules**

### **Contents**

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## Budgetary and Policy Framework Procedure Rules

### 1. The Framework for Decision Making

- 1.1 The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or policy framework is in place, it will be the responsibility of the policy committees to implement it.

### 2. Process for Developing the Framework

- 2.1 The process for developing the budget and policy framework is –
- a) In summer each year, following the approval of the Corporate Plan priorities by Council, the Corporate Policy and Resources Committee will agree a programme for establishing revising the Medium Term Financial Plan and determining a budget for the following year. Within this programme, the Committee may identify strategic policy or resource issues on which it wishes to request studies by the Overview and Scrutiny Committee.
  - b) Policy studies undertaken by the Overview and Scrutiny Committee should engage as widely as possible with citizens and stakeholders in the community and use a variety of methods to gauge public views. The results should be presented to the relevant policy Committee, which will then draw on them in developing proposals for Council.
  - c) In autumn each year the draft Medium Term Financial Plan will be prepared to clearly link the Council's resources with priorities.
  - d) In March the Council will approve the Medium Term Financial Plan and set the Council Tax for the coming year.
  - e) Between March and the summer the Corporate Plan priorities will be reviewed and revised where required.

### 3. Virement

- 3.1 Steps taken by a Committee or Officers, or joint arrangements implementing Council Policy, shall not exceed the approved budgets allocated to each cost centre. However, virement between cost centres is permitted under the Council's Financial Procedure Rules as set out in this Constitution, subject to the requirements and limits there specified.

### 4. In-Year Adjustments

- 4.1 The responsibility for agreeing the financial framework lies with the Council, and decisions by policy committees or officers with delegated authority must be in line with it. Changes in year to any policy or strategy that form the policy framework must be agreed by the relevant policy committee or by the Council except –
- a) where necessary to ensure compliance with the law, ministerial direction or government guidance; or

- b) in relation to the policy framework in respect of policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## Overview and Scrutiny Procedure Rules

### Contents

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## **Overview and Scrutiny Procedure Rules**

### **1. Number and Arrangements for Overview and Scrutiny Committee**

1.1 The Council will have one Overview and Scrutiny Committee.

‘Overview and Scrutiny Committee’

It will perform all overview and scrutiny functions on behalf of the Council and will be politically balanced.

1.2 The terms of reference of the Overview and Scrutiny Committee will be as detailed in Article 7 and Part IV of the Constitution.

### **2. Seats on Overview and Scrutiny Committee**

2.1 All Councillors, with the exception of the Chairman, Leader of the Council, Deputy Leader of the Council, and Leader of the Opposition, may be members of the Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

2.2 A member must if he/she is involved in the consideration of a matter at a meeting of the Overview and Scrutiny Committee of the Authority or a sub-committee of that Committee, regard himself/herself as having a personal and a prejudicial interest if that consideration relates to a decision made, or action taken, by another of the Council's –

- committees or sub-committees; or
- joint committees or joint sub-committees.

of which he/she may also be a member and took part in that decision making.

2.3 Sub-paragraph (2.2) above shall not apply if that member attends that meeting for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

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

3.1 The Overview and Scrutiny Committee shall be entitled to appoint a number of people as non-voting co-optees.

### **4. Meetings of the Overview and Scrutiny Committee**

4.1 Special meetings may be called from time to time as and when appropriate.



- 4.2 An Overview and Scrutiny Committee meeting may be called by the Chairman of the Committee, by a simple majority of members of the Committee or by the Proper Officer if he/she considers it necessary or appropriate.

## **5. Quorum**

- 5.1 The quorum for the Overview and Scrutiny Committee shall be one quarter of the whole numbers of members provided that in no case shall the quorum of the committee be less than four voting members.

## **6. Work Programme**

- 6.1 The Overview and Scrutiny Committee will be responsible for reporting annually to the Council on both its proposed work plan and its work in the preceding year and, in doing so, shall take into account wishes of members on the Committee who are not members of the largest political group on the Council.

## **7. Agenda Items**

- 7.1 Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request, the Proper Officer will ensure that it is included on the next available agenda.
- 7.2 The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and policy committees to review particular areas of council activity. Where it does so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the relevant policy committee and/or Council. The Council and/or the relevant policy committee shall consider the report of the Overview and Scrutiny Committee at the next available meeting.
- 7.3 There will be a standing item on the agenda of all ordinary meetings of the Overview and Scrutiny Committee which will allow for consideration to be given to the work programme.

## **8. Policy Review and Development**

- 8.1 The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budgetary and Policy Framework Procedure Rules in Part V of this Constitution.
- 8.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budgetary framework, the Overview and Scrutiny Committee may make proposals to policy committees for developments in so far as they relate to matters within its terms of reference.

- 8.3 The Overview and Scrutiny Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist in this process. It may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations. It may ask witnesses to attend to address it on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **9. Reports from the Overview and Scrutiny Committee**

- 9.1 Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare formal reports and submit them to the Proper Officer for consideration by the relevant policy committee (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from, or a change to, the agreed budgetary and policy framework).
- 9.2 If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or the relevant policy committee as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or policy committee with the majority report.
- 9.3 The Council or policy committee shall consider any report of the Overview and Scrutiny Committee at the next available meeting after being submitted to the Proper Officer.

## **10. Consideration of Overview and Scrutiny Committee's Reports by Policy Committees**

- 10.1 Once an Overview and Scrutiny report on any matter which is the responsibility of a policy committee has been completed, it shall be included on the agenda of the next available meeting of the relevant policy committee.

## **11. Rights of Overview and Scrutiny Committee Members to Documents**

- 11.1 In addition to their rights as Councillors, members of the Overview and Scrutiny Committee have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part V of this Constitution.
- 11.2 Nothing in this paragraph prevents more detailed liaison between the relevant policy committee and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

## **12. Members and Officers Giving Account**

- 12.1 The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions within its remit. As well as reviewing documentation, in fulfilling the

scrutiny role, it may require any member of a policy committee, the Head of Paid Service or an Assistant Director to attend before it to explain in relation to matters within its remit –

- (a) any particular decision or series of decisions; and
- (b) the extent to which the actions taken implement Council policy

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

More junior officers may be invited to assist the Committee.

- 12.2 Where any member or officer is required to attend the Overview and Scrutiny Committee under this provision, the Chairman of the Committee will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving at least five working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for presentation of that documentation.
- 12.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, and then the Overview and Scrutiny Committee shall, in consultation with the member or officer, arrange an alternative date for attendance.

### **13. Attendance by Others**

- 13.1 The Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 12 above to address it, discuss issues of local concern and/or answer questions on issues within the remit of the committee. The committee may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

### **14. Call-In**

- 14.1 Call-in should occur where members of the Overview and Scrutiny Committee have evidence which suggests that the policy committee(s) for which it is responsible did not take the decision in accordance with the principles set out in Article 12.
- 14.2 Five working days are to be allowed for the call-in of decisions. The procedure is as follows –
- (a) If four members on the Overview and Scrutiny Committee wish to call in a decision with a view to requesting that the relevant policy committee reconsiders the decision, this must be done within five

working days of publication of the decision, provided the issue in question has not been recorded as urgent.

- (b) Any request to call in a decision must be in writing, be signed by the four members and set out the resolution to be considered. The call-in notice should also set out the reason(s) why the decision should be reconsidered. The notice should be sent to the Head of Paid Service no later than 5pm on the fifth working day following publication of the decision.
  - (c) Decisions can only be called in once and must be considered at the next meeting of the Overview and Scrutiny Committee unless the agenda for that meeting has already been published. If the agenda has been published, the issue will be considered at the subsequent Overview and Scrutiny Committee meeting unless the matter is considered urgent by the Chairman of the Overview and Scrutiny Committee, taking into account any views of the Chairman of the Committee whose decision has been called in.
  - (d) The date of publication of the decision will be deemed to be the day on which the minutes were published on the Council's website.
  - (e) If having considered the decision the Overview and Scrutiny Committee may:
    - (i) refer back to the relevant policy committee for further consideration, setting out in writing its recommendations; or
    - (ii) not refer back to the relevant policy committee and the decision shall take effect on the date of the overview and scrutiny meeting.
- 14.3 Where a matter is to be referred to another committee, call-in only applies after the matter has been considered by that other committee.
- 14.4 Call-in does not apply to recommendations to Council nor to Council decisions themselves.
- 14.5 The Chairman of the committee whose decision has been called in shall be invited to the Overview and Scrutiny Committee meeting when the item is considered. The Chairman of the Overview and Scrutiny Committee (or his/her representative) shall attend the policy committee meeting when the called-in item goes back for consideration.
- 14.6 Where a policy committee does not wish to accept the recommendation(s) of the Overview and Scrutiny Committee on a called-in decision, the decision shall be referred to Council.
- 14.7 The call-in procedure set out above shall not apply where the decision being taken by the policy committee is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's

or the public interest. The record of the decision shall state whether, in the opinion of the decision-making committee, the decision is an urgent one and, therefore, not subject to call-in. The committee taking the decision must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. The Chairman of the Overview and Scrutiny Committee shall be consulted before any matter is dealt with under this urgency procedure.

- 14.8 Urgency in this context goes further than the urgency provisions contained in the Local Government (Access to Information) Act 1985 relating to late reports. A report may well have been submitted to the relevant committee in good time but the implementation of the decision is nevertheless considered urgent.
- 14.9 The operation of the provisions relating to call-in and urgency shall be monitored annually.

## **15. Procedure at Overview and Scrutiny Committee Meetings**

- 15.1 The Overview and Scrutiny Committee shall consider the following business –
- (a) minutes of the last meeting;
  - (b) declarations of interest;
  - (c) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
  - (d) (responses of the policy committee(s) to reports of the Overview and Scrutiny Committee;
  - (e) the business otherwise set out in the agenda for the meeting; and
  - (f) the work programme.
- 15.2 Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
- (a) that the investigation be conducted fairly and all members of the Committee given the opportunity to ask questions of attendees, to contribute and speak;
  - (b) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 15.3 Following any investigation or review, the Committee shall prepare a report for submission to the appropriate policy committee and/or Council as appropriate and shall make its report and findings public.

## 16. Oversight Commissions

16.1 Part of the role of the Overview and Scrutiny Committee is to provide support to the two policy committees by holding commissions on specific areas as requested by those committees.

To commence a commission: -

- The Prosperous Communities Committee and/or the Corporate Policy and Resources Committee will agree the purpose, scope and terms of reference of a commission and make a formal request via the Chair of Overview and Scrutiny (by formal report) that a commission is established to investigate in detail a particular issue from a national, regional, sub-regional and local perspective.
- The proposed report and terms of reference for a commission should be agreed with the Chair of Overview and Scrutiny Committee prior to being submitted to the commissioning policy committee for agreement.'
- In undertaking such a commission, the Overview and Scrutiny Committee may hold inquiries and investigate options for future direction in policy development. They may appoint advisers and assessors to assist in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address it on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so, as specified in the Constitutional operating procedures.
- If a budget is required this will need to be agreed by the commissioning Committee.
- The Overview and Scrutiny Committee will report back their findings to the Commissioning Policy Committee.



# **WEST LINDSEY DISTRICT COUNCIL**

# **FINANCIAL PROCEDURE RULES**

**Approved by Governance and Audit Committee April 2023**

# INTRODUCTION

## 1 FINANCIAL PROCEDURE RULES

1.1 Strong financial controls are vital within any public sector organisation. The use of public funds must be transparent and both Members and officers must be held accountable for how public funds are used. These Financial Procedure Rules have been formulated having particular regard to the following –

- The financial framework operating within the Council.
- Promoting the accountability of officers for the financial resources required to deliver their services.
- Compliance with all current legislative financial standards and Codes of Practice.
- A culture of openness and scrutiny.
- The promotion of a culture of managerial flexibility within the statutory and organisational constraints of a public sector body.

1.2 The Financial Procedure Rules establish the system of control for financial decisions. They are an integral part of the Council's Constitution. The rules reflect the responsibilities arising from being entrusted with public money.

1.3 The Financial Procedure Rules consist of 2 parts:

- The first part defines the roles of Councillor and officers and sets the framework within which the Rules operate;
- The second part contains the overarching regulations, and provides the detailed 'Rules' on how those regulations are implemented.

1.4 A series of detailed guidance notes and practice support the Financial Procedure Rules. Whilst the detailed guidance is regularly updated, where there is any difference between the Financial Procedure Rules and the detailed guidance, the Finance Procedure Rules have precedence in all cases.

## 2 STATUS OF FINANCIAL PROCEDURE RULES

2.1 The Council must conduct its business efficiently and ensure it has sound financial management policies in place, including arrangements to monitor compliance. The Council's statutory Chief Finance Officer is also charged with ensuring that proper financial management processes are in place.

Financial Procedure Rules, together with the Budget and Policy Framework Procedure Rules, provide the basis for managing the Council's financial affairs and are part of the Council's Constitution. They apply to every



Councillor and officer of the Council and to anyone acting on its behalf. They must be followed by all of the Council's staff and all consultants or technical officers from outside the Council employed or otherwise engaged by the Council. Failure to comply may lead to disciplinary action being taken by the Council.

- 2.2 The Council's Scheme of Delegation will be taken account of in all matters relevant to these procedure rules.

# PART ONE – CONTEXT, ROLES AND RESPONSIBILITIES

## 1 FINANCIAL MANAGEMENT

1.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the budget and policy framework and in accordance with the Financial Management Code of Practice.

1.2 The processes of financial management involve:

- Complying with statutory requirements;
- Ensuring that the Council receives value for money;
- Development and approval of protocols, standards and financial plans (including the revenue and capital budgets);
- Implementing policies, protocols and standards;
- Monitoring compliance;
- Maintaining records;
- Reporting and providing advice;
- Specific financial techniques and functions e.g. virement, year end balances, Statements of Account.

1.3 All Councillors and officers must abide by the highest standards of probity in dealing with financial issues. This is achieved by ensuring everyone is clear about the standards to which they must work and the controls in place to check that the standards are met. The Financial Procedure Rules must be kept up to date and consistently applied by all Councillors and officers.

## 2 FINANCIAL ADVICE

2.1 Sound financial advice is fundamental to ensuring the maintenance of basic standards of financial management. Only persons qualified to do so should provide such advice.

2.2 Persons giving financial advice must have been authorised to do so by the Chief Finance Officer.

2.3 The Chief Finance Officer has the right to attend all meetings of the Council, committees and sub-committees, working groups, boards or other forums where decisions or recommendations potentially having financial implications may be taken. This is often discharged through officers within the Finance function.

2.4 All reports contain risk management (including financial risks) and financial implications sections, the contents of which must be agreed with the Chief Finance Officer (or other officer authorised by him/her), prior to submission to the Management Team, Committees, or other forums where decisions will be made.

### **3 ACCOUNTING POLICIES**

3.1 'The Code of Practice on Local Council Accounting in the United Kingdom: (the Code) requires the Council to declare, in the form of accounting policies, how they treat specific items within the annual accounts. These policies take account of current accounting concepts and standards. The Accounting Policies can be found in the Annual Statement of Accounts.

3.2 Key elements of accounting policies are that:

- Systems of internal control must be in place that ensure that financial transactions are lawful;
- Accounting policies must be applied consistently;
- Proper accounting records must be maintained;
- Financial statements must present fairly the financial position of the Council and its expenditure and income.

### **4 INTERNAL CONTROL**

4.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

4.2 The Chief Finance Officer is responsible for advising on effective systems of internal control, an essential part of which is the Internal Audit function. These arrangements ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

4.3 Directors/Assistant Directors must establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

4.4 Key controls must be reviewed annually and the outcome reported in an Annual Governance Statement commenting on the effectiveness of the systems of internal control and corporate governance.

### **5 AUDIT REQUIREMENTS**

5.1 The Accounts and Audit Regulations 2003 (Regulation 6) require that "a relevant body (i.e. a local Council) shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper internal audit practices".

5.2 The Council is subject to an independent external audit of its accounts. 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.

5.3 The Council may, from time to time, be subject to audit, inspection or investigation by other external bodies such as HM Revenues and Customs, who have statutory rights of access.

5.4 The Chief Finance Officer has overall responsibility for Internal Audit throughout the Council, whilst the Governance and Audit Committee oversees the performance and effectiveness of Internal Audit.

## **6 ROLES AND RESPONSIBILITIES**

### **6.1 Role of the Council**

The Council's functions include the following:

- Adopting and changing the Constitution;
- Approving or adopting the policy framework (including the Corporate Plan);
- Approving the budget;
- Approving the Treasury Management Strategy (including the Borrowing, Investment and MRP Strategy, and Prudential Indicators);
- Setting the Council Tax.
- Setting Fees and Charges

### **6.2 Corporate Policy & Resources Committee**

**The Corporate Policy & Resources Committee main functions are:**

- To formulate (but not adopt or approve): (a) the Policy Framework, (b) the Budget; and (c) the Council's objectives and priorities.
- The control and management of resources including land, property, finance and staff to further the Council's objectives.
- Delegated responsibility for the approval of in year changes to existing Fees and Charges

The Corporate Policy & Resources Committee makes key day to day decisions and recommendations on policy and budgetary matters.

### **6.3 The role of the Governance and Audit Committee is to:**

- To approve amendments to the Financial Procedure Rules and Contract Procedure Rules as set out in the Constitution.
- To monitor the operation of the Council's Constitution and keeping its terms under review.
- To consider and make recommendations on proposals to make changes to the Constitution prior to its consideration by the Council.
- To agree and update regularly the Council's Local Code of Governance

- Consider the Council's Statement of Accounts;
- Approve the Council's internal audit strategy;
- Review internal audit reports and recommend appropriate actions in response to issues raised;
- Consider the reports of external audit and inspections agencies;
- Monitor and review the Council's risk management arrangements;
- Monitor and review the Council's assurance statements;
- Be responsible for ensuring the effective scrutiny of the Treasury Management strategy and policies.

**6.4 The Section 151 Officer is the officer designated by the Council and is therefore referred to throughout these procedure rules as the Chief Finance Officer).**

The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the Council. The statutory duties arise from:

- Local Government Act 1972 (Section 151);
- Local Government Finance Act 1988;
- Local Government and Housing Act 1989;
- Local Government Act 2003;
- Accounts and Audit Regulations 2003.

These statutory responsibilities cannot be overridden or be subject to direction by the Council.

The Chief Finance Officer is responsible for:

- Ensuring the proper administration of the Council's financial affairs;
- Determining and agreeing the accounting procedures and records for the Council
- Setting the financial management standards and monitoring compliance with them;
- Reporting on the adequacy of reserves and the robustness of the budget estimates when the annual budget is being considered;
- Ensuring the existence of a medium-term financial plan,
- Ensuring proper professional practice is adhered to and acting as head of profession in relation to the standards, performance and development of finance officers throughout the Council;
- Advising on the key strategic controls necessary to secure sound financial management;
- Preparing revenue and capital budgets in conjunction with Directors/Assistant Directors:
- Ensuring that appropriate financial management information is available;
- Maintaining strong financial management underpinned by effective financial controls;
- Contributing to corporate management and leadership;

- Supporting and advising democratically elected representatives;
- Supporting and advising officers in their operational roles;
- Leading and managing an effective and responsive financial service.
- Providing an efficient and effective Treasury Management function.

Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer in consultation with the Monitoring Officer, to inform all Members and the External Auditor if the Council or one of its officers:

- Has made, or is about to make, a decision which involves incurring unlawful expenditure;
- Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council;
- Is about to make an unlawful entry in the Council's accounts;
- If it appears to the Chief Finance Officer that the expenditure of the Council incurred (including the expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

If a Section 114 notice is issued, the full Council must meet within 21 days to consider the notice.

Section 114 of the 1988 Act also requires:

- The Chief Finance Officer to nominate a properly qualified officer to deputise should he/she be unable to perform the duties under Section 114 personally;
- 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.

The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedure Rules and submitting to the Council any additions or changes. He/she is responsible for issuing advice and guidance to underpin the Rules that Councillors, officers and others acting on behalf of the Council are required to follow, and must approve the content of all such guidance and any amendments, prior to their adoption. The Chief Finance Officer must be consulted in respect of all reports which contain financial implications to elected Members. Regulatory reports such as Planning and Licensing do require such sign off.

## 6.5 **The Monitoring Officer**

The Monitoring Officer is responsible for promoting and maintaining high standards of conduct, including conduct in relation to financial issues, by both Councillors and officers. In conjunction with the Chief Finance Officer he/she is responsible for advising the Committees or the full Council about whether a decision, or intended decision, is likely to be considered contrary to, or not wholly in accordance with, the Council's budget. Such decisions might include:

- Initiating a new policy without specific budget approval;
- Committing expenditure in future years above the approved budget level;

- Incurring expenditure in future years without proper approval of virement;
- Causing total expenditure to increase beyond a specified level.

The Monitoring Officer must be consulted in respect of all reports to elected members.

## 6.6 **Internal Audit Manager (the service is outsourced to Lincolnshire County Council)**

The Internal Audit Manager manages the internal audit function in the Council. CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom describes internal audit as:

“An assurance function that provides an independent and objective opinion to the organisation on risk management, control and governance by evaluating its effectiveness in achieving the organisation's objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources.”

The Internal Audit Manager also has a role in advising managers in relation to risk and control issues such as appropriate controls in new projects/development.

Internal Audit are to be informed of all proposed changes to computer or other systems prior to implementing the changes.

Internal Audit are to have access to all records relating to their activities and to any Council premises or land.

Internal Audit may seek explanations or require an employee to produce assets under their control.

## 6.7 Directors/Assistant Directors are responsible for ensuring that all officers are aware of the existence of, and have access to, the content of these Rules and other internal regulatory documents and that they comply with them. In particular they shall:

- Ensure that a Scheme of Delegation has been established for all Service Areas. The Scheme of Delegation should identify officers authorised to act on the Directors/Assistant Directors behalf in respect of payments, income collection and the requisitioning of goods and services.
- Promote the financial management standards set by the Chief Finance Officer and monitor adherence to them, liaising as necessary with him/her;
- Promote sound financial practices in relation to the standards, performance and development of officers;
- Ensure compliance with the Financial Procedure Rules and associated manuals;
- Ensure that all Service Financial Procedure Manuals, and amendments thereto, are approved by the Chief Finance Officer before adoption;
- Ensure officers are aware of their responsibilities for devising and implementing systems of internal control;
- Maintain a written record where decisions have been delegated or devolved to other responsible officers;

- Consider reports and make an initial response to the Chief Finance Officer, within 15 working days of receipt;
- Implement recommendations agreed by Committee or Council:
- Report to the Chief Finance Officer and the Management Team any rejected recommendations:
- Ensure that Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer;
- Provide the Chief Finance Officer with such information and explanations as the Chief Finance Officer feels is necessary to meet with his or her obligations under the Constitution.
- Provide all the information that is requested from them in accordance with the agreed budget timetable.
- Take reports to Committee to gain approval for service improvements and capital investments..
- Comply with all aspects of the Financial Procedure Rules and the financial framework when working with the Chief Finance Officer to set budgets.
- To consult with the Chief Finance Officer and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.
- Inform the Chief Finance Officer of suspected fraud, corruption or irregularities;
- Ensure appropriate training of Officers with financial or budget responsibilities.
- The Chief Finance Officer will ensure that a report will be presented to the Governance and Audit Committee on progress against the Internal Audit Programme

6.8 **All Councillors and officers** 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, properly authorised, provides value for money and is correctly recorded in line with Council policies.

## 7 FAILURE TO COMPLY

7.1 Failure to comply with the Financial Procedure Rules:

- Is a breach of the Code of Conduct for Councillors and may result in referral to the Standards Sub-Committee.
- Is a breach of the Code of Conduct for Officers that is covered by the Council's Disciplinary Rules.

7.2 Councillors must report any apparent breach of the Financial Procedure Rules to the Head of Paid Service. Officers must report apparent breaches to an appropriate Directors/Assistant Director or the Internal Audit Manager. The Director/Assistant Director or Internal Audit Manager should report breaches of these Rules to the Chief Finance Officer and the Monitoring Officer.



## **PART TWO – FINANCIAL PROCEDURE RULES**

### **REGULATION 1 – FINANCIAL PLANNING**

- 1.1 Financial Planning Policy Framework
- 1.2 Preparation of the Corporate Plan
- 1.3 The Financial Strategy and Medium Term Financial Plan
- 1.4 The Capital Investment Strategy and Asset Management Plan (AMP)
- 1.5 The Treasury Management Strategy
- 1.6 The Revenue Budget and the Capital Programme
- 1.7 Service Improvement Plans

### **REGULATION 2 – CAPITAL**

- 2.1 The Capital Programme
- 2.2 Determining the Capital Programme
- 2.3 Amendments to the Capital Programme
- 2.4 Capital Monitoring

### **REGULATION 3 – REVENUE**

- 3.1 The Revenue Budget
- 3.2 Revenue Resources
- 3.3 Determining the Revenue Budget
- 3.4 Budget Monitoring
- 3.5 Amendments to the Revenue Budget - Virements
- 3.6 Unavoidable Extraordinary Expenditure
- 3.7 Contract and Windfall Savings
- 3.8 Fees and Charges
- 3.9 Internal Charging
- 3.10 Reserves

### **REGULATION 4 – ACCOUNTING RECORDS**

- 4.1 Accounting Records
- 4.2 Annual Statement of Accounts
- 4.3 Retention of Accounting and Financial Documents

### **REGULATION 5 – RISK MANAGEMENT AND RESOURCE CONTROL**

- 5.1 Risk Management and Insurance
- 5.2 Preventing Fraud and Corruption
- 5.3 Gifts and Hospitality
- 5.4 Assets
- 5.5 Treasury Management and Leasing
- 5.6 Staffing
- 5.7 Unofficial Non-Council Funds
- 5.8 Internal Audit
- 5.9 Money Laundering

## **REGULATION 6 – ACCOUNTING SYSTEMS AND PROCEDURES**

- 6.1 Accounting Systems and Procedures
- 6.2 Banking Arrangements
- 6.3 Salaries, Wages, Pensions and Other Emoluments
- 6.4 Creditors and Debtors
- 6.5 Contracts
- 6.6 Ordering
- 6.7 Paying For Goods
- 6.8 Claims for Expenses
- 6.9 Petty Cash/Imprest Accounts
- 6.10 Income & Cash Handling
- 6.11 Taxation
- 6.12 Trading Accounts
- 6.13 Credit/Purchasing Cards
- 6.14 Change Floats

## **REGULATION 7 – EXTERNAL ARRANGEMENTS**

- 7.1 Introduction
- 7.2 Partnerships
- 7.3 Companies, Joint Ventures and Other Associations
- 7.4 External Funding/Grants
- 7.5 Work for Third Parties

## **REGULATION 8 – ENVIRONMENTAL ISSUES**

- 8.1 Introduction

Appendix 1 – Summary of Financial Responsibilities Appendix 2 –  
Retention of Accounting and Financial Documents  
Appendix 3 – Definitions  
Appendix 4 – Financial Limits

# **1 REGULATION 1 - FINANCIAL PLANNING**

## **1.1 FINANCIAL PLANNING POLICY FRAMEWORK**

1.1.1 Council is responsible for agreeing the Council's policy framework and budget, which will be proposed by the Corporate Policy & Resources Committee.

1.1.2 The Council's Policy Framework includes various service and core plans and strategies. All such plans and strategies must be consistent with the Council's Financial Strategy and Medium Term Financial Plan, or indicate their reliance on resources not yet approved or secured by the Council.

1.1.3 The key elements of the financial planning process are:

- Corporate Plan;
- The Financial Strategy and Medium Term Financial Plan;
- The Capital Investment Strategy and Asset Management Plan;
- The Treasury Management Strategy;
- The Revenue Budget and the Capital Programme;
- Service Delivery and Business Plans

## **1.2 PREPARATION OF THE CORPORATE PLAN**

1.2.1 The Head of Paid Service is responsible for proposing the Corporate Plan to Corporate Policy & Resources Committee for consideration before submission to the full Council for approval. It will contain a statement of the priorities of the Council, and will be supported by a number of strategies and policies.

1.2.2 The Council require that each planned item of expenditure, whether revenue or capital, is intended to further one or more of the Council's stated priorities or, if that is not the case, is required to discharge a specific statutory obligation on the Council.

1.2.3 The Executive Business Plan (presented alongside the Medium Term Financial Plan) reflects the deliverable actions the Management Team will take to support the delivery of the Corporate Plan objectives.

## **1.3 THE FINANCIAL STRATEGY AND MEDIUM TERM FINANCIAL PLAN**

1.3.1 The Chief Finance Officer is responsible for recommending the Financial Strategy to the Council and for preparing a Medium Term Financial Plan (MTFP), covering at least five years and updated at least annually for consideration by the Corporate Policy & Resources Committee and approval by the Council. The Strategy and the MTFP will be consistent with, and designed to further the achievement of, the Council's priorities.

1.3.2 The Financial Strategy sets out the Council's objectives for, and principles adopted in, the management of its financial position. It includes Council Tax levels, the overall position for the Council's reserves and balances, and funding, investment and risk considerations.

### 1.3.3 The MTFP:

- sets out how the Council's performance plans can be resourced in both capital and revenue terms;
- identifies how resources are to be re-allocated over time and what the Council's priorities are for resource allocation;
- Other aspects of financial management may also be included in the MTFP e.g. levels of balances, reserves and provisions.

1.3.4 The MTFP that turns the Strategy into practice must be prepared for at least a five year period. This is updated throughout the year as events and the budget timetable dictate. A Mid-Year Review of the MTFP will be undertaken and reported to the Corporate Policy and Resources Committee.

### 1.3.5 Key Controls

The key controls are:

- It covers a number of forward years and is approved annually;
- It is monitored and updates are reported to Corporate Policy & Resources Committee during the year;
- It is clearly linked and aligned to the Corporate Plan;
- It is based on a sustainable financial position and approved policies.

## 1.4 **THE CAPITAL INVESTMENT STRATEGY AND ASSET MANAGEMENT PLAN (AMP)**

1.4.1 The Chief Finance Officer is responsible for ensuring that a Capital Investment Strategy and Asset Management Plan are integrated into the Medium Term Financial Plan. They will be updated annually for consideration by the Corporate Policy & Resources Committee and approval by the Council.

1.4.2 Key elements of the Strategy:

- Ensures investments meet our Corporate Plan objectives
- Incorporates the requirements of the Strategic Asset Management Plan
- Enables the development of a Capital Investment Programme over the medium term (5 years)
- A framework which will identify priorities for the use of resources for investment.
- Decisions are based on sound business cases.
- Risks are identified and mitigated where possible
- Directly links to the Treasury Management Strategy ensuring an affordable and sustainable Capital Investment Programme in adherence to legislation and the Prudential Code.
- Informs the Medium Term Financial Plan by identifying the revenue impacts of investment decisions.
- Incorporates an annual review to ensure the programme still meets our priorities.
- Considers innovative solutions to funding.

### 1.4.3 Key Controls

The key controls are:

- They are clearly linked and aligned to the Corporate Plan;
- They provide a framework for the review and management of existing and future assets (the AMP);
- They provide a medium-term investment programme linked to the medium-term financial strategy;
- They are reviewed at least annually and reported to Corporate Policy & Resources Committee.

## **1.5 THE TREASURY MANAGEMENT STRATEGY**

1.5.1 The Chief Finance Officer is responsible for ensuring that the requirements of the Local Government Act 2003 and the CIPFA Treasury Management Code are met, and the Council has regard to the Prudential Code. This requires that Prudential Indicators are set for the following three years to ensure that the Council's capital investment plans are affordable, prudent and sustainable. It also requires that the Council's policies for managing its investments give due priority to the security of those investments over liquidity and yield. This will be updated annually and scrutinized by the Governance and Audit Committee prior to approval by the Council

### **1.5.2 Key Controls**

The key controls are:

- Scrutiny of the Treasury Management Strategy by the Governance and Audit Committee.
- Approval by full Council of the Treasury Management Strategy (including Borrowing and Investment Strategies, the Minimum Revenue Provision Policy and Prudential Indicators for the following three years, in addition to setting an Authorised Limit and Operational Boundary to ensure affordable borrowing);
- Regular monitoring of Prudential Indicators;
- The operation of Treasury Management Practices (TMP's) and Treasury Management Practice Schedules.

## **1.6 THE REVENUE BUDGET AND THE CAPITAL PROGRAMME**

1.6.1 These are considered in depth under Regulations 2 and 3.

## **1.7 SERVICE DELIVERY and BUSINESS PLANS**

1.7.1 Directors/Assistant Directors are responsible for the preparation of these plans that reflect the Council's priorities as shown in the Corporate Plan. They must be produced in conjunction with the Capital and Revenue Budgets and each of these plans must support the others.

### **1.7.2 Key Controls**

The key controls are:

- All relevant plans are produced and that they are consistent;
- Plans are produced in accordance with statutory requirements;
- All plans reflect the Council's Financial Strategies and vice-versa;
- Timetables are met;
- All performance information is accurate, complete and up to date;
- Improvement targets are meaningful, realistic and challenging;
- Corporate, Service Delivery and Business Plans and the budget are all produced from an integrated timetable and an agreed base position.

## **2 REGULATION 2 – CAPITAL**

### **2.1 THE CAPITAL PROGRAMME**

2.1.1 The Chief Finance Officer is responsible for preparing, as a minimum, a three year capital programme that is integrated within the MTFP and reporting expenditure and funding implications of the programme to Corporate Policy & Resources Committee for consideration. The Corporate Policy & Resources Committee will make recommendations to the Council, who will approve the five year capital programme.

### **2.2 DETERMINING THE CAPITAL PROGRAMME**

2.2.1 The Management Team is responsible for the initial consideration of capital spending proposals and the comparative ranking by priority of these proposals.

2.2.2 The Council complies with the requirements of the local government Prudential Code for capital. Careful consideration must be given to needs, alternatives and the ongoing revenue implications of potential capital projects

2.2.3 The de minimis level for Capital Expenditure and receipts is £10,000. Capital items costing up to £10,000 will be charged as revenue expenditure in the Council's accounts.

2.2.4 The ranking process is based on the scoring from the completed Business Plans and Business Case documentation and guidance as approved by the Chief Finance Officer from time to time.

2.2.5 Directors/Assistant Directors are responsible for submitting the Capital Bids as part of the Business Planning process, complying with the guidance issued by the Chief Finance Officer.

2.2.6 The Capital Programme shall include the gross cost of, and sources of funding for, schemes where the Council assembles the finance on behalf of a third party and so incurs no potential liability in respect of funding or project delivery. Such schemes may not result in any asset retained by the Council. Directors/Assistant Directors must ensure that these arrangements are reported to the Corporate Policy & Resources Committee stating the nature of the arrangements, the participants in the process and the sources of finance. The report must clearly state the projected expenditure and income for each financial year.

2.2.7 The Chief Finance Officer will recommend to Corporate Policy & Resources Committee the Capital Budget and funding in accordance with the Council's prudential indicators and CIPFA's Prudential Code.

## **2.3 AMENDMENTS TO THE CAPITAL PROGRAMME**

2.3.1 Any mid-year amendment to the Capital Programme as last approved by the Council must be approved by the Corporate Policy & Resources Committee in any cases where:

- A new scheme is proposed to be added to the programme, including those funded entirely by external grants and contributions;
- A scheme is to be deleted from the capital programme;
- The total cost of an existing scheme is to be amended;
- A carry forward of capital resources is proposed.

2.3.2 The relevant Director/Assistant Director and the Chief Finance Officer, in consultation with the Chairman of the Corporate Policy & Resources Committee, must approve any mid-year amendment to the approved Capital Programme, before a report is submitted to Corporate Policy & Resources Committee. This also applies to carry forward requests i.e. where the amendment involves a change in the timing of the spending over the life of the project, but there is no change in the total cost or funding.

2.3.3 The Head of Paid Service may take decisions in an emergency, subject to the delegation and budget framework provisions of the Constitution, in consultation with the Chief Finance Officer.

2.3.4 With the exception of emergency decisions, expenditure must not be incurred or committed on any capital scheme until the Corporate Policy & Resources Committee or Council has given approval. Reports to Corporate Policy and Resources Committee will be prepared and presented before any work starts and on completion of a project. Additional reports would be required at the tender stage, when preparing the capital programme, or otherwise during the project, if there was a significant actual or projected change in the cost of the project.

2.3.5 Expenditure should not be incurred until funding is in place. For external funding, this means that a formal approval of funding has been received rather than a conditional offer or a bid that has been given provisional approval.

## **2.4 CAPITAL MONITORING**

2.4.1 Budget monitoring will be carried out in accordance with guidance issued by the Chief Finance Officer. This guidance will lay down the Council's requirements in respect of:

- Frequency of reporting;
- The format and content of reports (including the degree of detail, risk analysis undertaken and any corrective actions taken or proposed);



- The recipients of budget monitoring reports (such as the Management Team or Corporate Policy & Resources Committee);
- The linkages with approved outputs.

2.4.2 For each scheme that is approved the relevant Director/Assistant Director will appoint a Project Manager, who will be responsible for the scheme, including budget accountability. This includes monitoring progress (financial and otherwise) of the scheme and managing the scheme in accordance with the Council's Programme and Project Management methodology.

2.4.3 The relevant Director/Assistant Director must notify in writing the Chief Finance Officer if there is any anticipated "slippage" of a scheme that will affect the allocation of resources over future financial years. Any loss of external funding arising from slippage must be reported to Corporate Policy & Resources Committee and approval sought for the alternative funding required or other corrective action.

2.4.4 Where in-year spending is likely to exceed the profiled budget and this has an impact on the financial year, this must be reported by the Director/Assistant Director to the Chief Finance Officer who will then review the overall capital financing arrangements for that year.

2.4.5 Where the total cost exceeds, or it is expected that the total cost of a scheme will exceed the budget approved in the Capital Programme, this must be reported to the Chief Finance Officer by the Director/Assistant Director as soon as possible. In the first instance, overspends will fall on the relevant service area revenue budget, unless alternative funding is identified. In respect of any anticipated overspending in excess of £10,000 or 20% whichever is the lesser, the approval of Corporate Policy & Resources Committee must be sought.

2.4.6 Directors/Assistant Directors must notify the Chief Finance Officer upon the offer of or receipt of grant awards or any other offer of support of any type for capital expenditure. Capital receipts will be regarded as corporate resources and may only be ring-fenced to schemes on the express approval of the Corporate Policy & Resources Committee.

#### 2.4.7 Key Controls

The key controls are:

- Approval by the full Council for the Capital Programme;
- A Business case is completed for all schemes to be included in the capital programme;
- A prioritisation process in accordance with the Capital Investment Strategy and corporate priorities;
- A Project Manager is responsible for each capital project (delivery and budget);
- Appropriate project management techniques are used and project managers are trained to carry out their responsibilities;

- Contract Procedure Rules are adhered to at all times;
- The requirements imposed by funding bodies are followed;
- Monitoring and reporting requirements on schemes are implemented.

### **3 REGULATION 3 - REVENUE**

#### **3.1 THE REVENUE BUDGET**

3.1.1 The Council will agree the Medium Term Financial Plan (MTFP), to be updated annually. The MTFP will include the Revenue Budget for the coming year plus forecasts for at least the next two subsequent years. Revenue resources must be aligned to the corporate objectives of the Council. Budgets are an important part of the corporate planning process since they allocate resources to provide agreed levels of service.

3.1.2 The budget will be published in the Council's annual Budget Book. The approved Revenue Budget may be amended during the year in compliance with these Financial Procedure Rules.

#### **3.2 REVENUE RESOURCES**

3.2.1 Funding for revenue will come from local taxation, government grants, fees and charges and calls on revenue reserves and balances. **Capital resources (other than reserves specifically set up by earmarking revenue funds for spending on capital) cannot be used to fund revenue expenditure.**

##### 3.2.2 Key Controls

The key controls are:

- Resources are acquired in accordance with the law and using an approved authorisation process (i.e. the budget setting process);
- Resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for;
- Professional guidance in relation to the adequacy of reserves and minimum level of balances is followed;
- The budget, which sets out how the Council is resourced, is approved annually by the Council;
- The MTFP ensures year on year sustainability of resources are considered in setting spending plans.

#### **3.3 DETERMINING THE REVENUE BUDGET**

3.3.1 The Chief Finance Officer is responsible for ensuring that the MTFP and Budget are prepared and submitted for approval by the Council, upon the recommendation of the Corporate Policy & Resources Committee, on or before the statutory date for such approval. The adoption of the budget by the Council shall be accompanied by a resolution as to the level of Council Tax required for the coming financial year in order to sustain the budget. The

MTFP should set out forward projections of council tax increases for at least the next four subsequent years.

- 3.3.2 The Chief Finance Officer recommends the overall quantum of revenue resources available to the Council, based on potential increases in the Council Tax, affordable calls on reserves, and best estimates of grant income. The Chief Finance Officer shall advise as to what would constitute a prudent and necessary minimum level of uncommitted balances/reserves for the Council to retain, and also as to whether the budget being proposed is consistent with such a requirement. In forming such a judgement, the Chief Finance Officer shall have regard to available guidance.
- 3.3.3 The Council agrees an overall MTFP and budget that matches its available resources with corporate priorities and statutory requirements.
- 3.3.4 The revenue budget agreed by Council will as a minimum allocate spending to:
- Each service area showing the gross spending and income and net budget;
  - Each levy;
  - The net cost of borrowing.
- 3.3.5 Directors/Assistant Directors must ensure that all fees and charges are reviewed as part of the annual budget process in line with the Fees, Charges & Concessions Policy (see section 3.8).
- 3.3.6 The level of reserves is reviewed annually in line with the financial strategy and Medium Term Financial Plan and must be decided before the budget and the Council Tax can be fixed. Reserves are amounts set aside by the Council as a result of surpluses, deferred expenditure or policy decisions to 'save' towards future expenditure. Reserves can be either specific (earmarked) or general. The General Fund Reserve will be maintained at a minimum level agreed by Corporate Policy & Resources Committee having regard to the advice of the Chief Finance Officer. The budget report to the Council will include a statement showing the estimated opening reserve balances for the year ahead, the addition to/withdrawal from balances, and the estimated year-end balance. Reference should be made as to the extent to which such reserves are to be used to finance recurrent expenditure.
- 3.3.7 The Chief Finance Officer will ensure –
- The co-ordination of requests for budgetary change to facilitate service improvements from Directors/Assistant Directors and Corporate Policy and Resources Committee resolutions.
  - The identification of available resources for service improvement.
  - That Members and officers are properly advised when preparing budgets and setting Council Tax
- 3.3.8 The Council's approved budget is published in a "Budget Book", which breaks down budgets into a budget for each service area within the clusters (People, Places, and Policy & Resources). Each service budget has a named responsible officer.

### 3.3.9 Key Controls

The key controls are:

- Adoption of project management techniques;
- Clear and timely guidance from the Chief Finance Officer;
- Consistent format used across all service areas that reflects the relevant level of accountability of service delivery and enables consistency of comparison over time and with other local Councils;
- Effective timetable;
- Reflect the content of the Financial Strategy and Medium Term Financial Plan for the appropriate year;
- Be balanced, affordable and sustainable;
- Ensure that all reports to Management Team and Members (all Committees) are seen by the Chief Finance Office and all financial implications are agreed by the Chief Finance Officer;
- Amendments will be made to financial implications on reports as requested by the Chief Finance Officer;
- Prudent risk assessment of the possible implications in terms of both affordability and service delivery.

## 3.4 BUDGET MONITORING

3.4.1 Budget monitoring will be carried out in accordance with guidance issued by the Chief Finance Officer. This guidance will lay down the Council's requirements in respect of:

- Frequency of reporting;
- The format and content of reports (including the degree of detail, risk analysis undertaken and any corrective actions taken or proposed);
- The recipients of budget monitoring reports (such as the Management Team or Corporate Policy & Resources Committee);
- The linkages with service performance monitoring.

3.4.2 Budget monitoring is an ongoing process, always under review and integral to the overall financial management of the Council. The Chief Finance Officer will present regular budget monitoring reports to Corporate Policy & Resources Committee, at least on a quarterly basis.

3.4.3 Directors/Assistant Directors will need to:

- Be fully aware of their respective budget detail and own the content.
- They will need to maintain a good knowledge of both the Purchasing and General Ledger modules of the Financial Management System.

- Be aware of all effects and influences, such as seasonal variations on their budgets.
  - Inform Financial Services of material budgetary issues that cannot be controlled within normal virement parameters.
- 3.4.4 The Chief Finance Officer will liaise with Directors/Assistant Directors to help to identify savings and future needs. The Chief Finance Officer will also offer financial advice and guidance as well as innovative solutions to issues of a financial nature.
- 3.4.5 All senior officers need to be aware of those budgets that carry the most material risk and monitor these areas accordingly.
- 3.4.6 The Chief Finance Officer will ensure that appropriate financial information is available to Directors/Assistant Directors so as to enable them to monitor their budgets and financial aspects of their Business Plans effectively.
- 3.4.7 Directors/Assistant Directors are responsible for the financial resources contained in their budgets. Accountability brings with it the responsibility to inform the Chief Finance Officer of any budgetary issues. The Chief Finance Officer will provide a support mechanism to Directors/Assistant Directors which will engender a culture of ownership and strong stewardship.
- 3.4.8 Directors/Assistant Directors will ensure that all reports to Members or the Management Team are seen by the Chief Finance Officer, evidenced and contain clear and accurate financial implications. Any amendments to the financial implications requested by the Chief Finance Officer will be actioned. Reports for Committee and Management Team should be presented to Financial Services in sufficient time for agreement on the coverage of financial implications.
- 3.4.9 When monitoring their budgets, Directors/Assistant Directors should understand that delivering the outturn within budget is an important service objective. Where it appears that a variation on a service budget will exceed £10,000, the Director/Assistant Director will immediately advise the Chief Finance Officer and Management Team of the situation, together with their proposed action to recover the position. The Chief Finance Officer will then compile and submit regular budget monitoring reports together with recommendations to Corporate Policy & Resources Committee.
- 3.4.10 The approved budget is the financial extent of the Council's commitment to a service each year. Any breach of that limit is therefore an ultra vires act. Depending upon the severity and circumstances of any overspend, it may lead to disciplinary action as officers have exceeded their delegated authority.
- 3.4.11 Key Controls

The key controls are:

- There is a named budget holder who is responsible for each service budget;
- Each Director/Assistant Director nominates a responsible budget holder for each cost centre within his/her service area's revenue estimates and ensures that mechanisms are in place to provide early warnings of anticipated under or overspending;
- All budget holders, including cost centre managers, are accountable for their budgets and the level of service to be delivered and understand their financial responsibilities;
- Services are delivered within the net budget allocated as part of the budget setting process and in line with the Executive Business Plan;
- Income and expenditure are properly recorded and accounted for on a timely basis within the Council's general ledger;
- The budget and Executive Business Plan are monitored together and necessary action is taken to align service outputs and budget;
- Budget Managers are appropriately trained to carry out their budgetary control and financial management responsibilities.

### 3.5 AMENDMENTS TO THE REVENUE BUDGET - VIREMENTS

- 3.5.1 The overall revenue budget that reflects the Corporate Plan is drawn up by each policy Committee, with the Corporate Policy & Resources Committee giving overall scrutiny prior to recommending to the full Council for approval. Directors/Assistant Directors are authorised to incur expenditure in accordance with the estimates and service levels that make up the budget and Business Plans.
- 3.5.2 Expenditure and income for any service budget may be incurred up to the amounts included in the approved budget. It is fundamental to proper financial control that expenditure is allocated to the correct place and it is a contravention of these rules to charge expenditure to the wrong heading to avoid authorisation of an appropriate virement.
- 3.5.3 The management of services within the Executive Business Plan and budgets allows resources to be transferred between services within limits. For example, where a potential overspend in one service budget has been identified through budget monitoring, this overspend could be funded by transferring budget from a service budget where an underspend has been identified. Future monitoring will be against these adjusted budgets.
- 3.5.4 Within the parameters set out below, Directors/Assistant Directors have the ability to vire monies both within and between Service Budgets. This provides flexibility for the Council and its officers to manage overall service delivery within budgets.
- 3.5.4.1 For the avoidance of doubt, these virement rules are also applicable to the operation of the Councils earmarked reserves. However, virement is only allowed between one reserve and another and **NOT** between an earmarked reserve and revenue or capital cost centres.

### 3.5.5 Within a Cost Centre:

- No limit within a defined cost centre. Directors/Assistant Directors must agree in advance with the Finance Business Partner responsible for that service area.
- Virements cannot be made from non-controllable budgets such as Central Support Recharges and Capital charges.
- Virements from salary budgets can only be actioned during the current financial year. Any permanent change to salary budgets will be seen as a change to the Council's establishment requiring compliance with the Human Resources procedure rules.

### 3.5.6 Between costs centres (under the same Director/Assistant Director control)

- With the approval of the Chief Finance Officer, some senior managers (as set out in the register of sub-delegation) are authorised to approve virements, which, in total, transfer no more than £25,000. These virements should be minuted or otherwise documented.
- Virement exceeding £25,000 and up to £100,000 can be approved by the relevant Director/Assistant Director, Chief Finance Officer and Management Team in consultation with the Chairman of Corporate Policy & Resources Committee. These virements should be minuted or otherwise documented.
- Virements over £100,000 can only be approved by Corporate Policy & Resources Committee. They will be reported by the Director/Assistant Director, in such format as the Chief Finance Officer may prescribe.

### 3.5.7 Restrictions on virements:

- Virements can take place between cost centres in differing Director/Assistant Director's responsibility, with the same limit as laid out in 3.6.6, when the relevant Directors/Assistant Directors and the Corporate Policy and Resources Committee Chairman are in agreement.
- Unplanned savings in the form of unbudgeted income or unused budgets (in excess of £5,000) are not authorised to be used without prior agreement of the Management Team. The Chief Finance Officer and Management Team may consider a report to the Corporate Policy and Resources Committee.
- All virements must be in accordance with corporate and service objectives.
- The service will be as defined in the budget book.
- Evidence of all virements are to be retained by Financial Services
- Virement to or from the budgets for Recharges and Asset Rentals is not permitted unless approved by the Chief Finance Officer.

- 3.5.8 All other budgets can be vired but subject to any other Council policies. No virement may commit future additional expenditure above MTFP provision without Corporate Policy & Resources Committee approval.
- 3.5.9 If the same budget head is used for virement on more than one occasion, the application of the above rules will relate to the accumulated figure.
- 3.5.10 Any virement between an employee budget and a non-employee budget, or between an income budget and a non-income budget, must be approved by the Chief Finance Officer, in accordance with the above determined limits, who may request a report to Corporate Policy & Resources Committee for approval.
- 3.5.11 The securing of additional revenue resources (grants, etc.) must be reported to the Chief Finance Officer. The Chief Finance Officer may authorise the use of those resources to finance additional revenue expenditure where the grant conditions require such. Where there are no such requirements the Chief Finance Officer may require the use of these resources to be approved by Corporate Policy & Resources Committee and will do so in all cases where the sum is **£50,000** or more.
- 3.5.12 The Chief Finance Officer will determine whether a change to budgets is a virement (i.e. the budget is reallocated to a purpose other than originally intended) or a re-presentation or restructure where there is no change to the purpose of the spending. The virement rules set out above shall not apply to restructure or re-presentational changes.

### 3.5.13 Key Controls

Key controls are:

- Virement of resources between one head of account and another, whether within or between service areas is subject to approval;
- Virement does not create additional overall budget liability. Directors/Assistant Directors are expected to manage their budgets responsibly, prudently and within approved service levels. They should not support recurring revenue expenditure from one-off sources of savings or additional income, or create future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Directors/Assistant Directors must plan to fund such commitments from within their own budgets;
- Virement to provide a fundamentally different service level to that approved in the Executive Business Plan can only be approved by Corporate Policy & Resources Committee.

## 3.6 UNAVOIDABLE EXTRAORDINARY EXPENDITURE

3.6.1 Due to unforeseen circumstances, expenditure may be required over and above existing budgets. This should only occur in extreme circumstances, for example natural disaster, as budget managers should be fully aware of any likely pressures on budgets within their remit.



3.6.2 Where possible the relevant Director/Assistant Director should consult with the Chief Finance Officer and other members of the Management Team to seek agreement before incurring any expenditure. The Chief Finance Officer should agree this expenditure in consultation with the Chairman of the Corporate Policy and Resources Committee.

3.6.3 Subsequently a report will be presented to the Corporate Policy and Resources Committee.

3.6.4 Natural disasters will often be funded by Central Government via the Bellwin Scheme. The possibility of this additional funding should be investigated by the relevant Director/Assistant Director.

### 3.6.5 Key Controls

Key controls are:

- Budget Managers fully trained in budget management so that the budget reflects all anticipated expenditure.
- All unavoidable expenditure is required to be reported to Corporate Policy and Resources Committee.

## 3.7 **CONTRACT AND WINDFALL SAVINGS**

3.7.1 Unless specific agreement with the Chief Finance Officer is obtained, contract savings and windfall savings (i.e. unanticipated income or unanticipated savings on expenditure including any figure relating to previous years) will revert to General Balances.

## 3.8 **FEES AND CHARGES**

3.8.1 The Fees, Charges and Concessions Policy forms the basis of all fees and charges set within the Council. The Policy establishes clear principles for charging, integrates charging into service management, linking with corporate objectives and sets clear objectives and targets. The Policy shall be reviewed by the Chief Finance Officer and reported to Corporate Policy & Resources Committee as a minimum every three years.

3.8.2 Charges should be reviewed at least annually and reported as part of the revenue budget and business plan setting process. Any in year changes resulting from a review of fee levels should be reported to the relevant committee for discussion and if agreed, be a recommendation to Corporate Policy & Resources Committee (and Full Council for new charges) for approval.

3.8.3 Fees and charges fall into two categories:

- Statutory;

- Cost related.

### 3.8.4 **Statutory Charges**

Statutory charges are those determined by organisations external to the Council and over which the Council has no discretion.

### 3.8.5 **Cost Related Charges**

- Where charges are not prescribed, the Director/Assistant Director is able to set the charge by reference to the cost of service provision;
- Constraints exist whereby the charge should be set to cover the cost of the service, e.g. Public Entertainment Licenses, Local Search Fees;
- Directors/Assistant Directors must have appropriate systems in place to support the fee- setting process, including the allocation of overheads;
- Where decisions on increases in fees and charges are taken outside the budget process for administrative reasons (e.g. where there is a statutory regulation or a duty of consultation, for example, car parking where notices have to be served) due regard must be given to the financial strategy.

### 3.8.6 Key Controls

The key controls are:

- Clear and consistent fees and charges strategy;
- As a minimum, annual review of strategy and levels of charges;
- All fees should be considered as part of the Service Planning process.

## 3.9 **INTERNAL CHARGING**

3.9.1 Internal charges are made between services within the Council. Whilst they do not directly generate external income, they do affect the total cost of individual services.

3.9.2 Internal charges should be set in accordance with the principles set out in the CIPFA Service Reporting Code of Practice (SeRCOP). There must be a clear rationale for any residual sum not recovered from services and charged to the Corporate and Democratic Core.

3.9.3 Where internal charges are made they should be fixed to recover the full cost of services and may be set at a unit/volume based amount linked to demand, or as a reallocation of costs.

3.9.4 For most services, the service manager responsible for making the charge will develop a service agreement (either formally or informally) that outlines the service provided and establishes the basis of the allocation of costs. The

service standard should be agreed with the Council's Management Team.

3.9.5 The Chief Finance Officer will work with service departments to ensure that recharges are accurate and periodically reviewed to ensure that the basis of charge reflects work done and up to date service costs.

3.9.6 Some services operate as a fully traded service. In these cases, charges could be made on the basis of a Service Level Agreement (SLA). The SLA will specify the service to be provided and the charge to be levied and will generally be a volume based charge. SLAs must be published well in advance of the start of each financial year to enable customers to negotiate with providers if they wish.

3.9.7 Directors/Assistant Directors must have appropriate systems in place to support the charge setting process, including the allocation of overheads.

3.9.8 Regard shall be had to the frequency and basis of charge to minimise the internal administrative costs involved in recharging.

#### 3.9.9 Key Controls

The key controls are:

- Clear and consistent internal charging strategy;
- Annual review of strategy and basis and level of charges with specific reference to Value for Money;
- Clear guidance on forming SLAs and service agreements;
- All charges should be considered as part of the Service Planning process.

### 3.10 RESERVES

3.10.1 Reserves are amounts set aside by the Council as a result of surpluses, deferred expenditure or policy decisions to 'save' towards future expenditure. Reserves can be either specific (earmarked) or general. For each reserve established, the amount, purpose and origin of funding must be clearly identified.

3.10.2 The levels and requirements for reserves are reviewed annually in setting the budget and in the context of the MTFP.

3.10.3 The establishment of new earmarked reserves is subject to approval on a case by case basis except where such a reserve (e.g. pension's reserve) is specifically required by statute or by CIPFA's Accounting Code of Practice.

3.10.4 New reserves will generally be approved by Council (or Corporate Policy & Resources Committee) as part of the budget setting process or budget monitoring process and exceptionally by the Corporate Policy & Resources Committee as part of the accounts closure process on the recommendation of the Chief Finance Officer.

- 3.10.5 Contributions to reserves will be managed as a budgeted call on resources which could otherwise have been spent on services or taken to the General Reserve or used to reduce Council Tax. The timing and size of contributions will be considered in the context of the Council's MTFP and reviewed when each year's accounts are closed.
- 3.10.6 Earmarked reserves will generally fall into four categories:
- Trading account balances;
  - Time limited programmes and projects
  - To meet specific risks of a non-insurable nature or self-insured risks;
  - To carry forward under spending (or overspending) as a ring fenced amount.
- 3.10.7 **Trading account balances** will be allowed where real or quasi trading accounts are used to manage costs. Balances will be maintained to allow flexible response to changes to demand and/or to meet defined future capital expenditure needs. Generally such balances should not exceed 20% of the annual turnover. Balances in excess of this limit should be returned to the General Reserve. See also the additional provisions in section 6.12.
- 3.10.8 **Time limited programmes** may be pre-funded by the establishment of reserves. Reserves will be useful where the pace of spending is difficult to predict and where the spend will run over a number of budget years. However, the creation of reserves causes an earlier call on the taxpayer than when the benefits of the programme are derived by the taxpayer. So pre-funding requires careful consideration of the benefits of the use of a reserve as against annual revenue budgets. It would be unusual for a time-limited programme running for more than 3 years to be pre-funded. Longer programmes might be managed by a reserve to which a consistent level of contribution was made annually but where spend fluctuated from year to year. In all cases the purpose of the reserve must be clearly established at the outset and the scope and cost of the programme defined to ensure the adequacy of the reserve.
- 3.10.9 **Reserves to meet specific risks or contingencies** should have regard to a reasonable estimate of the potential costs involved and should continue to be held only while the risk remains. They should be reviewed at least annually. The Insurance Reserve falls within this category being support for the Council's self-insurance programme and a contingency in respect of any past insurance claims yet to be settled.
- 3.10.10 **At each year-end the Council may determine that an under spending (or over spending) is carried forward for use by the service in which it arose in the subsequent year.** This may be because of a delay in implementing a revenue programme or because a commitment to a future payment exists but which does not meet the test of an accrual as a creditor, or establishment of a Balance Sheet provision. In each case the relevant

Director/Assistant Director, together with the Chief Finance Officer will establish the reasonable estimate of the under-spending and the amount carried forward and approval of the Management Team will be sought.

- 3.10.11 The Council may determine that a Service may retain part of a general under spending if the Council's financial situation does not require the sum to be returned to the General Reserve. The sum retained must be identified to a programme and for a one off purpose that does not give rise to any ongoing commitment. The Chief Finance Officer will consider each case and advise whether the purpose meets the test of being spending of a one-off nature.
- 3.10.12 In all circumstances a carry forward request must not be spent without the prior approvals as those required for virements.
- 3.10.13 Approval to use earmarked reserves will be subject to formal release by the Chief Finance Officer who will confirm that planned spending remains affordable when considering any mixed funding, including call on reserves, current budgets and/or external funding packages. The Chief Finance Officer shall have delegated power to approve spending of any earmarked reserve up to a value of **£50,000**. Spend in excess of this sum must have the approval of Corporate Policy & Resources Committee.
- 3.10.14 Monitoring of spending against reserves must be subject to periodic budget monitoring arrangements. Projected variances should form part of the periodic corporate budget monitoring arrangements.
- 3.10.15 The Council may close an earmarked reserve (except where there is a statutory requirement to maintain it) at any time and appropriate any remaining balance to the General Reserve.
- 3.10.16 Key Controls

The key controls are:

- The establishment and use of reserves must be authorised by the Chief Finance Officer;
- Reserves will only be established to meet a defined purpose;
- The level and requirement of each reserve is reviewed annually.
- Any spend in excess of £50,000 to be approved by Corporate Policy & Resources Committee.

## **4            REGULATION 4 - ACCOUNTING RECORDS**

### **4.1        ACCOUNTING RECORDS**

4.1.1      To enable reliance to be placed on financial management information all the Council's transactions, commitments, contracts and other essential accounting information must be recorded completely, accurately, on a timely basis and in corporately approved systems.

4.1.2      Any financial systems and records used within service areas that do not interface with the corporate financial ledger must be in a form agreed by the Chief Finance Officer and must be regularly reconciled to the corporate financial ledger by the relevant service manager.

4.1.3      Directors/Assistant Directors shall ensure supporting documentation is available as required by the Chief Finance Officer.

#### **4.1.4      Key Controls**

The key controls are:

- The primary record of accounting entries and approved budget is the financial ledger;
- Reconciliation procedures are carried out to the financial ledger to ensure transactions are correctly recorded;
- Original documents are retained in accordance with legislative and other requirements including compliance with the Council's Retention of Data Policy.

### **4.2        ANNUAL STATEMENT OF ACCOUNTS**

4.2.1      The Council has a statutory responsibility to prepare accounts that present accurately and fairly its operations during the year. This must be done in accordance with The Code of Practice on Local Council Accounting in the United Kingdom: (the Code) (CIPFA/LASAAC).

4.2.2      The Accounts will be produced within the statutory timescales.

4.2.3      Annually the Chief Finance Officer draws up a detailed timetable, guidance and instructions for final accounts preparation, approval and audit.

4.2.4      The timetable and guidance covers all areas relating to the closure of accounts, the deadlines by which each task should be completed and the format in which key information should be submitted. Directors/Assistant Directors shall ensure compliance with the timetable and guidance.

#### **4.2.5      Key Controls**

The key controls are:

- The Council's Statement of Accounts is prepared in accordance with proper practices as set out in the relevant codes of practice on local authority accounting in the United Kingdom;
- Clear and consistent advice and instructions are issued for dealing with all year-end processes, such as accruals, prepayments, treatment of year-end balances and analytical review;
- Accounts are kept up to date during the year, reconciliations are carried out on a regular basis, the revenue and capital budgets are compiled and monitored effectively and year-end processes are completed in accordance with the timetable issued;
- Year-end variances and balances are reported on within the parameters agreed with the external auditor;
- There is a clear policy for the setting up and maintenance of reserves;
- Comprehensive working papers are compiled and maintained.

### **4.3 RETENTION OF ACCOUNTING AND FINANCIAL DOCUMENTS**

- 4.3.1 The retention periods shown in Appendix 2 represent the minimum number of complete financial years, i.e. excluding the current financial year.
- 4.3.2 This guidance refers to retention of both hard copy and electronic format. Retention in electronic format (e.g. document imaging or other electronic format) is to be encouraged wherever possible and subject to the agreement of appropriate authorities, such as External Audit and HMRC.
- 4.3.3 No documents or records should be disposed of until notification has been received from the External Auditor of the completion of the audit of accounts for the year to which the records relate. This fact should be confirmed with the Chief Finance Officer.
- 4.3.4 If in doubt, Internal Audit should be contacted for advice on specific cases.

## **5 REGULATION 5 - RISK MANAGEMENT AND RESOURCE CONTROL**

### **5.1 RISK MANAGEMENT AND INSURANCE**

#### **Introduction**

- 5.1.1 It is essential that robust systems are developed and maintained for identifying, evaluating and controlling all of the operational risks to the Council on an integrated basis in accordance with the Council's Risk Management Strategy.

#### **Risk Management**

- 5.1.2 The Governance and Audit Committee is responsible for approving the Council's Risk Management Strategy and for reviewing the effectiveness of risk management. The committee is also responsible for approving the Council's Strategic Risk Assessment and for ensuring that proper insurance exists where appropriate. The committee discharging the Overview and Scrutiny function has the responsibility for reviewing and scrutinising the decisions made by and performance of Committees and officers to ensure that risk management has been applied and adds value and quality to decision making.

- 5.1.3 The Director of Corporate Services will produce an annual corporate risk assessment. The Director of Corporate Services is responsible for preparing the Council's Risk Management Strategy statement and for promoting it throughout the Council. The Chief Finance Officer is responsible for advising the Corporate Policy & Resources Committee on proper insurance cover where appropriate. Copies of the Council's formal Risk Management Strategy and Corporate Risk Register are available on the intranet.
- 5.1.4 Directors / Assistant Directors shall ensure the regular identification, review and management of risk within service areas having regard to advice and instructions from specialist officers. Risk champions shall be nominated within each service area to ensure these issues are progressed.
- 5.1.5 The Council's approach to risk management is that it should be embedded throughout the organisation at both a strategic and an operational level, through integration into existing systems and processes.
- 5.1.6 Directors / Assistant Directors are responsible for ensuring that the risks to achieving the aims in their responsible areas are assessed and managed and that risk registers are updated with current issues and reviewed through service area team meetings in accordance with the organisation's risk appetite. Risks and their control measures will be included within Service Delivery Plans and updated in quarterly performance reviews.
- 5.1.7 It is also the role of Directors / Assistant Directors to ensure that common themes for business and organisational failure (e.g. capacity, resources and prioritisation) are taken into account at a service and corporate level and reflected in risk registers, as they have an effect on achieving service and organisational aims.
- 5.1.8 Directors / Assistant Directors will also ensure that all relevant staff comply with the strategy and have the necessary level of training and competence. The Risk Management Code of Practice will be complied with and risks escalated to the Director/Assistant Director where a decision at this level is needed.
- 5.1.9 The Chief Finance Officer will make provision for losses that might result from residual risks, through external insurance or internal funding and negotiate all claims in consultation with other officers.

### **Insurance**

- 5.1.10 The Chief Finance Officer shall effect all those insurances falling within the framework of insurable risks and shall deal with all claims, in consultation with other Directors/Assistant Directors where necessary. This will also include negotiation of annual premiums, continually reviewing procedure and cover and ensuring that the Council has adequate cover against all potential risks.
- 5.1.11 The Council will determine which risks must be covered by external insurances or internal insurance provision. Other risks may be covered by insurance or carried by the service area involved at the discretion of the relevant Director/Assistant Director, having regard to advice from the Chief Finance Officer.
- 5.1.12 The Chief Finance Officer will keep an up to date list of all property including current insurance values. This list will be reviewed annually.



- 5.1.13 Each Assistant Director shall immediately notify the Chief Finance Officer of all new risks, properties, vehicles and other assets or potential liabilities for which insurance may be required; and of any changes affecting existing risks or insurance cover required.
- 5.1.14 Directors/Assistant Directors shall notify the Chief Finance Officer in writing without delay of any loss, liability or damage or any event likely to lead to a claim and shall provide such information and explanations required by the Chief Finance Officer or the Council's insurers.
- 5.1.15 Directors/Assistant Directors shall ensure that all keys (for example safe, offices, vehicles, cabinets) are kept securely and a register maintained. In the event of a loss, they must immediately inform the Chief Finance Officer.
- 5.1.16 Directors/Assistant Directors may authorise payment of up to **£60** towards employees' personal property damaged while on the Council's premises or on the Council's business. Sums greater than £60 will require approval from the Chief Finance Officer and the Management Team.
- 5.1.17 Directors/Assistant Directors shall consult the Chief Finance Officer and the Monitoring Officer concerning the terms of any indemnity which they are requested to give on behalf of the Council.
- 5.1.18 Before entering into any arrangement involving a legal relationship, the Directors/Assistant Director involved must ensure that the Council has adequate legal powers and where appropriate that there is adequate professional indemnity insurance to cover and minimise any risk to the Council and to those individuals involved (advice should be obtained from the Chief Finance Officer and /or the Monitoring Officer where necessary before proceeding).
- 5.1.19 The Chief Finance Officer shall review insurance requirements at each annual renewal date and as part of the re-tendering process at the end of the overall insurance contract period.

### **Self-Insurance**

- 5.1.20 For some risks not covered by external insurance policies and as determined by the Council, the Chief Finance Officer will operate an internal insurance account and is authorised to charge the various Council service budgets with the cost of contributions to this account.
- 5.1.21 Risk Management is the responsibility of every Director/Assistant Director having regard to advice from specialist officers. In general, costs and losses not insured externally and not covered by the Council Fund will fall as a charge upon the budget of the service area to which the item relates. Also, claims for insured risks could result in increased levels of future premiums, and this emphasises the need for effective preventive measures against all risks.

### **Business Risk Management**

- 5.1.22 Each Director/Assistant Director must assess all risks annually. The risk of not meeting corporate strategy targets should be evaluated and appropriate performance measures should be set for monitoring.
- 5.1.23 All risks should be recorded in the Corporate Risk Register, together with an

action plan to show how the risks are being monitored.

5.1.24 The management of risks at a cluster (Our People, Our Place, Our Council) level should be reported upon at least quarterly to the Management Team.

5.1.25 Key Controls

The key controls are:

- 5.1.25.1 Procedures are in place to identify, assess, prevent or contain known risks, and these procedures are operating effectively throughout the Council;
- 5.1.25.2 The Council has adopted the Risk Management Strategy and processes to record all identified risks;
- 5.1.25.3 A monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis;
- 5.1.25.4 Managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives;
- 5.1.25.5 Provision is made in the accounts for losses that might result from the risks that remain;
- 5.1.25.6 The Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources;
- 5.1.25.7 Acceptable levels of risk are determined and insured against where appropriate.

**5.2 PREVENTING FRAUD AND CORRUPTION**

- 5.2.1 The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside of the Council.
- 5.2.2 The Chief Finance Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.
- 5.2.3 The Monitoring Officer will also ensure that whistle-blowing procedures are in place and operate effectively, including regular reviews of staff training and takes account of the Public Interest Disclosure Act 1998.
- 5.2.4 The Council operates an anti-fraud and anti-corruption policy. A 'Whistle Blowing' policy supports the objectives of these policies. These, in conjunction with Councillor and Officer Codes of Conduct and registers of interest, including Register of Interest in which any hospitality or gifts accepted must be recorded, determine the overall policy of the Council with regard to prevention of fraud and corruption.
- 5.2.5 Any suspected irregularities should be reported to internal audit and, if necessary, the Chief Finance Officer, the Monitoring Officer, or the Head of Paid Service.

### 5.2.6 Key Controls

The key controls are:

- The Council has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption;
- Codes of conduct exist for Councillors and Officers and are regularly reviewed by the Standards Sub-Committee;
- A Register of Interests is maintained to enable Councillors and Officers to record any financial or non-financial interests that may bring about conflict with the Council's interests;
- A register of Gifts & Hospitality is maintained to enable Councillors and Officers to record gifts and hospitality either received, or offered and declined, from the Council's contractors and suppliers;
- Whistle blowing procedures are in place and operate effectively;
- An effective disciplinary procedure is in place in case of improper behaviour;
- The Anti-fraud and Anti-corruption Policy and the Whistleblowing Policy can be found on the intranet and internet.

## 5.3 GIFTS AND HOSPITALITY

5.3.1 Part 3 of The Constitution sets out the Council's Codes of Conduct for Councillors and for Employees on Gifts and Hospitality. These must be adhered to at all times.

5.3.2 A Register of Gifts & Hospitality is maintained by Democratic Services to enable officers to record gifts and hospitality either received, or offered and declined, from the Council's existing or potential contractors and suppliers.

### 5.3.3 Key Controls

The key controls are:

- Relevant Codes of Conduct must be adhered to at all times;
- Registers of gifts and hospitality must be maintained and kept up to date.

## 5.4 ASSETS

### 5.4.1 **Assets - Acquisitions and Disposals of Land and Buildings (Freehold and Leasehold)**

5.4.1.1 Directors/Assistant Directors (including the Chief Finance Officer) may authorise an acquisition or disposal of land and buildings up to a value of **£75,000** (including leases or easements where the annual rent multiplied by the length of the lease does not exceed that figure assuming that the rent is not increased on review) which is an approved item in the approved Capital Programme.

5.4.1.2 Acquisitions or disposals between **£75,001** and **£250,000** are only to be undertaken following consultation with the Leader of the Council or the Deputy Leader if the Leader is not available.

5.4.1.3 Any proposed acquisition or disposal (regardless of value) must be subject to an independent valuation, preferably by the District Valuer or some other Royal Institute of Chartered Surveyors independent valuer.

- 5.4.1.4 In all cases, acquisitions and disposals are subject to reference to Corporate Policy and Resources Committee by the appropriate Chief Officer with responsibility for areas of open space or land in the nature of open space if there is significant public interest in the preservation of the same. Where a sale is pursuant to Section 123 Local Government Act 1972, Section 32 Housing Act 1985 or or Section 25 Local Government Act 1988, consent to the Secretary of State may be sought as necessary.
- 5.4.1.5 In all cases, the acquisition, lease or disposal must be reported to the next available meeting of the Corporate Policy & Resources Committee.
- 5.4.1.6 Where transactions have not been approved within the Approved Capital Programme the prior approval of the Corporate Policy and Resources Committee is required.

### **Assets – Security**

- 5.4.2 The Council holds assets and information in many different forms – property, vehicles, equipment and both computerised and other records.
- 5.4.3 Such assets and information as are required for service operations must be safeguarded, and the requirements of the Data Protection Act and Freedom of Information Act must be met.
- 5.4.4 Directors/Assistant Directors will:
- Ensure the security of all vehicles, buildings, stocks, stores, furniture, equipment, cash and information under their control;
  - Ensure that no asset or office system (for example internet access or the telephone system) is misused or subject to unauthorised personal use;
  - Ensure that maximum limits for cash holdings agreed with the Chief Finance Officer are not exceeded;
  - Ensure that keys to safes etc. are kept securely and any loss is reported promptly to the Chief Finance Officer;
  - Protect the Council's rights to intellectual property and ensure that private work is not carried out during the Council's time;
  - Ensure that documented and tested contingency plans for the security of assets and continuity of service in the event of a disaster or system failure are in place;
  - Should the Council be asked to give a guarantee or indemnity for any transaction, the relevant Director/Assistant Director should first consult with the Chief Finance Officer and the Legal Adviser.
- 5.4.5 The Chief Finance Officer maintains an up-to-date Asset Register. The Chief Finance Officer should be notified in any case where security is thought to be defective or where it is considered that special security arrangements may be needed. In addition, the Authority will maintain records of all properties owned by the Council.
- 5.4.6 The Council's Director of Corporate Services shall have the custody of all title deeds, formal contracts and agreements under seal and be responsible for ensuring their safety.
- 5.4.7 The Chief Finance Officer shall be responsible for ensuring that a full revaluation of all Council properties is undertaken at least every five years.

#### 5.4.8 Key Controls

The key controls are:

- Assets and resources are used only for the purposes of the Council and are properly accounted for;
- Assets and resources are available for use when required;
- Assets and resources no longer required are disposed of in accordance with the law and the regulations of the Council so as to maximise benefits;
- An Asset Register is maintained for the Council - assets are recorded when they are acquired by the Council and this record is updated as changes occur with respect to the location and condition of the asset;
- All officers are aware of their responsibilities with regard to safeguarding the Council's assets and information, including the requirements of the Data Protection Act and software copyright legislation;
- All officers are aware of their responsibilities with regard to safeguarding the security of the Council's computer systems, including maintaining restricted access to the information held on them and compliance with the Council's information security and internet security policies;
- Proper security arrangements are in place for all buildings and other assets belonging to the Council.

#### **Assets – Inventories**

- 5.4.9 Mobile assets include portable computers, phones, radios, surveying equipment, vehicles and any other work related equipment held by staff outside the offices at any time.
- 5.4.10 Each Director/Assistant Director will nominate an officer with responsibility to maintain an inventory for all assets with a life expectancy of more than one year (including all mobile assets) whose single replacement value exceeds £500 including furniture, fittings and equipment. This must record description, value, date of purchase, expected life, and location.
- 5.4.11 All valuable and portable items (including computers, cameras, video recorders, mobile phones, portable projection equipment etc.) must be security marked as belonging to the Council and wherever possible kept securely.
- 5.4.12 No item shall be removed from the Council premises, except in the course of Council business, without the written authorisation of the Director/Assistant Director concerned.
- 5.4.13 Inventories must be checked at least annually to verify the details.
- 5.4.14 Any variations to inventory records must be reported to the relevant Director/Assistant Director and all variations over **£1,500** must be reported to the Chief Finance Officer.
- 5.4.15 The Director/Assistant Director to ensure officers sign a register to acknowledge custody and sign back in when returning the equipment. The Chief Finance Officer can offer advice when setting up a logging system.
- 5.4.16 An inventory of all computer hardware and software held by the Council will

be maintained, a copy of which must be provided to the Chief Finance Officer.

### **Assets - Lost Property and Uncollected Goods**

- 5.4.17 Lost property, uncollected goods or unclaimed sums of money will be kept securely until they can be returned to a claimant or otherwise disposed of. Directors/Assistant Directors will ensure that this is carried out and that records are kept of such items and arrangements for their disposal.

### **Assets - Stocks and Stores**

- 5.4.18 All Directors/Assistant Directors must ensure that they maintain adequate records and controls over stock movements. There is a cost of holding stocks and levels should always be kept at the minimum necessary to maintain the efficiency of the service.
- 5.4.19 Stocks and stores comprise the following categories:
- Goods or other assets purchased for resale;
  - Consumable stores;
  - Raw materials and components purchased for incorporation into products for sale;
  - Products and services in intermediate stages of completion;
  - Long-term contract balances;
  - Finished goods.
- 5.4.20 Directors/Assistant Directors will ensure that independent stock checks must be undertaken periodically and at least annually at year-end. All discrepancies should be investigated and pursued to a satisfactory conclusion. Evidence of the stock check is to be kept for audit verification purposes.
- 5.4.21 Any variations must be reported to the relevant Director/Assistant Director and Financial Services for the appropriate accounting entries to be done. All variations over £1,500 must be reported to the Chief Finance Officer.
- 5.4.22 A certificate of stock must be issued promptly to the Chief Finance Officer as at 31 March in each year. Stocks must be signed by the appropriate Director/Assistant Director or budget holder and valued at the lower of cost and net realisable value.
- 5.4.23 The Chief Finance Officer is entitled to check stocks, if necessary requiring closure, after consultation and agreement with the Director/Assistant Director concerned.
- 5.4.24 All receipts and issues of stock must be properly recorded and accounted for in the Council's financial records.

### **Assets – Intellectual Property**

- 5.4.25 Intellectual property is a generic term that includes inventions and writing. If these are created by the officer during the course of employment then they are the property of the Council. Examples include software and product development. These items are collectively known as intellectual property.

5.4.26 All contracts of employment, including those relating to temporary or consultants are to provide for intellectual property to be the property of the Council.

5.4.27 Key Controls

The key controls are:

- In the event that the Council decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the Council's approved intellectual property procedures.
- Contracts of employment, including for the employment of temporary/consultancy staff, should include the provision that any intellectual property are the property of the Council.

**Assets - Compulsory Disposals**

5.4.28 Any sale or lease of land pursuant to the Right to Buy or the Right of Enfranchisement under the Housing Act 1985, the Leasehold Reform Act 1967 or the Leasehold Reform Housing and Urban Development Act 1993 will be subject to compliance with the statutory procedures.

**Assets – Disposal by Sale**

5.4.29 Surplus or obsolete goods, materials, and stocks with a value of £250 or more shall be disposed of by public tender, except when, in the opinion of the Director/Assistant Director of the Service concerned, the financial interest of the Council is better served by disposal by other means. This may include a public auction or offering the asset in part exchange. The Director/Assistant Director concerned shall prepare and certify a list of all items disposed of, showing the amount received. This will be reflected in the inventory, the asset register, and/or the stock account. The disposal of the asset should be fully documented.

5.4.30 Items with a value of less than £250 can either be disposed as indicated in 5.4.29 or may listed on the Councils Ebay page.

5.4.31 For disposals of land and property see the special provisions contained in 5.4.1.

5.4.32 Running costs for property declared surplus to requirement will transfer to the Property & Assets budget.

5.4.33 The proceeds of all sales of surplus or obsolete assets must be reported to the relevant Director/Assistant Director and all sales must be reported to the Chief Finance Officer who will arrange for the Councils Asset Register to be amended if appropriate.

5.4.34 Key Controls

The key controls are:

- Assets are disposed of in accordance with the Asset Management Plan;
- Disposal of assets is fully documented;
- The Councils Asset Register records the latest position;

- Annual stock valuation identifies obsolete stock.

### **Assets – Disposal By Write Off**

- 5.4.35 For the purpose of this section, assets also include write off of cash and income due to the Council.
- 5.4.36 Write-offs may only take place as a last resort after all other economic/social solutions have been exhausted.
- 5.4.37 The relevant Budget Manager may write off amounts up to £250 where irrecoverable.
- 5.4.38 The relevant Director/Assistant Director in consultation with the Chief Finance Officer may write off Income, Stocks and Inventory deficiencies of up to **£2,500**.
- 5.4.39 The relevant Director/Assistant Director in consultation with the Chief Finance Officer and the Chairman of the Corporate Policy & Resources Committee, may write off items over **£2,500** and under **£25,000**.
- 5.4.40 Write offs of amounts over **£25,000** may only be written off by the Corporate Policy & Resources Committee after receiving a report from the Chief Finance Officer.
- 5.4.41 A report must be submitted at least annually by the relevant Director/Assistant Director to the Chief Finance Officer, who will report annually on the overall level of write-offs as part of the Statement of Accounts process.
- 5.4.42 Key Controls

The key controls are:

- Specific write-off limits;
- Disposal of assets is fully documented;
- Annual stock valuation identifies obsolete stock.

## **5.5 TREASURY MANAGEMENT AND LEASING**

- 5.5.1 The Council has adopted CIPFA's Treasury Management in the Public Services Code of Practice and Cross Sectoral Guidance Notes 2017.
- 5.5.2 The Chief Finance Officer will create and maintain, as the cornerstone for effective Treasury Management:
- A Treasury Management Policy Statement (TMPS) stating the policies, objectives and approach to risk management of its treasury management activities;
  - Suitable Treasury Management Practices (TMP) setting out the manner in which the organisation will seek to achieve those policies and objectives and prescribing how it will manage and control those activities.
- 5.5.3 The Chief Finance Officer will produce reports on its treasury management policies, practices and activities including, as a minimum, a report to Council



on an annual strategy and plan in advance of the forthcoming year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.

- 5.5.4 The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Corporate Policy & Resources Committee, and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the Council's policy statement and TMPs, and the CIPFA Standard of Professional Practice on Treasury Management.
- 5.5.5 The Council nominates the Governance and Audit Committee to be responsible for ensuring the effective scrutiny of the Treasury Management strategy and policies.
- 5.5.6 All executive decisions on borrowing, investment or financing (including leasing) are delegated to the Chief Finance Officer who will act in accordance with the Council's agreed "Treasury Management Strategy".
- 5.5.7 The Chief Finance Officer must report any decisions on any borrowing undertaken to Corporate Policy & Resources Committee as part of the Treasury Management activities reporting process.
- 5.5.8 The Chief Finance Officer must report any debt rescheduling activity to Corporate Policy & Resources Committee as part of the Treasury Management activities reporting process.
- 5.5.9 The Chief Finance Officer is responsible for acting as the Council's registrar of stocks, bonds, mortgages, and to maintain records of all borrowing by the Council.
- 5.5.10 Directors/Assistant Directors are responsible for ensuring the prior approval of the Chief Finance Officer before leasing any assets.
- 5.5.11 Directors/Assistant Directors are responsible for ensuring that no loans are made to third parties or interests acquired in companies, joint ventures, or other enterprises without consulting the Chief Finance Officer and obtaining approval from Corporate Policy & Resources Committee.
- 5.5.12 The Council may, in accordance with its Treasury Management Strategy, invest in the following types of investment:
- Money Market Funds
  - Banks
  - Certificates of Deposits
  - UK Government (including gilts, Treasury Bills etc)
  - Other Local Authorities, Parish Councils etc
  - Housing Associations
  - Loans and guarantees etc. to third parties and subsidiaries
  - Local/Community Bonds
  - Local Authority Property Asset Funds
  - Corporate Bond Funds management
  - Covered Bonds
  - Property Funds

5.5.13 All such investments shall be undertaken only in accordance with the Councils approved Treasury Management Strategy and adherence to the provisions contained in the strategy especially with regard to undertaking appropriate due diligence.

5.5.14 Key Controls

The key controls are:

- Adopted CIPFA's Treasury Management in the Public Services Code;
- Created and maintained Treasury Management Policy Statement (TMPS) and Treasury Management Practices (TMP);
- Agreed Treasury Management Strategy for forthcoming year;
- Mid-year Treasury Management Update report;
- Reported performance within six months of the end of the year;
- An annually agreed Minimum Revenue Provision (MRP) Policy;
- The role of the Governance and Audit Committee.

**5.6 STAFFING**

5.6.1 The Head of Paid Service, in consultation with the Chief Finance Officer, is responsible for determining how officer support for executive and non-executive roles within the Council will be organised.

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

5.6.3 Directors/Assistant Directors should ensure that Officers are aware of their management responsibilities under the Financial Procedure Rules, Contract Procedure Rules, Declaration of Interests, Hospitality, Whistleblowing Policy, ICT Policies etc.

5.6.4 All officers are responsible for complying with the Council's Human Resources Policies to protect the Council against losses and minimise risk exposure.

5.6.5 The Head of Paid Service is responsible for maintaining an approved list of officer posts (known as the Establishment List), which have been approved by or on behalf of the Council as being required to provide the Council with the services and advice, which it requires from time to time. Additions, amendments and deletions in relation to this list shall be kept up to date at all times.

5.6.6 Regular meetings shall take place between the Chief Finance Officer, Finance and Payroll to ensure that all records in relation to this Establishment List reconcile.

5.6.7 No appointments of permanent officers shall be made unless there is a post on the Establishment List for which current budgetary provision has been made.

5.6.8 The Establishment List shall not preclude the appointment of temporary or agency staff, or direct works employees in respect of which special budgetary provision is available.

5.6.9 Directors/Assistant Directors are responsible for controlling total staff numbers by:

- Advising the Corporate Policy & Resources Committee on the budget necessary in any given year to cover estimated staffing levels;
- Adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs.

#### 5.6.10 Key Controls

The key controls are:

- An appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched;
- Procedures are in place for forecasting staffing requirements and cost;
- There is a process of performance review and identification of development needs;
- Training budgets are adequate to support agreed development needs.

### 5.7 UNOFFICIAL NON-COUNCIL FUNDS

5.7.1 An unofficial fund is one where the income and expenditure does not form part of the Council's accounts, but which is controlled wholly or in part by an Officer employed by the Council or a semi-autonomous body. Examples may include charity accounts or Trust Funds.

5.7.2 Unofficial funds may only be established by the Chief Finance Officer who will issue and update accounting instructions for them where necessary.

5.7.3 All unofficial funds must be properly accounted for and be subject to an independent annual audit (Council or other provider).

#### 5.7.4 Key Controls

The key controls are:

- They must be subject to an audit;
- They must be identified and recorded centrally;
- Normal accounting rules will apply.

### 5.8 INTERNAL AUDIT

5.8.1 The requirement for an internal audit function for local authorities is implied by the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit regulations 1996 (SI1996/590), Regulation 5, more specifically require that a "relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems". The Chief Finance Officer is responsible for providing an efficient and effective internal audit service to comply with the legislation and auditing best practice.

5.8.2 Accordingly, Internal Audit is an independent and objective appraisal function responsible for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper,

economic, efficient and effective use of resources.

- 5.8.3 The provision of a full Internal Audit service requires total accessibility to records and staff employed either by, or on behalf of, the Council.
- 5.8.4 Notwithstanding the Chief Finance Officer's responsibility for the review of the Council's systems, the actual responsibility for their correct form and operation lies solely and totally with service management. Internal Audit will review and comment on the operation of systems, but this does not constitute a control function and must not be relied upon as such. Conversely, the lack of an Internal Audit review or the failure by Internal Audit to identify a weakness or irregularity does not in any way act as an excuse or defence for its occurrence or non-detection by service managers.
- 5.8.5 Directors/Assistant Directors will consider internal audit reports and make an initial response within 15 working days of receipt. Any agreed recommendations will then be implemented. Any rejected recommendations will be reported to the Chief Finance Officer and Management Team.
- 5.8.5 Directors/Assistant Directors will inform the Chief Finance Officer of suspected fraud, corruption or other irregularities.
- 5.8.6 Directors/Assistant Directors will inform Internal Audit of all proposed changes to computer or other systems prior to implementing any changes.
- 5.8.7 The Assistant Director for People and Democratic Services will report to the Governance and Audit Committee on progress against the Internal Audit Programme.
- 5.8.8 Key Controls

The key controls are:

- It is independent in its planning and operation;
- The Audit Manager has direct access to the Head of Paid Service, all levels of management and directly to elected Members;
- Governance and Audit Committee will monitor progress against the Internal Audit Programme.
- Internal Auditors comply with the Auditing Practice Board's guideline: Guidance for Internal Auditors, as interpreted by CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom.

## **5.9 MONEY LAUNDERING**

- 5.9.1 The Council's policy and practices with regard to the Money Laundering regulations (contained in the Proceeds of Crime Act 2002 as amended by Serious Organised Crime Agency and Policy 2005 and relevant Statutory Instruments, Terrorism Act 2000 as amended by Anti-Terrorism, Crime and Security Act 2001 and the Terrorism Act 2006 and relevant Statutory Instruments with regard to money laundering are contained in the Council's Treasury Management Practices (TMP) adopted as part of its Treasury Management Policy.
- 5.9.2 Schedule 9 of the TMPs set out the detailed approach to addressing the Council's requirements in respect of Money Laundering regulations specific to

Treasury Management activity.

## **6 REGULATION 6 – ACCOUNTING SYSTEMS AND PROCEDURES**

### **6.1 ACCOUNTING SYSTEMS AND PROCEDURES**

- 6.1.1 The Chief Finance Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. No changes shall be made to the existing financial systems or new systems shall be established without the prior approval of the Chief Finance Officer.
- 6.1.2 A complete audit trail, allowing financial transactions to be traced from the accounting records to the original document and vice versa, must be maintained.
- 6.1.3 Assistant Directors are responsible for the proper operation of financial processes in their own strategic service areas and for ensuring that their officers receive relevant financial training, approved by the Chief Finance Officer.
- 6.1.4 Lists of Authorised Officers, with specimen signatures and delegated limits will be provided to the Chief Finance Officer, together with any subsequent variations on a periodic basis. This includes all areas of the Council, including the outlying areas such as depots and sports facilities. Directors/Assistant Directors must ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection legislation and that officers are aware of their responsibilities under Freedom of Information legislation and information security generally.
- 6.1.5 The development, purchase and implementation of all ICT systems must conform to the Council's ICT Strategy.
- 6.1.6 All passwords must remain confidential.
- 6.1.7 All relevant software licenses employed by the Council should be held and identifiable. No software may be loaded onto the Council's computer equipment without the prior permission by the Chief Finance Officer.
- 6.1.8 Contingency arrangements, including back-up procedures, must be maintained for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 6.1.9 Any service specific procedures should be followed by the service in question; any changes made to agreed procedures by officers to meet specific service needs should be agreed with the Chief Finance Officer. These procedures will incorporate appropriate controls to ensure that, where relevant:
- All input is genuine, complete, accurate, timely and not previously processed;
  - All processing is carried out in an accurate, complete and timely manner;
  - Output from the system is complete, accurate and timely;
  - There is an appropriate segregation of duties providing for adequate internal controls and to minimise the risk of fraud or other malpractice.

### 6.1.10 Key Controls

The key controls are:

- Basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated;
- Performance is communicated to the appropriate managers on an accurate, complete and timely basis;
- Early warning is provided of deviations from target, plans and budgets that require management attention;
- Operating systems and procedures are secure;
- Data is backed up on a regular basis.

## 6.2 **BANKING ARRANGEMENTS**

- 6.2.1 The Council operates a number of bank accounts for the collection and payment of money. All receipts and payments of the Council are made through these accounts. Only the Head of Paid Services and the Chief Finance Officer can open bank accounts in the name of and on behalf of the Council. No officer of the Council shall open any bank (or equivalent) account without the explicit agreement of one of those officers.
- 6.2.2 The Chief Finance Officer will ensure that sound, adequate arrangements are in place for the safe and efficient operation of all the Council's bank accounts and will effect or cause to be effected proper and timely reconciliations.
- 6.2.3 All bank accounts shall bear an official title and in no circumstances shall an account be opened in the name of an individual, with the exception of the Returning Officers Account for election expenses.
- 6.2.4 Once an account is open, only the Chief Finance Officer can make arrangements concerning the Council's bank accounts. No overdraft arrangements will be permitted with the exception of corporate arrangements under the Treasury Management policy.
- 6.2.5 Financial Services will monitor the safekeeping and control of cheques.
- 6.2.6 Cheques on the Council's main banking accounts shall bear the signature (manuscript or facsimile signature) of the Head of Paid Services.
- 6.2.7 All cheques in excess of £10,000 must be manually countersigned by one of the other officers authorised on the bank mandate.
- 6.2.8 No cheques will be opened unless a satisfactory written explanation is given and must be authorised by an officer identified on the bank mandate and only on receipt of evidence of identification (e.g. passport etc.). (No written explanation is required for petty cash reimbursement).
- 6.2.9 All stocks of cheques must be held securely and stock records maintained to identify both issued and spoilt cheques.
- 6.2.10 The Chief Finance Officer will ensure that bank accounts are reconciled with financial records at least once in each month and any discrepancies identified and appropriate action undertaken.

- 6.2.11 The bank mandate should be reviewed at least annually and internal audit notified of any changes.
- 6.2.12 Consideration will be given to retendering the Council's banking service as a minimum every five years.
- 6.2.13 The following duties, as far as possible, will be the responsibility of at least 2 separate officers;
- The checking of creditor accounts;
  - The control of cheque forms;
  - The preparation of cheques;
  - The signature of cheques;
  - The entry of cash accounts;
  - The reconciliation of bank balances.

6.2.14 Key Controls

The key controls are:

- All cheques must be signed, either manually or by facsimile, by the Head of Paid Service.
- Cheques with a value of **£10,000** or more need to be countersigned.

Bank Accounts can only be opened by the Head of Paid Service or the Chief Finance Officer.

### **6.3 SALARIES, WAGES, PENSIONS AND OTHER EMOLUMENTS**

6.3.1 The Chief Finance Officer is responsible for all payments of remuneration and expenses to all employees or former employees, including payments for overtime and for payments of allowances to Councillors, to comply with Council's policy and national agreements.

6.3.2 All appointments will be made in accordance with the Council's approved policies.

#### **Payroll**

6.3.3 Effective controls are needed to ensure that payments are accurate, made only when they are due and comply with relevant conditions of service. The payroll data (currently provided by North Kesteven District Council) must be reconciled regularly with the general ledger.

6.3.4 All procedures dealing with starters, leavers, variations and enhancements must be rigorously adhered to and Directors/Assistant Directors must advise Human Resources promptly of all staffing changes, absences (other than approved leave), changes in remuneration and other relevant information or changes.

6.3.5 All officers must only be paid through the Council's or an authorised contractor's payroll system.

6.3.6 Directors/Assistant Directors will ensure that they follow the approved

monitoring procedure for filling all vacancies.

6.3.7 The Officers' Code of Conduct is set out in Part 3 of the Council's Constitution.

6.3.8 Key Controls

The key controls are:

- Proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to: starters, leavers, variations and enhancements;
- Payments are made on the basis of appropriately authorised timesheets or claims;
- Frequent reconciliation of payroll expenditure against approved budgets and bank accounts;
- All appropriate payroll documents are retained and stored for the defined period, in accordance with guidance issued by the Chief Finance Officer;
- All expenditure, including VAT, is accurately recorded against the correct service cost centre and any exceptions are corrected;
- Inland Revenue regulations are complied with.

**Human Resources Arrangements**

6.3.9 The Head of Paid Service must ensure that adequate arrangements have been made to notify the Payroll Officer of all the information required in terms of starters and leavers, amendments to working hours, pension arrangements and any other factor that can compromise the integrity of the Payroll service.

6.3.10 Key Controls

The key controls are:

- Payments are only made when there is a valid entitlement which can be proved if necessary;
- Conditions and contracts of employment must be correctly applied;
- Employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness;
- Appointments, resignations, dismissals, suspensions, secondments and transfers should be recorded and reported in line with Human Resource policies.
- Records supporting absences from duty for sickness or any other reason, apart from approved leave must be supplied monthly to the Payroll Section.
- Changes in remuneration, other than normal increments and pay awards and agreements of general application, must be notified to the Payroll Section promptly.
- The Chief Finance Officer must maintain records for pension, income tax and national insurance.

**6.4 CREDITORS AND DEBTORS**

6.4.1 The Chief Finance Officer is responsible for ensuring the operation and maintenance of effective systems for the payment of creditors and the collection of monies from debtors across the range of Council services.



## 6.5 CONTRACTS

6.5.1 The full rules for contracts are contained in **CONTRACT PROCEDURE RULES** as contained in the Councils Constitution. These must be followed by all staff in all procurements. Even the smallest purchases must be made in accordance with these rules and principles.

To summarise they are –

Goods and Services inclusive of VAT

up to £5,000	one written estimate/quotation (email included)
£5,001 - £30,000	two quotations
£30,001 - £75,000	three independent quotations (no group relationship) (RFQ)
£75,001 – FTS (£213,477)	four independent quotations (no group relationship) (RFQ)

Note:

RFQ (Requests for Quotation) is the Council's preferred method of undertaking procurement within the value thresholds as identified above. See contract Procedure Rule 8.2 for further details.

1. Contracts falling within the different categories of Goods, Services and the carrying out of Works have value thresholds placed on them by the legislation. When the estimated value of an individual contract (cumulative value not annual expenditure) is likely to exceed UK thresholds, by law the Council must comply with the full UK procurement regime. Officers should seek advice from Procurement Lincolnshire.

Includes similar types of process e.g. looking up from a catalogue.

Works contracts as above until – inclusive of VAT

£213,477 - £5,336,937	Five independent quotations (no group relationship) or by advertisement
Over £5,336,937	full UK tender process (ITT)

6.5.2 Payments will only be made on the written authorisation of the officer responsible for the contract. This officer will also give written authorisation for any extras or variations.

6.5.3 Payments made on instruction for construction and construction related contracts should be recorded in detail by the relevant Director/Assistant Director or Project Manager.

## 6.6 ORDERING

6.6.1 All orders/purchases of goods and services must comply with the Council's

## Contract Procedure Rules and Procurement Strategy.

- 6.6.2 No creditor shall be paid or debtor be invoiced other than through systems operated by the Chief Finance Officer or otherwise specifically approved by him/her. All orders (excluding those at 6.6.2) must be input to, authorised and produced from the Council's purchasing system or by using a Procurement Card.
- 6.6.3 Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies from public utility services, for periodical payments such as rent or rates, for petty cash purchases or such other exceptions as the Chief Finance Officer may approve. In cases of emergency, orders may be given orally and confirmed in writing. Official orders for work, goods and services shall be in a form approved by the Chief Finance Officer.
- 6.6.4 Orders (either paper based or electronic) can only be signed by officers authorised by the Director/Assistant Director concerned who is responsible for official orders issued from his service area. An up-to-date list of authorised officers, including specimen signatures identifying in each case the limits of their authorisation will be maintained by the Procurement Team and be readily available. Any changes will be notified to the Procurement Team by the Director/Assistant Director.
- 6.6.5 No order for work, goods or services can be given which will commit the Council to expenditure unless a budget exists to incur that expenditure.
- 6.6.6 Official orders must not be raised for any personal or private purchases, nor should personal or private use be made of Council contracts.
- Any purchase of IT software or hardware (except consumables) must be made through the ICT Service.
- 6.6.7 A Director/Assistant Director may order goods to be supplied or work to be done by requisition on another service area on any occasion where more favourable terms are obtainable by this method than would be the case by direct ordering.
- 6.6.8 It may be advantageous for supplies to more than one service area to be ordered from one source, for example to take advantage of bulk purchasing. The Procurement Team will be able to assist with these instances and shall be responsible for co-ordinating the arrangements.
- 6.6.9 The signatory of the order must be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Value for money should always be obtained.
- 6.6.10 Goods and services must be checked on receipt to ensure they are in accordance with the official order. This check should, where practicable, be carried out by a different officer to the officer who signed the original order.
- 6.6.11 On receipt of goods, entries must be made in inventories or stocks records as appropriate.
- 6.6.12 Separation of duties at different stages of ordering and paying for goods should be in place.

- 6.6.13 All orders must be recorded, along with delivery and receipt of invoice.
- 6.6.14 No orders should be placed that will commit the Council to a loan, leasing or rental arrangement without the prior approval of the Chief Finance Officer and a Director/Assistant Director.
- 6.6.15 Open orders should only be used where unavoidable and with the permission of the Chief Finance Officer. In the situation where an open order has been issued e.g. for a call-off contract, the order must have a clear end date, which may be no later than 31<sup>st</sup> March following the date of issue.
- 6.6.16 Verbal orders lessen the control of the Council over expenditure and must be avoided wherever possible. Even if a supplier states that they do not require or want an electronic/written order, one should be produced and dispatched as standard. Unless there is a genuine reason e.g. for a standard utility supply, an order must always be issued.

## 6.7 PAYING FOR GOODS

- 6.7.1 Financial Services will provide an efficient payments service both by the regular weekly payment procedures and by urgent payment at any time. Unless in dispute, payments should be made within 30 working days and passed for timely payment.
- 6.7.2 Directors/Assistant Directors are responsible for ensuring that payments, on a proper VAT invoice, are certified. This certification indicates that –
- Works, goods or services have been received satisfactorily;
  - That expenditure has been properly incurred and is within budget provision;
  - Contract Procedure Rules and Financial Procedure Rules have been followed;
  - Prices and arithmetic are correct and accord with quotations, tender, contracts or catalogue prices
  - The invoice is coded correctly;
  - Discounts have been deducted where appropriate;
  - Orders, inventories and stores records have been marked or updated as necessary;
  - The invoice has not already been paid.
- 6.7.3 Payment must not be made on a photocopied or faxed invoice (unless the original invoice has been mislaid), a statement or other document other than the formal invoice.
- 6.7.4 Payments to suppliers should be by the most economical means (BACS transfer or CHAPS payment) for the Council. Direct Debit or Standing Orders may be used with the agreement of the Chief Finance Officer. Authorisation of the BACS/CHAPS files is required before submitting to the bank. This authorisation also includes for payments in excess of **£10,000**.
- 6.7.5 Certification of interim and final contract payments, checking, recording and authorising these payments, the system for monitoring and controlling capital schemes and the procedures for validation of sub-contractors' tax status must be documented and agreed with the Chief Finance Officer.
- 6.7.6 No loan, leasing or rental arrangements may be entered into without prior

agreement from the Chief Finance Officer and the Legal advisors. The agreement must also be authorised by a Director/Assistant Director.

6.7.7 No payment shall be made to any organisation in advance of goods or services being rendered to the Council except in instances of subscriptions, memberships, training courses etc.

6.7.8 Financial Services will:

- Monitor direct debits to ensure the correct amounts are paid;
- Monitor procurement cards to ensure their correct usage;
- Maintain up to date creditor records and payments history and be responsible for the running of the system;
- Ensure that the Council's responsibilities regarding prompt payment within 30 working days are monitored and met;
- Maintain an up to date list of authorised signatories including officers authorised to approve payments electronically or by procurement card;
- Ensure limits are reviewed and amended, if necessary, on a regular basis.

6.7.9 Directors/Assistant Directors must inform the Procurement Team of any changes, additions or deletions to the list of authorised signatories and provide specimen signatures.

6.7.10 Key Controls

The key controls are:

- All goods and services are requisitioned only by appropriate persons and are correctly recorded;
- Requisitions shall only be issued where budgetary provision exists to pay for the goods and services to be supplied;
- All goods and services shall be requisitioned in accordance with the Council's Contract Procedure Rules and Procurement Strategy unless they are purchased from sources within the Council;
- Goods and services received are checked to ensure they are in accordance with the requisition. Goods should not be receipted by the person who authorised the order;
- Payments are not made unless goods have been received by the Council, to the correct price, quantity and quality standards;
- All payments are made to the correct person/supplier, for the correct amount and are properly recorded, regardless of the payment method;
- All appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with guidance issued by the Chief Finance Officer;
- All expenditure is accurately recorded against the right budget, any exceptions are corrected and VAT is recorded against the relevant VAT code;
- In addition, the use of e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

## 6.8 CLAIMS FOR EXPENSES

6.8.2 Councillors and officers may incur expenses in the course of their Council duties. Approved expenses will be reimbursed to the individual. Normally the

need to incur expenses will be approved in advance and shall be incurred in the most cost-effective way.

- 6.8.3 All expense claims are to be submitted to Human Resources by the fifth working day of the month for inclusion in that month's payroll.
- 6.8.4 All payments for allowances etc. will be made through payroll.
- 6.8.5 Expense claims will only be paid on approved forms. Councillors also have specific claim forms for making claims. For officers these must be authorised by the claimant's line manager. For Councillors these must be authorised by the Monitoring Officer or other nominated officer.
- 6.8.6 All Councillors and officers submitting claims for expenses shall confirm that the claim is in respect of legitimate and authorised expenditure that has been incurred on Council business.
- 6.8.7 Certification by a line manager shall be taken to mean that the certifying officer is satisfied that those journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.
- 6.8.8 All car allowances will be paid through the Council's Payroll System. The use of procurement cards should be encouraged whenever rail travel is contemplated.
- 6.8.9 Officers are responsible for arranging appropriate motor insurance to cover any travelling on Council business. Human Resources may inspect an officer's driving licence or any other document relating to a vehicle which is used on Council business.
- 6.8.10 Each claim must be promptly submitted for payment and must be presented on a form clearly detailing the expenditure incurred, supported by VAT receipts where applicable, dated, coded, and signed by the claimant and counter signed by the appropriate authorising officer. Promptly is defined as monthly for large transactional or high value claims, or quarterly for small transactional or low value claims. In either case, all claims relating to a previous financial year must be presented to payroll for payment by the 10<sup>th</sup> April each year.

6.8.11 Key Controls

The key controls are:

- Claims will only be paid in accordance with approved schemes;
- Claims must be made on official forms and correctly authorised.

**6.9 PETTY CASH/IMPREST ACCOUNTS**

- 6.9.1 Petty cash/imprest accounts facilitate minor, routine transactions, where raising an official order and processing an invoice through the Creditor system would be neither realistic nor cost effective.
- 6.9.2 Petty cash will be held at various sites but should only be used as a last resort if either the use of a Procurement Card, the Purchasing system or reclaim as expenses through payroll is not practical.

- 6.9.3 All petty cash/imprest accounts are arranged through the Chief Finance Officer, will be at a level agreed between the Chief Finance Officer and appropriate service Director/Assistant Director and will be reviewed annually.
- 6.9.4 Financial Services in conjunction with the Director/Assistant Director will approve any further petty cash advance during the year.
- Up to **£50** can be paid out by another holder of petty cash.
  - Receipted VAT vouchers are required to back up claims.
  - Claims are to be signed by Authorised Officers only.
  - Internal audit will carry out spot tests on balances.
  - All cash holding will require a signed certificate, by the account holder, at the end of each financial year. These will be requested and received by Financial Services as soon as possible after the end of the financial year.
- 6.9.5 Payments relating to the following headings must not be made from petty cash/imprest accounts:
- Salaries or Wages;
  - Sub-contractors;
  - Officers' Travelling and Subsistence;
  - Fees to Individuals.
- 6.9.6 Directors/Assistant Directors can hold cash floats, following consultation with the Chief Finance Officer, strictly for the purpose of giving change and they will arrange for regular reconciliations.
- 6.9.7 Written records of variations must be kept. The Directors/Assistant Directors must account for the amount held as requested by the Chief Finance Officer and in particular on leaving the employ of West Lindsey District Council or otherwise ceasing to hold the cash float.
- 6.9.8 Items of a value of £50 or more must be purchased through the Council's purchasing system unless the Director/Assistant Director has agreed a different limit in consultation with the Chief Finance Officer.
- 6.9.9 Only the original advance and reimbursements will be credited to the account – no other income can be credited to a petty cash/imprest account. All income must be banked in accordance with the appropriate Financial Procedure Rule.
- 6.9.10 Each Director/Assistant Director will compile and maintain a schedule of all Officers who have been authorised to operate a petty cash/imprest account.
- 6.9.11 Officers operating a petty cash/imprest account must:
- Obtain and retain petty cash vouchers, showing full details of the payment vouchers to support each payment from the petty cash/imprest account;
  - Make adequate arrangements in their office for the safe custody of the account;
  - Produce, upon demand of the Chief Finance Officer, cash and all vouchers to the total value of the petty cash/imprest account;
  - Record transactions properly;

- Reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the petty cash/imprest holder;
- Provide the Chief Finance Officer with a certificate of the value of the account held at 31 March in accordance with the timetable to be issued by the Chief Finance Officer;
- Ensure that the account is never used to cash personal cheques or to make personal loans and that payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made;
- On leaving the Council's employment or otherwise ceasing to be entitled to hold a petty cash/imprest advance, an officer shall account to the Director/Assistant Director for the amount advanced to him/her.

6.9.12 Vouchers must be:

- Authorised by the budget holder, or nominated representative, in advance of the purchase wherever possible;
- Signed by the person making the purchase or payment to acknowledge that they have received the amount shown on the voucher;
- Accompanied by an invoice/receipt other than in exceptional circumstances. Where appropriate this should be a valid VAT invoice/receipt.

6.9.13 A claim form must accompany every claim for reimbursement. In preparing the claim, it is important to ensure that:

- Properly certified vouchers and VAT invoices/receipts must be provided in support of every item included in the claim;
- Full details of the net cost, the VAT and the total paid are completed for every entry on the claim;
- Expenditure is accurately coded and all recoverable VAT has been taken;
- The total value, including bank account where applicable, is reconciled to the nominal amount of the petty cash/imprest account;
- All certifications are properly completed on the claim form by authorised signatories.

6.9.14 All non-computerised records relating to petty cash/imprest accounts shall be maintained in ink.

6.9.15 If circumstances arise where the amount of a petty cash/imprest account becomes excessive, the responsible officer shall make appropriate arrangements to pay the excess amount back to the Chief Finance Officer.

6.9.16 Every temporary or permanent transfer of a petty cash/imprest account from one officer to another shall be evidenced by the signature of the receiving officer. This will be either through a formal receipt or a document maintained for that purpose.

6.9.17 Key Controls

The key controls are:

- Petty Cash/Imprest Accounts can only be established with the approval of the Chief Finance Officer;
- An individual must be responsible for the operation, maintenance and

accounting of each imprest account.

## **6.10 INCOME AND CASH HANDLING**

- 6.10.1 The Chief Finance Officer is responsible for ensuring that adequate systems are available and are maintained, for the recording of all income by the Council.
- 6.10.2 It is the responsibility of every officer of the Council to ensure that all sums of money due to the Council are promptly invoiced or otherwise demanded and that all sums of money received are promptly paid into the Council's accounts.
- 6.10.3 Sums received should be held securely prior to being paid in.
- 6.10.4 Sums paid in should be correctly referenced and receipted during the day of receipt.
- 6.10.5 Sums received should be paid in fully intact with differences in excess of **£20** between actual cash and recorded cash being reported to the Chief Finance Officer.
- 6.10.6 There must be a clear separation of duties between the provision of information regarding sums due to or from the Council and the duty of collecting income or making payments;
- 6.10.7 Officers responsible for examining and checking the accounts or cash transactions shall not themselves be engaged in those transactions unless specifically authorised by the Chief Finance Officer.
- 6.10.8 Wherever possible, officers will secure payment in advance is made before a service is provided.
- 6.10.9 All income due to the Council must be processed accurately and securely through one of the primary income systems (e.g. NNDR, Council Tax, Debtors).
- 6.10.10 Official receipts, signed by an authorised officer, must be given on receipt of income.
- 6.10.11 All receipt forms, books, tickets etc. shall be in an official form. Income stationery should be stored securely. The security of stationery is subject to Internal Audit inspection.
- 6.10.12 The Chief Finance Officer must be provided with details relating to work done, goods supplied or services rendered or other amounts, to enable the sums due to the Council to be recorded correctly and to ensure accounts are sent out promptly.
- 6.10.13 Outstanding debts are to be pursued promptly, actively and appropriately. Service areas must assist the Chief Finance Officer in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf, including providing evidence in legal proceedings. It is understood that uncollected debts will be a cost to the budgets.



- 6.10.14 All income must be paid fully and promptly into the appropriate bank account in the form in which it is received. Income documents must be detailed enough to provide a complete audit trail to the Council's General Ledger.
- 6.10.15 All cash taken must be reconciled to till receipts and all deposited cash/cheques should be counted and verified.
- 6.10.16 At least two officers must be present when post is opened in service areas where income is regularly received so that money received by post is properly identified and recorded.
- 6.10.17 Adequate security arrangements must be in operation to safeguard all income against loss or theft and to ensure the security of cash handling. These arrangements to include the provision that all cash kept on the premises will be within the insurance limit of **£5,000**.
- 6.10.18 The value and quantity of outstanding debts will be regularly reviewed by reference to an aged debt report. Write-offs will only take place as a last resort after all other economic/social solutions have been exhausted. These are detailed under "Assets – Disposal by Write-off" under Financial Procedure Rule 5.4. I.e. the Chief Finance Officer can authorise write offs up to **£1,500** with further approvals being required in excess of this sum.

6.10.19 Key Controls

The key controls are:

- An approved Fees, Charges and Concessions Policy which is regularly reviewed;
- Correct procedures and the appropriate stationery ensure that income is collected from the correct person at the right time;
- Separation of duties within the income process;
- Effective action is taken to pursue non-payment within defined timescales;
- Formal approval process for debt write-off;
- All appropriate income documents are retained and stored for the defined period in accordance with guidance issued by the Chief Finance Officer;
- Money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

## 6.11 TAXATION

- 6.11.1 The Chief Finance Officer is responsible for advising Directors/Assistant Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council. Any VAT or taxation queries should be directed to the Chief Finance Officer
- 6.11.2 The Chief Finance Officer is responsible for ensuring that adequate procedures are in place and adequate advice available to services so as to ensure that the Council is at all times compliant with the specific requirements of the various tax regimes which affect its operations and delivery of services.
- 6.11.3 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 as appropriate. In appropriate circumstances (e.g. where part of this function may have been devolved to a partner organisation) the Chief Finance Officer will ensure compliance with the requirements of the particular tax regimes.

- 6.11.4 Financial Services will prepare the VAT return each month and the Chief Finance Officer will ensure appropriate checks are undertaken before the return is submitted to HMRC.
- 6.11.5 Financial Services will complete annually a partial exemption calculation. If it is thought that the 5% threshold could be breached monitoring will take place on monthly basis.
- 6.11.6 Major projects could have a significant VAT impact and advice should be sought from the Chief Finance Officer before tenders are let.
- 6.11.7 The Chief Finance Officer will authorise all relevant HMRC returns regarding PAYE or authorise the relevant payroll provider to make returns on behalf of the Council.
- 6.11.8 The Chief Finance Officer will provide details to HMRC regarding the construction industry tax deduction scheme.
- 6.11.9 The Chief Finance Officer will accommodate all compliance visits and make available all information required and requested by inspectors.
- 6.11.10 Each Director/Assistant Director will at all times conduct the financial arrangements of their services, with regard to taxation issues, in accordance with advice or instructions issued by the Chief Finance Officer and shall provide any related information or documents upon request.
- 6.11.11 All returns must comply with the relevant formats and timetables for submission.
- 6.11.12 All taxable transactions shall be identified, properly carried out and accounted for within stipulated timescales.
- 6.11.13 Officers shall be nominated by the Chief Finance Officer to take responsibility for taxation issues and liaison with agencies such as the HMRC.
- 6.11.14 Key Controls

The key controls are:

- Budget managers are provided with relevant information and kept up to date on tax issues;
- Budget managers are instructed on required record keeping;
- All taxable transactions are identified, properly carried out and accounted for within stipulated timescales;
- Records are maintained in accordance with instructions;
- Returns are made to the appropriate authorities within the stipulated timescale.

## 6.12 TRADING ACCOUNTS

- 6.12.1 It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts throughout the Council.
- 6.12.2 Under the CIPFA Service Accounting Code of Practice, Councils are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. Accounts that merely recharge cost are referred to as holding accounts and are not subject to this part of the Financial Procedure Rules.
- 6.12.3 Trading accounts will only be established after seeking advice from the Chief Finance Officer.
- 6.12.4 Trading accounts are only applicable where the charge out of the account is not on the basis of cost.
- 6.12.5 A separate revenue account must be maintained for each trading account. This will show all relevant income and expenditure, including overhead costs. A financial report supporting the final accounts will be produced.
- 6.12.6 The same accounting principles will be applied to trading accounts as to other services.
- 6.12.7 Trading account balances will be allowed where real or quasi trading accounts are used to manage costs. Balances will be maintained to allow flexible response to changes to demand and/or to meet defined future capital expenditure needs. Generally such balances should not exceed 20% of the annual turnover. Balances in excess of this limit should be returned to the General Reserve.

### 6.12.8 Key Controls

The key controls are:

- They must be maintained in accordance with proper accounting practices;
- They must appear separately in the Annual Statement of Accounts.

## 6.13 CREDIT/PURCHASING CARDS

- 6.13.1 The Chief Finance Officer is responsible for the issue of Credit/Purchasing cards to senior officers of the Council, including setting merchant categories and card limits.
- 6.13.2 All Credit/Purchasing cards must be held securely. Card details and PIN numbers must not be disclosed other than for the purposes of using the card for payments. Cardholders will be held personally liable for any expenditure they cannot account for.
- 6.13.3 On a monthly basis, a record of card purchases shall be maintained by individual cardholders and reconciled to the card statement provided by the card issuer. This record should be passed to Finance for processing.
- 6.13.4 Credit/Purchasing cards shall only be used for authorised purchases. Under

no circumstances shall they be used for personal expenditure, or periodic/direct debit payments.

6.13.5 No cash withdrawals are allowed and the card will block any attempts to do so.

6.13.6 In all circumstances every purchase with VAT will require a VAT receipt in order for the statement to be accounted for correctly.

6.13.7 Key Controls

The key controls are:

- The Credit/Purchasing cards have a monthly and individual transaction limit;
- The categories of spend are limited to the officers professional duties;
- They are reconciled each month by the cardholder and Finance.

**6.14 CHANGE FLOATS**

6.14.1 The Chief Finance Officer shall provide such change floats as he/she considers appropriate to officers of the Council to undertake their official duties.

6.14.2 Payments of any kind must not, under any circumstances, be made out of change floats. Any breach of this regulation may result in disciplinary proceedings taking place against the officer concerned.

6.14.3 If circumstances arise where the amount of a change float becomes excessive, the responsible officer shall make appropriate arrangements to pay the excess amount back to the Chief Finance Officer.

6.14.4 Every temporary or permanent transfer of a change float from one officer to another shall be evidenced by the signature of the receiving officer. This will be either through a formal receipt or a document maintained for that purpose.

6.14.5 Key Controls

The key controls are:

- Change floats can only be established with the approval of the Chief Finance Officer;
- An individual must be responsible for the operation, maintenance and accounting of each change float;
- No payments should go either in or out of the change float.

## **7 REGULATION 7 - EXTERNAL ARRANGEMENTS**

### **7.1 INTRODUCTION**

7.1.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### **7.2 PARTNERSHIPS**

#### **General**

7.2.1 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. The Council is working in partnership with others – public agencies, private companies, community groups and voluntary organisations, and its distinctive leadership role is to bring together the contributions of the various stakeholders to deliver a shared vision of services based on user wishes.

7.2.2 The Council will mobilise investment, bid for funds, champion the needs of the area and harness the energies of local people and community organisations. The Council will be measured by what it achieves in partnership with others.

7.2.3 The main reasons for entering into a partnership are:

- The desire to find new ways to share risk;
- The ability to access new resources;
- To provide new and better ways of delivering services; and
- To forge new relationships.

7.2.4 A partner can be defined as:

- An organization (private or public) undertaking, part funding or participating as a beneficiary in a project; or
- A body whose nature or status gives it a right or obligation to support the project.

7.2.5 Partners participate in projects by:

- Acting as a project deliverer or sponsor, solely or in concert with others;
- Acting as a project funder or part funder; and
- Being the beneficiary group of the activity undertaken in a project.

### 7.2.6 Partners have common responsibilities:

- To be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
- To act in good faith at all times and in the best interests of the partnership's aims and objectives;
- Be open about any conflict of interests that might arise;
- To encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;
- To hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature; and
- To act wherever possible as ambassadors for the project.

### **Roles and Responsibilities**

7.2.7 The Prosperous Communities Committee is responsible for overseeing an effective partnership approach throughout the Council. The Prosperous Communities Committee is responsible for approving protocols, delegations, including frameworks to inform decisions around partnership engagement. The Prosperous Communities Committee is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

7.2.8 The Prosperous Communities Committee can delegate functions, including those relating to partnerships, to officers. These are set out in the Scheme of Delegation that forms part of the Council's Constitution. Where functions are delegated, the Prosperous Communities Committee remains accountable for them to the full Council.

7.2.9 The Chief Finance Officer is authorised to form a partnership arrangement with a maximum value of work/services of £25k.

7.2.10 The Council has also approved an Approved Code of Practice (ACOP) for Partnerships. To that extent, guidance has been developed that sets out a number of considerations to be explored when:

- Entering into a partnership
- Reviewing the effectiveness of a partnership during its lifespan
- Exiting a partnership

Additionally, it is important that there is a corporate view of all partnerships. To enable this a partnership register has been created on Minerva to provide colleagues with a facility to record the partnerships they are involved with and to also provide visibility of the breadth of partnership working underway across the Council. Officers are required to comply with the Partnership ACOP and enter details of all approved partnerships into the Partnership Register.

7.2.11 Members and officers will represent the Council on partnership and external bodies in accordance with the Scheme of Delegation.

### 7.2.12 The Chief Finance Officer:

- Is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council;
- Will advise on effective controls to ensure that resources are effectively and efficiently employed;
- Will advise on project funding, including scheme appraisal, risk appraisal, resourcing and taxation, audit, security, control and accounting arrangements;
- Must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory;
- Must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

### 7.2.13 Directors/Assistant Directors:

- Are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies;
- Must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies.
- Maintain a register of contracts entered into with external bodies;
- Comply with the provisions of the Partnership ACOP including registering the partnership details in the Partnership Register.
- Ensure a risk management appraisal has been prepared;
- Conduct and document an appropriate level of due diligence on the prospective partners;
- Ensure all agreements and arrangements are properly documented.

### 7.2.14 Partners will be expected to:

- Be aware of their responsibilities under the Council's Financial Procedure Rules and Contract Procedure Rules;
- Identify and assess risks;
- Appraise projects to assess viability;
- Communicate with relevant Council officers

### 7.2.15 Key controls

The key controls are:

- If appropriate, to be aware of their responsibilities under the Council's Financial Procedure Rules and the Contract Procedure Rules;
- Compliance with the Partnership ACOP.
- To ensure that risk management processes are in place to identify and assess all known risks;

- To ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;
- To agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences; and
- To communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution officers.

### **7.3 COMPANIES, JOINT VENTURES AND OTHER ASSOCIATIONS**

7.3.1 The Council exercises an important community leadership role, helping to bring together the contributions of various stakeholders in discharging its statutory responsibilities for promoting and improving the economic, social and environmental well-being of the area.

7.3.2 In exercising this important role a Director / Assistant Director may feel that it is appropriate to discharge a service or provide a function through the formation of a new legal entity (company, joint venture or other association). A joint venture is a business entity created by two or more parties, generally characterised by shared ownership, shared returns and risks, and shared governance. The term joint venture covers 'vehicles' such as limited companies.

7.3.3 The relevant Director/Assistant Director wishing to form a new legal entity should consult with the Chief Finance Officer in all cases prior to setting up a new entity and no commitment, financial or otherwise, should be made until this consultation has been satisfactorily undertaken.

7.3.4 For the purpose of this regulation, the following types of external arrangements are covered:

- purchase of existing companies
- investment in any company (whether by share, loan or grant)
- creation of a new company or other entity

7.3.5 No agreement shall be entered into which commits the Council to additional expenditure or other financial risk without the prior approval of the Corporate Policy & Resources Committee and in conjunction with the Chief Finance Officer

7.3.6 The Council needs to have a clear understanding of its financial risk exposure of any external arrangement including, but not limited to, meeting any trading or other losses.

7.3.7 Where the Council is involved as a minority interest in any external company or other association that use their own finance systems, the arrangement must include an agreement on appropriate, robust financial governance control arrangements to the satisfaction of the Chief Finance Officer. In these circumstances the controls in these Financial Regulations should be used as a starting point for that agreement.

7.3.8 Where the Council has a controlling interest in any companies, joint ventures, or other associations it is important to understand that the Council has a statutory responsibility to prepare group accounts (subject to certain limitations) to recognise the collaborative association. In this regard there are two main areas impacting on the entity:



- A requirement to provide certain financial information (intercompany transactions and balances etc.) in a timely manner and at a time determined by the Council.
- The possibility of being subjected to additional scrutiny by the Councils external auditor, even where the entity has its own external auditor.

7.3.9 It would also be preferred that the accounting period and accounting policies are aligned with those of the Council.

7.3.10 In view of the importance of the above and the impact on the Council should the information not be forthcoming, these specific requirements shall be written into any agreement between the Council and the entity.

### **Roles and Responsibilities**

7.3.11 The Corporate Policy & Resources Committee is responsible for approving the creation of any new legal entity and appointments of directors or other statutory officers onto the Board of the entity together with the arrangements for equity shares.

7.3.12 The Chief Finance Officer must satisfy him/herself that the accounting arrangements for all company, joint ventures and other associations are proper and appropriate, including all audit and inspection requirements. He/she must also consider overall corporate governance arrangements and any legal and taxation issues when associations are arranged. He/she must ensure all known risks are appraised before creating new entities and any agreements should seek to ensure that VFM is obtained.

7.3.13 In conjunction with the Director/Assistant Director the Chief Finance Officer will carry out due diligence for any proposal to purchase an existing company so as to ensure the robustness of the proposal and mitigate any potential losses.

7.3.14 The Chief Finance Office is responsible for advising on the funding and financing of a project including:

- financial viability in current and future years.
- resourcing and taxation.
- audit, security and control requirements.

7.3.15 The Chief Finance Officer has authority to approve short term cashflow loans to subsidiary companies to a maximum of £50k.

7.3.16 The Chief Finance Officer should ensure that it is a condition of any collaborative arrangements where the Council has an interest in another entity that:

- governance arrangements meet specified minimum standards.
- the Council will have access to the information and explanations it needs for its own accounting purposes (and other aspects relating to control over its financial interests).
- data (including consolidation data) will be provided in a specified format and by a deadline.
- arrangements are in place for timely audit of the financial statements
- securing the appropriate audit opinion on the entity's financial information.

### 7.3.17 Directors/Assistant Directors are responsible for:

- In conjunction with the Chief Finance Officer carry out due diligence on any company purchase so as to mitigate any potential losses.
- carry out risk appraisal and risk management arrangements prior to entering into any arrangement.
- determining a means of communication in order for the Council to discharge any responsibility for compiling group accounts.
- notify the Chief Finance Officer in any changes to the Board members of the entity.
- keeping the Corporate Policy & Resources Committee apprised, at least annually, of the financial position of the entity and specifically where any change could involve the Council having to meet the cost of any losses or other liabilities. Should there be any significant concern at any point during the year then this should be reported immediately.
- ensuring that such agreements and arrangements do not impact adversely upon the services provided by the Council;
- ensuring that all agreements and arrangements are properly documented.
- providing appropriate information to the Chief Finance Officer to enable relevant entries to be made in the Council's Statement of Accounts concerning material items.
- ensuring that for all instances of grant/loan funding there is:
  - i) proper consideration of the relevant interest rate payable agreed and approved by the Chief Finance Officer;
  - ii) in respect of loans a process of monitoring on at least a six monthly basis
  - iii) a written agreement is in place for any services provided to the entity by the Council.
- all grants/loans must have prior budgetary approval, typically through the budget process.
- aligning accounting policies, especially consideration of the cost implications of asset valuation.
- managing the impact of different year-ends, including practicalities of realignment.

### 7.3.18 Key Controls

The key controls are:

- In conjunction with the Director/Assistant Director, the Chief Finance Officer will carry out appropriate due diligence in relation to financial implications and of relevant parties associated with the entity.
- The Corporate Policy & Resources Committee is responsible for approving the creation of any new legal entity and appointments of directors or other statutory officers onto the Board of the entity.

- The prior approval of the Corporate Policy & Resources Committee, in conjunction with the Chief Finance officer, is required before any agreement is entered into.
- Directors/Assistant Directors will undertake risk appraisals and risk management arrangements prior to entering into any arrangement.
- On an annual basis the Corporate Policy & Resources Committee will be appraised of the financial position of the entity and specifically where any change could involve the Council having to meet the cost of any losses or other liabilities. Any financial concerns should be reported immediately.

## **7.4 EXTERNAL FUNDING / GRANTS General**

7.4.1 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Funds from external agencies provide additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.

### **Bids for external funding**

7.4.2 Bids must be comprehensive and comply with relevant Council policies. If bids are successful then the grant works and administration must be properly undertaken to ensure no penalties are incurred.

7.4.3 All bids and claims must be signed by the Chief Finance Officer, through the use of a certification process.

7.4.4 Directors/Assistant Directors must obtain Management Team and/or Corporate Policy & Resources Committee approval, where appropriate, for any bids for new monies detailing the service and financial implications before grant applications are made.

7.4.5 Comprehensive project business cases must identify associated risks, internal budget provisions including matched funding and any resource implications.

7.4.6 The relevant Finance Business Partner must be involved in the preparation of all grant applications.

### **Grant Claims**

7.4.7 Records supporting any claim, including interim and final claims, must be maintained and available and reconcile back to the Council's General Ledger.

7.4.8 All claims must be submitted in accordance with the terms and timetable of the grant.

## Roles and Responsibilities

- 7.4.9 The Chief Finance Officer and Management Team are responsible for:
- Ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts;
  - Ensuring that match-funding requirements are considered prior to entering into agreements, and that these requirements are reflected in future revenue budgets;
  - Ensuring that all audit requirements are met.
- 7.4.10 Directors/Assistant Directors are responsible for providing the Chief Finance Officer with all necessary information to enable the proper recording to be achieved. They have the responsibility for submitting any proposed grant funded projects to the Chief Finance Officer and/or the Portfolio Board/Corporate Policy & Resources Committee for their prior approval and they must also ensure that any conditions of grant funding are met and all the statutory requirements are complied with.
- 7.4.11 Directors/Assistant Directors will ensure that an appropriate level of due diligence is conducted and documented on the funding organisations and any associated project(s).
- 7.4.12 Directors/Assistant Directors will ensure that the project proceeds in accordance with the agreed plan and that all expenditure is properly incurred and recorded;

### 7.4.13 Key Controls

The key controls are:

- Before any arrangements for external funding are entered into, the project must be submitted to the Chief Finance Officer and or Portfolio Board/Policy & Corporate Resources Committee for approval;
- To ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements;
- To ensure that funds are acquired only to meet the priorities approved in the policy framework by the full Council;
- To ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood;

## 7.5 WORK FOR THIRD PARTIES

- 7.5.1 The Corporate Policy & Resources Committee is responsible for approving the contractual arrangements for any work for third parties or external bodies with a value of more than £25,000
- 7.5.2 The Chief Finance Officer is responsible for approving contractual arrangements for any work for third parties or external bodies with a value of up to £25,000.
- 7.5.3 Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a service team to maintain economies

of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

7.5.4 Proposals for working for third parties must be costed in accordance with guidance provided the Chief Finance Officer. Proposals must clearly be in the public interest and an appropriate level of due diligence must have been conducted and documented.

7.5.5 Work for third parties should not expose the Council to any additional liabilities.

7.5.6 Contracts must be drawn up in compliance with guidance provided by the Chief Finance Officer and Monitoring Officer.

7.5.7 Key Controls

The key controls are:

- To ensure that proposals are costed properly in accordance with guidance provided by the Chief Finance Officer;
- To ensure that contracts are drawn up using guidance provided by the Chief Finance Officer and the Monitoring Officer, and that the formal approvals process is adhered to;
- To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

## 8 **REGULATION 8 - ENVIRONMENTAL ISSUES**

### 8.1 **INTRODUCTION**

8.1.1 The Council operates a culture of waste minimisation. This covers not only waste products that require disposal, but also the waste in use of all resources generally.

8.1.2 All procurement in the Council is subject to the Contract Procedure Rules, Procurement Strategy, Procurement Manual and any other guidance which may be issued. Fundamental to good procurement is the need to achieve value for money. An optimum combination of whole life costs and quality (or fitness for purpose) to meet the Council's corporate and service level aims and objectives must be considered. These will include sound environmental practice. Further information can be found in the documents referred to above or from Financial Services.

8.1.3 Paper and storage space are both expensive and unnecessary paper usage is harmful to the environment. All officers are responsible for reducing paper use wherever possible and reducing the amount of paper that is stored. However, certain financial records do need to be retained.

8.1.4 The Chief Financial Officer will:

- Maintain a list of financial records and the duration for storage;
- Advise officers as required on the archiving of financial records.

8.1.5 Directors/Assistant Directors will:

- Retain records as required;
- Minimise the usage of paper within their service.

8.1.6 Key Controls

The Key controls are:

- All officers to be aware that printing is to be kept to a minimum;
- The introduction and monitoring of the agile working policy;

**APPENDIX 1**

**SUMMARY OF FINANCIAL RESPONSIBILITIES**

	<b>Council/ Corporate Policy &amp; Resources Committee</b>	<b>Head of Paid Service</b>	<b>Chair of Corporate Policy &amp; Resources Committee</b>	<b>Section 151 Officer ( Chief Finance Officer)</b>	<b>Directors/ Assistant Directors</b>
<b>Financial Planning</b>	a) Approve policy framework and budget	a) Propose Corporate Plan to Corporate Policy & Resources Committee		a) Prepare a minimum of five years Financial Strategy b) Prepare Capital Investment Strategy and Asset Management Plan	a) Prepare Business Plans

<b>Capital Programme</b>	<ul style="list-style-type: none"> <li>a) Approve a minimum three year capital programme</li> <li>b) Approve amendments to the capital programme.</li> <li>c) Approve capital schemes before commencement of work and upon completion.</li> </ul>	<ul style="list-style-type: none"> <li>a) Emergency decisions in consultation with Chief Finance Officer</li> </ul>	<ul style="list-style-type: none"> <li>a) Approve amendments to capital programme in excess of £25k with Director/Assistant Director and Chief Finance Officer</li> </ul>	<ul style="list-style-type: none"> <li>a) Prepare a minimum five year capital programme</li> <li>b) Approve amendments to capital programme up to £25k with Director/Assistant Director.</li> <li>c) Approve amendments over £25k with Director/Assistant Director and Chairman of Policy &amp; Resources Committee</li> <li>d) Report all changes to capital programme to</li> </ul>	<ul style="list-style-type: none"> <li>a) Complete outline capital bid forms</li> <li>b) Approve amendments to capital programme up to £25k with Chief Finance Officer</li> </ul>
<b>Capital Monitoring</b>	<ul style="list-style-type: none"> <li>a) Approve overspends of £10k or 20% of total project cost</li> <li>b) Note quarterly budget monitoring reports</li> </ul>			<ul style="list-style-type: none"> <li>a) Issue guidance on monitoring</li> </ul>	<ul style="list-style-type: none"> <li>a) Appoint Project Manager</li> <li>b) Notify Chief Finance Officer of expected slippage</li> <li>c) Notify Chief Finance Officer of overspends</li> <li>d) Report to CPR Committee on overspends of £10k or 20% of total project cost</li> </ul>



<b>Revenue Budget</b>	a) Approve a minimum three year revenue budget			a) Prepare overall budget	a) Prepare service budgets b) Review all fees and charges
<b>Revenue Monitoring</b>	a) Note quarterly budget monitoring reports b) Authorise use of grants over £50k.			a) Provide guidance on budget monitoring b) Provide financial information c) Authorise use of grants up to £50k.	a) Monitor budget and advise Chief Finance Officer if budget will exceed £10k.
<b>Virement</b>	a) Approve virements over £100k		a) Approve virements over £25k and up to £100k with Director/Assistant Director, Management Team and Chief Finance Officer	a) Approve virements up to £25k with Director/Assistant Director. b) Approve virements over £25k and up to £100k with Director/Assistant Director and Chairman of Corporate Policy & Resources Committee	a) Up to £25k with Chief Finance Officer
<b>Earmarked Reserves</b>	a) Approve spend in excess of £50,000.			a) Approve spend up to £50,000.	
<b>Write-Offs</b>	a) Approve write-offs over £25k		a) Approve write-offs over £2,500 and up to £25k with Director/Assistant Director and Chief Finance Officer	a) Approve write-offs up to £2,500 with Director/Assistant Director. b) Approve write-offs over £1,500 and up to £25k with Director/Assistant Director and Chairman of Corporate Policy & Resources Committee	a) Up to £2,500 with Chief Finance Officer
<b>Write Offs</b>	Budget Managers: Write offs of upto £250 where irrecoverable				

Other		<p>The Key controls are:</p> <ul style="list-style-type: none"> <li>• All cheques must be signed, either manually or by facsimile, by the Head of Paid Service;</li> <li>• Cheques with a value of £10,000 or more need to be countersigned .</li> <li>• Bank Accounts can only be opened by the Head of Paid Service or the Chief Finance Officer.</li> </ul>		<ul style="list-style-type: none"> <li>a) Authorise a partnership with a value of works/services of up to £25k.</li> <li>b) Approve arrangements for work for third parties or external bodies up to a value of £25k.</li> <li>c) Authorise short term cash flow loans to subsidiary companies of no more than £25k</li> </ul>	
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## APPENDIX 2

## RETENTION OF ACCOUNTING AND FINANCIAL DOCUMENTS

Title	Retention Period – Complete Years
Budget Working Papers	2
Capital & Revenue Budget Monitoring Files	3
Capital Strategy & Medium Term Financial Plan	6
Final Accounts Working Papers	6
Financial Ledger: - Final Summary - Cumulative Year End Detail - Other	Indefinite Indefinite 2
Grant Claim Records	6 or as specified by the awarding body
Journals	3
Leasing Records – vehicles, plant, equipment	3 (after termination)
Loans – Contractual documentation	6
Statement of Accounts	Indefinite
VAT: - Assessments - Claims - Records	12 6 6
Voluntary Fund Accounts	6
Other Documents e.g. official orders, receipts, paying in slips etc.	6
Payroll:  Employee personal records Payment data	Indefinite  6

## APPENDIX 3

### DEFINITIONS

#### APPOINTED

#### AUDITORS

Independent external auditors procured by the

Council. BUDGET

A plan that matches spending with available resources. The budget is an authorisation for future expenditure and a base for controlling expenditure and income.

#### BUDGET MANAGER

The budget manager is whoever is responsible for a budget within a service.

#### BUDGET PAGE

The page in the Annual Budget Book that sets out the budget for a service

#### CAPITAL EXPENDITURE

Section 40 of the *Local Government and Housing Act 1989* defines 'expenditure for capital purposes'. This includes spending on the acquisition of assets either directly by the Council or indirectly in the form of grants to other persons or bodies. Expenditure that does not fall within this definition must be charged to a revenue account. Capital Expenditure includes:

- Acquisition or disposal of land, buildings and major items of plant, apparatus and vehicles;
- Construction of roads and buildings;
- Enhancement of land, roads and buildings.

In addition the Council usually regards any item below £10,000 as revenue.

#### CIPFA

Chartered Institute of Public Finance & Accountancy (CIPFA) is one of the leading professional accountancy bodies in the UK and has responsibility for setting accounting standards for local government.

#### CONTINGENCY

Money set aside in the budget to meet the cost of unforeseen items of expenditure, or shortfalls in income, and to provide for inflation where this is not included in individual budgets.

## COST CENTRE

Any unit to which costs are assigned or allocated. A cost centre is the lowest level to which the Council's budget monitoring procedures usually apply although budget managers will monitor the income and expenditure within their costs centres at detail code level.

## ESTIMATES

The amounts expected to be spent, or received as income, during an accounting period. The term is also used to describe detailed budgets, which are either being prepared for the following years, or have been approved for the current year.

## FEES AND CHARGES

Income raised by charging users of services for the facilities. For example, Councils usually make charges for the use of leisure facilities, the collection of trade refuse, etc. The Council levies fees and charges in accordance with the corporate Fees, Charges and Concessions Policy.

## GENERAL LEDGER

The core of the Council's financial records. These constitute the central "books" of the system, and every financial transaction flows through the general ledger.

## NET EXPENDITURE

Total expenditure less specific service income.

## OFFICER

An employee of the Council or other person contracted to carry out functions where these Financial Procedure Rules apply.

## PROVISIONS AND RESERVES

Amounts set aside in one year to cover expenditure in the future. Provisions are for liabilities or losses that are likely or certain to be incurred, but the amounts or the dates on which they will arise are uncertain. Reserves are amounts set aside which do not fall within the definition of provisions and include general reserves (or 'balances'), which every Council must maintain as a matter of prudence.

## SERVICE

A cost centre or group of cost centres delivering a common function. The service is the lowest level of budget detail set out in the Budget Book.

## SLIPPAGE

Where actual expenditure on a project is less than the planned spend in a financial year. VALUE FOR MONEY (VFM)

A term used to assess whether or not an organisation has obtained the maximum benefit from the goods and services it both acquires and provides, within the resources available to it. It not only measures the cost of goods and services, but also takes account of the mix of quality, cost, resource, use, fitness for purpose, timeliness, and convenience to judge whether or not, together, they constitute good value.

## VIREMENT

The permission to spend more on one budget head when this is matched by a corresponding reduction on some other budget head, i.e. a switch of resources between budget heads. Virement must be properly authorised by the appropriate committee or by officers under delegated powers.

## FINANCIAL LIMITS

### APPENDIX 4

#### CONTRACT VALUES

##### Goods and Services

up to £5,000	one written estimate/quotation (email included)
£5,001 - £30,000	two quotations
£30,001 - £75,000	three quotations (RFQ)
£75,001 – FTS threshold £213,477	four quotations (RFQ)
over £ 213,477	full tender process (ITT)

##### Works contracts as above until

£213,477 - £ 5,336,937	Five quotations or by advertisement	
Over £ 5,336,937	full tender process (ITT)	

#### OTHER VALUES

Item	Notes	Amount
De minimis amount	Capital Expenditure	£10,000 and above
De minimis amount	Capital Receipts	£10,000 and above
Out-turn variation on a service budget.	Assistant Director will immediately advise the Chief Finance Officer and Management Team of the situation, together with their proposed action to recover the position.	£10,000 and above

Virements – between cost centres under same Director/Assistant Director	With the approval of the Chief Finance Officer.  Virement to be minuted or otherwise documented.	No more than £25,000
Virements – between cost centres under same Director/Assistant Director	Can be approved by the relevant Assistant Director, Chief Finance Officer and Management Team in consultation with the Chairman of Corporate Policy & Resources Committee. These virements should be minuted or otherwise documented.	Over £25,000 and up to £100,000
Virements – between cost centres under same Director/Assistant Director	Approved only by Corporate Policy & Resources Committee. They will be reported by the Assistant Director, in such format as the Chief Finance Officer may prescribe.	Over £100,000
Virements – between cost centres under different Directors/Assistant Directors	Only when the relevant Assistant Directors and the Corporate Policy and Resources Committee Chairman are in agreement.	Same limits as shown above for virements between cost centres under the same Director/Assistant Director.
Virements of Unbudgeted Income or unused budgets	Are not authorised to be used without prior agreement of the Management Team. The Chief Finance Officer and Management Team may consider a report to the Corporate Policy and Resources Committee.	Over £5,000
Securing additional revenue resources (e.g. grants)	The Chief Finance Officer may authorise the use of those resources to finance additional revenue expenditure where the grant conditions require such. Where there are no such requirements the Chief Finance Officer may require the use of these resources to be approved by Corporate Policy & Resources Committee.	Less than £50,000
Securing additional revenue resources (e.g. grants)	Use to be approved by Corporate Policy & Resources Committee	£50,000 or more
Use of earmarked reserves	The Chief Finance Officer shall have delegated power to approve spending of any earmarked reserve. The CFO will confirm that planned spending remains affordable when considering any mixed funding, including call on reserves, current budgets and/or external funding packages.	Up to £50,000
Use of earmarked reserves	Only with the approval of Corporate Policy & Resources Committee.	Over £50,000



Acquisitions or disposals of land or buildings	The Chief Finance Officer may authorise acquisitions and disposals (including leases or easements where the annual rent multiplied by the length of the lease does not exceed that figure assuming that the rent is not increased on review) which is an approved item in the approved Capital Programme.	Up to £75,000
Acquisitions or disposals of land or buildings	Only following consultation with the Leader of the Council or the Deputy Leader if the Leader is not available.	Between £75,001 and £250,000
Variance to inventory	Report to relevant Assistant Director	Up to £1,500
Variance to inventory	Report to Chief Finance Officer	Over £1,500
Variance to Stocks and Stores	Report to relevant Assistant Director	Up to £1,500
Variance to Stocks and Stores	Report to relevant Assistant Director and Chief Finance Officer	Over £1,500
Asset Write Offs (including cash, income, stocks and inventories)	Budget Manager: where irrecoverable The relevant Assistant Director in consultation with the Chief Finance Officer may write off Income, Stocks and Inventory deficiencies	Up to £250 Up to £2,500
Asset Write Offs (including cash, income, stocks and inventories)	The relevant Assistant Director in consultation with the Chief Finance Officer and the Chairman of the Corporate Policy & Resources Committee may authorise the write off.	Over £2,500 and under £25,000.
Asset Write Offs (including cash, income, stocks and inventories)	Write offs may only be written off by the Corporate Policy & Resources Committee after receiving a report from the Chief Finance Officer.	Over £25,000
Manual countersigning on cheques	All cheques must be manually countersigned by one of the other officers authorised on the bank mandate.	Over £10,000
Petty Cash	Items can be paid out through any holder of petty cash.	Up to £50
Purchases	Items must be purchased through the Council's purchasing system unless the Assistant Director has agreed a different limit in consultation with the Chief Finance Officer.	Items of a value of £50 or more
Income and Cash Handling	Differences between actual cash and recorded cash being reported to the Chief Finance Officer.	Items over £20
Security of Cash kept on premises	Value of cash kept on premises to be within insurance limit.	Maximum of £5,000

Capital Monitoring	Council/Corporate Policy & Resources Committee approve overspends of total project cost	£10,000 or 20% of project cost
Capital Programme	Chief Finance Officer and relevant Director/Assistant Director approves amendment to Capital Programme	Up to £25,000
Capital Programme	Chair of Corporate Policy & Resources Committee, Director/Assistant Director and Chief Finance Officer approves amendments to Capital Programme	Over £25,000



CONTRACT & PROCUREMENT  
PROCEDURE RULES

In partnership with Procurement Lincolnshire

Approved by Governance and Audit Committee April 2023

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## **Contract & Procurement Procedure Rules**

### **1. INTRODUCTION AND SCOPE**

Procurement as an organisational process is intended to ensure that the buyer receives goods, services, or works at the best possible price when aspects such as quality, quantity, time, and location are compared. Corporations and public bodies define processes intended to promote fair and open competition, and following the Public Contracts Regulations (PCRs 2015 and the Council's Contract and Procurement Procedure Rules (CPPRs) will ensure that the Council promotes good purchasing practice, deters corruption and prevents allegations of incorrect or (CPPRs) inform officers involved in procurement of the mandatory requirements when undertaking procurement and developing contract documentation.

The CPPRs advise on procedures for the purchase of goods, works and services and should be read together with Financial Procedure Rules within The Constitution and the Public Contract Regulations 2015 <http://www.legislation.gov.uk>, and apply to all officers employed by the Council and any persons appointed to work with or on behalf of the Council.

When carrying out any procurement, consideration shall be given to:

- Transparency
- Non-discrimination
- Proportionality
- Mutual consideration

#### **1.1 BASIC STANDARDS**

The purpose of the CPPRs is to:–

- Help officers procure their contracts in a consistent and proper way;
- Ensure legal clarity and reliability in contract administration;
- Help ensure that expenditure involved in contracts is controlled within approved budgets;
- Support officers to achieve and demonstrate best value for the Council;
- Ensure compliance with Public Contract Regulations, Financial Procedure Rules, applicable Grant Funding regulation and with all UK legal requirements;
- Ensure fairness in allocating public contracts;
- Comply with all legal requirements;
- Comply with the Councils' policies; and
- Comply with the Councils' corporate and service aims and objectives

In addition, ensure that: –

- Any grant money received must be spent in line with these Contract & Procurement Procedure Rules unless the grant conditions state otherwise;
- The purchase has been authorised by the relevant level of management;
- It is a lawful purchase; and
- Processes are in place to maintain the security and integrity of data;

Officers involved in any procurement will make sure that:

- The rules set out in this document are followed;
- Any additional legal or financial advice is sought prior to commencement or during the procurement process;
- Any personal financial interest in a contract is declared prior to commencement of the procurement process;

- All bids are kept confidential;
- A written contract is issued and signed by both parties or purchase order is issued before the supply of goods, services or carrying out of works begin;
- Where appropriate identify a Contract Manager with responsibility for ensuring the contract delivers as intended; and
- A review of each contract is carried out at an appropriate stage in a term contract or at the end of a fixed term contract.

## 1.2 CONTRACTS

**All contracts must comply with the requirements of the Public Contract Regulations 2015 and the Council's Contract & Procurement Procedure Rules. A contract is any arrangement made by, or on behalf of, the Council for:**

- Execution of works;
- The delivery of services;
- The hire, rental, repair, maintenance or lease of goods or equipment
- The supply of goods;

**For the purposes of these CPPRs contracts do not include:**

- a) Contracts of employment which make an individual a direct employee of the Council;
- b) Agreements regarding the acquisition, disposal, or transfer of land (for which Financial Regulations apply); or
- c) Awarding of Grant monies.

## 1.3 CONCESSION CONTRACTS

A concession contract is an agreement between the Council and an Economic Operator (mostly private companies) where the Economic Operator is given the right to exploit works or services provided for their own gain. Economic Operators can either receive consideration for their services solely through third party sources, or partly through consideration from the Council, along with income received from third parties.

There are two types of concessions contracts: works concessions and service concessions. In a works concession, the Economic Operator operates, maintains and carries out the development of infrastructure. In a service concession, the Economic Operator provides services of general economic interest.

Advice must be sought from Procurement Lincolnshire prior to tendering a concessions contract.

## 1.4 RESPONSIBILITIES

### 1.4.1 The Management Team (MT)

The MT have joint responsibility for:

- Ensuring that procedures for procurement are sound and properly administered;
- All staff comply with the Public Contract Regulations 2015 and the Council's Contract & Procurement Procedure Rules.

The Section 151 Officer (Chief Finance Officer) is responsible for ensuring all income and expenditure is lawful. In addition, the Section 151 Officer (Chief Finance Officer) will also monitor the use of the exception process (section 2).

1.4.2 Directors/Assistant Directors

Will be responsible for:

- Ensuring staff within the services under their responsibility are aware of their obligations under these procedures and receive adequate training and guidance;
- Ensuring officers assigned to manage contracts, update those contracts with the relevant management information, i.e., orders, invoices, minutes, etc. in the current contract management depository;
- Ensure sufficient time and resource is allocated to the pre-procurement and tendering process.

1.4.3 Contract Sign Off

Sign off on Contract documentation on behalf of the Council will be as follows dependent on financial limits allocated:

Total Contract Value	Sign off
Under £25,000	Team Manager
Contracts £25,001 - £75,000	Director / Assistant Director
Contracts above £75,001 and above	Chief Executive, Chief Finance Officer

1.4.4 Procurement Resources

1.4.4.1 Contracts & Procurement Officer

Will be responsible for:

- The Council’s Electronic Contract Register which holds all contracts where the estimated contract value is £5,000 and over, including extensions.
- Ensuring safe keeping of an electronic copy of the signed contract is held where a contract is formed in addition to a Purchase Order
- Ensuring all approved exceptions are held on the Contract Register
- Ensuring all Consultancy and Interim appointments are held on the Contract Register
- Ensuring completion of all procurement and contract documentation, including sign off on award/non-award letters for procurements under FTS threshold

The Contracts & Procurement Officer is authorised to carry out procurement, under FTS threshold, for supplies, services and works on behalf of the Council, and shall ensure that the principles and standards of these CPPR’s are complied with. Additional support for procurements over £75,000 will be provided by the Procurement Lincolnshire District Liaison Officer. Advice must be sought from Procurement Lincolnshire with regard to any deviation from the CPPR’s and an Exception Report shall be submitted to the Chief Finance Officer for approval.

The Contracts & Procurement officer must check whether a suitable Framework Agreement exists, which can be utilised, before engaging in a Procurement exercise. A framework should be used unless there is a good reason not to, i.e., limited suppliers, timescales, etc., and any reason must be recorded.

The officer must also ensure that any agents acting on the behalf of the Council comply with the CPPRs and all other relevant regulations, and with all UK and FTS binding legal requirements.



#### 1.4.4.2 Procurement Lincolnshire District Liaison Officer

The Shared Service agreement with Procurement Lincolnshire provides an additional procurement resource to assist the Council with high value or complex procurement enquiries, as required, in particular with focus on procurements over the value of £75,000.

## 2. EXCEPTIONS TO COMPLIANCE WITH THE CONTRACT & PROCUREMENT PROCEDURE RULES

Exceptions are provided in circumstances where the Chief Finance Officer (Section 151 officer) believes an alternative route to normal tendering procedures is required.

Exceptions may be necessary because of an unforeseen event has occurred whereby there may be immediate risk to persons or property, or potential serious disruption to Council services.

Exceptions are not a substitute for occasions where procurement planning has not been exercised and there is insufficient time to undertake a competitive process.

The exception report shall be completed by the Contracts & Procurement Officer and submitted to the appropriate authority for approval as follows:-

- The appropriate Committee or Full Council if:
  - The value of the contract is over FTS threshold and approval has been given by Legal Services and/or Procurement Lincolnshire; and
  - The tendering exercise would not achieve best value.
- The Management Team (one member to sign on behalf of) if:
  - The potential value of the contract is between £75,000 – FTS threshold; and
  - A quotation or tender differs marginally from the specification but nevertheless represents the best value for West Lindsey; or
  - There is only one potential supplier or contractor.
- The Chief Finance Officer if:
  - The value of the contract is below £75,000; and
  - The requirement is of an urgent nature; or
  - Social value is of high importance; or
  - There is only one potential supplier or contractor; or
  - There are unforeseen events.

All exceptions shall be recorded on the Councils' Contract register.

## 3. JOINT COMMISSIONING

When the Council jointly commissions services with other public sector bodies, the following procedures shall apply:-

- The parties concerned will decide which of them is to act as the lead authority for the purposes of the particular service that is to be commissioned;
- The procedures for the procurement of services of the lead authority shall be followed;
- All participating authorities will be issued with a signed copy of the agreement.

Contracts entered into through collaboration with other public sector bodies, where a competitive process has been followed that complies with their equivalent to the CPPRs will not require an exception from this Council's CPPRs.

#### 4. APPOINTMENT OF CONSULTANTS, INTERIM STAFF AND TEMPORARY STAFF

##### Consultants

Definition – a person who provides expert knowledge and advice in a particular field

Where, it is considered necessary to appoint a consultant to provide the services to the Council the following procedure shall be undertaken.

The Service shall submit a report to the Management Team setting out:

- The nature of the services for which the appointment of a Consultant is required;
- The estimated Total Contract Value of the services;
- The preferred Procurement route (RFQ, tender, framework);
- That no employee of the Council has been identified with the capacity or availability to undertake the services;
- The identified budget availability as agreed with Finance.

If it is the opinion that the nature of the services required is so specialist that fewer than three Applicants would be able to provide the services the officer must record in writing the reason why the services are so specialist and, subject to the approval of the Management Team, may send the invitation to one/two Applicant(s) only.

If permission is granted, an RFQ/Invitation to Tender for the provision of consultancy services must include as a minimum:

- a specification for the services;
- a questionnaire seeking details of the applicant's experience in providing similar services;
- the Council's standard contractual terms on which it is intended to appoint the consultant to provide the services; and
- the Award Criteria.

The estimated Total Contract Value will dictate which Procurement route is applicable.

The Service will, in liaison with Human Resources, obtain responses in line with the identified procurement route, for evaluation. Human Resources will ascertain as to whether IR35 (intermediaries legislation) will apply.

Where it is deemed that IR35 will apply, the status check report and cost implications of such appointment must be highlighted. No consultant is to be appointed without confirming if the IR35 rule applies to an engagement.

IR35 is legislation which affects Tax and National Insurance contributions relating to appointments whereby consultants are contracted to work through an intermediary.

The intermediary can be:

- a limited company;
- a service or personal service company; or
- a partnership

The potential candidates will be evaluated and HR will then carry out the relevant checks and assurances. The Service will then submit a final report to the Management Team detailing the proposed appointment and costs for approval. If approved, the successful candidate will then be engaged. HR will then ensure the contract documentation is completed.

Once the consultancy assignment is completed, the Service must submit a report to the Management Team detailing the total cost of the engagement, the benefits and whether the aims and objectives were achieved.

Interim Staff Definition – a person employed for a set period of time, experienced professional with niche skills, able to cover long term leave or manage a project

Where, it is considered necessary to appoint an interim to provide long term cover for an existing post within a Service the following procedure will be undertaken.

The officer must submit a report to Human Resources and Financial Services setting out:

- The nature of the services for which the appointment of an Interim is required;
- The estimated Total Contract Value of the services;
- The preferred Agency route (No. of CVs in line with thresholds)
- That no employee of the Council has been identified with the capacity or availability to take over the post;
- The identified budget availability as agreed with Finance.

Where the interim resources is for additional capacity or for specific project delivery, the officer must submit a report to the Management Team setting out the items as detailed above.

If permission is granted, an RFQ/Invitation to Tender for the provision of interim services must include as a minimum:

- a specification for the services;
- a questionnaire seeking details of the applicant's experience in providing similar services;
- the Council's standard contractual terms on which it is intended to appoint the interim to provide the services (unless a framework route); and
- the Award Criteria.

The estimated Total Contract Value will dictate which Procurement route is applicable. The potential candidates will be evaluated and HR will then carry out the relevant checks and assurances. The successful candidate will then be engaged. HR will then ensure the contract documentation is completed.

Where the employment of a Consultant or Interim is estimated to attain a value of £5,000 or over, an entry shall be made on the Council's Contract Register.

HR will ensure that all documentation relating to the appointment and engagement of a Consultant or Interim will be stored in a secure environment.

Temporary staff Definition – a person hired through an agency to cover unexpected short term defined work.

The Service Manager will complete a vacancy request form. It will be assessed by Finance for budget requirements and if approved, will then be forwarded to Human Resources (HR) to source suitable agencies. The number of CVs required will be dependent on the budget (see procurement thresholds for quotes).

HR will complete relevant employment checks and advise the Service on the most suitable candidate. If the candidate is self – employed through an agency the Service will be required to sign the agency contract. If the candidate is not self-employed through an agency, HR will

complete the council agency contract document and arrange for a signature from the successful candidate.

## 5. E-PROCUREMENT

Electronic tendering is the compliant method of carrying out an Invitation to Tender (ITT) or Request for Quotation (RFQ) process where the value of the contract will be £5,000 and above.

When calculating the expected value of a contract, the final cost will be identified through the total capital and/or revenue expenditure over the projected life of the contract; this will also include any extension periods. If dealing with open-ended contracts the total value should be costed over a four-year period.

The electronic tendering portal has a Contract Register and Contract Management module within. It will be the responsibility of the Contracts & Procurement Officer to ensure the register is up to date, all awarded contracts are published and contract management is in place. It will be the responsibility of the Service to ensure all relevant documentation relating to the contract management is uploaded, and the contract is managed through to end of contract term.

## 6. STEPS PRIOR TO PROCUREMENT

Before engaging in a procurement resulting in a Contractual arrangement, the following must be considered:-

- Is the proposed contract in line with the Council's Corporate Plan, aims and objectives?
- Has it been identified as part of business planning?
- Is there a budget in place or will one need to be approved?
- Have all options for delivering the contract been explored?
- Has a collaborative opportunity with other local authorities been explored?
- Will the proposed contract provide value for money in line with good quality?
- Will this procurement secure any wider social, economic and environmental benefits for the West Lindsey District (Social Value)?

For potential procurements not already identified and approved by the Management Team through the Business and/or Service Plans and are considered to be outside 'Business as Usual', these must be authorised through a Business Case detailing:

- The need
- The value
- The objectives
- The risks
- The governance and data protection
- The market
- The most appropriate procurement method
- The resources required for procurement process
- The resources required for ongoing management and monitoring of the contract

### 6.1 Social Value

Procurements should consider how the contract will impact on the economic, social value and environmental wellbeing of the district and Lincolnshire as a whole, as required by the Public Services (Social Value) Act 2012.

Where necessary, the council should consider as part of an assessment:

- How the proposed procurement might improve the economic, social and environmental well-being of the relevant area
- How, during the development of the procurement documentation, the potential improvements can be incorporated, to secure delivery
- Whether any consultation is necessary

## 6.2 Local Suppliers

For the purpose of these regulations a local supplier is defined as those “who’s trading premises are located in Lincolnshire and/or a 20-mile radius of the County”.

## 6.3 Using a Framework Agreement

A public sector framework agreement gives buyers the flexibility to order services and products from private sector suppliers multiple times without going through the full tender application process more than once.

The purchasing organisation (the buyer) can call off from a framework by either Direct Award or Further Competition according to the detail of the Call-Off procedure included in the contract documentation. As a framework has already satisfied the procurement procedures included in an OJEU tendering process they can often be a faster route to procurement.

However, for a Direct Award the requirements of the buying organisation must be precise in detail with that within the framework, this means no change to specification, terms and conditions, standards, price and costs, payment terms etc. Documentation for either a Call-Off or Further Competition is often supplied by the Framework Contracting Authority and part of the framework portfolio documents.

Prior to any procurement the officer responsible for carrying out the procurement activity must consider as to whether there are any frameworks available and suitable for meeting the buying organisations purchasing need.

Engagement of a supplier and formation of a contract must be executed in accordance with the framework procedures (it is the Call-Off order that forms the contract within the Framework). Officers must ensure that they fully understand the terms and conditions, are familiar with and understand all of the Framework and Call-Off procedures documentation along with buyer eligibility before using the framework.

To make a direct award the buying organisation must be able to differentiate amongst suppliers and demonstrate a value for money approach.

## 6.4 Grant Monies

Procuring contracts using external grant monies can involve additional regulatory requirements and additional scrutiny. It is therefore mandatory that both the Service and officer responsible for conducting the procurement are fully conversant with all of the requirements of the relevant funding bodies and identify any risks in a pre-procurement risk register.

The Procuring Officer shall ensure they engage with Procurement Lincolnshire to maintain assurance that the correct process is followed and any additional guidance is provided.

## 6.5 The Subsidy Control Act

Following the UK's decision to leave the EU, the Government announced, a “new, bespoke regime for subsidy control within the UK” – departing from the EU State Aid rules – that “will be flexible, agile, and tailored to support business growth and innovation, as well as help to maintain a competitive free market economy and protect competition and investment in the UK”

The Act introduces a principles-based and self-assessment focused approach to compliance and places a heavier burden of self-assessment upon public authorities.

### **Economic activities outside the scope of the Act**

The following activities will not be considered to constitute an economic activity for the purposes of the Act:

- education services organised within the national education system, which are both funded through public funds and supervised by the Government,
- education services which are principally funded, whether directly or indirectly, through public resources (including where students, or their families, pay fees toward the provision of those services). However, where education services are principally funded through private resources, for example the resources of students and parents, or through the operator's own commercial revenues, these services will be considered economic activities),
- cultural activities which can be accessed by the general public, free of charge. (Though, where the public are required to pay a fee, this does not necessarily entail that the activities are commercial in nature – unless the activity is primarily funded through fees paid by the public), and
- financing of the construction, development, maintenance and operation of infrastructure and sites used for activities related to culture, heritage and nature conservation, if it is not intended to be commercially exploited.

### **Identifying whether a financial measure is a subsidy**

To ensure there is a benefit to wider society, public authorities may only give subsidies to pursue a specific policy objective which: (i) remedies a market failure, and (ii) addresses an equity concern.

Market failure occurs where market forces alone do not produce an efficient outcome

Before granting the subsidy, public authorities should establish the existence of the market failure, assess its significance, and demonstrate how the subsidy will address the issue so as to provide a more efficient outcome.

**Equity objectives** seek to reduce disparities between different groups in society or geographic areas – that is, they do not aim to achieve a more efficient outcome, but instead aim to redistribute the benefits of economic activity between different groups or areas. In the context of cultural organisations, this might include subsidies targeted at extending access to cultural or educational amenities and promoting the engagement of disadvantaged or under-represented audiences.

Before granting the subsidy, public authorities should **identify the inequality which they are seeking to address**. Public authorities should use supporting evidence to demonstrate this, including measures or statistical indicators set against appropriate comparators (such as regional

or national averages). The public authority should then **identify how the subsidy could act to remedy this inequality**, and ensure that the **policy objective will not be achieved in the absence of intervention**.

### What Constitutes a Subsidy ?

In accordance with the Act, there must be financial assistance which:

- is given, directly or indirectly from public resources by a public authority,
- confers an economic advantage on one or more enterprises,
- is specific, such that it benefits one or more enterprises over one or more enterprises with respect to the production of goods or services, and
- has, or is capable of having, an effect on competition or investment within the UK, or trade or investment between the UK and another country or territory.
- Financial assistance is a wide concept and includes any kind of support or market transaction that is considered to have a financial value for the recipient, such as:
  - a direct transfer of funds (such as a grant, a loan or an equity investment),
  - a contingent transfer of funds (such as a loan or rent guarantee),
  - the foregoing of revenue that is otherwise due (such as a tax relief or exemption),
  - the provision of goods or services (for example as a benefit-in-kind), or
  - the purchase of goods or services.
- Subsidy. The Act's definition of "subsidy" resembles the definition under EU State Aid ,acknowledging that the purpose of the new regime is not just ensuring compliance with international treaty obligations, but also managing domestic competition.

### Routes

The Act adopts a **more risk-based approach**, notably by providing for different layers of compliance obligations, depending on the category of subsidy which is proposed to be awarded. There is:

- a "streamlined route" for categories of subsidies that are at low risk of distorting competition, trade or investment,
- a "special route" for Subsidies and Schemes of Interest (SSoIs) which have a potential, and Subsidies and Schemes of Particular Interest (SSoPIs) which have a higher potential, of leading to undue distortion and negative effects on domestic and / or international trade, competition or investment, and
- a "default" route, which will apply to all other subsidies.
- Subsidy. The Act's definition of "subsidy" resembles the definition under EU State Aid rules – though with an (inevitably) added focus on competition within the UK, acknowledging that the purpose of the new regime is not just ensuring compliance with international treaty obligations, but also managing domestic competition.

### Subsidy Control Principles

- The Act sets out seven subsidy control principles – six of which the UK is already bound to comply with under the TCA (and which are themselves very similar to the EU State Aid laws) and one additional principle which focuses on the protection of the UK internal market.
- Public authorities will need to ensure that they consider these principles when designing a subsidy, and must not grant a subsidy unless they are of the view that it is consistent and complies with the principles.

## The Seven Principles

1. Subsidies should pursue a specific policy objective in order to remedy an identified market failure or address an equity rationale (such as local or regional disadvantage, social difficulties or distributional concerns).
2. Subsidies should be proportionate to their specific policy objective and limited to what is necessary to achieve it.
3. Subsidies should be designed to bring about a change of economic behaviour of the beneficiary. That change, in relation to a subsidy, should be conducive to achieving its specific policy objective and something that would not happen without the subsidy.
4. Subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy.
5. Subsidies should be an appropriate policy instrument for achieving their specific policy objective and that objective cannot be achieved through other, less distortive, means.
6. Subsidies should be designed to achieve their specific policy objectives while minimising any negative effects on competition or investment within the United Kingdom.
7. Subsidies' beneficial effects (in terms of achieving their specific policy objective) should outweigh any negative effects, including, in particular, negative effects on competition or investment within the United Kingdom and / or international trade investment.
8. Subsidies and schemes relating to the energy and / or the environment must be also assessed against further energy and environment principles.

### Transparency requirements

- Transparency is a fundamental part of the Act, the policy rationale of course being that public disclosure of key details about subsidies and schemes will promote open and fair competition, and accountability.
- **The transparency rules require public authorities to upload details of both subsidy schemes and standalone awards which exceed £100,000 to a database maintained by BEIS .**
- **The details must be uploaded within three months of the public authority's confirmation of its decision** to grant the scheme or award, unless the subsidy award is given in the form of a tax measure – in which case the upload deadline is one year beginning with the date of the tax declaration.
- The Act provides the Government with the ability to set the transparency rules by regulations, which may change the thresholds at which details of subsidies must be uploaded to the database as well as the deadlines within which those details must be uploaded. For now, Section 34 of the Act sets out the information which must be uploaded to the database.

### Exemptions

- Minimal Financial Assistance (MFA) and Services of Public Economic Interest Assistance (SPEI). Similar to the EU State Aid regime's "*de minimis*" provisions, MFA allows public authorities to award low value subsidies. **To rely on MFA, no recipient can receive more than £315,000 over the "applicable period"**.

The applicable period is: (i) the elapsed part of the current financial year (ie from 1 April), and (ii) the two financial years immediately preceding the current financial year.

SPEI relates to essential services provided to the public such as postal services, social housing and certain transport networks. To designate a service as an SPEI, the public



authority must be satisfied: (i) the service is provided for the benefit of the public, and (ii) the service would not be provided, or would not be provided on the terms required, by an enterprise under normal market conditions.

If a subsidy qualifies for MFA or SPEI, the public authority will not need to comply with the majority of the subsidy control requirements – but will still need to comply with the applicable transparency requirements.

## Emergencies

There are exemptions to the subsidy control requirements in relation to certain subsidies given in exceptional circumstances. These exemptions exist to allow public authorities to respond to natural disasters, national or global economic emergencies, national or global economic emergencies, or for reasons of national security and financial stability.

## Prohibitions

The Act prohibits some categories of subsidy outright. These are as follows:

- Unlimited Guarantees. A subsidy that would guarantee an unlimited amount of liabilities or debts, or which would guarantee a finite amount of liabilities or debts but over an indefinite period.
- Export performance. A subsidy that is contingent in law or fact, whether solely or as one of several other conditions, upon export performance relating to goods or services.
- Use of domestic goods or services. A subsidy that is contingent on the use of domestically produced goods or services.
- Relocation of activities. A subsidy which contains a condition requiring the recipient to relocate, where that relocation would not occur without the subsidy.
- Ailing or insolvency enterprises. A subsidy which has as its purpose the rescue or restructuring or provision of liquidity to ailing or insolvent enterprises, deposit takers or insurance companies.
- Other. There are other specific prohibitions and requirements for subsidies for insurers that provide export credit insurance, or for air carriers for the operation of routes.

## New Subsidy Advice Unit (SAU)

- The SAU has been established within the Competition and Markets Authority (CMA) to provide independent advice on those subsidies or schemes that have greater potential to lead to undue distortion and negative effects on domestic competition or investment, and / or on international trade or investment.
- Where a subsidy or scheme meets or has the potential to meet the definition of a SSoPI, public authorities must refer their assessment to the SAU for independent evaluation. Public authorities must not grant the subsidy until: (i) the SAU's advice is published; and (ii) the expiry of a short five working day cooling off period.
- Where a subsidy or scheme meets or has the potential to meet the definition of a SSol, public authorities may make a voluntary referral to the SAU for advice. The SAU has discretion to decide which SSols it will review.
- the SAU does not have the power to prohibit the making of any subsidy or scheme – its role is advisory only. It will therefore be for public authorities to decide whether to follow the advice of the SAU. However, the advice of the SAU will be published and be available for the public to view free of charge. So, where the SAU's advice is not followed, the risk of a

successful legal challenge of the public authority’s decision to grant a subsidy may increase.

**Competition Appeal Tribunal (CAT) to hear applications to review subsidy decisions**

The CAT has been granted jurisdiction to review subsidy control decisions.

Interested party. An “interested party” can ask the CAT to review a subsidy decision. An interested party is anyone whose interests may be affected by the giving of the subsidy or making of the scheme. Interested parties would typically include: (i) competitors of the recipient of the subsidy, (ii) trade associations active in the relevant sector, (iii) local administrations, and (iv) the Secretary of State.

An interested party can also ask the public authority for information about the subsidy by way of a “pre-action information request”. This must be made in writing, stating that the request is made only for the purpose of deciding whether to apply for review of a subsidy decision. The public authority must respond to pre-action information requests within 28 calendar days, but may impose some proportionate restrictions on the information provided (for example to protect commercially sensitive information, confidential information, information subject to legal privilege and information that would be contrary to the public interest to disclose).

6.6 Information Governance and Data Protection

The Contracts & Procurement Officer, when engaging in any procurement process, must consider as to whether any of the requirements of the General Data Protection Regulations 2018 will apply. If it is anticipated that personal data is to be processed, the officer must ensure that safeguards are built into the tender documentation and assessed, where appropriate, as part of the evaluation.

6.7 TUPE

When undertaking a procurement exercise, consideration must be given as to whether any Transfer of Undertaking (Protection of Employment) TUPE issues may arise. Human Resources and Legal should be consulted before the procurement process commences.

**7 THRESHOLDS**

The following table shows the financial threshold levels which **include** VAT.

Procurement: Goods and Services

up to £5,000	one written estimate/quotation (email included)
£5,001 - £30,000	two quotations
£30,001 - £75,000	three independent quotations (no group relationship) (RFQ)
£75001 – FTS threshold (£213,477)	four independent quotations (no group relationship) (RFQ)
over £213,477	full tender process (ITT)

Procurement: Works - as above until

£213,477.00 - £5,336,937.00	Five independent quotations (no group relationship) or by advertisement
Over £5,336,937.00	full tender process (ITT)

Compliance with the CPPR's must not be avoided by disaggregating spend into lesser values.

Electronic tendering must still be used for quotations £5,000 and above

## 8 BELOW FTS THRESHOLDS FOR PROCUREMENT OF SERVICES

### 8.1 Selecting the Correct Process

When engaging in any procurement the Service must ensure that good quality and best value is obtained for West Lindsey.

#### **Contracts up to £5,000**

Minimum of one written quotation is required for services and goods, which includes similar types of process (e.g. looking up from a catalogue). An email will be acceptable for a value up to £5,000.

- A local supplier shall be used where appropriate.
- The form of contract will be a completed West Lindsey District Council Purchase Order raised through the Financial Management System Purchasing Module.

#### **Contracts from £5,001 to £30,000**

- Procurement of contracts for £5,000 and over shall be carried out through the Electronic Tendering Portal.
- Pre-Procurement approval is required from a Team Manager or Management Team.
- A minimum of two written quotations is required. One of the quotations shall be from a local supplier, where possible, and a local supplier shall be used if they provide the most economically advantageous offer.
- The minimum requirement for the form of contract will be a properly completed official West Lindsey District Council order raised through the Financial Management System Purchasing Module. An accompanying letter or email, cross-referenced to the order, should give further details if necessary. For the higher value contracts, it may be pertinent to have a formal contract document signed by both parties.
- Awarded Contracts of £5,000 and over shall be published on the Contract Register.
- Awarded contracts over £25,000 shall have an award notice published on Contracts Finder within 30 days of sign off of contract documentation by both parties.
- The Service will be responsible for updating the contract on the management module through the term of the contract.

### **Contracts from £30,001 to £75,000**

- Procurement of contracts for £5,000 and over shall be carried out through the Electronic Tendering Portal.
- Pre-Procurement approval is required from the Chief Finance Officer
  - **Procurement at this level has two options.**
  - **Option 1 – Seek a minimum of three written quotations.**
  - **Option 2 – Advertise the opportunity on Find a Tender and Contracts Finder. This process will be conducted through the Open, Restricted or Reserved Procedure.**
- Quotations must be based on a Request for Quotation (RFQ) document including a written specification with Terms and Conditions.
- The Service will be responsible for updating the contract in the management depository through the term of the contract.
- The requirement for the form of contract will be a properly completed official West Lindsey District Council order raised through the Financial Management System Purchasing Module and a formal contract document signed by both parties.
- Awarded contracts over £25,000 shall have an award notice published on Contracts Finder within 30 days of sign off of contract documentation by both parties.

### **Contracts from £75,001 up to the FTS Threshold**

- Procurement of contracts for £5,000 and over must be carried out through the Electronic Tendering Portal.
- Pre-Procurement approval is required from the Management Team.
- **Procurement at this level has two options.**
  - **Option 1 – Seek a minimum of four written quotations.**
  - **Option 2 – Advertise the opportunity on Find a Tender and Contracts Finder. This process will be conducted through the Open, Restricted or Reserved Procedure.**
- Tenders over £75,000 should be coordinated by Procurement Lincolnshire, with all tender documentation issued electronically by and returned to the relevant officer as advised by Procurement Lincolnshire.
- The requirement for the form of contract will be a properly completed official West Lindsey District Council order raised through the Financial Management System Purchasing Module and a formal contract document signed by both parties.
- Awarded contracts over £25,000 shall have an award notice published on Contracts Finder within 30 days of sign off of contract documentation by both parties.

## 8.2 Request for Quotations (RFQs)

RFQs are the Council's preferred method of undertaking procurement within the value thresholds identified in section 7.

As a minimum, quotation documentation must include the following details as a minimum:-

- A date and time for the receipt of the quotations;
- Specification
- Pricing schedule (including any discounts or deduction options);
- The period over which the contract is to be performed;
- The timing of the supply;
- Arrangements for payments;
- Terms and Conditions from the Councils' Standard Terms and Conditions for Services or Works;
- Any requirement specific terms and conditions
- Evaluation criteria and award procedure.

In addition, the RFQ can also include:-

- Management and Monitoring requirements and service levels;
- Quality or outcomes required;

The quotation must also state that the Council is not bound to accept any tender or quotation.

All Quotations with an estimated value of £5,000 and over, should be received electronically through a secure vault. If this option is not practical quotations can be received in a plain sealed package by the date and time previously specified. They must be marked "Quotation for ....." with the name of the contract but with no mark to identify the sender.

If quotations are received through an electronic vault they are to be opened by the Contracts & Procurement Officer or other designated procurement officer.

If quotations are received in hard copy, they are to be endorsed with the date and time of receipt and kept by the Contracts & Procurement Officer in a secure place until the time of opening.

Quotations (hard copy) are to be opened at one time by the Contracts & Procurement Officer and witnessed by another officer with a record being kept of all quotations.

Quotations received after the time specified or in envelopes/packages which identify the sender may not be considered.

Any anomalies or apparent errors in the quotation will be clarified by the Contracts & Procurement Officer and a record of the outcome kept on file.

The Council should accept in writing the quotation that represents the best value for West Lindsey.

## 8.3 Reserved Contracts

There is now an option to carry out a procurement below FTS threshold under 'Reserved Contract' status. This means that contracting authorities can now reserve the procurement for suppliers by location, SME's or third party organisations, (the supplier will need to have substantive operations in

that County but is not required to have its corporate headquarters there), there are constraints in terms of what must be included in the procurement documentation and advertising requirements. In addition, the contract length can be no more than 3 years.

The thresholds for reserved contract is:

Supplies & Services - £213,477

Works - £5,336,937

Remember: this is inclusive of VAT

#### 8.4 Approved Lists

Approved lists may be used in conjunction with RFQ's to select Economic Operators. Approved lists may be used when recurrent transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise.

Approved lists may not be used if the estimated total aggregated spend for contracts to be placed under the approved list, over a 48-month period, may exceed the relevant EU threshold. When this might occur, a Dynamic Purchasing system or Framework agreement would be a more suitable and compliant approach.

Suppliers to be entered onto an Approved List must have both their financial and technical ability assessed to ensure they are fully able to comply with the requirements.

The list shall be reviewed annually and re-advertised at least every three years. The review will consider the financial, technical ability and performance of those suppliers on the list.

Suppliers no longer qualified will be deleted from the list with a written record kept justifying the deletion.

Suppliers may be entered onto the list at any time between advertisement and re-advertisement as long as they comply with the requirements.

On re-advertisement, all suppliers currently on the list must be invited to reapply.

All Approved Lists must be transparent, non-discriminatory and proportionate. The lists must also be available for public inspection.

#### 8.5 Invitation to Tender (ITT) Below Threshold

If it is considered that the RFQ process will not deliver the required outcome, a full tendering exercise may be undertaken.

If the total contract value is estimated to be below FTS threshold (inc. VAT), the Invitation to Tender (ITT) should follow an Open procedure. This a single stage tender process where all bidders submitting a response will be evaluated, there will be no assessment of bidders, through a Standard Selection Questionnaire (SSQ) for the purpose of reducing the numbers of bidders invited to bid for the contract

For works contracts which are above the Services FTS threshold and below the Works FTS threshold, a Restricted Tendering process is permitted by the Public Contract Regulations 2015, which means an SSQ can be included in the tendering process.

## 8.6 Total Contract Value

The total contract value will need to be estimated in order to identify the correct procurement process. All total values will include Value Added Tax.

The value will be calculated as follows:

Fixed Term contracts – total estimated value of the supplies, services or works to be supplied over the period including extensions.

Indeterminate Length contracts – estimated annual value for 4-year period. Continuance of these contracts will only be permitted after a cost review and best value assurance has been ascertained on a periodic timescale.

Consultancy contracts – daily rate multiplied by duration of assignment

Concession Contracts – estimated total value of concessionaire's total turnover generated over the duration of the contract

Framework agreements – estimate of the total throughput expected to be placed through the framework in order to provide some additional capacity for unexpected requirements.

Periodic purchases for the same requirement, from the same or different suppliers, must be aggregated over a minimum 12-month period.

Where the Council is only making a part payment, the value from all contributors must be totalled to obtain estimated total value.

## **9 ABOVE FTS THRESHOLD PROCUREMENT**

Where the estimated total contract value is over the FTS threshold, advice must be sought from Procurement Lincolnshire.

There are several tender procedures available: - Open procedure, Restricted procedure, Competitive Dialogue, Competitive Procedure with Negotiation, Innovation Partnership.

In an Open procedure all bidders will be evaluated. In other procedures bidders will be de-selected at SSQ stage, prior to completion of the full tender document. Bidders should also be informed of the reasons for de-selection in a pre-tender shortlisting process, at the point of de-selection.

For the higher value procurements, Procurement Lincolnshire recommend a strategy is written to determine the planned approach of cost-effectively purchasing the Council's required supplies, taking into consideration several elements and factors such as the background, scope, outcomes, procurement route options, selected route, timeline for procurement, checklist, funding, budget, the projected risks and opportunities, among others.

Above FTS procurements must be published on Find a Tender (FTS) and Contracts Finder (CF). Once the tender is awarded and contracts have been signed, an award notice must be published on FTS and CF.

## 9.1 Standard Selection Questionnaire (SSQ)

The SSQ is structured in 3 separate parts:

- Part 1 of the SSQ covers the basic information about the supplier, such as contact details, trade memberships, details of parent companies, etc.
- Part 2 covers a self-declaration regarding whether or not any of the exclusion grounds apply.
- Part 3 covers a self-declaration regarding whether or not the company meets the selection criteria in respect of their financial standing and technical capacity.

A Part 1 and Part 2 declaration is mandatory from potential suppliers to declare that they have not breached any of the exclusion grounds.

If a potential supplier, or any organisation has breached any of the exclusion grounds, the organisation has the opportunity to explain how and what action they have taken to rectify the situation (this is called self-cleaning).

You must not add to or change the questions in Part 1 or Part 2 of the Standard Selection Questionnaire. Deviations are permissible for the supplier selection questions in Part 3, but must be reported.

## 9.2 Standards and Award

The Award Criteria is used to determine which of the Bidders will be awarded the contract and they are assessed as part of the ITT.

Public contracts must be based on the Most Economically Advantageous Tender 'MEAT'. Award Criteria must be designed to secure a sustainable outcome which represents Value for Money and quality for the Council.

Award criteria can be:

- Lowest price or total cost
- Based on specified qualitative, environmental or social criteria
- Best price/quality ratio

It may also include:

- Quality, including technical merit, aesthetic and functional characteristic, accessibility
- Innovative characteristics
- Organisation, qualification and experience of staff assigned to performing the contract
- After sales service and technical assistance, delivery conditions and process

It must not include:

- Non-commercial considerations i.e.,
  - Terms and conditions of employment by suppliers of their workers
  - Terms on which suppliers' contract with their sub-contractors
  - Suppliers business activities or interests with other areas of government
  - Conduct of suppliers or workers in industrial disputes
  - Any political, industrial or sectarian affiliations or interests of suppliers



- Financial support or lack of, by the suppliers for any institution to or from which the authority gives or withholds support
- Workforce matters and industrial disputes
- Use or non-use by suppliers of technical or professional services provided by the authority under the Building act 1984.
- Matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement
- Selection/Suitability Criteria

### 9.3 Communication with Suppliers

All communication with suppliers will take place through an electronic tendering portal.

The Contracts & Procurement Officer or Procurement Resource will publish all documents relating to the procurement. No substantial modification to the documentation is permitted once it has been published.

No verbal communication regarding the documents must be undertaken with bidders during the tender process. Communication must be conducted through the electronic tendering portal.

If a competitive dialogue process is used, oral communication is permitted within the dialogue phases of the procurement. Advice should be sought from Procurement Lincolnshire before this process is undertaken.

### 9.4 Undertaking a Tender

When considering a tender process, it is in the Council's interest to ensure that the Bidders are given sufficient time in which to prepare and submit a tender and that as much relevant information is disclosed to allow Bidders to submit a competitive offer.

The Invitation to Tender (ITT) must include:

- A specification – this must describe clearly the council's requirements
- Any proposed contract mobilisation or implementation
- A process to enable the Council to ensure the Supplier meets its obligations
- Exit strategy and potential decommissioning
- A statement that the council is not bound to accept any tender received
- Timeline for the procurement process, including clarification deadlines and process for return of tenders through the electronic tendering portal
- The award criteria and weightings where relevant
- The evaluation procedure
- The Form of Tender and collusive tendering certificate

### 9.5 Clarifications Prior to Submission

During the tender process, Bidders are allowed to submit questions regarding the tender documentation. All questions are to be submitted through the electronic tendering portal. The Council will then respond through the portal ensuring both the clarification and response is shared with all Bidders, except when the response would disclose confidential Bidder information.

## 9.6 Presentations

Presentations are no longer permitted to be assessed as part of the procurement process unless presenting is a material component of the specification.

The evaluation of presentations must be defined within the Award Criteria of the ITT and the following undertaken:

- Contemporaneous notes are collected detailing all questions, responses and points raised
- Questions to be concentrated on the evaluation requirements

## 9.7 Evaluations and Scoring

Tenders shall be evaluated, recorded and awarded in accordance with the Award Criteria detailed in the RFQ or ITT, and the award criteria and any sub-criteria should be kept to a minimum to enable the evaluation process to be more manageable.

The evaluation and scoring meeting will be chaired by the Contracts & Procurement Officer or procurement resource from Procurement Lincolnshire, the Chair is not allowed to be part of the evaluation panel.

The evaluators must evaluate the Bidder submission alone, no other documentation or knowledge of the Bidder can be included, and the written record must demonstrate why the highest scoring Bidder provided the best submission.

Evaluators are required to reach a consensus score with agreed comments. The scores and comments for all the Bidders shall be objective and in line with the Award criteria. Any commentary may be disclosed to Bidders if there is a legal challenge and the evaluation process is an activity where the risk of challenge is high.

## 9.8 Clarifications During Evaluation

Any unclear or ambiguous aspects of the bids shall be clarified with the Bidder through the electronic tendering portal. Clarifications during the evaluation process shall not be used to extract additional components of the bid, but to ascertain the extent of the Bidder's offer.

Any response subject to a clarification request by the council shall not be scored until the clarification has been received.

## 9.9 Award

Where the estimated total value of the contracts exceeds the EU threshold, all Bidders shall be informed of the intention to award to the successful bidder. A Standstill period of 10 calendar days will be in force after the notification to allow unsuccessful bidders to challenge the decision.

Once the 10-day period has expired, the contract may be formally awarded to the successful supplier. Contract documentation will then be drawn up for signatures.

If the decision is challenged the Council will immediately inform Procurement Lincolnshire for advice.

In the case of unforeseen circumstances outside the control of the Council, the 10-day standstill period can be waived, after confirmation with Legal Services and Procurement Lincolnshire.

The Contracts & Procurement Officer or Procurement resource will inform all bidders of the reason for the award and provide feedback. This must include:

- The award criteria;
- Scores for the relevant sections of the tender for the bidder who is to receive the debrief;
- The deadline for the standstill period and the date after which the council is able to award the contract;
- Evaluation commentary for the Bidder
- Name of the winning Bidder
- 

## **10 REPORTING REQUIREMENTS**

It is a requirement of the Public Contract Regulations, on completion of an over FTS threshold tender process, for a written procurement report to be drawn up, to include at least:

- Name and address of the contracting authority, subject matter, and value of contract
- Names of selected bidders and reasons for selection
- Names of deselected bidders and reason for deselection
- Name of successful bidder and reasons why its tender was selected
- Justification for use of competitive procedures with negotiation and competitive dialogues in accordance with Regulation 26 (PCR's)
- Justification for use of negotiated procedures without prior publication, in accordance with Regulation 32 (PCR's)
- The reason for non-award of contract
- The reason for not using the electronic tendering portal
- Any conflicts of interest identified and measures taken.

A copy of the report must be submitted to the Cabinet Office or European commission on request.

Sufficient documentation must be kept to justify all decisions taken in all stages of the procurement process.

The documentation must be kept for a minimum of 12 months for records of unsuccessful tenders and 6 years in relation to the successful tender.

## **11 CONTRACT FORMATION**

Every contract, including the appointments of consultants or interims, with a total contract value of £5,000 and above, including extensions, must be recorded on the Council's electronic Contract Register.

No amendments can be made to the contract, or terms and conditions, without first consulting Legal Services or Procurement Lincolnshire. Any amendments agreed during the clarification process will be stated in the clarifications list as an Appendix to the contract document.

Every contract must clearly state appropriate governance obligations where it involved the processing of personal data.

Procurement Lincolnshire advice must be obtained for contracts involving:

- Leasing arrangements
- Use of supplier terms and conditions
- A total contract value in excess of £75,000
- Complex documentation

## **12 CONTRACTS SIGNED UNDER HAND**

The officer responsible for obtaining the signature for the contracts shall ensure that the person signing it has the authority to do so.

A signature will be required for all contracts up to a total term of 6 years and not in excess of the FTS threshold.

## **13 CONTRACTS SIGNED UNDER SEAL**

A contract should be sealed where:

- The council may wish to enforce the contract for more than 6 years after its end;
- The total contract value is over the FTS threshold
- Legal Advice has been provided to this effect
- Where the Council has paid no consideration for goods or services, or the carrying out of works

## **14 PREVENTION OF CORRUPTION**

Officers engaged in procurement processes must not invite or accept any gift or reward in respect of the award or performance of any contract.

The onus will be on the officer to prove that anything received was not received corruptly.

On submission of tenders, the ITT must include an anti-collusion statement signed by the Bidder, this is a declaration of good standing confirming that the Bidder has not met any grounds for mandatory exclusion.

## **15 CONTRACT MANAGEMENT**

Contract management ensures that a contract delivers what has been specified.

All contracts, whatever the value, shall require some form of management methodology to be able to evidence that they are: Efficient, Economic and Effective. The Council needs to ensure that the contract is properly delivered and is able to maximise value and minimize risk.

Contract management activities should not wait for a contract award to start. Individuals responsible for performing the contract management function should ideally be involved from the outset to gather and share lessons learned; confirm the contract is fit for purpose and appropriate resources are in place; inform the procurement process; and ensure a successful transition to service delivery.

The precise wording of contracts is crucial so that both the supplier and the Council know exactly who, what, where and how management will be undertaken, a poorly managed contract might incur a financial or reputational risk for the Council.

Successful contract management is underpinned by the following:

- The expected business benefits and financial returns are being achieved;
- The supplier is co-operative and responsive to the Council's needs;
- The Council does not encounter any contract disputes or surprises;
- The delivery of services is satisfactory to both the Council and supplier.

A hard copy of all contracts over the threshold and/or signed under deed must be kept in a central location and it is the responsibility of the Contracts & Procurement Officer to ensure it is done.

All contracts must have a named Contract Manager for the life of the contract.

## **16 CONTRACT MONITORING**

All contracts will be monitored and reviewed on a regular basis, subject to the requirement. Monitoring is part of the overall management of the contract.

Areas to consider when developing the monitoring processes are:

What will be monitored?

The performance standards required in relation to the outputs or processes must be clearly documented in the specification.

Who will carry out the monitoring?

This will be dependent on the type, length and value of the contract.

When will the monitoring be carried out?

The frequency will again be dependent of the type, length and value

How will the contract be monitored?

Monitoring methods can involve: measurements & inspections, user monitoring, client monitoring, Contractor monitoring

Areas for monitoring will include:

- Adherence of the specification
- Compliance with the terms and conditions
- Attainment of performance standards and service levels
- Change protocol
- Payment arrangements
- User satisfaction
  - Data protection

## **17 CONTRACT VARIATION**

A variation to contract is a mutually agreed amendment to vary the obligations set out in a contract for goods and services. There are many reasons to vary an existing contract. For example, changes in technology, resources, needs of the organisation, market conditions, etc.

Variations can generally be categorised as either administrative or financial:

- administrative variations are changes that do not affect the financial details of the contract, e.g. changes to the billing process, delivery address, personnel assigned to the contract, sequencing of work, performance management and monitoring processes, etc.; and
- Financial variations alter the financial details of the contract, e.g. changes to the price/cost, quantity, nature of the deliverables and terms of the contract (which increase the value).

When addressing variations to contract, ensure that you:

- manage variations or changes to the contract in accordance with the terms and conditions of the contract;
- justify the variation based on documented evidence essential to the delivery of the goods/services;
- do not change the original intent or general scope of the contract;
- consider whether the additional requirements would be better managed under a new contractual arrangement;
- satisfy the core procurement principles; value for money, probity, scalability and accountability;
- put appropriate contract management procedures in place to minimise the need for further variations;
- confirm that sufficient funds are available;
- have the variation signed by both parties to ensure there is a common understanding of the required changes; and
- approve and report, as necessary, any changes to contract terms and conditions through the formal channels.

When there are multiple variations to a contract, consideration should be given to whether to approach the market again should there be a significant shift in the scope of the procurement.

A variation to contract needs appropriate approval. Administrative variations are generally approved by the contract manager/service, whereas financial variations may require approval by MT or Committee.

The Contracts & Procurement Officer must ensure that all variations to contracts are made in accordance with the provisions included within the contract.

Any variations to the original contract must not result in a substantial modification or change to exceed 50% of the initial total contract value.

A copy of any variation or extension must be kept with the original contract documentation.

## **18 CONTRACT EXTENSION**

A contract extension is an agreement to extend the terms of the current contract for an additional period of time, the extension must be agreed and signed off by both the Supplier and the Council. The duration of the extension must be specified in the original procurement and contract documentation.

In some cases, the extension does no more than extend the termination date of the contract, but where the extension has a financial impact on the Council approval will need to be sought.

**19 FINANCIAL CONTROL**

Where expenditure is expected to exceed the contract price, this should be reported as follows –

Contract Figure £	Chief Finance Officer (S151) £	Management Team £	Committee £
Up to £25,000	Up to 5,000	Over 5,000 to 10,000	Over 10,000
£25,001 to £75,000	Up to 7,500	Over 7,500 to 15,000	Over 15,000
£75,000 above	Up to 10,000	Over 10,000 to 25,000	Over 25,000

The reporting requirement does not apply where contract growth is in accordance with the provisions of the contract.

Financial Procedures Rules regarding virement still apply to all additional expenditure.

## **Officer Employment Procedure Rules**

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## **Officer Employment Procedure Rules**

### **Rule 1. Recruitment and Appointment**

#### **1.1 Declarations**

- (i) Any candidate for appointment as an officer shall sign a written declaration stating whether they are the relative of an existing Councillor or officer of the Council, or of the partner of such persons.
- (ii) “Relative” means a spouse, partner, parent, parent in law, son, daughter, stepson, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, cousin or the spouse or partner of any of the preceding persons, and “partner” means a member of a couple who live together.
- (iii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant director or nominated officer by him/her.

#### **1.2 Seeking support for appointment**

- (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii) no Councillor will seek support for any person for any appointment with the Council.
- (iii) Paragraphs (i) and (ii) above shall not preclude a Councillor from giving a written testimonial of an applicant’s ability, experience or character in relation to an application for a post.

### **Rule 2. Recruitment of Head of Paid Service and Chief Officers**

(Definition of Chief Officers – Chief Executive )

#### **2.1 Job Description and Advertising**

Where the Council proposes to appoint a Head of Paid Service or a Chief Officer, and it is not proposed that the appointment be made exclusively from among its existing officers, the existing Head of Paid Service, in consultation with the Chief Officer Employment Committee of the Council, shall:

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

## 2.2 Interviews

- (i) Where a post has been advertised as provided in Rule 2.1 above, the Chief Officer Employment Committee shall:
  - (a) interview all qualified applicants for the post; or
  - (b) select a shortlist of such qualified applicants and interview those included on the shortlist.
- (ii) Where no qualified person has applied, the Head of Paid Service, in consultation with the Chief Officer Employment Committee, shall make further arrangements for advertisement in accordance with Rule 2.1(b).

## Rule 3. Appointment of Head of Paid Service

- 3.1 The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Chief Officer Employment Committee to the Council.

## Rule 4. Appointment of Chief Officers

- 4.1 The Chief Officer Employment Committee will appoint chief officers and statutory officers. That Committee must include the Leader of the Council or his/her nominee.

## Rule 5. Employment of Officers below Chief Officer

- 5.1 Appointment of officers below chief officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

## **Rule 6. Disciplinary Action and Dismissal – Statutory Officers**

- 6.1 The Council's Statutory Officers (Head of Paid Service, Monitoring Officer and Chief Financial Officer) may not be dismissed or have disciplinary action taken against them unless the following points have been complied with.
- 6.2 Any disciplinary action required will be initially considered by an Independent Disciplinary Panel (IDP) as set out under Section 28(7) of the Localism Act 2011 and set out in Part IV of this Constitution.
- 6.3 The IDP will meet at least 20 working days before consideration at a meeting of full Council. A report will be provided to that meeting with a recommendation from the IDP.
- 6.4 Before the taking of a vote at the Council meeting on whether or not to approve such disciplinary or dismissal action, Members must take in to account, in particular:
  - a) Any advice, views and recommendations of the Panel;
  - b) The conclusions of any investigation in to the proposed dismissal;  
and
  - c) Any representations from Statutory Officers.

## **Rule 7. Dismissal – Statutory Officers**

- 7.1 Only full Council will approve the dismissal of the Head of Paid Service, Monitoring Officer or Chief Financial Officer following the recommendation of such a dismissal by the Independent Disciplinary Panel (Rule 6 above).

## **Rule 8. Disciplinary Action and Dismissal – Other Officers**

- 8.1 Disciplinary action against and dismissal of officers below Chief Officer (Chief Exec) level is the responsibility of the Head of Paid Service or his/her nominee.
- 8.2 Councillors will not be involved in disciplinary action against or dismissal of officers below Chief Officer level except where such involvement is necessary for any investigation or enquiry into alleged misconduct through the Council's procedures.
- 8.3 Disciplinary and Dismissal of Chief Officers who are not Statutory Officers will be undertaken through the Chief Officer Employment Committee as set out in Part iv of this Constitution.

**Note:** Due to the nature of this Committee's work, on occasion it may be necessary for discussions to be recorded in the absence of a Democratic Services Officer. However, no decisions or votes will be taken in the absence of such an officer.

# Constitution of West Lindsey District Council

## Part VI

# Members' Allowances Scheme



## **Scheme of Members' Allowances 23/24 financial year**

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## 1. Basic Allowance

- 1.1 Every Member of the Council (subject to any election made under Section 9 of this Scheme) shall receive, for the period of this Scheme, the amount shown as Code A in Appendix 1 as a basic allowance.

## 2. Special Responsibility Allowances

- 2.1 The following Members of the Council (subject to any election made under Section 9 of the Scheme) shall receive for the period of this Scheme the amounts shown and set out in Appendix 1 as special responsibility allowances, namely:

	<b>Code</b>
Leader of Council	B
Deputy Leader(s)	C
Chair of Council	D
Vice Chair of Council	E
Chairman's Civic Allowance	F
Vice Chairman's Civic Allowance	G
Committee Chairs	H
Committee Vice-Chairs	I
Leader of the Opposition	J
Deputy Leader of the Opposition	K
Minority Group Leaders	L

- 2.2. For the Chairs of time-limited sub-committees, one twelfth of the relevant special responsibility allowance will be paid for each month (or part thereof) that the sub-committee is in operation.

## 3. Co-optees' Allowance

- 3.1 Subject to any election made under Section 9 of this Scheme, any person who is **not an elected member** but is appointed by the Council to a committee or sub-committee shall be paid an allowance, as shown as Code M in Appendix 1, for the period of this Scheme.
- 3.2 If the co-optee is the Chairman of the committee or sub-committee, he/she shall instead receive the same amount as is paid to Councillors who hold these offices.

## 4. Dependant Carers' Allowance

- 4.1 Members will be entitled to claim a dependant carers' allowance up to the rate shown at Appendix 1, code N.
- 4.2 Dependant carers' allowance will be paid on the basis of actual claims (up to the maximum amount), subject to the receipt of invoices not from a family member.

## 5. Travelling Allowances

- 5.1 Members may claim travelling expenses for carrying out approved duties (see Appendix 2). Mileage claimed should normally be from the Member's usual place of residence and for travelling by the shortest practicable route. Members may also claim back the cost of any parking fees or tolls incurred in connection with approved travelling.
- 5.2 The rate for travel by private motor vehicle shall not exceed Code O per mile as set out in Appendix 1.
- 5.3 The rate for travel by motorcycle shall not exceed Code Q per mile as set out in Appendix 1
- 5.4 That rate for travel by bicycle shall not exceed Code R per mile as set out in Appendix 1
- 5.5 Members carrying passengers who would otherwise be entitled to claim a travelling allowance for the same journey may claim a passenger supplement of Code P per passenger (up to a maximum of four) per mile.
- 5.6 Where rail travel amounts to more than £25, then this should be booked centrally through Committee Admin; giving as much notice as possible of the intention to travel, and utilising any discount rail cards. "Standard fare" tickets should be the default position, unless the cost of First Class, (which includes a meal/wif-fi), is lower than the cost of the "standard fare" plus any subsistence payment that may arise.
- 5.7 The rate for travel by taxi-cab is the actual fare and gratuity paid. Taxis can only be used where public transport is not available and the Councillor would otherwise be unable to attend the meeting.
- 5.8 The rates for the use of a hired car shall also be Codes O and P.

## 6. Subsistence Allowances

*(For amounts relating to Codes used, see Appendix 1)*

- 6.1 Where Members, in carrying out an approved duty referred to in Appendix 2, necessarily incur expenditure on meals, they may claim subsistence allowance. The rate of subsistence allowance shall not exceed the amounts shown below.
- 6.2
- |                                                                                                                                              | <b>Code</b> |
|----------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| a) Absence of more than four hours but no more than eight hours – only the cost of one meal can be reimbursed up to a maximum of £15.        | S           |
| b) Absence of more than eight hours but no more than 12 hours – only the cost of two meals can be reimbursed up to a maximum of £25.         | T           |
| c) Absence of more than 12 hours but no more than 16 hours - only the cost of three meals can be reimbursed up to a maximum of £33.          | U           |
| d) Absence of more than 16 hours but not including an overnight stay – only the cost of four meals can be reimbursed up to a maximum of £40. | V           |
- 6.3 In the case of an absence overnight from the usual place of residence
- 6.4 except that, for such absence overnight in London or for the purposes of attending an annual conference (or annual meeting) of the Local Government Association, the rate shall not exceed code

- 6.5 The rates specified above shall be reduced by an appropriate amount in respect of any meal provided free of charge by any authority or body during the period to which the allowance relates.
- 6.6 Receipts must be provided for subsistence claimed and attached to the claim form. However, when main meals (i.e. a full breakfast, lunch or dinner) are taken on trains during a period for which there is an entitlement to day subsistence, the reasonable actual cost of the meals (including VAT) may be reimbursed in full.
- 6.7 For the purpose of this Section, a twenty-four hour period begins and ends at 3am.

## **7. Payment of Allowances**

- 7.1 Beginning in April, one twelfth of the following allowances will be paid on the 21st day of each month (or, where this falls on a Saturday, Sunday or public holiday, the preceding bank working day):
- Basic allowance
  - Special responsibility allowances
  - Co-optees' allowances
- 7.2 Where the term of office of a Councillor or co-optee begins or ends otherwise than at the beginning or end of the period to which this Scheme relates, payment of the allowances will be apportioned on a daily basis up to or from the day the office ends or begins.
- 7.3 The payment of the following allowances will be made on the basis of claims submitted in accordance with Section 10 of this Scheme:
- Dependant carers' allowance
  - Travelling allowance
  - Subsistence allowances
  - Reimbursement of the cost of an eye test up to a maximum of £20 in a 2 year period
- 7.4 Payments will be withheld when a Member ceases to be a Member or is in any other way not entitled to receive allowances.

## **8. Avoidance of Duplication of Allowances**

- 8.1 Where, in any period, a Councillor performs approved duties as a member of more than one authority or becomes entitled to payment of travelling and subsistence allowances and to comparable payments from any other authority, the following provisions shall apply for the avoidance of duplication in claims and payments.
- a) Where a Councillor in respect of a duty specified in Appendix 2 also performs at the same time another approved duty which entitles him/her to comparable payments from any other authority, he/she may not claim an allowance from both the Council and the other authority. In order to comply with this paragraph, he/she may claim from whichever authority liable to meet the claim that he/she thinks fit, but from only that one.



- b) Where a Councillor successively performs in any period duties in respect of each of which he/she is entitled to allowances or comparable payments from any other authority, he/she may not claim in total a greater amount in respect of that period than would have been payable had all the duties performed by him/her as a member of only one of those authorities.
  - c) A Councillor shall not be entitled to take expenditure on travelling into account for the purposes of more than one claim.
  - d) A Councillor shall not be entitled to take any period of absence from his usual place of residence into account for the purpose of more than one claim.
- 8.2 District Council Members who are also Members of the County Council may claim allowances from each Council for the same 24 hour period provided that the claim on each Council is in respect of separate approved duties and that no other payment is received specifically for performing these duties.
- 8.3 A claim for any payment under this Scheme shall include a statement that the claimant has not made, and will not make, another claim in respect of the matter to which the claim relates.

## **9. Election to Forego Allowances**

- 9.1 Any member who wishes to forego any part of his/her entitlement to any allowance under this Scheme may do so by giving notice in writing to the Monitoring Officer.
- Basic, special responsibility and co-optees' allowances will be paid automatically unless such notice is given.

## **10. Submission of Claims**

- 10.1 All claims should be submitted monthly, in arrears, to the Democratic Services Team ([committeeadmin@west-lindsey.gov.uk](mailto:committeeadmin@west-lindsey.gov.uk)) to arrive no later than the 2nd of each month wherever possible (*or the previous Friday when the 2nd falls at a weekend or on a bank holiday*), to enable them to be processed in the monthly payroll run for payment on the 21st of the month. Claims received after the above date will not be paid until the following month.
- 10.2 Claims must be submitted within three months of the date on which the duty in respect of which the entitlement to the allowance arises is carried out.

## **11. Back-dating**

- 11.1 Where this Scheme is amended and it affects allowances payable for the year in which the amendment is made, entitlement to such allowances as are changed will apply with effect from the beginning of the year in which the amendment is made.

**Rates of Allowance****Appendix 1**

<b>Amount Code</b>	<b>Description</b>	<b>2023/2024</b>
A	Basic Allowance	£6,429
B	SRA - Leader of Council	£12,989
C	SRA – Deputy Leader/s (in the event of two or more being nominated, the payment to be shared)	£4,710
D	SRA -Chair of Council	£4,161
E	SRA – Vice-Chair of Council	£1,433
F	Civic Allowance for the Chairman of Council	£1,683
G	Civic Allowance for the Vice-Chairman of Council	£460
H	SRA – Committee Chairs*	£3,247
I	SRA – Committee Vice-Chairs**	£1,537
J	SRA – Leader of the Opposition (in the event of the Council being a 'hung' <sup>1</sup> Council, the Leaders of the two largest groups be paid the same special responsibility allowance as for the Leader of the Opposition)	£4,710
K	SRA – Deputy Leader of the Opposition	£857
L	SRA – Minority Group Leaders (per group member)	£105
M	Independent Members: Governance & Audit and Standards Committees – a payment of £60.00 for the first four hours of attendance at a meeting/event and a second payment for attendance in excess of four hours. The first four hours would commence from the start time of the meeting (to be paid when not chairing a meeting).	
N	Dependant Carers' Allowance (maximum per hour) - to follow the national living wage (currently £10.42) plus £1	£11.42
O	Car Allowance (per mile) (the mileage rate to be	£0.45

<sup>1</sup> Hung Council – where no group has the majority of seats

increased or decreased in accordance with any changes to the tax efficient rate authorised by the Inland Revenue)

P	Passenger Supplement - (Flat rate passenger supplement of £0.05 applied to <b>each</b> additional passenger carried )	
Q	Motorcycle Allowance (per mile)	£0.25
R	Bicycle Allowance (per mile)	£0.21

### Subsistence -

S	Absence of more than four hours but no more than eight hours – only the cost of one meal can be reimbursed up to a maximum of £15.	
T	Absence of more than eight hours but no more than 12 hours – only the cost of two meals can be reimbursed up to a maximum of £25	
U	Absence of more than 12 hours but no more than 16 hours- only the cost of three meals can be reimbursed up to a maximum of £33	
V	Absence of more than 16 hours but not including an overnight stay – only the cost of four meals can be reimbursed up to a maximum of £40	
W	Overnight	£83
X	Overnight (London or LGA)	£208

\*Excluding Licensing Committee and Regulatory Committee Chairs

\*\* Excluding Regulatory Committee Vice Chairs

Licensing Committee Chair	£1625
Regulatory Committee Chair	£1625
Licensing Committee Vice Chair	£768
Regulatory Committee Vice Chair	£768

**Note:** SRA – Special Responsibility Allowance

## Appendix 2

### Approved Duties

The following are approved duties for which members may, if they wish, claim dependant carers', travelling and subsistence expenses:

1. The attendance by a Councillor at meetings of the Council, committees, sub- committees and task and finish groups.
2. The attendance by a Councillor at a site visit organised by the Council, a committee, sub-committee or task and finish group or by a member of the Council's management team in pursuance of its business.
3. The attendance by a Councillor at a seminar organised by an officer, committee or sub-committee of the Council to which members of the Council are invited.
4. The attendance of a Councillor at consultation meetings outside their ward organised by an officer, committee or sub-committee of the Council for the purposes of, or in connection with, the discharge of the Council's functions.
5. The attendance of a Chairman of a committee, sub-committee or task and finish group, or, in his/her absence, his/her Vice-Chairman at any meeting of another committee, sub-committee or task and finish group of the Council pursuant to a resolution specifically requesting him/her to attend.
6. The attendance by a Councillor at an official meeting convened by a Government Department to which the Council has been invited to send a representative(s).
7. The attendance by a Councillor as a member of a delegation appointed by the Council, the appropriate policy committee or the Head of Paid Service to attend a meeting with the local MP or a Minister of the Crown for the purpose of, or in connection with, the discharge of the Council's functions.
8. The attendance by a Chairman and Vice-chairman of Council, a committee, sub-committee or task and finish group at a briefing for a particular meeting of the Council, committee, sub-committee or task and finish group as appropriate to the office.
9. The attendance by Group Leaders/Spokespersons and Committee Chairmen (or Deputies or Vice-chairmen if the Group Leader/Spokesperson or Committee Chairman is unable to attend) at Group Leaders'/Spokesperson's and Committee Chairmen's meetings and at liaison meetings with Lincolnshire County Council and/or other bodies similarly organised by the Assistant Directors.
10. The attendance by a Councillor at meetings of the Town/Parish Council(s)/Meeting(s) in his/her ward provided the meeting is not within the Councillor's own parish.
11. The attendance by a Councillor at meetings of an appropriate area summit.
12. The attendance by a Councillor appointed to a LGA Executive by the Council or his/her Group on the LGA.

13. The attendance by Members of the Council at meetings where he/she is engaged on Council business pertinent to their position.
14. The attendance by the appropriate Chairman (or his/her nominee) at any of the following conferences approved by the Council -
  - Chartered Institute of Housing
  - Local Government Association Conference
  - CIPFA Conference
  - Rural Commission Conference
  - Institute of Leisure and Amenity Management Conference
15. The attendance by the Council's nominated representative (or the nominated reserve in his/her absence) at meetings of any of the following outside organisations to which he/she has been appointed by the Council or one of its committees, provided the meeting is outside the Councillor's ward:
  - Age UK Lindsey
  - Ancholme Internal Drainage Board
  - Central Lincolnshire Joint Strategic Planning Committee
  - Citizens' Advice Lindsey
  - District Councils' Network
  - District Health and Wellbeing Network
  - East Midlands Council
  - Flood and Water Management Scrutiny Committee
  - Gainsborough Adventure Playground Association
  - Gainsborough Transport Strategy Board
  - Health Scrutiny Committee for Lincolnshire
  - Heritage Trust of Lincolnshire
  - Housing, Health & Care Delivery Group
  - Humber Strategy Group
  - Humberside International Airport Consultative Committee
  - LGA General Assembly
  - Lincoln Area Dial-a-Ride Management Committee
  - Lincoln Transport Strategy Board
  - Lincolnshire Branch of the Campaign for the Protection of Rural England
  - Lincolnshire Forum for Agriculture and Horticulture
  - Lincolnshire Police and Crime Panel
  - Lincolnshire Sports Partnership
  - Lincolnshire Waste Partnership
  - Lincolnshire Wolds Countryside Management Project
  - Local Crime Prevention Panel
  - PATROL (CPE)
  - Pensions Committee
  - Robin Hood Doncaster Sheffield Airport Consultative Committee
  - Rural Services Network
  - Safer Lincolnshire Partnership – Overview and Scrutiny Board
  - Scunthorpe & Gainsborough Water Level Management Board
  - Sure Start Gainsborough Partnership Board
  - The Conservation Volunteers

- Trustees of Charles Cooper Trust
  - Trustees of Dixons' Almhouses
  - Trustees of Francis Barker Trust
  - Trustees of Gainsborough Education Charity
  - Trustees of W G Rose Memorial
  - Upper Witham Internal Drainage Board
  - Wellbeing Lincs Reference Group
  - West Lindsey Churches Festival
  - West Lindsey Dementia Action Alliance
  - Witham Third Internal Drainage Board
  - Wolds Community Transport Association Limited
  - YourVoice@HWL
16. The attendance by the appropriate Chairman (or his/her nominee) at any of the following conferences approved by the Council -
- Chartered Institute of Housing
  - Local Government Association Conference
  - CIPFA Conference
  - Rural Commission Conference
  - Institute of Leisure and Amenity Management Conference
17. The attendance by a council/committee appointed Member Champion, at a meeting or event deemed relevant to the appointed position.

**Notes**

1. The Scheme will NOT reimburse the costs of meals and/or accommodation where they are paid for as part of a conference fee but the member chooses to eat and/or stay elsewhere.
2. Some of the outside organisations pay travelling and subsistence allowances themselves and the Member should claim from the organisation and not the Council where that is the case.

# Constitution of West Lindsey District Council

## Part VI

# Members' Allowances Scheme



## **Scheme of Members' Allowances 23/24 financial year**

### **Contents**

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#### **Appendices**

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2) Approved Duties .....	7



## 1. Basic Allowance

- 1.1 Every Member of the Council (subject to any election made under Section 9 of this Scheme) shall receive, for the period of this Scheme, the amount shown as Code A in Appendix 1 as a basic allowance.

## 2. Special Responsibility Allowances

- 2.1 The following Members of the Council (subject to any election made under Section 9 of the Scheme) shall receive for the period of this Scheme the amounts shown and set out in Appendix 1 as special responsibility allowances, namely:

	<b>Code</b>
Leader of Council	B
Deputy Leader(s)	C
Chair of Council	D
Vice Chair of Council	E
Chairman's Civic Allowance	F
Vice Chairman's Civic Allowance	G
Committee Chairs	H
Committee Vice-Chairs	I
Leader of the Opposition	J
Deputy Leader of the Opposition	K
Minority Group Leaders	L

- 2.2. For the Chairs of time-limited sub-committees, one twelfth of the relevant special responsibility allowance will be paid for each month (or part thereof) that the sub-committee is in operation.

## 3. Co-optees' Allowance

- 3.1 Subject to any election made under Section 9 of this Scheme, any person who is **not an elected member** but is appointed by the Council to a committee or sub-committee shall be paid an allowance, as shown as Code M in Appendix 1, for the period of this Scheme.
- 3.2 If the co-optee is the Chairman of the committee or sub-committee, he/she shall instead receive the same amount as is paid to Councillors who hold these offices.

## 4. Dependant Carers' Allowance

- 4.1 Members will be entitled to claim a dependant carers' allowance up to the rate shown at Appendix 1, code N.
- 4.2 Dependant carers' allowance will be paid on the basis of actual claims (up to the maximum amount), subject to the receipt of invoices not from a family member.

## 5. Travelling Allowances

- 5.1 Members may claim travelling expenses for carrying out approved duties (see Appendix 2). Mileage claimed should normally be from the Member's usual place of residence and for travelling by the shortest practicable route. Members may also claim back the cost of any parking fees or tolls incurred in connection with approved travelling.
- 5.2 The rate for travel by private motor vehicle shall not exceed Code O per mile as set out in Appendix 1.
- 5.3 The rate for travel by motorcycle shall not exceed Code Q per mile as set out in Appendix 1
- 5.4 That rate for travel by bicycle shall not exceed Code R per mile as set out in Appendix 1
- 5.5 Members carrying passengers who would otherwise be entitled to claim a travelling allowance for the same journey may claim a passenger supplement of Code P per passenger (up to a maximum of four) per mile.
- 5.6 Where rail travel amounts to more than £25, then this should be booked centrally through Committee Admin; giving as much notice as possible of the intention to travel, and utilising any discount rail cards. "Standard fare" tickets should be the default position, unless the cost of First Class, (which includes a meal/wif-fi), is lower than the cost of the "standard fare" plus any subsistence payment that may arise.
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- 5.8 The rates for the use of a hired car shall also be Codes O and P.

## 6. Subsistence Allowances

*(For amounts relating to Codes used, see Appendix 1)*

- 6.1 Where Members, in carrying out an approved duty referred to in Appendix 2, necessarily incur expenditure on meals, they may claim subsistence allowance. The rate of subsistence allowance shall not exceed the amounts shown below.
- 6.2
- |                                                                                                                                              | <b>Code</b> |
|----------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| a) Absence of more than four hours but no more than eight hours – only the cost of one meal can be reimbursed up to a maximum of £15.        | S           |
| b) Absence of more than eight hours but no more than 12 hours – only the cost of two meals can be reimbursed up to a maximum of £25.         | T           |
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- 6.3 In the case of an absence overnight from the usual place of residence
- 6.4 except that, for such absence overnight in London or for the purposes of attending an annual conference (or annual meeting) of the Local Government Association, the rate shall not exceed code

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- 6.6 Receipts must be provided for subsistence claimed and attached to the claim form. However, when main meals (i.e. a full breakfast, lunch or dinner) are taken on trains during a period for which there is an entitlement to day subsistence, the reasonable actual cost of the meals (including VAT) may be reimbursed in full.
- 6.7 For the purpose of this Section, a twenty-four hour period begins and ends at 3am.

## **7. Payment of Allowances**

- 7.1 Beginning in April, one twelfth of the following allowances will be paid on the 21st day of each month (or, where this falls on a Saturday, Sunday or public holiday, the preceding bank working day):
- Basic allowance
  - Special responsibility allowances
  - Co-optees' allowances
- 7.2 Where the term of office of a Councillor or co-optee begins or ends otherwise than at the beginning or end of the period to which this Scheme relates, payment of the allowances will be apportioned on a daily basis up to or from the day the office ends or begins.
- 7.3 The payment of the following allowances will be made on the basis of claims submitted in accordance with Section 10 of this Scheme:
- Dependant carers' allowance
  - Travelling allowance
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- 7.4 Payments will be withheld when a Member ceases to be a Member or is in any other way not entitled to receive allowances.

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  - c) A Councillor shall not be entitled to take expenditure on travelling into account for the purposes of more than one claim.
  - d) A Councillor shall not be entitled to take any period of absence from his usual place of residence into account for the purpose of more than one claim.
- 8.2 District Council Members who are also Members of the County Council may claim allowances from each Council for the same 24 hour period provided that the claim on each Council is in respect of separate approved duties and that no other payment is received specifically for performing these duties.
- 8.3 A claim for any payment under this Scheme shall include a statement that the claimant has not made, and will not make, another claim in respect of the matter to which the claim relates.

## **9. Election to Forego Allowances**

- 9.1 Any member who wishes to forego any part of his/her entitlement to any allowance under this Scheme may do so by giving notice in writing to the Monitoring Officer.
- Basic, special responsibility and co-optees' allowances will be paid automatically unless such notice is given.

## **10. Submission of Claims**

- 10.1 All claims should be submitted monthly, in arrears, to the Democratic Services Team ([committeeadmin@west-lindsey.gov.uk](mailto:committeeadmin@west-lindsey.gov.uk)) to arrive no later than the 2nd of each month wherever possible (*or the previous Friday when the 2nd falls at a weekend or on a bank holiday*), to enable them to be processed in the monthly payroll run for payment on the 21st of the month. Claims received after the above date will not be paid until the following month.
- 10.2 Claims must be submitted within three months of the date on which the duty in respect of which the entitlement to the allowance arises is carried out.

## **11. Back-dating**

- 11.1 Where this Scheme is amended and it affects allowances payable for the year in which the amendment is made, entitlement to such allowances as are changed will apply with effect from the beginning of the year in which the amendment is made.

**Rates of Allowance****Appendix 1**

<b>Amount Code</b>	<b>Description</b>	<b>2023/2024</b>
A	Basic Allowance	£6,429
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G	Civic Allowance for the Vice-Chairman of Council	£460
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I	SRA – Committee Vice-Chairs**	£1,537
J	SRA – Leader of the Opposition (in the event of the Council being a 'hung' <sup>1</sup> Council, the Leaders of the two largest groups be paid the same special responsibility allowance as for the Leader of the Opposition)	£4,710
K	SRA – Deputy Leader of the Opposition	£857
L	SRA – Minority Group Leaders (per group member)	£105
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O	Car Allowance (per mile) (the mileage rate to be	£0.45

<sup>1</sup> Hung Council – where no group has the majority of seats

increased or decreased in accordance with any changes to the tax efficient rate authorised by the Inland Revenue)

P	Passenger Supplement - (Flat rate passenger supplement of £0.05 applied to <b>each</b> additional passenger carried )	
Q	Motorcycle Allowance (per mile)	£0.25
R	Bicycle Allowance (per mile)	£0.21

### Subsistence -

S	Absence of more than four hours but no more than eight hours – only the cost of one meal can be reimbursed up to a maximum of £15.	
T	Absence of more than eight hours but no more than 12 hours – only the cost of two meals can be reimbursed up to a maximum of £25	
U	Absence of more than 12 hours but no more than 16 hours- only the cost of three meals can be reimbursed up to a maximum of £33	
V	Absence of more than 16 hours but not including an overnight stay – only the cost of four meals can be reimbursed up to a maximum of £40	
W	Overnight	£83
X	Overnight (London or LGA)	£208

\*Excluding Licensing Committee and Regulatory Committee Chairs

\*\* Excluding Regulatory Committee Vice Chairs

Licensing Committee Chair	£1625
Regulatory Committee Chair	£1625
Licensing Committee Vice Chair	£768
Regulatory Committee Vice Chair	£768

**Note:** SRA – Special Responsibility Allowance

## Appendix 2

### Approved Duties

The following are approved duties for which members may, if they wish, claim dependant carers', travelling and subsistence expenses:

1. The attendance by a Councillor at meetings of the Council, committees, sub- committees and task and finish groups.
2. The attendance by a Councillor at a site visit organised by the Council, a committee, sub-committee or task and finish group or by a member of the Council's management team in pursuance of its business.
3. The attendance by a Councillor at a seminar organised by an officer, committee or sub-committee of the Council to which members of the Council are invited.
4. The attendance of a Councillor at consultation meetings outside their ward organised by an officer, committee or sub-committee of the Council for the purposes of, or in connection with, the discharge of the Council's functions.
5. The attendance of a Chairman of a committee, sub-committee or task and finish group, or, in his/her absence, his/her Vice-Chairman at any meeting of another committee, sub-committee or task and finish group of the Council pursuant to a resolution specifically requesting him/her to attend.
6. The attendance by a Councillor at an official meeting convened by a Government Department to which the Council has been invited to send a representative(s).
7. The attendance by a Councillor as a member of a delegation appointed by the Council, the appropriate policy committee or the Head of Paid Service to attend a meeting with the local MP or a Minister of the Crown for the purpose of, or in connection with, the discharge of the Council's functions.
8. The attendance by a Chairman and Vice-chairman of Council, a committee, sub-committee or task and finish group at a briefing for a particular meeting of the Council, committee, sub-committee or task and finish group as appropriate to the office.
9. The attendance by Group Leaders/Spokespersons and Committee Chairmen (or Deputies or Vice-chairmen if the Group Leader/Spokesperson or Committee Chairman is unable to attend) at Group Leaders'/Spokesperson's and Committee Chairmen's meetings and at liaison meetings with Lincolnshire County Council and/or other bodies similarly organised by the Assistant Directors.
10. The attendance by a Councillor at meetings of the Town/Parish Council(s)/Meeting(s) in his/her ward provided the meeting is not within the Councillor's own parish.
11. The attendance by a Councillor at meetings of an appropriate area summit.
12. The attendance by a Councillor appointed to a LGA Executive by the Council or his/her Group on the LGA.

13. The attendance by Members of the Council at meetings where he/she is engaged on Council business pertinent to their position.
14. The attendance by the appropriate Chairman (or his/her nominee) at any of the following conferences approved by the Council -
  - Chartered Institute of Housing
  - Local Government Association Conference
  - CIPFA Conference
  - Rural Commission Conference
  - Institute of Leisure and Amenity Management Conference
15. The attendance by the Council's nominated representative (or the nominated reserve in his/her absence) at meetings of any of the following outside organisations to which he/she has been appointed by the Council or one of its committees, provided the meeting is outside the Councillor's ward:
  - Age UK Lindsey
  - Ancholme Internal Drainage Board
  - Central Lincolnshire Joint Strategic Planning Committee
  - Citizens' Advice Lindsey
  - District Councils' Network
  - District Health and Wellbeing Network
  - East Midlands Council
  - Flood and Water Management Scrutiny Committee
  - Gainsborough Adventure Playground Association
  - Gainsborough Transport Strategy Board
  - Health Scrutiny Committee for Lincolnshire
  - Heritage Trust of Lincolnshire
  - Housing, Health & Care Delivery Group
  - Humber Strategy Group
  - Humberside International Airport Consultative Committee
  - LGA General Assembly
  - Lincoln Area Dial-a-Ride Management Committee
  - Lincoln Transport Strategy Board
  - Lincolnshire Branch of the Campaign for the Protection of Rural England
  - Lincolnshire Forum for Agriculture and Horticulture
  - Lincolnshire Police and Crime Panel
  - Lincolnshire Sports Partnership
  - Lincolnshire Waste Partnership
  - Lincolnshire Wolds Countryside Management Project
  - Local Crime Prevention Panel
  - PATROL (CPE)
  - Pensions Committee
  - Robin Hood Doncaster Sheffield Airport Consultative Committee
  - Rural Services Network
  - Safer Lincolnshire Partnership – Overview and Scrutiny Board
  - Scunthorpe & Gainsborough Water Level Management Board
  - Sure Start Gainsborough Partnership Board
  - The Conservation Volunteers



- Trustees of Charles Cooper Trust
  - Trustees of Dixons' Almhouses
  - Trustees of Francis Barker Trust
  - Trustees of Gainsborough Education Charity
  - Trustees of W G Rose Memorial
  - Upper Witham Internal Drainage Board
  - Wellbeing Lincs Reference Group
  - West Lindsey Churches Festival
  - West Lindsey Dementia Action Alliance
  - Witham Third Internal Drainage Board
  - Wolds Community Transport Association Limited
  - YourVoice@HWL
16. The attendance by the appropriate Chairman (or his/her nominee) at any of the following conferences approved by the Council -
- Chartered Institute of Housing
  - Local Government Association Conference
  - CIPFA Conference
  - Rural Commission Conference
  - Institute of Leisure and Amenity Management Conference
17. The attendance by a council/committee appointed Member Champion, at a meeting or event deemed relevant to the appointed position.

**Notes**

1. The Scheme will NOT reimburse the costs of meals and/or accommodation where they are paid for as part of a conference fee but the member chooses to eat and/or stay elsewhere.
2. Some of the outside organisations pay travelling and subsistence allowances themselves and the Member should claim from the organisation and not the Council where that is the case.

# Constitution of West Lindsey District Council

## Appendices



# Appendices

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## **ROLE DESCRIPTION**

### **CHAIRMAN**

#### **Ways of Working**

The role of Chairman will involve the following:

- carrying out all duties in a way which is, and is perceived as being, politically impartial, including abstaining from voting in Council meetings in most circumstances;
- carrying out all duties in a way which does not compromise the integrity or position of the office of Chairman and maintains its historical and ceremonial traditions;
- standing and speaking for the shared interests of the local community;
- engaging with all sections of the local community;
- chairing meetings of the Council in a way which safeguards the ability of elected members to hold office holders to account (i.e. as the guardian of local democracy);
- ensuring that the principles of equality and fairness are integral to all actions of the chairmanship;
- taking a full part in training and development programmes to ensure that this role is undertaken as effectively as possible;
- making appropriate use of Information and Communications Technology as a means of effective communication;
- being accessible to all sections of the community.

#### **Duties**

These include the following:

- To uphold and promote the purposes of the Constitution, and to interpret the application of the Constitution to Council meetings when necessary;
- To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;

- To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not in positions of responsibility are able to hold office holders to account;
- To promote public involvement in the Council's activities;
- To attend such civic and ceremonial functions as the Council and the Chairman determines is appropriate;
- To act as the representative of the area (i.e. ambassadorial role) both inside and outside the district and to promote it locally, nationally and internationally;
- To participate in, and help initiate, activities that enhance the economic, social, cultural and environmental well-being of the district and its residents;
- To promote, liaise and link with private and voluntary sector organisations in the district;
- To act as an advocate of a local society;
- To foster democracy in West Lindsey and especially in our schools

### **Values**

- To be committed to and demonstrate the following values in public office:
  - Openness and transparency
  - Honesty and integrity
  - Tolerance and respect
  - Equality and fairness
  - Appreciation of cultural difference
  - Sustainability

### **Personal Qualities**

The following qualities are necessary to undertake this role successfully:

- Ability to chair meetings effectively to ensure that business is conducted appropriately and democratic accountability maintained;
- Ability to act in a way which is, and is perceived as, politically impartial;
- Ability to make formal speeches to a wide range of people in a manner which is appropriate to the circumstances;
- Ability to maintain the dignity of the office whilst remaining in touch with and accessible to the community;
- Ability to engage constructively with those who hold different views;

- Ability to engage and communicate effectively with all sections of the community;
- Ability to convey a positive impression of the Council, the district and the chairmanship in dealing with the media.

## **ROLE DESCRIPTION**

### **VICE-CHAIRMAN**

#### **Ways of Working**

The role of Vice-Chairman will involve the following:

- To support and assist the Chairman in carrying out the responsibilities set out in the Chairman's role description;
- To use the year as Vice-Chairman to become familiar with all aspects of the Chairman's role.

#### **Duties**

- To deputise for the Chairman in his/her absence and undertake the duties set out in the Chairman's role description.

#### **Values**

- To be committed to and demonstrate the following values in public office:
  - Openness and transparency
  - Honesty and integrity
  - Tolerance and respect
  - Equality and fairness
  - Appreciation of cultural difference
  - Sustainability

#### **Personal Qualities**

- To identify any development needs arising from the personal qualities in the Chairman's role description;
- To participate in any development opportunities that address the needs identified.

## **ROLE DESCRIPTION**

### **LEADER OF THE COUNCIL**

#### **Political leadership**

- To undertake all the duties expected of the Leader of the Council;
- To provide political leadership of the Council;
- To set out a vision for West Lindsey and the strategic plans that will enable the Council to play its part to achieving it;
- To provide political leadership in the co-ordination of policies, strategies and high quality service delivery across the Council;
- To chair the Corporate Policy and Resources Committee unless they decide otherwise;
- To be the principal political spokesperson for the Council;
- To support and develop other political office holders.

#### **Corporate leadership**

- To give political direction to the Chief Executive, Assistant Directors and other officers;
- To provide as part of the Council's service and financial planning process, political leadership to the development and implementation of the Council's Corporate Plan/Community Strategy and Budget;
- To work with officers to formulate policy proposals for consideration by the policy committees;
- To work with and support the Executive Directors and other officers in the implementation of policy;
- To have an overview of the performance, efficiency, effectiveness, risk and equalities agenda across the Council;
- To liaise with the Chairman of the Overview and Scrutiny Committee and receive and respond to scrutiny reports;
- To be the principal spokesperson to the local, regional and national media.



### **Partnership and community leadership**

- To act as a community leader including providing leadership to partners and stakeholders in meeting the needs of West Lindsey residents;
- To be an advocate for the local community and a spokesperson for residents;
- To lead consultations with stakeholders;
- To lead the promotion of Council priorities amongst stakeholders and partners;
- To build cross district links that progress Council objectives and priorities;
- To represent the Council at, and contribute to, regional, national and international bodies/forums, to promote the interests of West Lindsey residents and local governance.

### **Reporting and accountability**

- To report as appropriate to full Council, Policy and Resources Committee, appropriate scrutiny, regulatory bodies and stakeholders;
- To appear before the Overview and Scrutiny Committee as required.

### **Governance, ethical standards and relationships**

- To promote and support good governance of the Council;
- To promote and support open and transparent government;
- To support, and adhere to respectful, appropriate and effective relationships with officers;
- To promote and support development opportunities for members of the Council;
- To adhere to the Members' Code of Conduct, Protocol on Operational Conventions, and the highest standard of behaviour in public office;
- To ensure that the Local Code of Governance operates effectively.

### **Values**

- To be committed to and demonstrate the following values in public office:
  - Openness and transparency
  - Honesty and integrity
  - Tolerance and respect

- Equality and fairness
- Appreciation of cultural difference
- Sustainability

## **ROLE DESCRIPTION**

### **DEPUTY LEADER OF THE COUNCIL**

#### **Political leadership**

- To assist the Leader of the Council in the formal processes and matters of leadership of the authority (set out in the role description of the Leader of the Council);
- To deputise for the Leader in his/her absence and undertake the duties set out in the role description for the Leader of the Council.
- To be vice-chairman of the Policy and Resources Committee unless they decide otherwise

#### **Corporate leadership**

- To work with the Leader of the Council on the budget and policy development;
- To take responsibility for specific areas of the work of the Policy and Resources Committee.

#### **Partnership and community leadership**

- To support and assist the Leader in exercising those responsibilities set out in the role description for the Leader of the Council.

#### **Reporting and accountability**

- To report as appropriate to full Council, Policy and Resources Committee, appropriate scrutiny, regulatory bodies and stakeholders;
- To appear before the Overview and Scrutiny Committee as required.

#### **Governance, ethical standards and relationships**

- To support and assist the Leader in exercising those responsibilities set out in the role description for the Leader of the Council.
- To co-ordinate communication between Members and Officers.

## Values

- To be committed to and demonstrate the following values in public office:
  - Openness and transparency
  - Honesty and integrity
  - Tolerance and respect
  - Equality and fairness
  - Appreciation of cultural difference
  - Sustainability

## **ROLEDESCRIPTION**

### **LEADER OF THE OPPOSITION**

#### **Political leadership**

- To be a political figurehead for the opposition group; to be the principal political spokesperson for the Council's opposition;
- To provide leadership in the constructive challenge of the Council's policies;
- To constructively challenge the vision for the Council and community where appropriate;
- To provide strong, clear leadership in the co-ordination of alternative policies, strategies and service delivery;
- To manage the work of Councillors within the opposition group, and the overall co-ordination of opposition spokespersons and the business of the group;
- To shadow and scrutinise the Leader of the Council and the policy committees in their duties;
- To participate in the development of corporate strategies and policies.

#### **Representing the Council's opposition**

- To represent the opposition group to a high standard; providing a strong, competent and eloquent figure to represent the opposition within the Authority;
- To represent the Council on external bodies and in doing so act as an ambassador for the Council;
- To advise the Leader of the Council of the opposition group's position on issues relating to external relationships;
- To represent the opposition group on relevant formal and informal working groups;
- To maintain effective liaison with the Chairman of the Overview and Scrutiny Committee.

#### **Governance, ethical standards and relationships**

- To promote and support good governance of the Council;

- To promote and support open and transparent government;
- To promote, support, and adhere to respectful, appropriate and effective relationships with officers;
- To promote and support development opportunities for members of the Council;
- To adhere to the Members' Code of Conduct, Protocol on Operational Conventions and the highest standards of behaviour in public office;
- To support the effective operation of the Local Code of Governance.

### **Reporting and accountability**

- To report to the opposition group as appropriate;
- To report to full Council as appropriate.

### **Values**

- To be committed to and demonstrate the following values in public office:
  - Openness and transparency
  - Honesty and integrity
  - Tolerance and respect
  - Equality and fairness
  - Appreciation of cultural difference
  - Sustainability

## **ROLEDESCRIPTION**

### **DEPUTY LEADER OF THE OPPOSITION**

#### **Political leadership**

- To assist the Leader of the Opposition in the constructive challenge to the Council's policies and its vision for the Council and the community; (set out in the role description of the Leader of the Opposition);
- To deputise for the Leader in his/her absence and undertake the duties set out in the role description for the Leader of the Opposition.

#### **Representing the Council's opposition**

- To assist the Leader of the Opposition in representing the position of the Council's opposition group.

#### **Reporting and accountability**

- To report to the opposition group as appropriate;
- To report to full Council in the absence of the Leader of the Opposition.

#### **Governance, ethical standards and relationships**

- To support and assist the Leader in exercising those responsibilities set out in the role description for the Leader of the Opposition.

#### **Values**

- To be committed to and demonstrate the following values in public office:
  - Openness and transparency
  - Honesty and integrity
  - Tolerance and respect
  - Equality and fairness
  - Appreciation of cultural difference
  - Sustainability

## **ROLE DESCRIPTION**

### **CHAIRMAN OF OVERVIEW AND SCRUTINY COMMITTEE**

#### **Leadership and direction**

- To provide confident and effective management of the committee;
- To promote the role of overview and scrutiny within and outside the Council, liaising effectively both internally within the Council and externally with the Council's partners;
- To develop a balanced and manageable work programme for the committee including pre decision scrutiny, policy development and review, investigative scrutiny, and strategic performance monitoring;
- To ensure the programme takes account of relevant factors such as: the work programmes of the policy committees and other committees, strategic priorities and risks, and relevant community issues;
- To demonstrate an objective and evidence based approach to overview and scrutiny;
- To evaluate the impact and added value of overview and scrutiny activity and identify areas for improvement.

#### **Managing the work programme**

- To ensure that the agreed work programme is delivered;
- To report on progress against the work programme to Council, and others as appropriate;
- To liaise and establish constructive relationships with officers, other members and community representatives to resource and deliver the work programme;
- To oversee the work of scrutiny panels and task groups.



### **Holding the Policy Committees to account**

- To evaluate the validity of policy committee decisions and challenge inappropriate decisions through agreed processes.

### **Reporting and accountability**

- To report as appropriate to full Council, other committees, the public, external regulatory bodies and stakeholders.

### **Effective meeting management**

- To set agendas containing clear objectives and outcomes for meetings;
- To manage the progress of business at meetings, ensuring that meeting objectives are met, and the code of conduct, procedural rules and other Constitutional requirements are adhered to;
- To meet regularly in advance with key officers to ensure that the necessary work for the meeting and ongoing issues are in hand;
- To ensure that all meeting participants have an opportunity to make an appropriate contribution.

### **Community leadership**

- To act as a focus for liaison between the Council, community and external bodies in relation to the overview and scrutiny function;
- To build understanding and ownership of the overview and scrutiny function within the community;
- To identify relevant community based issues for overview and scrutiny;
- To fully involve external stakeholders, for example, service users, expert witnesses and partners in overview and scrutiny activities.

### **Involvement and development of committee members**

- To encourage high performance from all committee members in both committee and task and finish groups;
- To assess individual and collective performance within the committee and facilitate appropriate development.

## Values

- To be committed to and demonstrate the following values in public office:
  - Openness and transparency
  - Honesty and integrity
  - Tolerance and respect
  - Equality and fairness
  - Appreciation of cultural difference
  - Sustainability

## **ROLEDESCRIPTION**

### **LEAD MEMBER OF AN OVERVIEW AND SCRUTINY PANEL [or O & S Task Group]**

#### **Management and Co-ordination of Overview and Scrutiny**

- To ensure that the panel responds to issues referred to it by the Overview and Scrutiny Committee;
- To contribute to the management, co-ordination and development of overview and scrutiny in West Lindsey;
- To report to the Overview and Scrutiny Committee on the work and progress of the Panel, and keep them informed of important and contentious issues;
- To attend meetings of the Overview and Scrutiny Committee when required (if not a member already);
- To present findings of scrutiny panel work at the Overview and Scrutiny Committee, policy committees and full council meetings.

#### **Manage the Work of the Overview and Scrutiny Panel**

- To manage and guide the panel's work in scrutinising relevant issues referred to them;
- Through the improvement function contribute to the development of service policy;
- To co-ordinate and manage panel members to undertake assigned tasks and sub-group work;
- To work closely with officers supporting the panel;
- To ensure that the panel carries out reviews in a manner consistent with the terms of reference;
- To engage appropriate partner agencies in the work of overview and scrutiny and promote a constructive approach to improvement work;
- To be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.

## **ROLE DESCRIPTION**

### **CHAIRMAN OF A REGULATORY COMMITTEE**

[i.e. Planning, Licensing, Regulatory etc.]

#### **Leadership and direction**

- To provide confident and effective management of meetings to facilitate inclusiveness, participation and clear decision making;
- To ensure that applicants and other interested parties are satisfied as to the transparency of the regulatory process;
- To demonstrate integrity and impartiality in decision making which accord with legal, Constitutional and policy requirements;
- To delegate actions to sub-committees as appropriate.

#### **Role of the regulatory committee and quasi-judicial decision making**

- To act as an ambassador for the regulatory committee, facilitating and promoting understanding of the role;
- To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly;
- To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice in the conduct of meetings and in individual cases/applications before formal committee meetings.

#### **Reporting and accountability**

- To report as appropriate to full Council, relevant regulatory committee, regulatory bodies and stakeholders

#### **Governance, ethical standards and relationships**

- To develop the standing and integrity of the committee and its decision making;
- To promote and support the good, open and transparent governance of the Council;

- To understand, support and adhere to the respectful, appropriate and effective relationships with other members, officers and external parties operating within the regulatory committee's area of responsibility;
- To take part in training and development programmes to ensure that this role is undertaken as effectively as possible;
- To adhere to the Members' Code of Conduct, Protocol on Operational Governance, and the highest standards of behaviour in public office.

### **Values**

- To be committed to and demonstrate the following values in public office:
  - Openness and transparency
  - Honesty and integrity
  - Tolerance and respect
  - Equality and fairness
  - Appreciation of cultural difference
  - Sustainability

## **ROLE DESCRIPTION**

### **CHAIRMAN OF GOVERNANCE AND AUDIT COMMITTEE**

#### **Leadership and direction**

- To provide confident and effective management of meetings to facilitate inclusiveness, participation and clear decision making;
- To ensure interested parties are satisfied as to the transparency of the audit and governance arrangements;
- To demonstrate integrity and impartiality in decision making which accord with legal, Constitutional and policy requirements;

#### **Role of the Governance and Audit committee**

- To act as an ambassador for the Governance and Audit committee, facilitating and promoting understanding of the role;
- To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly;
- To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice in the conduct of meetings.
- To monitor the operation of the Council's Constitution keeping its terms under review, including all procedure rules;
- To keep under review the adequacy of the Council's corporate governance arrangements;
- To keep under review the council's audit arrangements and the assurance framework;
- To ensure that the committee is fully apprised of all relevant legislation and good practice relating to the council's governance arrangements.

#### **Reporting and accountability**

- To report as appropriate to full Council, regulatory bodies and stakeholders.

### **Governance, audit and relationships**

- To develop the standing and integrity of the committee and its decision making;
- To promote and support the good, open and transparent governance of the Council;
- To understand, support and adhere to the respectful, appropriate and effective relationships with other members, officers and external parties operating across the whole Council;
- To take part in training and development programmes to ensure that this role is undertaken as effectively as possible;
- To adhere to and promote the Members' Code of Conduct, Protocol on Operational Governance, and the highest standards of behaviour in public office.

### **Values**

- To be committed to and demonstrate the following values in public office:
  - Openness and transparency
  - Honesty and integrity
  - Tolerance and respect
  - Equality and fairness
  - Appreciation of cultural difference
  - Sustainability

## **ROLEDESCRIPTION**

### **COMMUNITYWARDCOUNCILLOR**

#### **Representing and supporting communities**

- To achieve a balance between representing ward interests and those of the wider district;
- To be a channel of communication between the Council and their communities in response to changes in council strategies, policies, services and procedures;
- To represent individual constituents and local organisations, undertaking casework on their behalf and serving all fairly and equally;
- To liaise with leading Members, other Council Members, council officers and partner organisations to ensure that the needs of the local communities are identified, understood and supported;
- To promote tolerance and cohesion in local communities.

#### **Making decisions and overseeing Council performance**

- To participate in full Council meetings, reaching and making informed and balanced decisions taking into account the best interests of the district, and overseeing performance;
- To participate in informed and balanced decision making on committees and panels to which they might be appointed;
- To adhere to the principles of democracy and collective responsibility in decision making;
- To promote and ensure efficiency and effectiveness in the provision of Council and other public services.

#### **Representing the Council (subject to appointment)**

- To represent the Council as appropriate on local and regional outside bodies and provide feedback each year to the Annual;



- To represent the Council on local partnership bodies, promoting common interest and co-operation for mutual gain;
- To represent and be an advocate for the Council on national bodies and at national events.

### **Reporting and accountability**

- To full Council;
- To the electorate of their ward;
- To community groups; eg residents' associations, parish councils etc.

### **Internal governance, ethical standards and relationships**

- To promote and support good governance of the Council and its affairs at all times;
- To promote and support open and transparent government;
- To provide community leadership and promote active citizenship;
- To support, and adhere to respectful, appropriate and effective relationships with employees of the Council;
- To adhere to the Members' Code of Conduct, the Protocol on Operational Conventions and the highest standards of behaviour in public office.

### **Personal and role development**

- To participate in opportunities for development provided for members by the Council.

### **Values**

- To be committed to and demonstrate the following values in public office:
  - Openness and transparency
  - Honesty and integrity
  - Tolerance and respect
  - Equality and fairness
  - Appreciation of cultural difference
  - Sustainability

## **ROLE DESCRIPTION**

### **MEMBER CHAMPION**

#### **1. Introduction**

- 1.1 Member Champions are Councillors who act as an advocate or spokesperson for a specific area of the Council's business and activities. The main responsibility of each Member Champion is to encourage communications and positive action over the issue they represent.

#### **2 Role of Member Champions**

- 2.1 All Member Champions will have an allocated area of responsibility agreed at the first relevant Policy committee on an annual basis
- 2.2 All Member Champions must act reasonably in their role and recognise and work within the Political management and working arrangements adopted by the Council. As such the Member Champion must work with and communicate regularly with the relevant Committee chairs
- 2.3
- 2.4 A Member Champion cannot make decisions and must not commit the Council in any way or in a manner that could be interpreted as being contrary to established policy and practice. They may however confirm a position as stated in a published policy.

#### **3 Leader and Committee Chairs**

- 3.1 The Leader and Chairs of Policy Committees will:
- a) Acknowledge the right of Member Champions to be consulted on matters relating to their area of interest;
  - b) Take full account of any views offered by the Member Champions prior to making decisions relating to the their area of interest;
  - c) Co-operate with Member Champions in the formulation of action plans they have developed with lead officers;
  - d) Consider nominating Champions to represent the Council at relevant conferences/seminar on the subject matter of the Member's interest.

#### **4. Allowances**

- 4.1 At present no Member Champions are entitled to receive Special Responsibility Allowances. Any change to this position would require recommendation by the Remuneration Panel and approval of Full Council.
- 4.2 Member Champions can, if they wish, claim dependent carers', travelling and subsistence expenses at a meeting or event deemed relevant to the appointed Member Champion position.

#### **5. Terms**

- 5.1 In year changes and additions (where necessary, and after consultation with either of the Policy Chairs) to be appointed at the next available relevant policy committee.

## 6. Roles of Champions

- To represent their area of interest both within and outside the Council in line with Council policy;
- To contribute to the review and development of policies pertaining to their area of interest;
- To challenge and question the Council, the Leader and the Policy Committees on issues relevant to their area of responsibility;
- To act as a catalyst for change and improvement in service delivery;
- To monitor the forward plan and seek information from the Leader, Committee Chairs and Officers about forthcoming business and exert influence on behalf of the interest;
- To keep councillors of all parties up to date with activities in relevant to the area of interest;
- To network with Member Champions from other local authorities with the same interest to keep up to date with current developments;
- To provide positive support and on occasions constructive challenge to officers in driving forward the Council agenda on relevant issues.
- To act as the Council's representative on relevant external bodies where appointed to by the Council.

## MONITORING OFFICER PROTOCOL

### 1. INTRODUCTION TO STATUTORY RESPONSIBILITIES

The Monitoring Officer is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged at West Lindsey Council.

The role of the Monitoring Officer rests with the Assistant Director for People and Democratic.

The Monitoring Officer has a broad role in ensuring the lawfulness and fairness of corporate decision making, ensuring compliance with Codes and Protocols, promoting good governance and high ethical standards.

A summary list of the Monitoring Officer's responsibilities appears in the attached Appendix. The Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent on Members and Officers:

- a. Complying with the law (including any relevant Codes of Conduct);
- b. Complying with any general guidance, codes or protocols issued from time to time, by the Standards Committee and the Monitoring Officer;
- c. Making lawful and proportionate decisions;
- d. Complying with the Council's Constitution; and
- e. Generally not taking action that would bring the Council, their offices or professions into disrepute.

### 2. WORKING ARRANGEMENTS

Having excellent working relations with Members and Officers will assist in the discharge of statutory responsibilities by the Monitoring Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and Officers must, therefore, work with the Monitoring Officer (and his/her staff) to discharge the Council's statutory and discretionary responsibilities.

The following arrangements and understandings between the Monitoring Officer, Members and the Corporate Leadership Team (or 'CLT') are designed to ensure effective discharge of the Council's business and functions. The Monitoring Officer will:

#### 2.1 RESOURCES

2.1.1 Report to the Council as necessary on the staff, accommodation and resources he/she requires to discharge his or her statutory functions;

2.1.2 Have sufficient resources to enable him or her to address any matters concerning

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his/her Monitoring Officer functions;

- 2.1.3 Have control of a budget sufficient to enable him or her to seek Counsel's opinion on any matter concerning his/her functions;
- 2.1.4 Appoint a deputy and keep him or her briefed on any relevant issues that s/he may be required to deal with in the absence of the Monitoring Officer.

## 2.2 ACCESS TO INFORMATION AND MEETINGS

- 2.2.1 Be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other Constitutional issues that are likely to (or do) arise;
- 2.2.2 Have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the authority (including meetings at which 'officer delegated' decisions are taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken);
- 2.2.3 Have the right to attend (including the right to be heard) any meeting of the Council (including meetings at which 'officer delegated' decisions are taken) before any binding decision is taken (including a failure to take a decision where one should have been taken);
- 2.2.4 Be a member of the Corporate Leadership Team and have advance notice of those meetings, agenda and reports and the right to attend and speak;
- 2.2.5 In carrying out any investigation(s) (whether under Regulations or otherwise), have unqualified and unrestricted access to any information held by the Council and to any Officer or Member who can assist in the discharge of her functions.

## 2.3 RELATIONSHIPS

- 2.3.1 Ensure the other Statutory Officers (Head of Paid Service and the Section 151 Officer) are kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other Constitutional issues that are likely to (or do) arise;
- 2.3.2 Meet regularly with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other Constitutional issues that are likely to (or do) arise;
- 2.3.3 Have a close working relationship with the Leader, Deputy Leader and the Chairs of Committees with a view to ensuring the effective and efficient discharge of Council business;
- 2.3.4 Develop effective working liaison and relationship with the District Auditor and the Local Government Ombudsman (including having the authority, on behalf of the Council, to complain to the same, refer any breaches or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);

- 2.3.5 In consultation, as necessary, with the Leader and the Standards Sub-Committee defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved;
- 2.3.6 Make arrangements to ensure effective communication between his or her office and clerks to Parish Councils on Monitoring Officer and Standards Sub-Committee issues.

## 2.4 STANDARDS MATTERS

- 2.4.1 Give informal advice and undertake relevant enquiries into allegations of misconduct and, if appropriate, make a written report to Standards Committee (unless the Chair of Standards Sub-Committee agrees a report is not necessary) if in the opinion of the Monitoring Officer, there is a serious breach of the Members' Code of Conduct;
- 2.4.2 Subject to the approval of Standards Sub-Committee, be responsible for preparing any training programme for Members on ethical standards and Code of Conduct issues;
- 2.4.3 Provide information in response to a contact from a member of the public about an elected member provided that it would not compromise the Monitoring Officer should a formal complaint be made subsequently by the member of the public.

## 2.5 CONSTITUTION

The Monitoring Officer will be consulted on reports to the Council concerning changes to the Constitution.

## 3. MEMBER AND OFFICER RESPONSIBILITIES

To ensure the effective and efficient discharge of the arrangements set out in paragraph 2 above, Members and Officers will report any breaches of statutory duty procedures and other vices or Constitutional concerns to the Monitoring Officer as soon as practicable.

## 4. MISCELLANEOUS

The Monitoring Officer will:

- 4.1 Establish and maintain the Register of Members' Interests and the Register of Gifts and Hospitality;
- 4.2 Receive copies of certificates under the Local Authorities (Contracts) Regulations 1997.

## 5. SANCTIONS FOR BREACH OF PROTOCOL

Complaints of a breach of this Protocol by an Officer will be referred to Head of Paid Service and Section 151 Officer for appropriate action to be considered, including disciplinary investigation if appropriate.

**SUMMARY OF STATUTORY DUTIES  
OF MONITORING OFFICER FUNCTION**

	<b>Description</b>	<b>Source</b>
1	Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government and Housing Act 1989
2	Report on any maladministration or injustice where the Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989
3	Appointment of Deputy Monitoring Officer	Section 5 Local Government and Housing Act 1989
4	Report on resources	Section 5 Local Government and Housing Act 1989
5	Receive copies of whistleblowing and allegations of misconduct	Members' and Co-opted Members' Code of Conduct of West Lindsey District Council
6	Investigate misconduct in compliance with Regulations and directions of Ethical Standards Officers	Local adopted standards arrangements made under the Localism Act 2011
7	Establish and maintain registers of Members' interests and gifts and hospitality	Members' & Co-opted Members' Code of Conduct of West Lindsey District Council
8	Advice to Members on interpretation of Code	Members' & Co-opted Members' Code of Conduct, and appropriate regulations
9	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee	s27 Localism Act 2011
10	Ethical framework functions in relation to Parish Councils	Localism Act 2011
11	Compensation for maladministration	Section 92 LGA 2000
12	Advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members	Legislation, legal advice and DCLG (and predecessors) guidance

## HEAD OF PAID SERVICE PROTOCOL

### 1. INTRODUCTION TO STATUTORY RESPONSIBILITIES

The Head of Paid Service is a statutory appointment pursuant to Section 4 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged at West Lindsey District Council.

The role of Head of Paid Service rests with the Chief Executive, who undertakes to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.

A summary list of the Head of Paid Service's statutory responsibilities appears in the attached Appendix. The Head of Paid Service's ability to discharge these duties and responsibilities will depend, to a large extent on Members and Officers:

- Addressing the staffing needs of the Council;
- Meeting the staffing needs of the Council;
- The appointment and proper management of staff;
- Complying with the Council's Constitution.

### 2. WORKING ARRANGEMENTS

Having excellent working relations with Members and Officers will assist in the discharge of statutory responsibilities by the Head of Paid Service. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and Officers must, therefore, work with the Head of Paid Service (and his/her staff) to discharge the Council's statutory and discretionary responsibilities.

The following arrangements and understandings between the Head of Paid Service, Members and the Corporate Leadership Team (or 'CLT') are designed to ensure effective discharge of the Council's business and functions. The Head of Paid Service will:

#### 2.2 RESOURCES

- 2.1.1 Report to the Council as necessary on the staff, accommodation and resources he / she requires to discharge his or her statutory functions;
- 2.1.2 Have sufficient resources to enable him or her to address any matters concerning his or her Head of Paid Service functions;



## 2.2 ACCESS TO INFORMATION AND MEETINGS

- 2.2.1 Be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including in particular the manner in which the discharge by the Council of its different functions is co-ordinated: the number and grades of staff required for the discharge of its functions; the organisation of the Council's staff and the appointment and proper management of the Council's staff;
- 2.2.2 Will be the lead officer for the Corporate Leadership Team;
- 2.2.3 Have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council (including meetings at which 'officer delegated' decisions are taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken);
- 2.2.4 Have the right to attend (including the right to be heard at) any meeting of the Council (including meetings at which 'officer delegated' decisions are taken) before any binding decision is taken (including a failure to take a decision where one should have been taken);
- 2.2.5 In carrying out any investigation(s) and/or exercising any duties have unqualified and unrestricted access to any information held by the Council and to any Officer or Member who can assist in the discharge of the functions.

## 2.3 RELATIONSHIPS

- 2.3.1 Ensure the other Statutory Officers (Monitoring Officer and the Section 151 Officer) are kept up to date with relevant information regarding the manner in which the Council discharges its various functions, the corporate approach of the Council, the staffing needs of the Council, the organisation of the staff and the appointment and proper management of the staff;
- 2.3.2 Meet regularly with the Monitoring Officer and the Section 151 Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern;
- 2.3.3 Develop effective working liaison and relationship with all Members;
- 2.3.4 Have a special relationship of respect and trust with the Leader, Deputy Leader and the Chairs of Committees with a view to ensuring the effective and efficient discharge of Council business;
- 2.3.5 Develop effective working liaison and relationship with the External Auditor (including having authority, on behalf of the Council, to complain to the same, refer any breaches or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);
- 2.3.6 In consultation, as necessary, with the Leader, Chairman of the Council and the External Auditor, defer the making of a formal report under Section 4 of the Local Government and Housing Act 1989 where another investigative body is involved;

### 3. MEMBER AND OFFICER RESPONSIBILITIES

To ensure the effective and efficient discharge of the arrangements set out in paragraph 2 above, Members and Officers will report any breaches of statutory duty or procedures and other vices or Constitutional concerns to the Head of Paid Service as soon as practicable.

### 4. MISCELLANEOUS

The Head of Paid Service will:

- 4.1 Be available for Members and Officers to consult on any issues of the corporate approach of the Council, staffing needs, appointment and management of staff;
- 4.2 Ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Head of Paid Service role.

### 5. SANCTIONS FOR BREACH OF PROTOCOL

Complaints of a breach of this Protocol by an Officer will be referred to the Monitoring Officer and Section 151 Officer for appropriate action to be considered, including disciplinary investigation if appropriate.

#### SUMMARY OF STATUTORY DUTIES OF HEAD OF PAID SERVICE FUNCTION

	Description	Source
1.	Lead Officer for the Council's Management Team	
2.	Report to the Council where it is appropriate to do so on the following matters: <ul style="list-style-type: none"> <li>• The manner in which the discharge by the authority of their different functions is co-ordinated;</li> <li>• The number and grades of staff required by the authority for the discharge of their functions;</li> <li>• The organisation of the authority's staff; and</li> <li>• The appointment and proper management of the authority's staff.</li> </ul>	Section 4 Local Government and Housing Act 1989
3.	Duty, along with the Monitoring Officer, to be consulted by the Section 151 Officer on particular reports.	Section 114 (3A) Local Government Finance Act 1988

## CHIEF FINANCE OFFICER (SECTION 151 OFFICER) PROTOCOL

### 1. INTRODUCTION TO STATUTORY RESPONSIBILITIES

The Chief Finance Officer is a statutory appointment pursuant to Section 151 of the Local Government Act 1972. This Protocol provides some general information on how those statutory requirements will be discharged at West Lindsey District Council.

At West Lindsey District Council the role of Chief Finance Officer (Section 151 Officer) rests with the Assistant Director for Finance and Business Support, who undertakes to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council. In doing so, s/he will also safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from financial difficulties.

A summary list of the Chief Finance Officer's statutory responsibilities appears in the attached Appendix. The Chief Finance Officer's ability to discharge these duties and responsibilities will depend, to a large extent on Members and Officers:

- Complying with the Council's financial procedures;
- Making lawful payments;
- Not taking action that would result in unlawful payments or unlawful action.

### 2. WORKING ARRANGEMENTS

Having excellent working relations with Members and Officers will assist in the discharge of statutory responsibilities by the Chief Finance Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the **early stages** of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and Officers must, therefore, work with the Chief Finance officer (and his/her staff) to discharge the Council's statutory and discretionary responsibilities.

The following arrangements and understandings between the Chief Finance Officer, Members and the Corporate Leadership Team (or 'CMT') are designed to ensure effective discharge of the Council's business and functions. The Chief Finance Officer will:

## 2.1 RESOURCES

- 2.1.1 Report to the Council as necessary on the staff, accommodation and resources s/he requires to discharge his or her statutory functions;
- 2.1.2 Have sufficient resources to enable him or her to address any matters concerning his or her Chief Finance Officer functions;
- 2.1.3 Nominate a suitably qualified deputy and keep him or her briefed on any relevant issues and s/he may be required to deal with in the absence of the Chief Finance Officer.
- 2.1.4 In the unusual event that the Chief Finance Officer is precluded from offering advice and the deputy is unable to advise, appoint an appropriate external adviser.

## 2.2 ACCESS TO INFORMATION AND MEETINGS

- 2.2.1 Be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including in particular issues around financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or a deficit;
- 2.2.2 Have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council (including meetings at which 'officer delegated' decisions are taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken);
- 2.2.3 Have the right to attend (including the right to be heard) any meeting of the Council (including meetings at which 'officer delegated' decisions are taken) before any binding decision is taken (including a failure to take a decision where one should have been taken);
- 2.2.4 Be a member of the Corporate Leadership Team and have advance notice of those meetings, agenda and reports and the right to attend and speak;
- 2.2.5 In carrying out any investigation(s) and/or exercising his or her fiduciary duties have unqualified and unrestricted access to any information held by the Council and to any Officer or Member who can assist in the discharge of his or her functions.

## 2.3 RELATIONSHIPS

- 2.3.1 Ensure the other Statutory Officers (Head of Paid Service and Monitoring

Officer) are kept up to date with relevant information regarding financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;

- 2.3.2 Meet regularly with the Head of Paid Service and the Monitoring Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;
- 2.3.3 Have a special relationship of respect and trust with the Leader, Deputy Leader and the Chairs of Committees with a view to ensuring the effective and efficient discharge of Council business;
- 2.3.4 Develop effective working liaison and relationship with the External Auditor, and as necessary, the Local Government Ombudsman, (including having authority, on behalf of the Council, to complain to the same, refer any breaches or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);
- 2.3.5 After consulting with the Head of Paid Service and Monitoring Officer, the Chief Finance Officer must make a formal report to the Council under S114 of the Local Government and Finance Act 1988 where a decision has been, or is about to be, made which will result in unlawful expenditure, unlawful loss or deficiency or an unlawful entry in the Council's accounts. The Chief Finance Officer must also make a formal report to Council if it appears that the Council's expenditure is likely to exceed its resources in any financial year.
- 2.3.6 In consultation, as necessary, with the Leader, Chairman of the Council and the External Auditor, defer the making of a formal report under Section 114, 114A, 115 and 116 of the Local Government and Finance Act 1988 where another investigative body is involved;

### **3. MEMBER AND OFFICER RESPONSIBILITIES**

To ensure the effective and efficient discharge of the arrangements set out in paragraph 2 above, Members and Officers will report any breaches of statutory duty or procedures and other vires or Constitutional concerns to the Chief Finance Officer, as soon as practicable.

### **4. MISCELLANEOUS**

The Chief Finance Officer will:

- 4.1 Be available for Members and Officers to consult on any issues of the Council's financial powers, possible unlawful payments, or general advice on the financial arrangements;
- 4.2 Be expected to make enquiries into allegations of financial irregularity or misappropriation of Council funds or resources. This may be undertaken jointly with the Monitoring Officer where there is an overlap of responsibilities;
- 4.3 Be the responsible officer for the provision of internal audit services to the Council. S/he will report to Members on a regular basis on the services provided and audit findings;
- 4.4 Ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Chief Finance Officer role;
- 4.5 The Chief Finance Officer or the deputy will record details of advice given.

## **5. SANCTIONS FOR BREACH OF PROTOCOL**

Complaints of a breach of this Protocol by an Officer will be referred to the Head of Paid Service and Monitoring Officer for appropriate action to be considered, including disciplinary investigation if appropriate.

**SUMMARY OF STATUTORY DUTIES OF  
CHIEF FINANCE OFFICER FUNCTION**

<b>Description</b>		<b>Source</b>
1.	Responsible Officer for the proper administration of the financial affairs of the Authority.	Section 151 Local Government Act 1972 Section 114 Local Government Finance Act 1988.
2.	Appoint a Deputy	
3.	Report on resources needed to perform duties.	Section 114 (7) Local Government Finance Act 1988.
4.	Reports under specified circumstances, namely (a) decisions which involve or would involve the authority incurring expenditure which is unlawful; (b) action taken or about to be taken which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority;	Section 114 (2) Local Government Finance Act 1988
5.	Report if it appears that expenditure of the authority (including that it proposes to incur) in a financial year is likely to exceed the resources available.	Section 114 (3) Local Government Finance Act 1988
6.	Duty to consult with Head of Paid Service & Monitoring Officer in respect of 4 (a) – (c) above	Section 114 (3A) Local Government Finance Act 1988
7.	Conduct the role and responsibilities in line with statutory and professional requirements as may be laid down from time to time (including but not restricted to CIPFA Codes of Practice and the Institute's Statement on the "Role of Finance Director in Local Government".	Relevant Codes of Practice  Accounts & Audit Regulations 1996

# West Lindsey District Council Petition Scheme

## 1. Petitions

- 1.1 The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt.

This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

- 1.2 Petitions can be sent to:

Democratic Services Team  
West Lindsey District Council  
Guildhall  
Marshall's Yard  
Gainsborough  
Lincolnshire  
DN21 2NA

- 1.3 Petitions can also be presented to a meeting of the Council. These meetings take place on an approximately six weekly basis, dates and times can be found at [www.west-lindsey.gov.uk](http://www.west-lindsey.gov.uk).
- 1.4 If you would like to present your petition to the Council, or would like your Councillor or someone else to present it on your behalf, please contact Democratic Services on 01427 676676, at least 10 working days before the meeting and they will talk you through the process. If your petition has received 300 signatures or more it will also be scheduled for a Council debate and if this is the case, we will let you know whether this will happen at the same meeting or a later meeting of the Council.

## 2. What are the guidelines for submitting a petition?

- 2.1 Petitions submitted to the Council must include:
- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take; and



- The name and address and signature of any person supporting the petition.
- 2.2 Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition.
- 2.3 Petitions, which are considered to be vexatious, abusive or otherwise inappropriate, will not be accepted. In the period immediately before an election or referendum, we may need to deal with your petition differently – if this is the case, we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

### **3. What will the Council do when it receives my petition?**

- 3.1 An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.
- 3.2 If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place.
- 3.3 If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures is available from the Democratic Services Team on 01427 676594/5.
- 3.4 We will not take action on any petition, which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

### **4. Petition Levels**

- 4.1 The response your petition receives depends on the number of signatures gathered. The different response levels are:-

Number of Signatures	Response Given
1-99	Passed to the relevant service area
100-299	Meeting with the Leader, Deputy Leader and Head of Paid Service
300+	Full Council Debate

## 5. Next Steps / Action to be taken

5.1 Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- Taking the action requested in the petition
- Considering the petition at a Council meeting
- Holding an inquiry into the matter
- Undertaking research into the matter
- Holding a public meeting
- Holding a consultation
- Holding a meeting with petitioners
- Referring the petition for consideration by the Council's Scrutiny Committee
- Calling a referendum
- Writing to the petition organiser setting out our views about the request in the petition

5.2 If your petition is about something over which the Council has no direct control (for example local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the Council is responsible here ([www.west-lindsey.gov.uk](http://www.west-lindsey.gov.uk)).

5.3 If your petition is about something that a different Council is responsible for, we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event, we will always notify you of the action we have taken.

5.4 Petitions with less than 100 signatures do not meet the relevant criteria, but will be passed to the relevant service area.

## **6. Full Council debates**

- 6.1 If a petition contains more than 300 signatures, it will be debated by the full Council.
- 6.2 This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant Committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## **7. Consideration by the Leader, Deputy Leader and Head of Paid Service**

- 7.1 A meeting with the Leader, Deputy Leader and Head of Paid Service will take place if a petition contains 100 signatures or more.
- 7.2 A senior officer will attend to present a short report setting out the Council's position. Up to three representatives of the petitioners are invited to attend with one nominated as spokesperson.

## **8. What can I do if I feel my petition has not been dealt with properly?**

- 8.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's Overview and Scrutiny Committee review the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.
- 8.2 The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council and arranging for the matter to be considered at a meeting of the full Council.
- 8.3 Once the appeal has been considered, the petition organiser will be informed of the results within five working days. The results of the review will also be published on our website.

## **9. Information and Advice**

For further information or advice, please contact the Democratic Services Team on 01427 676594.

**Virtual First Meetings**

Type of Meeting	Virtual First	Caveats / Reasons
Chair's Briefings	Yes	No legal reason to hold in person, reduces costs, reduces carbon and is in line with feedback received.
Leaders Panel	Yes	No legal reason to hold in person, reduces costs, reduces carbon and is in line with feedback received.
Members Workshops/ Information Sessions	Yes	No legal reason to hold in person, reduces costs, reduces carbon. Attendance has increased, travelling time saved – makes events more accessible. Easily recordable and shared – positive feedback received.
Member Training	Yes*	As above – However it is acknowledged that some training will always work best in an in person setting. Whilst virtual first will be the stance, where training relates to a specific committee function it will be the decision of the Monitoring Officer and Head of Paid Service in consultation with the Chairman of the relevant committee as to the form the training takes.
Members Initial Induction	No	It is important in those early days that New Members are welcomed to the organisation and have the opportunity to meet with senior Officers and their peers. Building relationships cannot be underestimated.
Formal Committee Meetings – covered by legislation LGA 72 and associated regs	No	Not currently legal.
Committee Meetings and Working Groups not covered by regulation preventing them from been held virtually - Examples being the JSCC Committee and Climate and Sustainability Working Group	Yes	No legal reason to hold in person, reduces costs, reduces carbon and is in line with feedback received.

[Name of Group]

DRAFT Terms of Reference to be Approved by [name of parent] Committee\*1

## 1 Background

*This section should include information as to why the Group is needed.*

## 2 Purpose of the Working Group

*This section should include concise detail of what the Group's purpose is / how they will deliver it \*2*

## 3 Membership of the Group, Chairmanship and Appointments\*3

- 3.1 The [name] Group shall comprise [insert no] Members including the serving [insert political roles if required].
- 3.2 The remaining Members of the Group shall be appointed by [name of parent committee of Council ] but do not need to serve on that committee **OR** must serve on that committee.
- 3.3 Membership will comprise [cross party / cross district representation / specific area]
- 3.4 The Working Group shall elect a Chairman at its first meeting **OR** The Chairman of the Working Group shall be [insert political role]
- 3.5 For continuity purposes the Membership of the Group shall remain in place until [date/ or task completed] **OR** Membership will be re-constituted annually through Annual Council.
- 3.6 The Group will be disbanded following submission of closure report to its parent committee / Full Council
- 3.7 Other elected Members may attend the [name] Group, but their level of contribution will be at the discretion of the Chairman.

## 4 Frequency of Meetings and Quorum\*4

- 4.1 The quorum for a meeting shall be [insert no.] Members.
- 4.2 The [name] Group shall determine its own meeting frequency dependent upon need **OR** The Groups shall meet every [set time period]
- 4.3 Meetings will be called with at least [insert no.] days' notice.
- 4.4 Where "4.4 Where an Elected Member fails to attend 2 consecutive meetings of the Working Group without having given due reason for their absence or apologies, the Chairman of the Working Group will have the ability to write to the parent Committee to express concerns regarding an individual's behaviour. Such concerns will be considered at the Parent Committee Chairs Briefing and it will be in the Chairman's Gift to determine whether a request is made to the parent Committee to revise the membership accordingly".
- Where non-attendance relates to the Chairman of a Working Group, the Working Group, as a whole, will have the same rights as set out above.
- Regular in-quoracy will be reported to the relevant Parent Committee Chairman's briefing.

## 5 Reporting Lines, Accountability and Milestones \*5

- 5.1 The [name] Group is directly responsible to the [name of parent Committee]
- 5.2 The [name] Group has no direct decision making powers and will make recommendations to the [name of parent] Committee/ if required.
- 5.3 The [name] Group will report to the [name of parent] Committee, at the following intervals / stages : -

*Add detail relevant to your Group*

## 6 Resources \*6

- 6.1 The [name] Group does not have a supporting budget. **OR** The Group has the following supporting budget [amount] approved by [committee] **OR** allocated through service budget.
- 6.2 If Budgets/ additional budgets are required they will be identified on recommendations made to the relevant Policy Committee.
- 6.2 Officers from the following Teams will support the [name] Group and provide advice, information, guidance and logistical support: -

*Add detail relevant to your Group*

6.3 Administrative support will be provided by [name of Team] Services. Agendas will be set for each meeting and notes from each meeting will be retained.

## **7 Review**

7.1 Following approval these Terms of Reference will be reviewed as minimum every two years if the [name] Group is still operating.

**Date/ Meeting – Document Approved - xxxx**



## Supporting Notes and considerations in Preparing a Working Group / Task and Finish Group Terms of reference

- \*1 All Working Groups / Task Finish Groups and meetings of this nature must belong to a Parent Committee (the parent is determined by nature of the Group and what activity the Group will carry out – seek advice from Democratic Services)

As such the establishment of a working Group must be agreed by a Committee or Full Council. The Terms of Reference for any proposed Group must also be approved by their parent Committee before work commences

### REMEMBER!

- **WORKING GROUPS MUST BE ESTABLISHED BY A COMMITTEE OR FULL COUNCIL**
- **WORKING GROUPS CAN NOT APPROVE THEIR OWN TERMS OF REFERENCE.**
- **WORKING GROUPS CAN NOT AMEND THEIR OWN TERMS OF REFERENCE THEY MUST RECOMMEND CHANGES TO THEIR PARENT COMMITTEE**

- \*2 Examples of concise clear functions

- To oversee the delivery of xxxx
- To produce a draft xxxxx
- To develop a communications plan
- To develop a budget plan for

Include timescales if appropriate

- \*3 **This Section requires you to think about the size and make-up of your Group.**

Do you want or need Members who hold particular positions?

Do you need Members with specific skills or which serve on specific committees? Should Membership be dependent on another Committee appointment?

Should the Group be cross party ? Should it have Members from across the District or from a specific location? – (“true” political balance rules do not affect working groups)

Do you want the Group to elect its own Chairman or do you want that to be set in the Terms of Reference, linked to position, for example Chair of a Committee?

Do you want to keep the membership for the life of the Group? Do you want it change every year? Councillors are elected to four-year cycles – any Group running over 4 years will naturally by default have new appointments made in an Election Year.

Groups should always be formally disbanded by a report back to the Committee which established them.

We do not prevent Members from attending Groups they are not appointed to but you should set out the level of input they can have.

Sample Text is included but this is the minimum information that should be included.

**REMEMBER!**

- **WORKING GROUPS CAN NOT APPOINT THEIR OWN MEMBERS OR CHANGE THEIR MEMBERSHIP WITHOUT A REPORT TO THEIR PARENT CTTEE OR COUNCIL**

- \*4 **This Section requires you to think about the minimum number of Members you need to have present to allow the meeting to proceed.**

It is recommended 3 should be the minimum.

Officers need to give careful consideration that they do not set this too high and make operation difficult when apologies are received.

How often do you want to meet? Do you want flexibility here? Or a set pattern?

How many days notice will you give for calling a meeting – there is no statutory time frame but Officers should be mindful of Members commitments.

Sample Text is included but this is the minimum information that should be included.

**REMEMBER!**

- **WORKING GROUPS / TASK AND FINISH GROUPS SHOULD NOT MEET WITH LESS THAN 3 MEMBERS PRESENT**

- \*5 This section should set out how often the Group will be report back to its parent to keep the work in the public arena and ensure progress is being made.

This could be a time period – for example annually or could be on completion of a specific task dependent on the nature of the Group.

Should the Group make interim reports through less formal routes, bulletins, Chairs Briefings in intervening periods?

The Text included is the minimum information that should be included and must be retained.

**REMEMBER!**

- **WORKING GROUPS / TASK AND FINISH GROUPS DO NOT HAVE DIRECT DECISION MAKING POWER AND SHALL ALL REPORT AT LEAST ANNUALLY TO THEIR PARENT**

\*6 This section should set out what resources are required. What Officers will the support the Group and how?

Such Groups will have no budget unless the Policy Committee – or a service area has already agreed a budget.

All Groups should have agendas and retain notes

**REMEMBER!**

- **WORKING GROUPS / TASK AND FINISH GROUPS DO NOT NATURALLY HAVE ACCESS TO A BUDGET AND NEED TO REQUEST SUCH THROUGH APPROPRIATE CHANNELS**
- **NOTES SHOULD BE KEPT FROM ALL MEETINGS**