



Babergh District Council The Constitution

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SUMMARY AND EXPLANATION

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The Council's Constitution

The 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 law, while others are a matter for the Council to choose.

The Constitution is divided into 4 Parts. Part 1 sets out the 15 Articles which form the basic rules governing the Council's business. Part 2 describes the various responsibilities for different functions and how decisions can be made under delegated authority. Part 3 sets out in detail the Council's procedure rules. Part 4 outlines the Codes of Conduct for Councillors and Officers.

The Constitution also contains links to other associated documents which sit outside of the Constitution but support how the Council operates.

1.1 WHAT'S IN THE CONSTITUTION?

Article 1: of the Constitution commits the Council to provide a clear and accountable way of making decisions. Articles 2-15 explain the rights of citizens and how the key parts of the Council operate. These are:

Article 2: Members of the Council (Councillors)

Article 3: Citizens and the Council

Article 4: The Full Council

Article 5: Chairing the Council

Article 6: The Cabinet

Article 7: Overview and Scrutiny Committee and Joint Scrutiny Committee

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HOW THE COUNCIL OPERATES

- 1.2 The Council is currently composed of 32 Councillors 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.
- 1.3 Councillors have agreed to follow a [Code of Conduct](#) to ensure high standards in the way they undertake their duties.
- 1.4 From May 2017 the Council has adopted the 'Leader and Cabinet' model of governance and decision making.

The Cabinet

The Cabinet makes most of the decisions about how the Council carries out its day-to-day business within the major policy framework and budget approved by the Council.

The Leader is elected every four years (or as the council shall decide within those 4 years) by a vote of all Councillors, once appointed the leader appoints between two and nine other Councillors, one of whom will also be the Deputy Leader, to sit on the Cabinet. These Cabinet members may be responsible for particular areas (known as portfolios) of the Council's work.

The Cabinet publishes a Forthcoming Decisions List that shows the 'key decisions' the Cabinet is going to take which will affect local communities or involve expenditure or savings over a certain level. The Forthcoming Decisions List also shows what decisions are intended to be taken in private and why. There is more detail of how the Cabinet works in Cabinet Procedure Rules in Part 2, Section 3 and the Access to Information Rules in Part 3.

The Cabinet may also delegate its functions to officers or to any sub-committees established by it.

Formal Meetings of the Cabinet are open to the public except when exempt or confidential information is being discussed.

Full Council

All Councillors meet together as the Full Council to take certain types of decision. These mainly concern the overarching policies of the Council and its budget. Council will also meet to consider other regulatory functions (e.g. Planning and Licensing) that only the Council are legally permitted to deal with.

The Council will determine the remit of the Committees of the Council, appoint Councillors to those Committees; and approve any discharge of Council functions by its staff.

Meetings of the Council are normally open to the public and are subject to Procedure Rules set out in part 3 of the Constitution.

Joint Working between Babergh and Mid Suffolk

Babergh District Council and Mid Suffolk District Council have decided that they will co-operate in order to provide services to their respective residents in the most cost effective way possible and have entered in to joint arrangements under the provisions of s101 of the Local Government Act 1972. The two Councils will work together side by side with fully integrated staff and some decisions are taken by joint committees in line with the procedures set out in this Constitution.

HOW OTHER DECISIONS ARE MADE

Regulatory Committees exercise a number of functions including making decisions on planning applications, licensing and most other regulatory business on behalf of the Council. These types of decision cannot be taken by the Cabinet but they can be delegated to officers.

Other advisory boards, groups or panels may be established and are able to make recommendations to these Committees or to the Cabinet but they cannot make decisions.

OVERVIEW AND SCRUTINY

The Overview and Scrutiny Committee supports the development of policies and monitors the decision making of the Cabinet. It can “call in” a decision which has been made but not yet implemented, enabling further consideration of whether the decision is appropriate and has been taken based on all the relevant information.

Scrutiny also enables citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These can lead to reports and recommendations which advise the Cabinet and the Council on its policies, budget and service delivery.

Where any matter relates to both Babergh and Mid Suffolk, a Joint Scrutiny Committee may come together to consider the issues on behalf of both Councils.

THE COUNCIL'S STAFF

The Council has people working for it (called “officers” or “staff”) either as direct employees of the Council or available to it under the joint arrangements between Babergh and Mid Suffolk District Councils, made under s101 and 113 of the Local Government act 1972. Officers are responsible for the discharge of the Council's functions, to give advice, implement decisions and manage the day-to-day delivery of its services.

All officers are politically neutral in their work and do not vote on decisions made by the Council, Cabinet or any committees. Certain officers may, however, take decisions in their own right under delegated powers given to them by the Council or the Cabinet. A code of practice governs the relationships between officers and Councillors.

CITIZENS' RIGHTS

Citizens 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 Citizen's Advice Bureau can advise on an individual's legal rights.

Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- Vote at local elections if on the electoral roll.
- Have access to information in accordance with the law.
- Obtain a copy of the Constitution.
- Attend meetings of the Council, Cabinet and Committees except where confidential or exempt information is being considered.
- Have access to certain documents relating to matters on the Forthcoming Decisions List as well as reports and minutes of the Council, Cabinet or Committee meetings.
- Participate in questions by the public at Council meetings and contribute to investigations by the Overview and Scrutiny Committee.
- Complain to the Council in accordance with the [Complaints procedure](#).
- Complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after exhausting the Council's own complaint process.
- Complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct.
- Inspect the Council's accounts and make their views known to the external auditor.
- Citizens on the electoral roll for the area have the right to sign and submit petitions to the Council, in accordance with the Petition Scheme.

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PART 1

Articles of the Constitution

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ARTICLE 1 – THE CONSTITUTION

Powers of the Council

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

The Constitution

- 1.2 This is the Constitution, and all its appendices, of Babergh District Council.

Purpose of the Constitution

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

Interpretation and Review of the Constitution

- 1.4 Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it considers to be closest to the purposes stated above.
- 1.5 The Council may call upon the Monitoring Officer to provide an interpretation of any aspect of the Constitution from time to time.
- 1.6 The Procedural Rules provide mechanisms for interpreting and operating the Constitution.
- 1.7 In the Constitution the words 'Cabinet' and 'Executive' may be used interchangeably.
- 1.8 The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

ARTICLE 2 – MEMBERS OF THE COUNCIL

Composition

- 2.1 The Council will comprise 32 Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State.

Election and Terms of Councillors

- 2.2 **Election and term.** The regular election of councillors will be held on the first Thursday in May every four years. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election with the exception of the Leader who will hold office in accordance with the statutory provisions until the next scheduled election or as the Council shall decide within those 4 years. Provisions for the resignation or removal of the Leader at other times are set out in Article 4.

2.3 Roles and functions of all Councillors

- (a) **Key roles.** All Councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (iii) effectively represent the interests of their ward and of individual constituents;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the Council; and
- (vi) maintain the highest standards of conduct and ethics.

- (b) **Rights and duties.**

- (i) Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public 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 staff entitled to know it.

- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 3 of this Constitution.

Conduct

- 2.4 Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations which are set out in Part 4 of this Constitution.

Allowances

- 2.5 Councillors will be entitled to receive allowances in accordance with the [Members’ Allowances Scheme](#) which is available on the Council’s website.

ARTICLE 3 – CITIZENS AND THE COUNCIL

Citizens' rights

- 3.1 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 3 of this Constitution:
- (a) **Voting and Petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for a governance model of an elected mayor.
 - (b) **Information.** Citizens have the right to:
 - (i) 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;
 - (ii) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - (iii) inspect the Council's accounts and make their views known to the external auditor.
 - (c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by Scrutiny Committees. (See Questions by the Public at Council Meetings on Page 97)
 - (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council under its complaints scheme;
 - (ii) the Ombudsman after exhausting the Council's own complaints scheme;

Citizens' responsibilities

- 3.2 Citizens must not be violent, abusive or threatening to Councillors or staff and must not wilfully harm things owned by the Council, Councillors or staff.

ARTICLE 4 – THE FULL COUNCIL

4.1 The Full Council (the meeting to which all Councillors are summonsed) is responsible for approving the budget and policy framework, and any other matters which only Full Council can decide. This article defines those functions that are reserved for decision by Full Council, which are as follows:

- (a) Adopting or amending the Constitution;
- (b) Approving or amending the policy framework as set out below;
- (c) Electing the Leader of the Council;
- (d) Receiving any resignation by the Leader of the Council;
- (e) Removal of the Leader of the Council;
- (f) Appointment of the Chair of the Council;
- (g) Receiving any resignation from the Chair;
- (h) Adopting the Members Allowance Scheme;
- (i) Appointing to outside bodies unless the main purpose of the body relates to executive functions or where the Council has delegated the power to appoint to an officer;
- (j) Approving the terms of reference of its committees (but not any Cabinet committees);
- (k) Determining the political balance of the Council and the allocation of seats on its committees;
- (l) Changing the name of its area;
- (m) Making, amending or revoking bylaws or opposing the making of local legislation or personal bills;
- (n) Approving the appointment or dismissal of the Statutory Officers;
- (o) All local choice functions set out in Part 2 of this Constitution.

4.2 Major Policy Framework

- (a) The major policy framework includes the following plans and strategies:-
 - (i) The Corporate Plan (The Joint Strategic Plan);
 - (ii) The Local Plan;
 - (iii) Crime and Disorder Reduction Strategy;
 - (iv) Enforcement Policy;
 - (v) Asset Strategy;
 - (vi) Statement of Licensing Policy under Licensing Act 2003;
 - (vii) Statement of Principles under Gambling Act 2005;
 - (viii) Health and Wellbeing Strategy;
 - (ix) Pay Policy Statement;
 - (x) Medium Term Finance Strategy;
 - (xi) Homes and Housing Strategy;
 - (xii) Homelessness Reduction and Rough Sleeping Strategy;
 - (xiii) Capital Strategy;
 - (xiv) Community Strategy;
 - (xv) Environment Strategy;
 - (xvi) Economic Development Strategy (Open for Business).

- (b) Any plan or strategy that has to be submitted to the Secretary of State or a Minister of the Crown that is required to be approved by Council.
- (c) Those other plans and strategies which the Council has determined should be adopted by the Council as part of the policy framework.
- (d) Plans and Strategies which are drafted and adopted by cabinet but which would be referred to Full Council for comment before adoption:-
 - (i) HRA Business Plan
 - (ii) Equality and Diversity Plan
 - (iii) Human Resources/People Strategy
 - (iv) ICT Strategy

4.3 Removal of Chair of Council

At any meeting of the Council a member may propose that “the meeting has no confidence in the Chair”. The motion shall after debate be put and if carried by a majority of at least two thirds of the members present, the Chair shall consider their position, and report their decision to the Council as soon as possible by the next full council meeting

4.4 Budget

Full Council is responsible for determining and setting the Council’s Medium Term Financial Strategy and Annual Budget.

4.5 Housing Land Transfer

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

4.6 Functions of the Council

The remit of the Council is based on the division of functions as contained in the Local Authorities (Functions and Responsibilities) England Regulations 2000 (as amended). Reference to any Statutes referred to in this article shall include any amendment or re-enactment of the Statute. Full details of the Council’s Functions are to be found in Part 2 of the Constitution

ARTICLE 5 – CHAIRING THE COUNCIL

Role and Function of the Chair

- 5.1 The Chair and Vice-Chair will be elected by the Council annually but neither shall be a member of the Cabinet. The Chair will have the following roles and responsibilities:
- (a) the Chair of the Council will be impartial and not act in a party political way when carrying out that role particularly when exercising a casting vote in the event of deadlock at a Council meeting;
 - (b) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
 - (c) 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;
 - (d) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community;
 - (e) to promote public involvement in the Council's activities;
 - (f) to be the conscience of the Council;
 - (g) to attend such civic and ceremonial functions as the Council and they determine appropriate;
-

ARTICLE 6 – THE CABINET

Role

6.1 The Leader and Cabinet will carry out all of the Council's executive functions and those which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

Form and Composition

6.2.1 The Cabinet will be chaired by the Leader. It will comprise the Leader and no fewer than two and up to nine other Councillors appointed to the Cabinet by the Leader, one of whom shall be designated Deputy Leader.

6.2.2 The Leader may assign specific responsibilities to one or more members of their Cabinet. Where they do so these Cabinet Members will be known as Portfolio Holders.

6.2.3 Only Councillors shall be appointed to the Cabinet. There shall be no co-optees, no deputies and no substitutes for Cabinet members.

6.2.4 The Leader and Cabinet Members must not be members of any Overview and Scrutiny Committee or Joint Audit and Standards Committee.

6.2.5 The Chair and Vice-Chair of the Council must not be members of the Cabinet.

The Leader

6.3.1 The Leader will be a Councillor elected to the position by the Council at its first annual meeting following the district's local government elections or as the Council shall decide within those 4 years. The Leader will hold office until

- a) The next post-election annual meeting of the Council; or
- b) They resign from the office of Leader; or
- c) They are removed from office by ordinary resolution on notice of the Council;
or
- d) They are no longer a Councillor.

6.3.2 When a vacancy arises in the office of the Leader for whatever reason, the Council shall fill the vacancy at the next ordinary meeting of the Council, or at a special or extraordinary meeting summoned for the purpose. The Councillor appointed to fill the vacancy shall hold office for the remainder of the original term, subject to the rules on earlier termination in 6.3.1 above.

- 6.3.3 The Leader shall appoint another member of the Cabinet as Deputy Leader to act when the Leader is unable to act or the office of Leader is vacant. The Leader may, if they think fit, remove the Deputy Leader from office. Where there is a vacancy in the office of Deputy Leader, the Leader must appoint another person to be Deputy Leader. Unless they are removed by the Leader, resigns as Deputy Leader or ceases to be a member of the Council, the Deputy Leader shall hold office until the end of the Leader's original term of office.
- 6.3.4 The Leader remains a member of the Council during their term of office as Leader and any enactment that provides for them to retire earlier as a Councillor does not apply.

Other Cabinet Members and Portfolio Holders

- 6.4.1 The Leader will usually announce the Cabinet Members, Portfolio Holders and the general scope of each portfolio at the annual meeting of the Council. Re-appointments, appointments and the removal of Portfolio Holders announced in this way will take immediate effect. If the announcement is not made at the annual meeting, the Leader will give written notice to the Monitoring Officer of the Portfolio Holders as soon as practicable after the annual meeting and the re-appointments, appointments and removals made in this way will take effect two working days after receipt of the notice by the Monitoring Officer.
- 6.4.2 The Leader may also appoint (or reshuffle) Portfolio Holders to fill any vacancy or increase the size of the Cabinet (up to the maximum number set out in 6.2.1 above) by giving written notice to the Monitoring Officer. These appointments shall take effect two working days after receipt of the notice by the Monitoring Officer. The Leader may also change the scope of any portfolio by giving notice to the Monitoring Officer and to the portfolio holders affected by any changes.
- 6.4.3 Portfolio Holders shall hold office until:-
- a) they resign from office; or
 - b) they are no longer Councillors; or
 - c) they are removed by means of the Leader's notification at or as soon as practicable after the next annual meeting; or
 - d) they are removed from office by the Leader giving written notice of the removal to the Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer.
- 6.4.4 The Leader may delegate executive powers directly to an individual Portfolio Holder rather than such decisions being made by Cabinet. Any granting or removal of such delegated authority to a Portfolio Holder will only take effect once written notice has been provided to the Monitoring Officer.
- 6.4.5 If for any reason the Leader is unable to act or the office of Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Cabinet must act in the Leader's place or must arrange for a Cabinet Member to act in their place.

Functions of the Cabinet

6.5.1 The Cabinet has the following functions:-

- a) to make 'key decisions' as defined in Article 12.9.1 and published in the Forthcoming Decisions List;
- b) to formulate the budget and policy framework for submission to Council in accordance with the budget and policy framework procedure rules in Part 3 of the Constitution;
- c) to implement the approved budget and policy framework;
- d) to determine recommendations and other matters referred to it by committees, sub-committees or Council;
- e) to carry out all of the functions which by law the Cabinet must carry out or has chosen to carry out and which have not been delegated elsewhere.

6.5.2 The Cabinet may carry out its functions:-

- a) itself;
- b) by delegating power to an officer, who shall exercise that power in accordance with the scheme of delegation to officers contained in Part 2 of the Constitution;
- c) by delegating power to a joint committee or another local authority.
- d) by delegating power to a Sub-Committee of the Cabinet
- e) by delegating to a Cabinet Member

Meetings of the Cabinet

6.6 The Cabinet will hold public meetings as frequently as is required for the effective discharge of its functions on dates and at times agreed by the Leader. Meetings will be conducted in accordance with the Cabinet Procedure Rules set out in Part 4 of the Constitution.

ARTICLE 7 – OVERVIEW AND SCRUTINY COMMITTEE AND JOINT SCRUTINY COMMITTEE

Introduction

- 7.1.1 Effective overview and scrutiny is essential to enhance the accountability and transparency of the decision-making process. The Council has appointed its own Overview and Scrutiny Committee to discharge the functions conferred by section 9F of the Local Government Act 2000 and any regulations made thereunder.
- 7.1.2 In accordance with section 9FA of the above Act they may appoint one or more sub-committees to carry out any of their functions. They will seek to improve the delivery of policies and services by:
- (a) review and scrutinise decisions made or actions taken in connection with the discharge of any of the Councils functions;
 - (b) holding the Cabinet to account for its actions;
 - (c) advising on the development and implementation of new policy and corporate projects;
 - (d) testing whether existing policies and practices are effective and efficient and suggesting how they might be improved; and
 - (e) ensuring the rigour and objectivity of performance management and service reviews;
 - (f) overseeing the performance of services by considering a range of information such as performance indicators, inspection reports and action plan monitoring.
 - (g) make reports and/or recommendations to the Council and/or Cabinet in connection with the discharge of any of the Councils functions.
 - (h) exercise the right to call-in for reconsideration decisions made but not yet implemented by Cabinet.

The Overview and Scrutiny Committee

- 7.2.1 The Council will appoint an Overview and Scrutiny Committee of up to 8 members, or as many as Council determines from time to time, and it will be politically balanced. No member of the Cabinet may be a member of the Overview and Scrutiny Committee and the Chair will not be from the Administration unless there is a coalition administration or standing for the chair.
- 7.2.2 The Council has also agreed to meet as required as a Babergh and Mid Suffolk Joint Scrutiny Committee in order to scrutinise matters which affect both councils.
- 7.2.3 The Terms of Reference, Procedural Rules and Call-In provisions of the Overview and Scrutiny Committee are set out in Part 2 of this Constitution.

ARTICLE 8 – REGULATORY AND OTHER COMMITTEES

- 8.1 The Council will appoint Committees set out in Part 2 of this Constitution to discharge the functions described in their Terms of Reference.
- 8.2 The Council has Regulatory Committees which deal with Planning related and Licensing related matters. These are quasi-judicial functions.

The Council has other committees to discharge its functions. The Constitution in Part 2 describes these functions and the Terms of Reference of these Committees.

ARTICLE 9 – THE BABERGH AND MID SUFFOLK JOINT STANDARDS COMMITTEES

- 9.1 In accordance with the requirements of the Localism Act 2011 the Council has adopted a Code of Conduct for Members together with arrangements for dealing with any complaint of a breach of the Code including the appointment of an Independent Person.
- 9.2 The Code of Conduct for Members is set out in Part 4 of this Constitution.
- 9.3 Babergh, Mid Suffolk and Suffolk County Council have agreed to establish a Committee known as the Suffolk Joint Standards Board.
- 9.4 The Membership and Terms of Reference are set out in Part 2 of this Constitution.

ARTICLE 10 - JOINT ARRANGEMENTS and WORKING GROUPS

Arrangements to promote well-being

- 10.1 The Council, in order to promote the economic, social or environmental well-being 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 functions of that person or body.

Subject in all cases to compliance with any relevant statutory provisions.

Joint arrangements

- 10.2.1 The Council may establish or continue to operate joint arrangements with one or more Local Authorities and/or their executives to exercise functions in any of the participating authorities or advise the Council. Such arrangements may involve the appointment of a joint committee with these other Local Authorities.
- 10.2.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with such other local authorities.
- 10.2.3 Except as set out in 10.2.4 below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political balance of the Council as a whole.
- 10.2.4 The Cabinet may appoint members to a joint committee from outside the Cabinet in any of the following cases:-
- a) Where the joint committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the Council by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a Ward which is wholly or partly contained within that part of the area of the Council;
 - b) The joint committee is discharging a function in relation to five or more authorities;
 - c) The function which the joint committee is discharging is one which is required by statute to be discharged by a joint committee;
 - d) The political balance requirements do not apply to such appointments.
- 10.2.5 Details of any joint arrangements including any delegations to joint Committees will be found in the Council's scheme of delegations in Part 2 of this Constitution.

Access to information

- 10.3.1 The Access to Information Rules in Part 3 of this Constitution apply.
- 10.3.2 If all the members of a joint committee are members of the Cabinet in each of the participating authorities, then the Access to Information regime of the joint committee will be the same as that applied to executives.
- 10.3.3 If the joint committee contains members who are not on the Cabinet in any participating authority, then the Access to Information Rules in Part VA of the Local Government Act 1972 shall apply.

Delegation to and from other local authorities

- 10.4.1 The Council may delegate non-executive functions to another local authority or in certain circumstance to the executive of another authority.
- 10.4.2 The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- 10.4.3 The decision whether or not to accept such a delegation from another Local Authority shall be reserved to the full Council.

Contracting out

- 10.5 The Council (in respect of functions which are not the responsibility of the Cabinet) and the Cabinet (in respect of executive functions) 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.

ARTICLE 11 - OFFICERS

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 as statutory chief officers and will have the functions described in Part 2.
 - (i) Head of Paid Service
 - (ii) Monitoring Officer
 - (iii) Chief Finance Officer

Such appointments will be undertaken on behalf of the Council.

Proper Officers

- 11.1 The Council will appoint "proper officers" as required by legislation. Part 2 of the Council's Constitution contains a list of the Proper Officers appointed.

Management Scheme of Officer Delegation

- 11.2 The Council's Monitoring Officer will keep an appropriate up to date Management Scheme of Officer Delegation including keeping copies of authorisations granted to all other officers who have been authorised to act under another officer's delegated powers.
- 11.3 Any officer referred to by their title/post throughout this Constitution will automatically succeed their successor in title/post.

Pay Policy Statement

- 11.4 The Council is required by the Localism Act 2011 to annually approve and publish a pay policy statement that sets out:
 - (a) the remuneration of its chief officers
 - (b) the remuneration of its lowest paid employees, and
 - (c) the relationship between –
 - (i) the remuneration of its chief officers and
 - (ii) the remuneration of its employers who are not chief officers.

ARTICLE 12 - PRINCIPLES OF DECISION MAKING

- 12.1 All decisions of the Authority, including the Council, its Committees, the Cabinet and those operating under delegated powers shall have regard to the following principles of good practice:
- (a) consideration of options, where relevant;
 - (b) having regard to due consultation;
 - (c) consideration of professional advice from officers;
 - (d) clarity of aims and desired outcomes;
 - (e) the action proposed being proportionate to the desired outcome;
 - (f) having respect and regard for human rights;
 - (g) presumption of openness;
 - (h) only relevant matters taken into account;
 - (i) due weight to all material considerations;
 - (j) proper procedures being followed; and
 - (k) the law.

Responsibility for decision-making

- 12.2.1 The separation of powers between the Council and the Cabinet is fundamental to the operation of executive arrangements.
- 12.2.2 Government regulations set out the decisions which the Council must make itself or that it can delegate to Committees or Officers. Any other decisions are for the Cabinet to take. These arrangements shall be reflected in the arrangements set out in Part 2 of this Constitution.

Delegation

- 12.3.1 Unless the Council specifically allocates that function to the Cabinet as a whole:
- (a) the Leader or the Cabinet can delegate any executive functions to a cabinet committee, a Cabinet Portfolio Holder or to an officer;
 - (b) a Cabinet Committee may delegate to an officer;
 - (c) a Cabinet member may delegate to an officer.
- 12.3.2 The Council may delegate many, but not all, of its functions to a committee, sub-committee or an officer. Unless there is any legal provision to the contrary, a committee may delegate to a sub-committee or an officer and a sub-committee may delegate to an officer.
- 12.3.3 Where functions have been delegated:
- (a) this shall not prevent the body or person making the delegation from exercising that function; nor

- (b) prevent the person or body authorised to exercise that function from referring it to the delegator or other person or body with the required authority for a decision.

Natural justice/human rights etc

- 12.4 Any decision maker 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.

RECORDS OF DECISIONS

Minutes

- 12.5 As soon as is reasonably practicable after a meeting, whether held in public or private, the Proper Officer shall ensure that a written record is produced in respect of every decision made at that meeting.

Form of minutes

- 12.6
- (a) The name of each Councillor present shall be recorded in the minutes.
 - (b) Decisions taken at a meeting may, unless there is exceptional urgency, only be taken on the basis of a written report, setting out key legal, financial, service and corporate implications.
 - (c) Minutes of meetings shall comprise:
 - (i) a record of any conflict of interest declared by any member of the decision-making body which made the decision;
 - (ii) a note of any relevant dispensation granted by the Monitoring Officer or Audit and Standards Committee;
 - (iii) a record of a Councillor's vote where so requested under the Procedure Rules;
 - (iv) the decisions taken, either in full or by reference to a full recommendation in another document;
 - (v) a reference to the report or other documentation upon which the decisions of the meeting were taken;
 - (vi) a record of any advice or information which is relevant to the decision taken;
 - (vii) in the case of an Overview and Scrutiny Committee, a summary of such evidence presented to it as is necessary for the effective undertaking of the Committee's work;
 - (viii) any other matter required under this Constitution to be included.

TYPES OF DECISION

Officer Decisions

12.7 Officer decisions taken under the scheme of officer delegations shall be recorded in accordance with the provisions in Part 2 of the Constitution.

Decisions reserved to full Council.

12.8 A list of the Council (that is, non-executive) functions is set out in Part 2 of the Constitution. The functions reserved to Council can be delegated to Council committees or to officers but they cannot be delegated to the Cabinet.

Key Decisions

12.9.1 A 'key decision' is an executive decision which is likely to:

- (a) result in the Council spending, or saving a significant amount compared with the Budget for the service or function the decision relates to; or
- (b) have a 'significant' effect on communities living or working in an area made up of two or more wards.

12.9.2 When assessing whether or not a decision is a key decision Councillors must consider all the circumstances of the case. However, a decision which results in a significant amount spent or saved will generally be considered to be a key decision if:

- (a) the amount spent is £150,000 or more of revenue or capital expenditure;
- (b) savings of £150,000 or more per annum;
- (c) where a decision makes a commitment for spending over a period of time, it is the total commitment that must be considered to see if it is a key decision.

12.9.3 A key decision which is considered to have a 'significant' effect on communities should usually be of a strategic rather than operational nature and have an outcome which will have an effect upon a significant number of people living or working in the area and impact upon:

- (a) the amenity of the community or;
- (b) quality of service provided by the Council.

Decision Making by full Council

12.10 The Council will follow the Council's Procedure Rules set out in Part 3, Section 3 of this Constitution when considering any decision.

Decision Making by the Cabinet

12.11 The Cabinet will follow the Cabinet Procedure Rules set out in Part 3, Section 3 of this Constitution when considering any decision.

Decision Making by other committees and sub-committees

12.12 Committees and sub committees will follow those parts of the Council procedures rules set out in Part 3, Section 3 as applicable to them.

ARTICLE 13 – FINANCE, CONTRACTS AND LEGAL MATTERS

Financial management

- 13.1 The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 3 of this Constitution.

Contracts

- 13.2 Every contract made by the Council will comply with Contract Standing Orders set out in Part 3 of this Constitution.

Legal proceedings

- 13.3 The Director - Law and Governance is authorised to institute, defend or participate in any legal proceedings in any case (and to appoint anyone qualified to act in legal proceedings or to instruct counsel) where such action is necessary to give effect to decisions of the Council or in any case where the Director - Law and Governance considers that such action is necessary to protect the Council's interests.

Authentication of documents

- 13.4 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director - Law and Governance or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Common Seal of the Council

- 13.5 The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of 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 Director - Law and Governance should be sealed. The affixing of the Common Seal will be attested by the Director - Law and Governance or some other person authorised by them. A record of every sealing must be made and consecutively numbered in a register maintained by the Director - Law and Governance or some other person authorised by them.

ARTICLE 14 – REVIEW AND REVISION OF THE CONSTITUTION

Duty to Monitor and Review the Constitution

- 14.1 The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect and to bring forward any recommendations that are necessary.
- 14.2 The Chief Finance Officer shall be responsible for keeping under review the Financial Regulations set out in the Constitution and shall make any necessary amendments and revisions as are required from time to time. If revisions are made they should be reported to Council for approval.

Changes to the Constitution

- 14.3 Changes to the Constitution shall only be approved at a meeting of the Council after consideration of the proposal by the Monitoring Officer unless in the reasonable opinion of the Monitoring Officer a change is:
- (a) a legislative requirement;
 - (b) a minor variation which is of a non-substantive nature;
 - (c) required to be made to remove any inconsistency or ambiguity; or
 - (d) required to be made so as to put into effect any decision of the Council or its Committees or to implement any decision of the Leader in relation to the delegation of executive functions to any officers,
- in which case the Monitoring Officer may make such a change and publicise such changes on the council's website.
- 14.4 Any such change made by the Monitoring Officer shall come into force with immediate effect but shall be referred to full Council as soon as is reasonably possible and shall continue to have effect only if full Council agree.
- 14.5 Other changes to the Constitution shall come into effect at such a date as the Council may stipulate.
- 14.6 The Council should review the Constitution at least annually

ARTICLE 15 – SUSPENSION OF THE CONSTITUTION, INTERPRETATION AND PUBLICATION

Suspension of the Constitution

- 15.1 (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full 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 are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

Interpretation

- 15.2 The ruling of the Chair 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 1.

Publication

- 15.3 (a) The Monitoring Officer will give details of the website address for this Constitution to each member of the authority upon delivery to them of that individual's declaration of acceptance of office on the member first being elected to the Council and will provide a hard copy if so request by the elected member.
- (b) The Monitoring Officer will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Monitoring Officer will ensure that the Constitution is published on the Council's website.
- (d) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

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PART 2

Responsibility of Functions

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POWERS AND DUTIES OF THE COUNCIL, THE CABINET AND COMMITTEES

THE COUNCIL

- 1.1 The procedure for conducting the Council meeting is contained within Part 3.
- 1.2 The Council decides the overall objectives, major policies and financial strategies of the Council. It also considers recommendations from the Scrutiny Committees on issues of significance.
- 1.3 The Local Government Act 2000 and associated regulations divide local authority functions between those which:
 - (a) cannot be the responsibility of an Authority's Cabinet;
 - (b) may be the responsibility of an Authority's Cabinet (local choice); and
 - (c) are to be the responsibility of an Authority's Cabinet.

The Act also provides that a limited number of functions must be discharged by the full Council.

- 1.4 Executive functions of the Cabinet may be discharged by the Cabinet or by a Committee or Sub-Committee of the Cabinet, Officers of the Authority and/or by the Cabinet of other authorities under Joint Arrangements.
- 1.5 Functions of the Council, not being those which must be discharged by the full Council, may be discharged by Committees, Sub-Committees and Officers of an Authority or by the Cabinet of another authority or Joint Committees formed with other authorities.
- 1.6 Delegations allocated to Officers have therefore to be expressed as being 'Executive Functions' or 'Non-Executive Functions'
- 1.7 Non-Executive functions are specified in Schedules 1 and 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and all consequential Amendment Regulations.
- 1.8 Any function that is not therefore specified is assumed to be an executive function.
- 1.9 The Scheme of Delegated Powers to Officers is approved as part of the Council's Constitution. Additional delegated powers are also granted by virtue of Contract Standing Orders and Financial Regulations. Delegations in respect of Cabinet functions are made by the Leader who may amend or vary such delegations upon giving notice to the Monitoring Officer, the Chief Executive and the relevant officers.

RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

1.10 The table below sets out the Council's decisions on who will be responsible for functions where there is a choice whether these are functions of Council or Cabinet in accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). These functions may also be delegated to officers as set out in the Scheme of Delegation to Officers.

Local Choice Function	Responsibility
Any function under a local Act.	Cabinet
The determination of an appeal against any decision made by or on behalf of the Authority.	Council
Any function relating to contaminated land.	Cabinet
The discharge of any function relating to the control of pollution or the management of air quality.	Cabinet
The service of an abatement notice in respect of a statutory nuisance.	Cabinet
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.	Cabinet
The inspection of the Authority's area to detect any statutory nuisance.	Cabinet
The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Cabinet
The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Cabinet
The making of agreements for the execution of highways works.	Cabinet
The appointment of any individual (a) to any office other than an office in which he is employed by the Authority; (b) to anybody other than:- (i) the Authority; (ii) a joint committee of two or more authorities; or (c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment.	Council

RESPONSIBILITIES OF THE COUNCIL

The Council is responsible for:

- 2.1 The adoption and changing of the Constitution except where such changes have been delegated to the Monitoring Officer.
- 2.2 The approval and amendment of the Council's major policy framework, and budget and the approval of any application to the Secretary of State in respect of any Housing Land Transfer.
- 2.3 The adopting of rules relating to meetings and proceedings, standing orders and any subsequent amendment of these documents.
- 2.4 The approval of arrangements for the discharge of Council functions by senior staff of the Council and for the authorisation of senior staff as necessary.
- 2.5 Any decision relating to the dissolution of the Council or relating to merging or joint working with another Local Authority.
- 2.6 Appointment of the:
 - a) Leader of the Council;
 - b) Chair of the Council;
 - c) Vice-Chair of the Council;
 - d) Chair (and Vice) of any other appointed Committees or relevant Sub-Committees.
- 2.7 Agreeing and/or amending the terms of reference for Council committees (but not executive committees which are matters for the Leader) deciding on their composition and making appointments to them.

(Note – any changes to membership of a Committee or Sub-Committee can be implemented by the Monitoring Officer following a request by the relevant Group Leader and notified to the next available Council meeting).
- 2.8 To deal with matters which are statutorily required to be dealt with by the Council under any of the following statutes or any amendments thereto:
 - i. The setting of Council Tax (Local Government Finance Act 1992);
 - ii. The determination of the Council's borrowing limits;
 - iii. The approval or adoption of a plan or strategy for the control of the local authority's borrowing or capital expenditure;
 - iv. The consideration of reports by the Head of Paid Service (Section 4 of the Local Government and Housing Act 1989) regarding proposals for the discharge of the Council's functions and staffing and management of the Council's staff;

- v. The consideration of reports by the Monitoring Officer (Section 5 of the Local Government and Housing Act 1989) regarding any contravention, maladministration or injustice by the Council;
 - vi. The consideration of reports by the Chief Finance Officer (Section 114 of the Local Government Finance Act 1988) regarding the making of a report in circumstances where it appears to them that the Council, a Committee of the Authority, a person holding any office or employment under the Authority or a joint Committee on which the Authority is represented has made or is about to make a decision which involves or would involve the Authority incurring expenditure which is unlawful or has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council, or is about to enter an item of account the entry of which is unlawful;
 - vii. The designation of land as a Litter Control Area (Environmental Protection Act 1990);
 - viii. The approval of schemes for local authority run lotteries;
 - ix. Final approval of the Council's 3 year licensing policy under the Licensing Act 2003, and the Gambling Act 2005 and any decisions under the Council's related policies;
 - x. Preparing and amending the annual Pay Policy Statement under Section 38 of the Localism Act 2011;
 - xi. The adoption of a Code of Conduct for elected and co-opted Members of the Council under Section 27 of the Localism Act 2011;
 - xii. The adoption of a Code of Conduct for staff.
- 2.9 Appointing representatives to outside bodies, including Joint Committees established with other Local Authorities, unless the power to appoint has been delegated by the Council.
- 2.10 The adoption of a scheme of allowances for Members under the Local Government and Housing Act 1989 and the Local Government Act 1972 and any subsequent amendment, variation revocation or re-enactment of such scheme.
- 2.11 To appoint or dismiss, in accordance with statutory procedures, the following staff:
- (a) The Chief Executive (the Head of the Council's Paid Service)
 - (b) The Monitoring Officer
 - (c) The Electoral Registration Officer
 - (d) The Returning Officer for the purpose of conducting elections.
 - (e) The Chief Finance Officer (S151 Officer) (if not the Chief Executive or a Director).
- 2.12 To agree the Council's budget.

- 2.13 To fix Council house rents and other service charges.
- 2.14 Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills.
- 2.15 The exercise of functions relating to changing the name of the area.
- 2.16 Considering reports which any Committee refers to it in accordance with this Constitution.
- 2.17 Requesting the Scrutiny Committee to prepare a report on any particular issue.
- 2.18 Deciding issues where a decision of the Cabinet has been called in by Scrutiny Committee and the matter is to be decided by Council in accordance with the Rules of Procedure for Scrutiny Committees.
- 2.19 The authorisation of the making of an application:
 - (a) for the inclusion of a disposal in a disposals programme under subsection (5) of section 135 (programme for disposals) of the Leasehold Reform, Housing and Urban Development Act 1993; or
 - (b) for consent to that disposal under section 32 (power to dispose of land held for the purposes of part II) or section 43 (consent required for certain disposals not within section 32) of the Housing Act 1985.
- 2.20 To determine any issues which in the opinion of the Chief Executive are of an exceptional nature and warrant consideration by the Council.
- 2.21 To consider alterations to electoral arrangements including:
 - (a) any proposed alterations to District boundaries or electoral areas.
 - (b) approval to the making of Orders altering the number of Parish Councillors for any Parish.
 - (c) the designation of polling places.
- 2.22 To debate Council wide issues including those included in Government White Papers.
- 2.23 To provide a Forum whereby members of the public can attend and ask questions or partners/stakeholders can discuss issues with the Council, e.g. annual state of the District debate.
- 2.24 To enable individual Councillors to pursue issues, ask questions and initiate policy.

- 2.25 The adoption of Financial Regulations and Procedures and any subsequent amendment, variation, revocation or re-enactment of these documents.
- 2.26 The exercise of functions in relation to the Local Government Pension Scheme.
- 2.27 The promotion of, or opposition to, Local Bills in Parliament.
- 2.28 All other matters which by law must be referred to Council.

RESPONSIBILITIES FOR CABINET FUNCTIONS

- 3.1 Executive functions will be performed by the Cabinet. These functions may be grouped together in the form of Cabinet portfolios, the number and scope of which will be agreed by the Leader. The Leader will also allocate responsibility for the portfolios among the individual councillors appointed to the Cabinet, on an annual basis but is entitled to amend the portfolios at any time. Wherever possible Portfolios will be aligned across Babergh and Mid Suffolk, and with the structure of the Senior Leadership Team.
- 3.2 Any function which is not a Council function is an executive function and may be discharged by the Cabinet or by a Cabinet committee or by an officer to whom the Cabinet have delegated power as set out in the scheme of delegations.
- 3.3 The Cabinet shall carry out its business in accordance with the Cabinet Procedure Rules set on in Part 3 of the Constitution.

RESPONSIBILITIES OF THE CABINET

MEMBERS

Up to 10

QUORUM 3

General Role

To take key and other decisions for the effective management of the Council's functions and services in line with the policy framework and budget adopted by full Council and to be responsible for the implementation of these in respect of executive functions and services not otherwise the responsibility of the Council or any other Committee.

Frequency of Meetings

There shall be scheduled monthly meetings, additional meetings may be called from time to time as deemed appropriate.

Substitutes

No substitutes are allowed to the Cabinet.

Role and Function

To approve and consider:-

- (i) Key strategic decisions (other than those which must be determined by the Council) including all decisions which have a major impact on a number of Council services or on the Council as a whole and decisions which are deemed significant in terms of impact on the Council's revenue or capital (to be determined by the Head of Paid Service and/or Section 151 Officer in consultation with the Leader).
- (ii) All key strategic policies (except those which are reserved to Council for approval) and to make recommendations on policies reserved to Council.
- (iii) Formulating the Authority's budget proposals and recommending the same to Council for approval.
- (iv) Formulating the Authority's capital programme and recommending the same to Council for approval.
- (v) Formulating the Authority's housing capital programme and recommending the same to Council for approval.
- (vi) Formulating, monitoring and reviewing the Authority's Housing Revenue Account Self Financing Business Plan and recommending the same to Council for approval.

- (vii) Formulating the Authority's borrowing and investment strategy and recommending the same to Council for approval.
- (viii) Managing and monitoring the Authority's Capital Programme, General Fund and HRA.
- (ix) The key strategic outcomes for delivery over the term of the HRA Business Plan.
- (x) Strategic decision-making in respect of the following:-
 - Transformation Programmes.
 - Organisational Development.
 - Member Development.
 - Member Services and Civics.
 - Strategic Risk Management.
 - Audit Issues (other than matters falling within the remit of the Joint Audit and Standards Committee).
 - Major Projects.
 - Strategic Commissioning and Procurement including Decommissioning.
 - Asset Management.
 - Staffing and resourcing issues.
 - Partnerships and shared services.
- (xi) Approval of payments or provide some other benefits for maladministration under S92 of the Local Government Act 2000.
- (xii) To approve the write-off of any outstanding debt owed to the Council above the delegated limit of £10,000 with the exception of the write-off of debts related to the functions of the Shared Revenues Partnership.
- (xiii) Making recommendations to the Council on standing orders relating to contracts and financial regulations.
- (xiv) All cross-cutting matters which affect the Authority as a whole and any matter/issue not expressly delegated to another Committee.
- (xv) Determining the Authority's strategic approach to wider County and Regional issues.
- (xvi) To take action or make recommendations to Council after considering reports from Overview and Scrutiny Committee (Joint or otherwise) and the Audit and Standards Committee (Joint or otherwise).
- (xvii) To set up and monitor the activity of Working Groups and receive reports and recommendations from them, in line with agreed protocols.

PLANNING COMMITTEE

MEMBERS 11 QUORUM 4

General Role

To exercise the Council's powers as local planning authority in respect of:

- (i) All aspects of planning and development control referred to Committee for determination in accordance with the [Protocol for Use of Planning Officer Delegations](#).
- (ii) All aspects of planning and development control where the decision would not be in accordance with the overall policies and procedures approved by the Council as defined within the [Protocol for Use of Planning Officer Delegations](#).

Note – The Monitoring Officer shall determine whether any Member has undertaken the requisite training.

Frequency of Meetings - Every two weeks or as appropriate. **Site Visits** – when required.

Substitutes - Any Member from the same political group, providing the substitute has undertaken the requisite planning training.

Functions

- (a) For the purpose of the above all aspects of planning and development control include:
 - (i) the consideration, modification and amendment of all aspects of planning obligations under Section 106 of the Town & Country Planning Act 1990 (as amended).
 - (ii) all aspects of planning enforcement including the enforcement of matters under The Planning (Listed Buildings & Conservation Areas) Act 1990 as amended.
 - (iii) in relation to Planning Policy the consideration of briefs for the development and/or redevelopment of land.
 - (iv) all aspects of the Planning (Hazardous Substances) Act 1990 including enforcement matters.
 - (v) all aspects of Tree Preservation control under the Town & Country Planning Act 1990 (as amended).
 - (vi) all aspects of the control of advertisements under the Town & Country Planning Act 1990 (as amended).

- (vii) the revocation or modification of a planning permission, listed building consent or conservation area consent.
- (b) To consider and determine matters concerning public rights of way.
- (c) To consider and make Orders under Section 215 of the Town and Country Planning Act 1990 relating to the proper maintenance of land and resolutions to prosecute for non-compliance with an order.

THE BABERGH AND MID-SUFFOLK JOINT STANDARDS BOARD

Joint Standards Board

Babergh, Mid Suffolk and Suffolk County Council will together establish a Committee known as the Suffolk Joint Standards Board. Membership of the Board shall exclude the Chair of any Council and any Cabinet Member.

Composition

The Committee is constituted pursuant to sections 101, 102, 103 and 111 of the Local Government Act 1972.

[The political balance rules in section 15 of the Local Government and Housing Act 1989 do not apply.]

- (a) *Membership.* The Joint Standards Board will be composed of nine Councillors (three elected members from each Council).
- (b) *Chairing the Board.* The Joint Standards Board or any Sub Committee will nominate the Chair at each meeting.
- (c) The quorum is three (being one member from each Council) for a full meeting of the Joint Standards Board.
- (d) The quorum for Sub-Committee meetings of the Joint Standards Board is three members. Sub-Committee meetings will be arranged by the Monitoring Officer from the Council receiving the original complaint and will take place as and when required. The members will be drawn from the other Councils.

Role and Function

The Joint Standards Board will have the following roles and functions:

- (a) To receive reports from Monitoring Officers when complaints about the conduct of Councillors have been investigated and found that a breach of the Code of Conduct has occurred, and to consider the appropriate sanction (if any) recommended by an Independent Person (as defined within the Localism Act 2011) subject to statute, regulations and Government guidance.
- (b) To promote a culture of openness, accountability and probity in order to ensure the highest standards of conduct.
- (c) To promote the values of putting people first, valuing public service and creating a norm of the highest standards of personal conduct.

- (d) To receive reports from a Monitoring Officer and any independent person appointed by the Council pursuant to the Localism Act 2011.
- (e) To determine appropriate action on matters referred to the Joint Standards Board by a Monitoring Officer, Council or Committee.
- (f) To support a Monitoring Officer in his or her statutory role and the issuing of guidance on their role from time to time in relation to the consideration and/or handling of complaints.
- (g) To manage any resources assigned to the Committee subject to any framework set by any Council or Committee.
- (h) To be responsible for securing equality in relation to the functions of the Joint Standards Board.
- (i) To establish and delegate to Sub-Committees, as appropriate, and manage that Sub-Committee.
- (j) To receive, consider and make decisions on reports received from any Sub-Committees and to make recommendations to any Council in relation to matters reserved to the Council by statute or Procedure Rules.
- (k) If requested by any participating Council to do so, to make representations to the Local Government Association and central Government or other organisations about any matter relating to the general principles of conduct for Councillors.
- (l) If requested by any participating Council to do so to provide advice and guidance to Councillors and make arrangements for training in connection with any matters within the terms of reference of the Committee.
- (m) If requested by any participating Council to do so, to review and make recommendations on Councillors' training to promote the ethical framework.

Additional roles of the Joint Standards Board

The Councils may assess the scope for further work for the Joint Standards Board as events develop.

Terms of Reference

The Suffolk Joint Standards Board will have the Terms of Reference set out in this Constitution.

The Suffolk Joint Standards Board

Terms of Reference

1. Definitions

In this Constitution:

“the Act” means the Local Government Act 1972

“the Councils” means

- (a) Babergh District Council
- (b) Mid Suffolk District Council
- (c) Suffolk County Council

“the Joint Standards Board” means the Suffolk Joint Standards Board

“Monitoring Officer” means the officer designated by the Councils under section 5 of the Local Government and Housing Act 1989 and any deputy nominated by them acting where they are unable to do so owing to absence or illness

“Proper Officer” has the same meaning as in the Act

2. Constitution and Terms of Reference

- 2.1 The Councils, in exercise of their powers under sections 101, 102, 103 and 111 of the Act, have each determined to establish a Joint Standards Committee, to be known as the Suffolk Joint Standards Board to exercise those functions as set out in these Terms of Reference and in the Constitution.

3. Functions to be exercised by the Joint Standards Board

- 3.1 The Joint Standards Board may exercise the functions set out in the Articles of the Constitution.

4. Membership of the Joint Standards Board

- 4.1 The Joint Standards Board shall consist of
 - a) nine members of the Councils, appointed by those Councils in accordance with paragraph 4.2;
- 4.2 Subject to paragraph 4.3, the Councils shall each appoint three members of their authorities to be members of the Joint Standards Board.
- 4.3 Membership of the Board shall exclude the Chair of any Council and any Cabinet member.
- 4.4 A person who is disqualified under Part 5 of the Local Government Act 1972 shall be disqualified from membership of the Joint Standards Committee.

5. Tenure of office and casual vacancies
 - 5.1 Any member of the Joint Standards Board will hold office until one of the following occurs:
 - a) They resign by giving written notice to the Proper Officer of the Council that appointed them.
 - b) They are removed or replaced by the Council that appointed them.
 - c) They are disqualified from membership of the Joint Standards Board.
 - d) They cease to be eligible for appointment to the Joint Standards Board in the capacity in which they were appointed.
 - e) The functions of the Joint Standards Board are allocated to another Committee.
 - f) The Councils determine to reduce the size of the Joint Standards Board and notice is given to the Member to terminate their membership of the Joint Standards Board.
 - g) The Council which appointed them ceases to participate in the Joint Standards Board.
 - h) A resolution of the Councils not to continue with a Joint Standards Board.
 - 5.2 A casual vacancy may be filled as soon as possible by the Council which appointed the member of the Joint Standards Board whose membership has ceased.
6. Sub-Committees
 - 6.1 The Joint Standards Board will appoint Sub-Committees for purposes in the exercise of its functions.
 - 6.2 Each person appointed as a member of a Sub-Committee must be a member of the Joint Standards Board.
 - 6.3 The quorum for Sub-Committee meetings is three members. Where a Sub-Committee is established to determine a complaint against a Councillor then Members of the Sub-Committee will be drawn from other Councils to that which has received the complaint.
 - 6.4 If the Joint Standards Board appoints more than one Sub-Committee to exercise one or more of its functions then it shall ensure that the Proper Officer of the Council's providing support to the Joint Standards Board allocates particular matters to a Sub-Committee first on the basis of the availability of the members required to constitute the Sub-Committee, and thereafter by rotation, and summonses meetings accordingly.

7. Meetings and proceedings
 - 7.1 The regularity of meetings and rules for the conduct of proceedings of the Joint Standards Board (and its Sub Committees) will be set by the Board. The rules of procedure must be consistent with the requirements of the Act. They may provide for different procedures to be followed when the Joint Standards Board or a Sub-Committee is exercising different functions.
8. Monitoring Officer
 - 8.1 The Monitoring Officer will agree and keep under review a protocol about how the Monitoring Officer will exercise their functions in relation to the matters dealt with by the Joint Standards Board.
 - 8.2 The Joint Standards Board will be responsible for approving changes to the protocol.
9. Support
 - 9.1 The Joint Standards Board will meet at the offices of the Council that received the complaint and the Councils agree to provide accommodation and professional, technical, administrative and clerical support for meetings held on its premises.
 - 9.2 The Proper Officer appointed by each Council for the time being providing such support will discharge the proper officer functions under the Act that relate to the meetings of the Board. They will therefore prepare agendas and minutes and summaries of meetings and arrange for notices and other communications to and from the Joint Standards Board to be given and received, save in so far as the Monitoring Officer agrees to undertake this activity.
10. Expenses of Joint Standards Board
 - 10.1 The expenses of the Joint Standards Board and of the discharge of functions relating to matters dealt with by the Joint Standards Board will be met by the Council receiving the complaint.
11. Withdrawal from the Joint Standards Board
 - 11.1 A Council may cease to participate in the Joint Standards Board by resolution to that effect and communicated in writing to the Proper Officer the time being at least three months before the date on which it is to take effect.

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JOINT AUDIT AND STANDARDS COMMITTEE

MEMBERS 10 (5 from each Council) QUORUM 4 (2 from each Council)

General Role

To ensure a consistent approach, avoid duplication of resources and improve joint working between both Councils.

Where there are issues that are pertinent to only a single Council area, only Councillors from the relevant Council will be able to vote on the matter.

Frequency of Meetings

Every two months.

Members – No Leader or members of Cabinet to be on the Committee

Substitutes

Any Member from the same political group and Council, except the Members of the Cabinet.

Role and Function

- (i) Undertake the Council's responsibilities in relation to financial governance issues.
- (ii) Receive Internal Audit's charter, annual plan and progress against the plan that includes an annual report from the Corporate Manager - Internal Audit.
- (iii) Consider the effectiveness of the joint risk management arrangements, the control environment and associated anti-fraud and anti-corruption.
- (iv) Be satisfied that the joint Annual Governance Statement properly reflects the risk environment and any actions taken to improve it.
- (v) Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies and that the value of the audit process is actively promoted.
- (vi) Review and consider the annual Treasury Management Strategies of both Councils, receive reports on performance during the year and ensure appropriate Member training and guidance is provided.

- (vii) Design, monitor and review the ethical framework of the Councils to promote a culture of openness, accountability and probity in order to ensure the highest standards of conduct.
- (viii) Exercise the functions of the Councils in relation to the ethical framework and standards of conduct of the Councils, Parish/Town Councils, Joint Committees and other bodies, as relevant.
- (ix) Advise the Councils on the adoption or revision of a Code of Conduct for Members. Overview codes of good practice, protocols and policies with regard to probity and ethics.
- (x) Oversee and manage programmes of training and development on ethics, standards and probity for Councillors. Issue advice and guidance on standards related matters.
- (xi) Receive reports on complaints made under the Code of Conduct for Members.
- (xii) Support the Monitoring Officer in their statutory role and the issuing of guidance on their role from time to time.
- (xiii) Support the Section 151 officer responsible for the administration of the relevant Council's financial affairs in their statutory role in connection with financial probity and the issuing of national guidance on their role from time to time.
- (xiv) To peruse, review and comment upon the non-salaried expenses of Council officers.

NOTE: Members of this Committee must not participate in the scrutiny of any previous decision that they may have had involvement in as a former member of the Cabinet.

BABERGH OVERVIEW AND SCRUTINY COMMITTEE

MEMBERS 6

QUORUM 2

General Role

Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Cabinet functions.

Make reports and/or recommendations to the full Council or the Cabinet in connection with the discharge of any functions.

Make reports or recommendations to the full Council or the Cabinet with respect to matters affecting the area or its inhabitants.

This Committee will only seek to address matters that are pertinent only to a single Council area.

Frequency of Meeting

Monthly

Substitutes

Any member from the same political group except members of the Cabinet.

Role and Function

The Scrutiny Committee will have the following roles and functions that remain the preserve of the Council:-

- (a) (i) **Performance monitoring and review.**
 - a) Question members of Cabinet and senior officers about their views on issues and proposals affecting the area;
 - b) 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.
- (ii) **Finance.** Exercise overall responsibility for the finances made available to it.
- (iii) **Annual report.** Submit an annual report to Council on its workings.
- (iv) **Officers.** Exercise overall responsibility for the work programme of the Officers employed to support the Committee's work.
- (v) **Task and Finish Panels.** To number 3 to 5 members. When established a clear remit should be set with defined outcomes, time span and reporting requirements.

Conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in the Constitution.

NOTE: Members of this Committee must not participate in the scrutiny of any previous decision that they may have had involvement in as a former Member of the Cabinet and the Chair will not be from the Administration unless there is a coalition administration or standing for the chair.

BABERGH AND MID SUFFOLK JOINT OVERVIEW AND SCRUTINY COMMITTEE

MEMBERS 12 (6 from each Council)

QUORUM 6 (3 from each Council)

General Role

Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Cabinet functions.

Make reports and/or recommendations to the Full Council or the Cabinet in connection with the discharge of any functions.

Make reports or recommendations to the Full Council or the Cabinet with respect to matters affecting the area or its inhabitants.

Frequency of Meeting

As and when convened by the Committee Chair.

Substitutes

Any member from the same political group and Council. Members of the Cabinet may not substitute.

Role and Function

The Scrutiny Committee will have the following roles and functions that remain the preserve of the Council:-

- (a) **Performance monitoring and review.**
 - i) Question members of the Cabinet and Senior Officers about their views on issues and proposals affecting the area;
 - ii) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Finance.** Exercise overall responsibility for the finances made available to it.
- (c) **Annual report.** Submit an annual report to Council on its workings.
- (d) **Officers.** Exercise overall responsibility for the work programme of the Officers employed to support the Committee's work.
- (e) **Task and Finish Panels.** To number 3 to 5 members. When established a clear remit should be set with defined outcomes, time span and reporting requirements.

Conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 3 of the Constitution.

NOTE: Members of this Committee must not participate in the scrutiny of any previous decision that they may have had involvement in as a former member of the Cabinet.

JOINT APPOINTMENTS COMMITTEE

MEMBERS 6 (3 from each Council)

QUORUM 3 (at least 1 from each Council)

General Role

Adopting and exercising such of the Councils' functions as can be delegated by full Council in respect of the appointment, discipline and dismissal of the Chief Executive, Directors and Statutory post holders as are covered by the Local Authorities (Standing Orders) (England) Regulations or any successor regulations or Act.

Frequency of Meetings

As and when required.

Substitutes

Any Member from the same political group and Council.

Role and Function

- (i) To undertake and determine all aspects of the process for the recruitment, selection of the Chief Executive, Directors and Statutory Posts.
- (ii) The final decision as to the appointment, discipline or dismissal of the Head of Paid Service shall be reserved to Council, but the Appointments Committee may make such recommendations about these matters to Council as the law allows.
- (iii) No disciplinary action in relation to the Head of Paid Service, Monitoring Officer or Chief Finance/Section 151 Officer may be taken by the Appointments Committee or the Council, other than
 - (a) Suspension on full pay for no more than two months, or
 - (b) Other than in accordance with the recommendations of a Designated Independent Person's report under the Local Authorities (Standing Orders) England Regulations.
- (iv) In discharging its duties, the Appointments Committee shall follow the procedures set out in the relevant laws then in force, including the Local Authorities (Standing Orders) England Regulations and any appropriate government guidance.
- (v) All other matters pertaining to the appointment, discipline or dismissal of Council staff or staff shall remain the responsibility of the Council's Head of Paid Service.

- (vi) To hear and determine issues relating to discipline and capability for the Chief Executive, Directors and the Statutory Posts of Monitoring Officer and Chief Finance Officer.
- (vii) To deal with disciplinary cases involving Head of Paid Service, Monitoring Officer and Chief Finance Officer in accordance with The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and is to make recommendations of proposed action to Council.

LICENSING AND REGULATORY COMMITTEE

MEMBERS 10

QUORUM 3

General Role

To consider policy issues on licensing and to act as the Licensing Committee under the Licensing Act 2003, and for Gambling Act 2005 matters and any other relevant legislation that may be introduced.

To consider policy issues on any relevant legislation that may be introduced.

Frequency of Meetings

Monthly

As and when required (Licensing and Regulatory Sub-Committee).

Substitutes

No substitutes are permitted for Licensing and Regulatory Sub-Committee.

Licensing Functions

- (i) To review and make recommendations to Council upon policies in relation to licensing matters under the Licensing Act 2003 and the statement of licensing policy.
- (ii) To discharge the Council's functions as a Licensing Authority under the Licensing Act 2003, with agreed policy.
- (iii) To review and make recommendations to Council upon policies in relation to licensing matters under the Gambling Act 2005 and the statement principles.
- (iv) To discharge the Council's functions as a Licensing Authority under the Gambling Act 2005, within agreed policy.
- (v) To arrange for the discharge of any of the licensing functions exercisable by the Committee to an officer of the Licensing Authority subject to the limitations set out in Section 10(4) of the Licensing Act 2003 and Section 154 of the Gambling Act 2005.
- (vi) To discharge any other Council function which relates to a matter which is a licensing function under the Licensing Act 2003 or the Gambling Act 2005, but which is not a licensing function (i.e. street trading) after consideration of a report from the Licensing Section.

Licensing Act 2003

- (i) To carry out functions as the Licensing Committee pursuant to the Licensing Act 2003.
- (ii) To advise the Council on its 'Statement of Licensing Policy', related Licensing policies and practices and make recommendations to the Council on their adoption and review.
- (iii) To appoint Sub-Committees of three members (to be known as Licensing Sub Committees).

To delegate any of its functions within its terms of reference to the Licensing Sub-Committee or officers, subject to the restrictions set out in the Licensing Act 2003.

Regulatory Functions

- (i) To establish and act through Committees made up of 3 members of the Regulatory Committee (to be known as Regulatory Sub-Committees) to determine a range of regulatory and other functions (including Naming of Streets, Trees, Staffing etc).
- (ii) Power to issue licences, certificates or consents including (where legally possible):
 - (a) a power to attach conditions to any licence, certificate or consent;
 - (b) a power to refuse to grant any licence, certificate or consent;
 - (c) a power to set general conditions and regulations with respect to all licences of a certain kind;
 - (d) the power to revoke or suspend licences, certificates or consent;
 - (e) any function for which the Council may charge and issue any approval or consent that may be needed under the terms of any licence.
- (iii) The Regulatory Committee shall decide its own procedures for dealing with applications and disciplinary hearings and in carrying out these functions shall have due regard to any relevant regulations/national guidance. It shall have the power to set enforcement and other licensing or regulatory policies.

Hackney Carriage and Private Hire Vehicle Licensing

- (i) To determine suspension or revocation (or else no action) of licences for Hackney Carriage vehicles, Hackney Carriage drivers, Private Hire Vehicles, Private Hire Drivers, Private Hire Operators.

- (ii) To determine applications for licences for Hackney Carriage Vehicles; Hackney Carriage Drivers; Private Hire Vehicles; Private Hire Drivers and Private Hire Operators when the Head of Environment is disposed to recommend suspension or revocation of a licence or refusal to grant or refusal to renew and chooses not to exercise their delegated authority but refers the matter to the Regulatory Committee for consideration in accordance with a protocol approved by the Regulatory Committee.

General Matters

- (i) Any other appeal arrangements as shall arise under any enactment or government regulation.
- (ii) To determine licences, registrations and consents or to make, revoke or vary closing orders as necessary pursuant to licensing, regulatory, environmental, safety and other statutes (or any subsequent amendment thereto) if the appropriate officer is disposed to recommend revocation, variation, refusal or refusal to renew or does not wish to use their delegated authority.

Gambling Act Functions

- (i) To carry out functions as the Licensing Committee pursuant to the Gambling Act 2005.
- (ii) To advise the Council on its 'Statement of Licensing Principles', related Gambling Act 2005 policies and practices and make recommendations to the Council on their adoption and review.
- (iii) To appoint Sub-Committees of three members to be known as the Licensing Sub-Committee.
- (iv) To delegate any of its functions within its terms of reference to the Licensing Sub-Committee or officers, subject to the restrictions set out in the Gambling Act 2005.

LICENSING ACT 2003: SCHEME OF DELEGATIONS

Matter to be dealt with	Committee	Sub Committee	Officers
		WHERE OBJECTION, REPRESENTATION or REVIEW	NO OBJECTION or REPRESENTATION
Application for personal licence		✓	✓
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		✓	✓
Application for provisional statement		✓	✓
Application to vary premises licence/ club premises certificate		✓	✓
Application to vary designated premises supervisor		✓	✓
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		✓	✓
Applications for interim authorities		✓	✓
Application to review premises licence/ club premises certificate		All cases	
Decision on whether a representation is irrelevant frivolous vexatious etc			All cases *
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	

Matter to be dealt with	Committee	Sub Committee	Officers
		WHERE OBJECTION, REPRESENTATION or REVIEW	NO OBJECTION or REPRESENTATION
Determination of a police representation to a temporary event notice		All cases	
Determination of minor variation applications for premises licences and club premises certificates			All cases
Determination of applications to disapply mandatory conditions at community premises		✓	✓
Licensing Authority role as a responsible authority			All cases

* In consultation with Chair, Vice-Chair or other members of the Regulatory Committee

GAMBLING ACT 2005: SCHEME OF DELEGATIONS

Matter to be dealt with	Council	Committee	Sub Committee	Officers
			WHERE OBJECTION, REPRESENTATION or REVIEW	NO OBJECTION or REPRESENTATION
Final approval of three year licensing policy	✓			
Policy not to permit casinos	✓			
Fee setting (when appropriate)		✓		
Application for premises licences			✓	✓
Application for a variation to a licence			✓	✓
Application for a transfer of a licence			✓	✓
Application for a provisional statement			✓	✓
Review of a premises licence			All cases	
Application for club gaming/club machine permits			✓	✓
Cancellation of club gaming/club machine permits			All cases	
Applications for other permits				All cases
Cancellation of licensed premises gaming machine permits				All cases
Consideration of temporary use notice				All cases

Matter to be dealt with	Council	Committee	Sub Committee	Officers
			WHERE OBJECTION, REPRESENTATION or REVIEW	NO OBJECTION or REPRESENTATION
Decision to give a counter notice to a temporary use notice			All cases	

Note:

Schedule 6 (Minor and Consequential Amendments) of the Licensing Act 2003 amends section 101 of the Local Government Act 1972. The effect of this amendment is that nothing in Section 101 applies in relation to any function under the Licensing Act 2003 of a Licensing Authority. The requirement for the Licensing Act 2003 Committee to be politically balanced does not apply, but is recommended.

The wording of the Licensing Act 2003 indicates that the Committee discharging those functions should only deal with those functions and related matters. This is supported by views expressed by the DCMS and LACORS.

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DELEGATIONS TO OFFICERS

1. INTRODUCTION

- 1.1 The Scheme of Delegation to Officers set out below has been approved and adopted by the Council for the purposes of Section 101 of the Local Government Act 1972. The delegations in respect of Cabinet functions, made under s 15 of the Local Government Act 2000, have been approved by the Leader who may amend any executive delegations to officers at any time by giving notice to the Chief Executive, the Monitoring Officer and the S151 Officer and any officer directly affected by the amendments.
- 1.2 Delegations may also be given by individual resolutions or as part of the approval of any policy procedure or protocol by the Council or Cabinet.
- 1.3 The following powers and duties are delegated to the officers named in this Scheme of Delegation within the normal constraints of Council policy but in the event of those officers being unavailable or unable to exercise the functions referred to, the following officers are authorised to act in their stead:

For the Chief Executive, a Strategic Director

For a Strategic Director, the relevant Director

For the Section 151 Officer, the Deputy Section 151 Officer

For the Monitoring Officer, the Deputy Monitoring Officer.

Any officer referred to by their title/post throughout this Constitution will automatically succeed their predecessor in title/post.

2. GENERAL PROVISIONS

- 2.1 Any delegation to an officer which authorises the incurring of any capital or revenue expenditure will be subject to there being sufficient budgetary provision to cover that expenditure.
- 2.2 Any delegation to an officer to take action under a statutory provision shall be deemed to authorise action under any amendment or statutory re-enactment of that provision.
- 2.3 Any delegation to an officer shall require that delegation to be exercised in compliance with the Council's Procedure Rules, Financial Regulations and Procedures and Procurement and Contract Standing Orders, Human Resources Policies and any other policies or conditions imposed either by the Council or the Cabinet or as required by this Constitution or by statute and any Code of Practice relating to specific functions which may be adopted.

- 2.4 Prior to exercising any delegation that consultation shall be carried out where required by law or by any other part of the Constitution.
- 2.5 Where delegated powers or proper officer functions have been granted to a post on the Council's staff and the designation of such post is changed then such delegated powers or proper officer functions shall vest in the post holder of the new post designation.
- 2.6 In addition to the constraints referred to in the Scheme of Delegations there are exceptions to officers' delegated powers. There is no delegation to officers of:
 - (a) matters specifically reserved to Council, Cabinet or a Committee and;
 - (b) any matter which by law may not be delegated to an officer.

3. GENERAL DELEGATIONS

- 3.1 To the Chief Executive, Strategic Directors and Directors (together referred to as the "Principal Officers").
- 3.2 Any officer referred to by their title/post throughout this Constitution will automatically succeed their predecessor in title/post.
- 3.3 Each Principal Officer is authorised to act on behalf of the Council in relation to any matters (including spending decisions) within the service areas for which they are responsible, subject to any limitations imposed by any provision in law or within this Constitution. The Head of Paid Service will publish a structure chart detailing the broad areas of responsibility for each of the Principal Officers ([Extended Leadership Team Structure Chart](#)).

4. CONFLICTS OF INTEREST

- 4.1 Every officer is responsible for identifying whether they have any conflict of interest in any matter which is under consideration, actual or perceived, within the Authority, and for notifying the Authority (including under section 117 of the Local Government Act 1972).
- 4.2 Where an officer has a conflict of interest in any matter, they shall not participate in that matter in their capacity as an officer except with the prior approval of their line manager, the Monitoring Officer or the Chief Executive.
- 4.3 Where the Chief Executive is unable to act on a matter because of a conflict of interest, the matter shall be discharged by the Monitoring Officer. Where the Monitoring Officer is unable to act the matter shall be discharged by the Deputy Monitoring Officer.
- 4.4 Where a Strategic Director is unable to act on a matter because of a conflict of interest, the Chief Executive shall discharge the matter themselves or allocate the matter to another officer.

- 4.5 Where the Monitoring Officer is unable to act on a matter in their statutory capacity under section 5 of the Local Government and Housing Act 1989, the matter shall be discharged by the Deputy Monitoring Officer.
- 4.6 Where the Monitoring Officer is unable to act on a matter in relation to Councillor conduct, the matter shall be discharged by the person appointed by the Monitoring Officer for this purpose under section 82A of the Local Government Act 2000.
- 4.7 Where any other officer is unable to act on a matter, that officer's line manager or the Chief Executive may arrange for another officer to discharge the matter.

5. RESPONSES TO CONSULTATION

- 5.1 The relevant Director shall be authorised to submit responses on consultation on matters within their functions and area of responsibility in line with the scheme of delegations.
- 5.2 If any consultations are deemed by the Director - Law and Governance to be of sufficient significance they will be referred to the Council, Cabinet or relevant Committee.
- 5.3 Matters that are likely to be of sufficient significance are consultation documents on national, regional or local issues which have been or are likely to be high profile, complicated and controversial.
- 5.4 Should the deadline for the response not enable the matter to be considered by the relevant meeting then the Director - Law and Governance, in consultation with the appropriate Director and meeting Chair is authorised to submit a response, a copy of which will be submitted to the next meeting of that decision maker for information.
- 5.5 All consultation responses issued in the name of the District Council must be in accordance with adopted Council policy, as well as any existing national or regional policy.
- 5.6 Councillors are of course entitled to make separate individual, personal responses to the consultation.

6. RESPONSIBILITIES OF STATUTORY OFFICERS

- 6.1 The functions and responsibilities of the Statutory Officers are given below. The Section 151 Officer and the Monitoring Officer may appoint a deputy (or deputies) as they deem appropriate.

<u>Post</u>	<u>Function and areas of responsibility</u>
Chief Executive/ Head of Paid Service	Overall corporate management and operational responsibility (including management responsibility for all officers and staffing matters). Returning Officer for Elections and Electoral Registration Officer
Section 151 Officer	Principal adviser to the Council on financial matters. Responsible for the overall management of the Council's financial affairs including Internal Audit.
Monitoring Officer	Responsible for ensuring that the Council acts in a lawful manner and that it does not do anything which might cause maladministration or injustice.

7. DELEGATION MATTERS SUBJECT TO CONSULTATION WITH CHAIR (OR VICE-CHAIR IN ABSENCE) OF APPROPRIATE COMMITTEE

Power to act out of Council meeting – General Power

- 7.1 Where, in their opinion, by reason of limitation of time, or urgency a decision is required on any matter, (other than those specifically excluded from delegation) the Chief Executive shall have power to make a decision on that matter subject to consultation with the Chair of the appropriate Committee on the action to be taken by the Chief Executive.
- 7.2 This power shall not apply to:-
- (a) Matters reserved to the Council by statute or common law without power of delegation to a Committee.
 - (a) The setting of Council taxes.
 - (b) Incurring of expenditure for which no allowance has been made in the annual budget unless the approval of the Chair of the Council, and of the Leader has been given to such expenditure.
 - (d) Any proposal which involves the formulation of a major new policy or a major variation of an existing major policy.

- (e) Any matter on which the Council or the Cabinet has given a specific direction.

Note:

At the next ordinary meeting of the appropriate Committee a report is to be submitted setting out all relevant information in relation to the action taken and detailing the reasons why it was necessary to deal with the matter out of meeting.

8. RECORDING AND PUBLICATION OF OFFICER DECISIONS MADE UNDER EITHER EXPRESS AUTHORISATION OR THE SCHEME OF DELEGATIONS

- 8.1 There are two sets of regulations that apply to officer decision making depending on whether an officer decision is taken under Executive Functions or Non-Executive functions.

Executive Functions

- 8.2 When any officer with delegated power (or is duly authorised to take such decisions) takes any executive decision on matters that are the responsibility of the Council's Cabinet, and which affect external parties or the community such as (by way of examples):

- decisions about awarding contracts above a total value of £10,000;
- decisions to exercise powers of Compulsory Purchase;
- decisions on disposal of and/or provision of open space, allotment land or other green spaces;
- decisions to purchase new ICT systems;
- decisions about the holding/cancellation of car boot sales/markets or events on council-owned land;
- decisions about the operating hours of off-street car parks;
- decisions to close a park or sports centre;
- decisions resulting in the closure of a major road.

- 8.3 The decision must be recorded in writing to comply with the *Local Authorities (Meetings & Access to Information) England Regulations 2012 no. 2089*.

The written record must be completed by the officer at the time of making the decision including:

- details of the decision and the date it was made;
- reasons for the decision;
- any other options considered and why those options were rejected;
- details of any conflict of interest declared by any Cabinet member consulted in relation to the decision; and
- a note of any dispensation granted in respect of any declared conflict of interest.

- 8.4 Where an officer takes a key decision they must comply with part 3, paragraph 16 of the Constitution and allow five clear working days before the decision can be implemented.

Non-Executive Functions

- 8.5 When any officer with delegated power takes a Non-Executive decision - under a specific express authorisation, or under a general authorisation where the effect of the decision is to:

- grant permissions or licences;
- affect the rights of individuals;
- award contracts or incur expenditure which, in either case, materially affects the Councils financial position (normally this will be a contract or expenditure above a total of £10,000).

- 8.6 These decisions must be recorded in writing to comply with *The Openness of Local Government Bodies Regulations 2014 no. 2095*. The written record must be produced as soon as possible, (normally within 10 working days) after the decision has been made including:

- The date the decision was taken;
- A record of the decision taken along with reasons for the decision;
- Details of alternative options if any considered and rejected; and
- Where the decision is taken under a specific express authorisation to include the name of any member who has declared a conflict of interest in relation to the decision.

- 8.7 A copy of the record of the decision must be sent by the relevant officer to the Monitoring Officer for publication or inspection as soon as practicable after the decision has been made to enable publication within the timescale set out in 8.6 above.

- 8.8 Executive Functions cease to be Executive Functions (and the decision must be taken by full Council) if the decision maker proposes to:

- (a) make a decision which is inconsistent with a policy approved by the full Council which applies to that decision; or
- (b) make a decision contrary to the budget, capital programme or treasury management in circumstances where the full Council has not authorised this.

9. Authorisations to other Officers

- 9.1 Officers with delegated powers may, in writing, authorise another officer or officers to exercise those powers in any or particular circumstances. Such authorisations may be subject to limitations and conditions. The officer with the delegated powers shall keep a register of all authorisations granted.

9.2 Copies of any authorisations must also be sent:

- (a) to the Monitoring Officer: every authorisation;
- (b) to the S151 officer: authorisations relating to the management of employees and authorisations to sign orders/requisitions, cheques etc.

10 Reserve Delegations

10.1 The delegated powers held by a post may be exercised by the line manager of that post (or by the line manager's line manager or by the Chief Executive) if:

- (a) that post is vacant;
- (b) the post-holder is not at work for any reason;
- (c) the person who has the delegated power has a conflict of interest in the decision or matter.

11. Transfer of Functions

11.1 Where the name of a post is changed for any reason, the renamed post shall retain any delegated powers possessed by the post prior to the name change.

11.2 Where a service area is restructured, the Chief Executive has authority to re-allocate any officer delegated powers (whether Council or executive functions) to other posts and shall give notice of this to the Monitoring Officer and shall also notify all Councillors. The officer to whom any delegated power is transferred is responsible for reauthorising any subordinate officers to take any action under their delegations.

11.3 When a post is vacant and an employee takes on the duties of the post in an "acting" capacity, they have the same delegated powers that they would have if they held the substantive post.

SPECIFIC DELEGATIONS

CHIEF EXECUTIVE

1. To take any action, including the incurring of expenditure, in connection with an emergency or disaster in the district.
2. To exercise powers delegated to any Officer when that Officer is unable or unwilling to act.
3. To employ outside consultants, off payroll staff and firms in cases where they are satisfied that it is necessary to do so in order to carry out work which cannot be dealt with by in-house staff within budget.

MONITORING OFFICER

1. To institute, defend, appear and be responsible for the conduct of legal proceedings before any court, tribunal or public inquiry on behalf of and in the name of the Council where it is in the Council's interests to do so and in particular:
2. To instruct and retain Counsel and obtain advice in relation to any matter whenever this is considered to be in the interests of the Council;
3. To settle proceedings of any description including the payment of damages, compensation and legal costs in consultation with Strategic Directors. Where the settlement figure exceeds £50,000 the Chief Executive and Leader of the Council will be consulted first.
4. To authorise officers to appear in any civil or criminal court or tribunal, and act as authorised officers for the purposes of all legislation under which the Council has duties and powers.
5. To authorise officers to enter land and premises where an authorised officer of the Council may do so under any enactment.
6. To authorise, issue and serve all Statutory Notices (including Requisitions for Information) under any enactment.
7. To sign and seal documents on behalf of the Council.
8. To issue enforcement notices and/or serve stop notices under the Town and Country Planning Act 1990.
9. To determine applications for Lawful Development Certificates pursuant to Sections 191-194 of the Town and Country Planning Act 1990.
10. To accept statutory declarations for the purpose contained in the Housing Acts 1980, 1985 and 1988.

11. To sign indemnities and provide solicitors' undertakings where they are required to enable the Council to exercise any of its functions subject to consultation with the Section 151 Officer where the indemnity or undertaking has considerable financial implications.
12. To ensure compliance with the requirements specified in the Data Protection Act 1998, the Human Rights Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
13. To make/amend the Constitution or the Scheme of Delegations where there has been a change of law, job title, structure or rearrangement of responsibilities between officers or to correct typographical and clerical errors (all members to be notified forthwith).

PROPER OFFICER PROVISIONS

Any officer referred to by their title/post throughout this Constitution will automatically succeed their successor in title/post.

“Proper Officer” appointments in accordance with the relevant provisions of the specified legislation are as set out here under:-

Local Government Act 1972

<u>Section</u>	<u>Description</u>	<u>Proper Officer</u>
13(3)	Chair of Parish Meeting and Proper Officer shall become a body corporate where there is no separate parish council.	Head of Paid Service
83(1)	Receipt of Declaration of Acceptance of Office.	Monitoring Officer/ Head of Paid Service
84	The Officer to whom a person elected to any office under the Council may give written notice of resignation.	Monitoring Officer/ Head of Paid Service
88(2)	The Officer who may convene a meeting of the Council for the election to fill a vacancy.	Head of Paid Service
89(1)(b)	The Officer who may receive notice in writing of a casual vacancy in the office of Councillor from two local government electors.	Head of Paid Service
96(1)	Receipt of notices of pecuniary interest.	Monitoring Officer
96(2)	The Officer who shall keep the record of disclosures of interest under Section 94 and of notices under Section 96(1) and of Section 19 of the Local Government and Housing Act 1989.	Monitoring Officer
100A-100K	Access to Meetings and Documents of Certain Authorities Committees and Sub Committees	Monitoring Officer
115(2)	The Officer who shall receive all money due from every officer employed by the Council.	Section 151 Officer
146(1)(a) and (b)	The Officer who shall give statutory declarations and certificates with regard to securities on the change of name or status.	Section 151 Officer
151	The Officer responsible for the proper administration of financial affairs.	Section 151 Officer
191	The Officer to whom applications under Section 1 of the Ordnance Survey Act 1841 should be sent.	Strategic Director
225(1)	Deposit of Documents with the Proper Officer and making of notes or endorsements and receipts.	Monitoring Officer

<u>Section</u>	<u>Description</u>	<u>Proper Officer</u>
229(5)	The Officer who shall certify that a document is a photographic copy of a document in the custody of the Council.	Monitoring Officer
234	The Officer who may authenticate documents.	Monitoring Officer
236(9) and (10)	The Officer who is responsible for sending certified copies of byelaws to appropriate bodies.	Monitoring Officer
238	The Officer who shall certify copies of Byelaws as true copies.	Monitoring Officer
Sch 12 Para 4(2)(b)	The Officer who may sign a summons to Council meetings.	Head of Paid Service
Sch 12 Para 4(3)	The Officer who may receive notice from a Member of the address to which a summons to a meeting is to be sent.	Head of Paid Service
Sch 14 Para 25(7)	The Officer who may certify copies of resolutions passed under the Public Health Acts 1875 to 1925 as true copies for production in legal proceedings.	Monitoring Officer
Local Government Act 1974		
30(5)	Publication in newspapers of reports of Local Commissioner.	Head of Paid Service
Local Government (Miscellaneous Provisions) Act 1976		
41	Certification of copies of resolutions, minutes and other documents.	Monitoring Officer
Building Act 1984		
S93	Authentication of documents	Section 151 Officer

Note: Infectious disease legislation for which Babergh is the enforcing Authority is co-ordinated to a large extent by the joint approaches of the Director - Operations and the Consultant in Communicable Diseases Control (CCDC). The CCDC is appointed to act as a Proper Officer on behalf of Babergh District Council.

Public Health Acts - Health Protection Functions

The CCDC, where nominated below, shall be the Consultant in Communicable Disease Control for Suffolk as designated by the Health Protection Agency's Norfolk, Suffolk and Cambridgeshire Health Protection Unit (NSCHPU), or by any successor agency or unit, or any equivalently medically qualified deputising officer, also as designated by any successor agency or unit.

<u>Section</u>	<u>Description</u>	<u>Proper Officer</u>
Public Health Act 1936		
84	Cleansing of filthy and verminous articles.	CCDC (as Medical Officer of Health)
85	Cleansing of filthy and verminous persons and their clothing.	CCDC (as Medical Officer of Health)
Public Health (Control of Disease Act) 1984 as amended, and any subordinate Regulations or Orders		
Wherever Proper Officer is referenced or specified:-		CCDC
61	Powers of entry	CCDC or Director - Operations
62	Supplementary powers of entry	CCDC or Director - Operations
National Assistance Act 1948 (as amended) and Section 61 of the National Assistance Act 1951		
47	Removal to suitable premises of persons in need of care and attention	Director - Operations to appoint consultant(s) as necessary to act as the Medical Officer of Health

Representation of the People Act 1983

8	The Electoral Registration Officer for any constituency or part of a constituency coterminous with the District	Chief Executive
35	The Returning Officer for the elections of Councillors of the District and of Councillors of Parishes within the District	Chief Executive

Local Elections (Principal Areas) Rules 1986

All references to the Proper Officer in these Rules relate to the:-	Chief Executive
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Housing Act 1985

606(1) and (2)	Reports on unfitness and clearance.	Director - Housing
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Local Government Finance Act 1988

114	Financial Report to the Authority	Section 151 Officer
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Local Government and Housing Act 1989

4	Head of Paid Service	Head of Paid Service
5	Monitoring Officer	Monitoring Officer
S19	Receipt of information about Members' interests	Monitoring Officer

Localism Act 2011

33	The officer to receive a written request for a dispensation to be granted.	Monitoring Officer
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Anti-Social Behaviour, Crime and Policing Act 2014

1	Power to seek and Injunction	Director Operations and Director - Housing in consultation with Monitoring Officer
43	Power to issue Community Protection Notices	Director - Operations and Director - Housing in consultation with Monitoring Officer.
52	Power to issue Fixed Penalty Notices	Director - Operations and Director - Housing.
59	Power to make Public Spaces Protection Orders	Director - Communities and Public Access and Director - Operations.
76	Power to seek Closure Orders and/or Issue Closure Notices	Director - Operations and Director - Housing

Data Protection Act 2018

69	Data Protection Officer	Director - Law and Governance
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DEPUTY PROPER OFFICER PROVISIONS

In respect of the purposes for which the Head of Paid Service is the Proper Officer of the Council, a Strategic Director is authorised to act as the Proper Officer when the Chief Executive is unable to act.

In other cases where the designated Proper Officer is unable to act, the following are designated Deputy Proper Officers:-

For any Director, a Strategic Director, or Head of Paid Service.

For a Strategic Director, another Strategic Director or the Head of Paid Service.

For the Section 151 Officer, the Deputy Section 151 Officer.

For the Monitoring Officer, a Deputy Monitoring Officer.

For the Consultant in Communicable Diseases (CCDC), any equivalently medically qualified officer as designated by the Health Protection Agency's Norfolk, Suffolk and Cambridgeshire Health Protection Unit (NSCHPU), or by any successor agency or unit.

For the Director - Environment and Projects in respect of sections 61 and 62 of the Public Health (Control of Disease) Act 1984, any Officer duly authorised by the Director Environment and Projects.

Any Proper Officer may appoint any other person in writing to act on their behalf.

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PART 3

Rules of Procedure

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GLOSSARY FOR CABINET, COUNCIL, COMMITTEE AND SUB COMMITTEE MEETINGS

Access to Information Rules - Provisions that apply to all councils that provide the public and press with access to meetings and connected papers of the Council, its committees or sub committees unless confidential or exempt information is likely to be disclosed.

Agenda – The list of matters to be discussed at a meeting. Referred to as a Summons in respect of Council meetings.

Allocation of Seats – The allocation to different political groups of seats on a committee.

Annual Meeting of the Council – A meeting that happens every year when the Chair and Vice Chair are appointed and the membership of the Council's Committees is confirmed according to the political proportionality of the Council at that time.

Articles – The basic rules governing the Council's business.

Background Papers – The law says that report authors must list any papers used in compiling a report for decision, and these papers must be available for 6 years to anyone wishing to inspect them.

Cabinet - The Leader elected by the Council and up to 9 councillors chosen by the Leader to form a Cabinet with legal powers and responsibilities for discharging executive functions including the day to day management of the Council's business in line with an overarching framework approved by the Council.

Chair – The Chair and Vice Chair are elected at the Annual meeting of the Council and preside over all meetings of the Council.

Clear Working Days – All agendas and papers for decision in public must be available five clear working days before the decision is taken (special rules can apply to urgent late items). The five days does NOT include the day the papers are sent out or the date of the meeting (hence the use of 'clear'). 'Working' is taken to be Monday to Friday inclusive and excludes Saturdays, Sundays and Bank Holidays.

Committee – Council committees comprise a group of members appointed to perform some service or function on behalf of the Council.

Confidential Information – Information either given to the Council by the Government on terms which forbid its public disclosure or which cannot be publicly disclosed by Court Order. (See also 'Exempt Information' below).

Councillor – An elected Member of the Council.

Debate – The formal discussion between the elected Councillors of a Council or a Committee during a meeting according to the rules of procedure for that body.

Delegation of Functions – The Cabinet Leader or the Council can delegate the exercise of their statutory functions to officers or to committees or to another local authority, while also retaining the power to discharge the function itself. Officers who have been given delegated powers may also authorise other officers to discharge all or part of their delegated authority (with or without further limitations) on their behalf, although the officer with the delegated power remains responsible for the proper discharge of the power. S.101(3) of the Local Government Act 1972 provides that where the Council has entered into joint arrangements with another local authority, functions can be discharged on behalf of the Council by the other authorities' officers.

Exempt Information - Information, falling into one of 7 categories set out in the Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006 (as amended) which usually cannot be publicly disclosed – see the Access to Information Procedure Rules in Part 3 of the Constitution.

Extraordinary Meeting – Is one called in accordance with the process as set out in the Constitution. This type of meeting is outside the regular timetable and has special requirements as to who can call this meeting. This is not to be confused with calling an Ordinary Meeting or an additional Council meeting.

Key Decision – a Cabinet decision meeting the criteria set out in Article 12 that is included in the Forthcoming Decision List.

Ordinary Meeting – Most Council meetings are ordinary or regular meetings (known as Ordinary meetings). These meetings are held on a regular basis and conduct the ordinary business of the Council.

Motion – A motion is a formal proposal put to Council or a Committee. The motion must be moved and then seconded before it can be debated.

“it must be expressed as a motion in positive terms to adopt a certain course of action or to do some act or to declare a particular attitude”

This should not be confused with a report recommendation and/or question from the floor of the Council Chamber or any committee or to Cabinet.

There are two types of motion, formal on notice and procedural without notice.

Nomination – This means the act of officially suggesting someone to be on one of the Council's Committees or outside bodies.

Personal Explanation – A personal explanation is when a Councillor wishes to clarify the meeting’s understanding of something they said in an earlier speech which appears to have been misunderstood by other Councillors in the current debate. For example, if another Councillor is taking what the Councillor raising the personal explanation has said in the wrong context or is deliberately misinterpreting it. This must relate to a material part of an earlier speech.

Petition – This is a formal written request, typically one signed by twenty people appealing to the Council in relating to the exercise or non- exercise of duties or powers of the Council. Signing a petition is one way for citizens who are resident in and/or who work or study in the District to express their concerns and priorities to the Council. Such a petition shall be referred to the next meeting of the Committee or Sub-Committee responsible for the administration of the powers in connection with the subject matter of the petition. In addition the Chief Executive shall report the receipt of such a petition to the next meeting of the Council where there shall be no comment or debate upon that fact.

Point of Order – A point of order may be raised by a Councillor who believes that there has been a breach of the Council procedure rules or the law. This is a very narrow definition, upon which the Chair’s ruling is final.

Political Balance Rules – Sections 15-17 of the Local Government and Housing Act 1989 (“the Act”) require the Council to follow rules to secure the political balance on Committees and Sub Committees. Political groups for the purposes of the Act should not be confused with political parties. The formula for determining entitlement to seats is complicated but the number of seats on the main Committees allocated to a political group must bear the same relationship to the total membership of the Council.

Political Proportionality – A legal principle which dictates that Committees of the Council must include elected politicians in proportion to the size of their groups on the Council as a whole.

Powers – The Council provides a wide range of services either directly itself or by commissioning services from outside organisations. The Council largely works within powers laid down under Acts of Parliament but the Council also has a general power of competence (The Localism Act 2011). Most Council services are mandatory. This means that the Council must do them because they are under a duty to do so by law. Some Council services and functions are discretionary; these are services a Council can choose to provide.

Proper Officer – A senior officer of the Council who is given a set of responsibilities by statute.

Proposition/Proposal – A formal suggestion/motion put forward for consideration by the Committee or Council meeting. A proposition/proposal must be seconded before it can be debated or voted upon.

Questions – Questions at ordinary meetings of the Council can either be from the public or from Councillors. At some other Committees, for example Planning or Licensing, members of the public can make representations according to the rules of these Committees.

Quorum – The minimum number of Councillors that must be present at either a Council meeting or a Committee meeting to make the proceedings of that meeting valid.

Report – This is the written format of information put before the Council or a Committee. A report must provide sufficient information and detail for Councillors to take a lawful and informed decision on the subject matter. A report will have a form of action or a decision to take no action or note something.

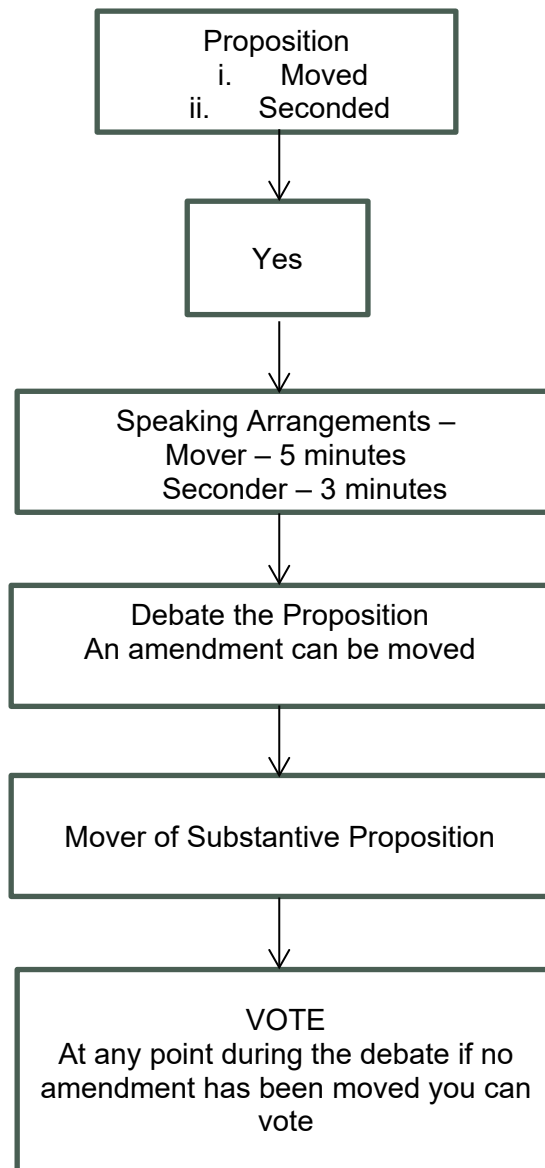
A report is prepared by Officers for and on behalf of elected Councillors. A report is not to be confused with laying down a formal motion. When a report is placed before Council or a Committee, a Councillor must move the recommendation(s) and they must be seconded before they can be debated. Any elected Councillor can put forward an amended recommendation and seek a seconder for that.

Requisition – This is a request or call for an additional Council (extraordinary) meeting.

Statute – This is an Act of Parliament.

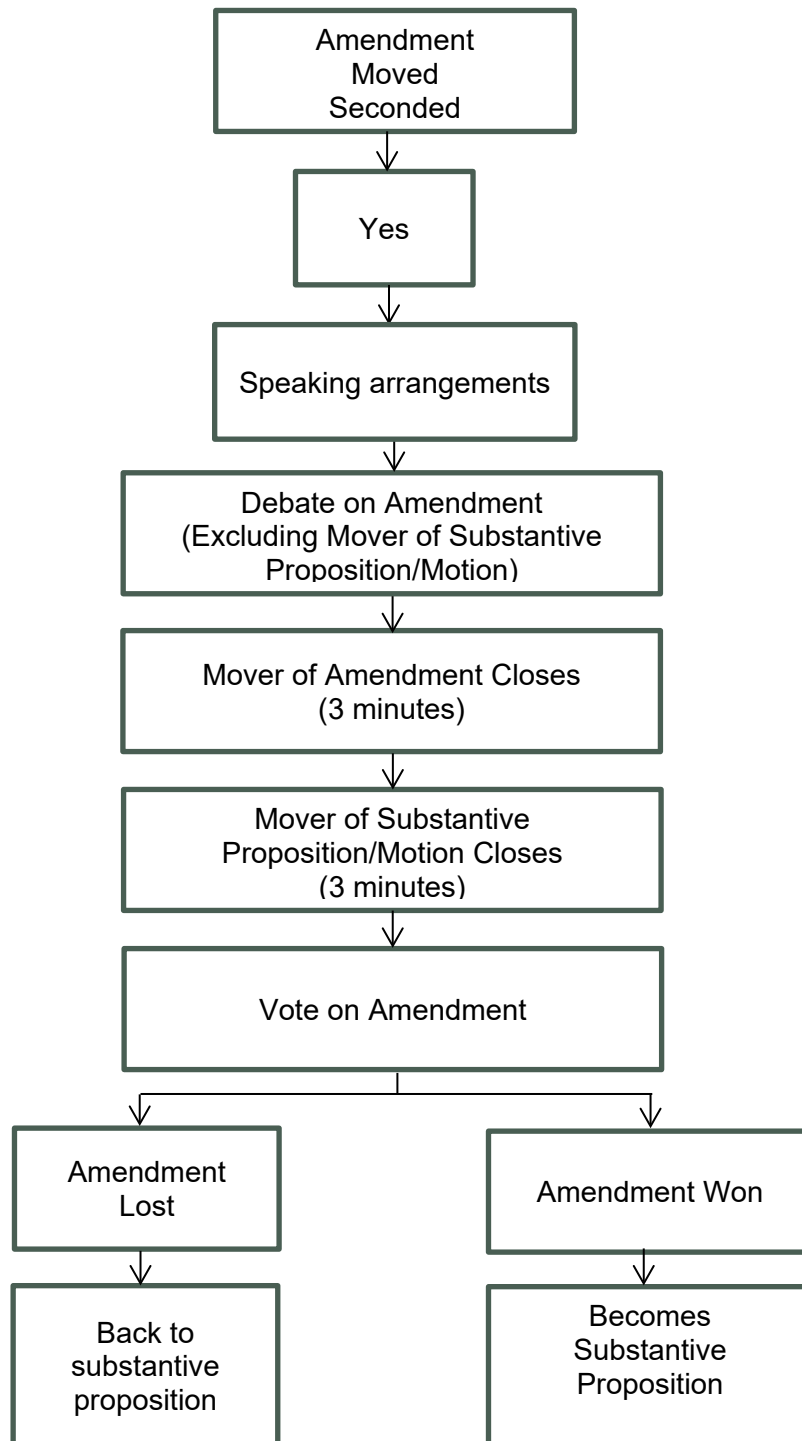
Substitute – A substitute on a Committee is a Councillor acting in the place of another Councillor.

Dealing with Main Substantive/Original Proposition/Motion



At any time after moved and seconded:
Point of Order – A point of order may be raised by a Councillor who believes that there has been a breach of the Council procedure rules or the law.

Dealing with Amendments



At any time after moved and seconded:
Point of Order – A point of order may be raised by a Councillor who believes that there has been a breach of the Council procedure rules or the law.

COUNCIL PROCEDURE RULES

1. INTRODUCTION

- 1.1 These rules are designed to ensure meetings of the Council run smoothly and are conducted properly.
- 1.2 So far as the law allows, any of these rules may be suspended at any meeting of Council, either for the whole meeting or for a particular item on the agenda. In order to achieve this at least one half of the whole number of Members of the Council should be present, a motion must be moved and seconded and a vote carried.
- 1.3 If any issues arise at a meeting in relation to interpretation of the procedure rules the Chair's decision shall be final.
- 1.4 Any motion (including a motion received on notice) or proposition to add to, vary or revoke these Council meeting Procedure Rules, shall when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

2. ARRANGEMENTS FOR COUNCIL MEETINGS

- 2.1 Consideration and signing of the Minutes.

The Chair will sign the Minutes of the proceedings at the next suitable meeting. The only part of the Minutes that can be discussed is their accuracy.
- 2.2 Placards, banners, advertising materials and similar items are not permitted in any Council meeting.
- 2.3 Members of the public may record proceedings and report all public meetings. Oral commentary during meetings is not permitted as this would be disruptive to the good order of the meeting.
- 2.4 Mobile phones must be switched off or to silent mode.
- 2.5 The public may record (eg film, audio, tweet, blog) meetings which are open to the public.
- 2.6 The Chair of the meeting has the discretion to stop or suspend recordings by the public if in their opinion continuing to do so would disrupt proceedings at the meeting. The circumstances in which this might occur include:
 - (a) Excessive noise in recording or setting up and re-setting equipment.
 - (b) Intrusive lighting and use of flash photography.

- (c) Moving to areas outside the area designated for the public without the Chair's consent.
 - (d) Whilst taking a recording (eg film, audio, tweet, blog) you must not do so in a manner which constitutes an invasion of privacy.
- 2.7 Those recording meetings must respect the wish of any member of the public not to be recorded.
- 2.8 Agendas for and signage at meetings will make it clear that recording can take place. Anyone who does not wish to be recorded should let the Chair of the meeting know.
- 2.9 Recording and reporting the meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance; eg with the Human Rights Act, the Data Protection Act and the laws of libel, defamation and public order. Freedom of speech within the law should also be exercised with personal and social responsibility – showing respect and tolerance towards the views of others.
- 2.10 The Council has a protocol in place in respect of recording at meetings which is available on the Council's website.
-

3. SUMMONS AND AGENDA

- 3.1 The time and place of meetings will be determined by the Chief Executive and notified in the summons which, at least five clear working days before a meeting will be signed by the Chief Executive and sent to every Member of the Council by electronic mail or sent to his/her usual place of residence and made available to the public in accordance with the Access to Information Rules.
- 3.2 The agenda and papers for meetings of the Council must be available at least five clear working days before the meeting.
- 3.3 The duration of any meeting shall be at the absolute discretion of the Chair. At any time during the meeting the Chair may adjourn the meeting.
-

4. ORDER OF BUSINESS

4.1 Annual Meeting of Council

This is a statutory order of business and cannot be changed.

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 (Councillors take office on the 4th day after the election). In any other year, the annual meeting will usually take place in May.

The annual meeting will:

- (a) elect a person to preside if the Chair and Vice Chair are not present;
- (b) elect the Chair of Council for the administrative year;
- (c) elect the Vice-Chair of Council for the administrative year;
- (d) receive apologies;
- (e) receive declarations of interest;
- (f) deal with any item required by statute to be dealt with before any other item;
- (g) approve the Minutes of the last meeting;
- (h) receive any announcements from the Chair, Leader and/or Head of Paid Service;
- (i) elect a Leader;
- (j) appoint Committees and Sub-Committees as the Council considers appropriate;
- (k) elect Chair and Vice-Chair of Committees and Sub Committees;
- (l) decide the allocation of seats to Committees and substitutes of political groups in accordance with the political balance rules;
- (m) receive nomination and appoint Councillors to serve on each Committee and outside body/partnership;
- (n) consider, and provide answers to, questions on notice from the public in accordance with Council procedure rule 12;
- (o) consider, and provide answers to, questions on notice from Councillors in accordance with Council procedure rule 13;
- (p) consider any business set out in the notice convening the meeting.

4.2 Election of the Chair of Council

The Term of Office of the Chair of Council shall be for one year with the retiring Chair and previous Chair being eligible for re-election.

4.3 Removal of the Chair

At any meeting of the Council a member may propose that “the meeting has no confidence in the Chair”. The motion shall after debate be put and if carried by a majority of at least two thirds of the members present, the Chair shall consider their position, and report their decision to the Council as soon as possible by the next full Council meeting.

4.4 Holding of Office

Any member of the Council appointed to a Committee or other body shall not hold office later than the next Annual Meeting of the Council.

4.5 Dissolution of Committee

The Council may at any time dissolve a Committee or alter its Membership.

5. ORDINARY MEETINGS

The following order of business does not have to be followed and can be changed at the Chair’s discretion before the agenda/summons is sent out or during the meeting itself by a resolution following a motion that has been moved, seconded and put to the meeting without debate.

Ordinary meetings will:

- (a) elect a person to preside if the Chair and Vice-Chair are not present;
- (b) receive apologies;
- (c) receive declarations of interest;
- (d) deal with any item required by statute to be dealt with before any other item;
- (e) approve the Minutes of the last meeting;
- (f) receive any announcements from the Chair, Leader and/or Head of Paid Service;
- (g) receive notification of petitions;
- (h) deal with any business from the last Council meeting;

- (i) consider, and provide answers to, questions on notice from the public in accordance with Council procedure rule 12;
 - (j) consider, and provide answers to, questions on notice from Councillors in accordance with Council procedure rule 13;
 - (k) receive reports about, and receive questions and answers on, the business of joint arrangements and external organisations;
 - (l) receive reports from the Leader and/or when necessary from relevant Portfolio Holders;
 - (m) receive reports from the Chair of Overview and Scrutiny Committee;
 - (n) consider any other business specified in the summons to the meeting;
 - (o) consider motions received on Notice;
 - (p) consider any changes to Councillor placings on committees.
-

6. EXTRAORDINARY MEETINGS

The following may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- (a) the Council by resolution;
 - (b) the Chair of Council;
 - (c) the Monitoring Officer;
 - (d) the Chief Finance Officer; and
 - (e) where at least one-third (rounded up) of members of the Council have signed a requisition presented to the Chair of Council and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
-

7. STATE OF THE DISTRICT DEBATE

7.1 Calling of State of the District Debate

The Chair of Council may call a State of the District debate on a date and in a form to be agreed.

7.2 Form of the State of the District Debate

The Chair of Council will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity.

7.3 Chairing of the State of the District Debate

The debate will be chaired by the Chair of Council.

7.4 Results of the State of the District Debate

The results of the debate will be:

- (a) disseminated as widely as possible within the community and to relevant agencies and organisations in the area; and
- (b) considered by the Cabinet in proposing the budget and policy framework to the Council for the coming year.

8. QUORUM

8.1 The quorum of a meeting will be one quarter of the whole number of Councillors (for the avoidance of doubt this will be rounded up to the next whole number). During any meeting if the Chair counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn immediately.

8.2 Remaining issues will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

9. DURATION OF MEETING AND THE GUILLOTINE

9.1 Where three hours has elapsed after the commencement of any Council meeting the Chair shall interrupt the meeting and call for the vote immediately on the item of discussion, any Councillor speaking must immediately sit down. The vote will be taken without further debate.

- 9.2 The Council may decide to extend the meeting or hold an adjourned or special meeting to consider one or more of the items which has not been considered.
- 9.3 Rule 9.1 will not operate to prevent the transaction of any business which must by law be transacted at any meeting which is unopposed or can be dealt with without discussion or to extend the meeting.
-

10. URGENT ITEMS

- 10.1 No business shall be transacted at a meeting of the Council other than that specified in the agenda except business brought before the meeting as a matter of urgency as certified by the Chair for specific reasons which are to be included in the Minutes.
-

11. PETITIONS

- 11.1 If any petition is submitted to the Chief Executive, either directly or indirectly, relating to the exercise or non-exercise of duties or powers of the Council and signed by at least twenty persons who are resident in the District or who work or study in the District it shall be referred to the next meeting of the Committee or Sub-Committee responsible for the administration of the powers in connection with the subject matter of the petition. In addition the Chief Executive shall report the receipt of such a petition to the next meeting of the Council where there shall be no debate or comment thereon.

The [petition scheme](#) is available on the Council website.

12. QUESTIONS BY THE PUBLIC

12.1 General

Members of the public may ask questions of the Chair in accordance with the provisions of this rule.

12.2 Order of Questions

Questions shall be asked in the order notice of them was received, except that the Chair may group together similar questions.

12.3 Notice of Questions

A question may be asked only if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than midday three clear working days before the day of the meeting. Each question must give the name and address of the questioner and must name the relevant Chair to whom it is to be put.

12.4 Number of Questions

At any one meeting no person may submit more than two questions (plus a supplementary question) and no more than one question (plus a supplementary question) may be asked on behalf of one organisation. The Chair shall also have the discretion to limit the number of questions received at any one meeting.

12.5 Scope of Questions

The Monitoring Officer may reject a question if it:

- (a) is not about a matter for which the Local Authority has a responsibility or which affects the district;
- (b) is defamatory, frivolous, vexatious or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) requires the disclosure of confidential or exempt information.
- (e) relates to a regulatory matter which the relevant committee has determined.

12.6 If the Monitoring Officer redirects the question to someone else then they will inform the questioner if there is opportunity to do so.

12.7 Asking a Question at the Meeting

The Chair will invite the questioner to put the question to any Councillor who may be named in the question. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

12.8 **Supplementary Question**

A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to their original question. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds in Rule 12.5 above.

12.9 **Written Answers**

Any question which cannot be dealt with during the public question time, either because of lack of time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer and be made available on request.

12.10 **Reference of Question to a Committee**

Unless the Chair decides otherwise, no discussion will take place on any question, but any Councillor may move that a matter raised by a question be referred to the appropriate Committee or Sub-Committee.

12.11 **Time Allowed for Questions**

The total period allowed for questions and answers from members of the public is 30 minutes and no questions may be asked after this period has elapsed unless the Council resolves to grant an extension.

13. **QUESTIONS BY COUNCILLORS**

13.1 **General**

Councillors may ask questions of the Chair in accordance with any item on the Agenda. These questions can be asked without notice.

13.2 **Questions on Notice at Council**

A Councillor may ask up to three questions on any matter in relation to which the Council has powers or duties or which affects the District of:

- (a) the Chair; or
- (b) the Chair of any Committee or Sub-Committee
- (c) a Portfolio Holder

provided Rule 13.3 has been followed.

13.3 Notice of Questions

A Councillor may only ask a question under this Rule if either:

- (a) they have given by noon at least three clear working days' notice in writing or by electronic mail of the question to the Monitoring Officer.
- (b) if the question relates to an urgent matter, then with the consent of the Council Chair provided that the question is given to the Monitoring Officer by 4 p.m. on the working day prior to the meeting it can be put to Council.

13.4 Scope of Questions

The Monitoring Officer may reject a question if it:

- (a) is not about a matter for which the Local Authority has a responsibility or which affects the district;
- (b) is defamatory, frivolous, vexatious or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) requires the disclosure of confidential or exempt information.
- (e) Relates to a regulatory matter which the relevant committee has determined.

13.5 If the Monitoring Officer redirects the question to someone else then they will inform the questioner if there is opportunity to do so.

13.6 Asking a Question at the Meeting

The Chair will invite the questioner to put the question to any Councillor who may be named in the question. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

13.7 Reference of Question to a Committee

Unless the Chair decides otherwise, no discussion will take place on any question, but any Councillor may move that a matter raised by a question be referred to the appropriate Committee or Sub-Committee.

13.8 Time Allowed for Questions

The total period allowed for questions and answers from members of the Council is 30 minutes and no questions may be asked after this period has elapsed unless the Council resolves to grant an extension.

13.9 Response

An answer may take the form of:

- (a) a direct oral answer given at the meeting;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

13.10 Supplementary Question

A Councillor asking a question under Rule 13.2 may ask one supplementary question without notice to the Councillor to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

14. MOTIONS ON NOTICE

14.1 Notice

Except for motions which can be moved without notice under Rule 14, written notice of every motion, signed by at least two Councillors, must be delivered or emailed to the Monitoring Officer no later than five clear working days (that is not counting either the day of the meeting or the day of receipt) before the date of the meeting.

14.2 Motion on Notice

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

14.3 Scope

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

14.4 Circumstances when a Motion on Notice will not be accepted

The Monitoring Officer may reject any motion if they consider that it:-

- (a) does not relate to the business of the Council or affect the District.
 - (b) is defamatory, frivolous, vexatious or offensive.
 - (c) is a motion which the Council has no power to pass or which contravenes any provision in these Rules of Procedure.
 - (d) a motion to rescind or amend a resolution which has been passed by the Council within the preceding six months.
 - (e) motions to the same effect as any motion which has been rescinded or countermanded within the preceding six months or a motion which the Council has no power to pass or which contravenes any provision in standing orders.
- 14.5 At the meeting a valid motion on notice must be moved and seconded before any consideration or debate can take place. The Councillor proposing the motion must move and explain the purpose of it. No speeches or debate can take place until the motion has been seconded.
- 14.6 Any motion on notice which is duly proposed and seconded will be debated by the full Council at the meeting at which it is proposed, unless in the view of the Chair it would be inappropriate or ultra vires for the full Council to do so. If the motion relates to a function reserved to the full Council the Chair will also take a vote on the motion at said meeting.
- 14.7 If the subject matter of any motion in respect of which notice has been duly given is related to an executive function then it shall, upon being duly moved, seconded and debated, stand referred to the Cabinet to take the final decision in respect of the motion. The comments from any debate at full Council about the motion will be reported to the Committee for them to take into account when considering the motion.
- 14.8 If the subject matter of any motion in respect of which notice has been duly given is related to a function reserved to a Committee then it shall, upon being duly moved, seconded and debated, stand referred to the relevant Committee to take the final decision in respect of the motion. The comments from any debate at full Council about the motion will be reported to the Committee for them to take into account when considering the motion.
- 14.9 If the motion stands referred to a Committee or Cabinet for decision and the member who moved the original motion is not an ordinary member of the Committee or of Cabinet then they shall be invited to attend and address the Committee or Cabinet meeting. A member who is not an ordinary member of a Committee or Cabinet shall not have a vote at the meeting.

14.10 **Alteration of Motion**

A Councillor may alter a motion of which they have given notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

14.11 A Councillor may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

14.12 Only alterations which could be made as an amendment may be made.

15. **PROPOSITION/PROPOSALS AND MOTIONS WITHOUT NOTICE**

15.1 Motions and/or propositions without any notice can be moved and seconded then voted upon at meetings.

The following motion may be moved without notice:

- (a) to appoint a Chair 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 Councillor 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 extend the meeting or time for speeches;

- (n) to suspend a particular Council Procedure Rule other than Council Procedure Rules 19.5 (recorded vote) and 2.1 (signed minutes);
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a Councillor named under Rule 20.3 or to exclude them from the meeting under Rule 20.4;
- (q) to give the consent of the Council where its consent is required by this Constitution;
- (r) to amend or accept the recommendation contained in a report under consideration by the Council.

16. AMENDMENTS TO PROPOSITIONS/PROPOSALS AND MOTIONS ON NOTICE

16.1 No amendment to the Motion to adopt the draft budget recommended to the Council may be moved unless notice giving details of the amendment has been given to the Monitoring Officer no later than 12 noon three working days before the meeting

- (a) An amendment to a proposal/motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original proposal/motion may be moved.
- (d) If an amendment is carried, the proposal/motion as amended takes the place of the original proposal/motion. This becomes the substantive proposal/motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chair will read out the amended proposal/motion before accepting any further amendments, or if there are none, put it to the vote.

16.2 If an amendment to a proposal/motion has been moved and seconded, the mover of the original proposal/motion has a right of reply at the close of the debate on the amendment following the mover of the amendment's closing remarks but may not otherwise speak on it.

16.3 **Withdrawal of Motion**

A Councillor may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

17. **RULES OF DEBATE**

17.1 If a Councillor wishes to speak they should indicate their intention by raising their hand.

17.2 The Chair will decide the order in which speakers will be heard.

17.3 Councillors will stand when speaking and must address the Chair.

17.4 Speeches must be directed to the subject under discussion or to a personal explanation or point of order. The speech of a proposer of any motion or amendment shall not exceed 5 minutes and no other speech may exceed 3 minutes without the consent of the Chair.

17.5 When seconding a motion or amendment, a Councillor may reserve his/her speech until later in the debate.

17.6 Unless notice of the motion has already been given, the Chair may require it to be written down and handed to them before it is discussed.

17.7 Councillors may speak once on any motion. However, if a motion is amended Councillors may speak once on each amendment.

17.8 If the motion has been amended since the Councillor last spoke, that Councillor may move a further amendment to the motion.

17.9 The Councillor who moved the original motion has a right of reply at the close of the debate on that motion or any agreed amendment.

17.10 A Councillor may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The Councillor must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the matter will be final.

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

17.12 **Bringing Debate to Early Closure**

- (a) A Councillor who has not already spoken in the matter may orally move a motion (which must be seconded and voted upon):
 - (i) To proceed to the next business;
 - (ii) That the question be now put;
 - (iii) To adjourn a debate;
 - (iv) To adjourn a meeting.
- (b) If a motion/proposition to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion/proposition a right of reply and then put the procedural motion to the vote.
- (c) If a motion/proposition that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote.
- (d) If it is passed they will give the mover of the original motion/proposition a right of reply before putting their motion/proposition to the vote.
- (e) If a motion/proposition to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion/proposition the right of reply.

18. **PREVIOUS DECISIONS AND MOTIONS**

- 18.1 Council decisions are final and should normally not be altered or amended for six months.
- 18.2 A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 14 Councillors.

- 18.3 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 14 Councillors. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

19. **VOTING**

19.1 **Majority**

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

19.2 **Chair's Casting Vote**

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

19.3 **Budget Meetings**

Immediately after any vote is taken at a budget decision meeting of the Council the names of Councillors who cast a vote for the decision or against the decision or who abstained from voting shall be recorded in the Minutes of that meeting.

19.4 **Method of Voting**

- 19.4.1 The primary method of voting at all meetings will be electronic voting.

If electronic voting is not available, the Chair of the meeting will determine the voting method to be used. This could include, but is not limited to, voting by:

- show of hands
- roll call, or
- if there is no dissent, affirmation of the meeting.

- 19.4.2 A record of how each Councillor voted during the electronic vote will be published on the Council's website.

- 19.4.3 Neither provision of Rule 19.4 will negate the ability of Councillors to call for a recorded vote under Rule 19.5.

19.5 **Recorded Vote**

If five Councillors 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. The recorded vote will not be relevant for the appointment of Councillors.

19.6 **Right to Require Individual Vote to be Recorded**

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

19.7 **Voting on Appointments**

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

19.8 **Ballots**

In the case of the appointment of Councillors only, the vote will take place by ballot if five Councillors present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

20. **COUNCILLORS' CONDUCT**

20.1 **Standing to Speak**

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

20.2 **Chair Standing**

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

20.3 **Councillor not to be Heard Further**

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

20.4 Councillor to Leave the Meeting

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

20.5 General Disturbance

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

21. DISTURBANCE BY PUBLIC

21.1 Removal of Member of the Public

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

21.2 Clearance of Part of Meeting Room

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

22. APPOINTMENT/DELEGATIONS TO COMMITTEES

22.1 Delegation of Functions

The Council shall delegate its functions to such Committees and Sub-Committees as it deems appropriate.

23. RECORD OF ATTENDANCE

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

24. EXCLUSION OF PUBLIC

24.1 Members of the public and press may only be excluded either in accordance with the [Access to Information Rules](#) in Part 3 of this Constitution or Rule 21.

- 24.2 If any question arises at a meeting of the Council as to the appointment, promotion, salary, dismissal, pension entitlement or conditions of service or the conduct of a Council employee, such questions shall not be discussed until the Council has considered whether or not to exclude the press and public under Part 1 Paragraph 1 of Schedule 12A of the Local Government Act 1972.

COMMITTEE AND SUB COMMITTEE PROCEDURE RULES

1. INTRODUCTION

- 1.1 These rules are designed to ensure meetings run smoothly and are conducted properly.
 - 1.2 So far as the law allows, any of these rules may be suspended at any meeting, either for the whole meeting or for a particular item in the agenda. In order to achieve this at least one half of the whole number of members of the committee or Sub Committee should be present, a motion must be moved and seconded and a vote carried.
 - 1.3 If any issues arise at a meeting in relation to interpretation of the procedure rules the Chair's decision will be final.
 - 1.4 Any motion (including received on notice) or proposition to add to, vary or revoke these Committee meeting Procedure Rules, shall when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Committee.
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2. ARRANGEMENTS FOR COMMITTEE AND SUB COMMITTEE MEETINGS

- 2.1 The agenda and papers, including such reports as are available, for meetings must be available at least five clear working days before the meeting.
 - 2.2 The duration of any meeting shall be at the absolute discretion of the Chair.
-

3. ORDER OF BUSINESS

- 3.1 The order of business will usually be:
 - (a) elect a person to preside if the Chair and Vice-Chair are not present;
 - (b) receive apologies;
 - (c) receive declarations of interest;
 - (d) deal with any item required by statute to be dealt with before any other item;
 - (e) approve the Minutes of the last meeting;
 - (f) consider any relevant petitions;
 - (g) deal with any business from the last meeting of the Committee;

- (h) consider questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
 - (i) consider questions from, and provide answers to, Councillors on any matter in relation to which the Committee has powers or duties;
 - (j) receive reports for decision by Committee;
 - (k) receive reports for information;
 - (l) consider any other business specified on the agenda;
 - (m) consider motions referred by Council.
- 3.2 This order of business does not have to be followed and can be changed at the Chair's discretion before the agenda is sent out or during the meeting itself.
-

4. REMOVAL OF CHAIR OF COMMITTEE

- 4.1 At any meeting of a Committee or Sub-Committee a Councillor may propose that "the meeting has no confidence in the Chair", the question shall after debate be put and if carried by a majority of at least two thirds of the Councillors present the Chair shall stand down and the remainder of the meeting shall be chaired by the Vice-Chair or in their absence by a Councillor elected for that purpose by the meeting.
- 4.2 Following a successful vote of no confidence in the elected Chair they shall not officiate at any subsequent meeting of the Committee or Sub-Committee prior to the next meeting of the Council. At that meeting the Council shall consider whether to confirm or not the vote of no confidence. If by a simple majority the Council shall decide to confirm the vote, the office of Chair of the relevant Committee shall be declared vacant and a new Chair shall be elected by the Council.
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5. QUORUM

- 5.1 The quorum of a meeting will be one quarter of the whole number of Councillor on that Committee (for the avoidance of doubt this will be rounded up to the next whole number). During any meeting if the Chair counts the number of Councillor present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining issues will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next meeting of that Committee.

- 5.2 The quorum of the Regulatory Sub Committee and the Licensing Sub Committee will be 3 members.
 - 5.3 At any time during the meeting the Chair can adjourn the meeting.
 - 5.4 The order of business can be varied at the discretion of the Chair or by a resolution following a motion moved, seconded and put to the meeting without debate.
 - 5.5 The person presiding at the meeting may exercise any power or duty of the Chair.
-

6. URGENT ITEMS

- 6.1 No business shall be transacted at a meeting of the Committee other than that specified in the agenda except business brought before the meeting as a matter of urgency as certified by the Chair for specific reasons which are to be included in the Minutes.
-

7. QUESTIONS BY THE PUBLIC

7.1 General

Members of the public may ask questions of any Chair of a Committee in accordance with the meeting agenda.

7.2 Order of Questions

Questions will be asked in the order notice of them was received, except that the Chair may group together similar questions.

7.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than three clear working days before the day of the meeting. Each question must give the name and address of the questioner and must name the relevant Chair to whom it is to be put.

7.4 Number of Questions

At any one meeting no person may submit more than one question (plus a supplementary question) and no more than one question (plus a supplementary question) may be asked on behalf of one organisation. The Chair shall also have the discretion to limit the number of questions received at any one meeting.

7.5 Scope of Questions

The Chief Executive may reject a question if it:

- (a) is not about a matter for which the Committee has a responsibility;
- (b) is defamatory, frivolous, vexatious or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Committee in the past six months; or
- (d) requires the disclosure of confidential or exempt information.

7.6 Asking the Question at the Meeting

The Chair will invite the questioner to put the question to the Councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

7.7 Supplementary Question

A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to their original question. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds in Rule 7.5 above.

7.8 Written Answers

Any question which cannot be dealt with during the public question time, either because of lack of time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer and be made available on request.

8. QUESTIONS BY COUNCILLORS

8.1 Questions on Notice at Committees and Sub-Committees

Subject to Rule 8.2 a Councillor who is not a member of that Committee or Sub-Committee may ask the Chair a question on any matter in relation to which the Council has powers or duties or which affect the District and which falls within the terms of reference of that Committee or Sub-Committee.

8.2 Notice of Questions

A Councillor may only ask a question if either:

- (a) they have given by noon at least three clear working days' notice in writing or by electronic mail of the question to the Chief Executive.
- (b) if the question relates to an urgent matter, then with the consent of the Committee Chair provided that the question is given to the Chief Executive by 4 p.m. on the working day prior to the meeting it can be put to Committee.

8.3 Response

An answer may take the form of:

- (a) a direct oral answer given at the meeting;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

8.4 Supplementary Question

A Councillor asking a question under Rule 8.1 may ask one supplementary question without notice to the Councillor to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

9. CONSIDERATION OR RECOMMENDATIONS IN REPORTS

With regard to the Planning Committee, the process to be followed in respect of the moving of recommendations is set out in the [Planning Charter](#).

- 9.1 The report recommendation should be moved by one Committee member and seconded by another Committee member. It then becomes a motion which may be debated before a vote is taken.
- 9.2 Motions relating to the following may be moved and seconded without notice but must be provided in writing to the Chair when being moved:
 - (a) an alternative to a recommendation in the report;
 - (b) amendments to motions.

10. MOTIONS WITHOUT NOTICE

10.1 Motions can be moved and seconded orally at meetings to ensure meetings run smoothly and are conducted properly. The following motions may be moved without notice:

- (a) to appoint a Chair for the meeting in the absence of the Chair and Vice Chair;
- (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 Sub Committee arising from an item on the agenda for the meeting;
- (f) to withdraw a motion;
- (g) to amend a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn the meeting;
- (l) to suspend a particular Committee Procedure Rule other than Committee Procedure Rules 13.4 (recorded vote) and 14.1 (signed Minutes);
- (m) to exclude the public and press in accordance with the Access to Information Rules;
- (n) to not hear further a Councillor named under Rule 15.2 or to exclude them from the meeting under Rule 15.3;
- (o) to give the consent of the Committee where its consent is required by this Constitution.

11. RULES OF DEBATE

11.1 If a Councillor wishes to speak they should indicate their intention by raising their hand.

11.2 The Chair will decide the order in which speakers will be heard.

11.3 Councillors will remain seated when speaking and must address the Chair.

- 11.4 Speeches must be directed to the subject under discussion or to a personal explanation or point of order. The speech of a proposer of any motion or amendment shall not exceed 5 minutes and no other speech may exceed 3 minutes without the consent of the Chair.
- 11.5 When seconding a motion or amendment, a Councillor may reserve their speech until later in the debate.
- 11.6 Councillors may speak once on any motion. However, if a motion is amended Councillors may speak once on each amendment.
- 11.7 If the motion has been amended since the Councillor last spoke, that Councillor may move a further amendment to the motion.
- 11.8 The Councillor who moved the original motion has a right of reply at the close of the debate on that motion or any agreed amendment.
- 11.9 If an amendment to a motion has been moved and seconded, the mover of the original motion has a right of reply at the close of the debate on the amendment following the mover of the amendment's closing remarks but may not otherwise speak on it.
- 11.10 A proposition/motion may be altered with the consent of the mover and the seconder.
- 11.11 A Councillor may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of the Committee and Sub Committee Procedure Rules or the law. The Councillor must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the matter will be final.
- 11.12 A Councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Councillor which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

11.13 Amendments to Recommendations and Motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words;
- as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) An amendment may be accepted by the mover of the original motion.

- (c) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (d) If an amendment is not carried, other amendments to the original motion may be moved.
- (e) 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.
- (f) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

11.14 Propositions or Motions Which May be Moved During Debate

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

- (a) to withdraw a motion or proposition;
- (b) to amend a motion or a proposition;
- (c) to proceed to the next business; must be seconded and vote has to take place - see below;
- (d) that the question be now put; must be seconded and vote has to take place - see below;
- (e) to adjourn a debate; must be seconded and a vote has to take place see below;
- (f) to adjourn a meeting; must be seconded and a vote has to take place see below;
- (g) to exclude the public and press in accordance with the Access to Information Rules; must be seconded and a Council resolution has to be passed;
- (h) to not hear further a Councillor named under Rule 15.2 or to exclude them from the meeting under Rule 15.3;
- (i) To amend or accept the recommendation contained in a report under consideration by the Committee.

11.15 Withdrawal of Motion

A Councillor may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

11.16 Bringing Debate to Early Closure

- (a) A Councillor who has not already spoken in the matter may orally move a motion:
 - (i) To proceed to the next business;
 - (ii) That the question be now put;
 - (iii) To adjourn a debate;
 - (iv) To adjourn a meeting.
- (b) If a motion/proposition to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion/proposition a right of reply and then put the procedural motion to the vote.
- (c) If a motion/proposition that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote.
- (d) If it is passed they will give the mover of the original motion/proposition a right of reply before putting their motion/proposition to the vote.
- (e) If a motion/proposition to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion/proposition the right of reply.

12. MATTERS AFFECTING EMPLOYEES

- 12.1 If any question arises at a meeting of the Committee as to the appointment, promotion, salary, dismissal, pension entitlement or conditions of service or the conduct of a Council employee, such questions shall not be discussed until the Committee has considered whether or not to exclude the press and public under Part 1 Paragraph 1 of Schedule 12A of the Local Government Act 1972.
-

13. VOTING

13.1 Majority

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

13.2 Chair's Casting Vote

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

13.3 Method of Voting

13.3.1 The primary method of voting at all meetings will be electronic voting.

If electronic voting is not available, the Chair of the meeting will determine the voting method to be used. This could include, but is not limited to, voting by:

- show of hands,
- roll call, or
- if there is no dissent, affirmation of the meeting.

13.3.2 A record of how each Councillor voted during the electronic vote will be published on the Council's website.

13.3.3 Neither provision of Rule 13.3 will negate the ability of Councillors to call for a recorded vote under Rule 13.4.

13.4 Recorded Vote

If three Councillors 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.

13.5 Right to Require Individual Vote to be Recorded

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

13.6 Voting on Appointments

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

14 MINUTES

14.1 Signing the Minutes

The Chair will sign the Minutes of the proceedings at the next suitable meeting. The only part of the Minutes that can be discussed is their accuracy.

14.2 Form of Minutes

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

14.3 Record of Attendance

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

14.4 Exclusion of Public

Members of the public and press may only be excluded either in accordance with the [Access to Information Rules](#) in Part 3 of this Constitution or Rule 16.

15 COUNCILLORS CONDUCT

15.1 Chair Standing

When the Chair stands during a debate, any Councillor speaking at the time must stop. The meeting must be silent.

15.2 Councillor not to be Heard Further

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

15.3 Councillor to Leave the Meeting

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

15.4 General Disturbance

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

16 DISTURBANCE BY PUBLIC

16.1 Removal of Member of the Public

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

16.2 Clearance of Part of Meeting Room

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

17 OTHER

17.1 Placards, banners, advertising materials and similar items are not permitted in any Committee meeting.

17.2 Mobile phones must be switched to silent.

18 RIGHTS TO RECORD COMMITTEE AND SUB COMMITTEE MEETINGS (ie the proceedings at a meeting)

- (a) The public may record (e.g. film, audio, tweet, blog) meetings which are open to the public.
- (b) The Chair of the meeting has the discretion to stop or suspend recordings by the public if in their opinion continuing to do so would disrupt proceedings at the meeting. The circumstances in which this might occur include:
 - Excessive noise in recording or setting up and re-setting equipment
 - Intrusive lighting and use of flash photography
 - Moving to areas outside the area designated for the public without the Chair's consent.
 - Whilst taking a recording (e.g. film, audio, tweet, blog) you must not do so in a manner which constitutes an invasion of privacy.
- (c) Those recording meetings are strongly urged to respect the wish of any member of the public not to be recorded.
- (d) Agendas for and signage at meetings will make it clear that recording can take place. Anyone who does not wish to be recorded should let the Chair of the meeting know.

- (e) Recording and reporting the meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance; e.g. with the Human Rights Act, the Data Protection Act and the laws of libel, defamation and public order. Freedom of speech within the law should also be exercised with personal and social responsibility – showing respect and tolerance towards the views of others.
- (f) The Council has a protocol in place in respect of recording at meetings which is available on the Council’s website.

19 PUBLIC SPEAKING AT DEVELOPMENT CONTROL/PLANNING COMMITTEES

19.1 Public speaking at the Planning Committee is allowed in accordance with the Public Speaking Arrangements (Part 6). The practical arrangements on the day remain at the discretion of the Chair of the meeting whose decision on arrangements is final.

20 SUBSTITUTIONS

20.1 **Substitutes for Council Committees shall be as follows:-**

COMMITTEE	SUBSTITUTES
Planning	Any member from the same political group, providing the substitute has undertaken the requisite planning training.
Licensing and Regulatory	None
Licensing and Regulatory Sub Committee	None
Joint Audit and Standards	Any member from the same political group and Council except members of the Cabinet.
Overview and Scrutiny	Any member from the same political group, except members of the Cabinet.
Joint Appointments	Any member from the same political group and Council.

20.2 The Monitoring Officer shall determine whether any Councillor has undertaken the requisite training.

20.3 No member of the Cabinet shall chair any Council committee.

20.4 Powers and duties

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

20.5 Substitution

Substitute members may attend meetings in that capacity only:

- (a) to take the place of the ordinary member;
- (b) or where the ordinary member will be absent for the whole of the meeting;
- (c) and after the Chief Executive has been notified by 1.00 p.m. on the previous working day before the commencement of the meeting of a named substitute Councillor that will attend in the place of an ordinary member.

20.6 Members of the Cabinet cannot be substitute members for Overview and Scrutiny Committee, Joint Overview and Scrutiny Committee and Joint Audit and Standards Committee.

20.7 No Councillor may be involved in scrutinising a decision in which they have been directly involved. Councillors acting as substitute members on the Overview and Scrutiny Committee should not take part in any business being considered by the Overview and Scrutiny Committee in circumstances where the substitute member has been directly involved in determining the issue under scrutiny.

20.8 Substitutes for Planning Committee must undertake requisite training before participating in any meeting to the same extent required of a member of the Committee. The Monitoring Officer shall determine whether the Councillor has undertaken the requisite training.

21 COUNCILLOR ATTENDING / SPEAKING AT A COMMITTEE WHERE NOT A MEMBER OF THE COMMITTEE

21.1 A Councillor not serving on a particular Committee may request permission from the Chair to attend in respect of a matter to be considered at the meeting. At the meeting of the Committee the Councillor shall have the opportunity to speak on the relevant matter, but may not put any motions or amendments, nor vote on the matter.

CABINET PROCEDURE RULES

1. HOW DOES THE CABINET OPERATE?

1.1 Executive functions

The Cabinet is the Council's executive body and is responsible for carrying out those functions which by law or under this Constitution are designated as "executive functions".

The arrangements for the discharge of executive functions are set out in Article 6. The arrangements may provide for executive functions to be discharged by:-

- (a) the Cabinet as a whole;
- (b) a committee of the Cabinet;
- (c) an individual member of the Cabinet;
- (d) an officer;
- (e) an area committee;
- (f) joint arrangements; or
- (g) another local authority.

1.2 Delegation of Executive Functions

- (a) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an executive function, they may delegate further to an officer or by joint arrangements.
- (b) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.3 Delegation of Executive Functions by the Leader

- (a) Subject to (b) below, the delegation of executive functions will be as notified to the Council and set out in Part 2 of this Constitution.
- (b) Where the Leader grants delegation of any executive functions they will give advance written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole.
- (c) Where the Cabinet seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when the Leader has served it on its Chair.

1.4 Cabinet Meetings

The Cabinet will meet at times to be agreed by the Leader at a suitable venue in Suffolk in such location to be agreed by the Leader and will be held in public except in accordance with the Access to Information Procedure Rules. Notice of the dates and times of meetings, and their agendas, will be published in accordance with the Access to Information Procedure Rules.

1.5 Quorum

The quorum for a meeting of the Cabinet, or a committee of it, shall be one third of the total number of members of the Cabinet (including the Leader) or three, whichever is the larger.

1.6 How are decisions to be taken by the Cabinet?

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

2. How are Cabinet meetings conducted?

2.1 Who presides?

The Leader, or in their absence the Deputy Leader, will preside at any meeting of the Cabinet or its Committees at which they are present. In the absence of the Leader and Deputy Leader the members of the Cabinet who are present shall elect one of them to preside.

2.2 Who may attend?

2.2.1 The public may attend in accordance with the Access to Information Rules in Part 4 of this Constitution.

2.2.2 Any member of the Council who is not a member of the Cabinet may attend a meeting of the Cabinet. They can speak only:

- (a) (subject to the law of bias and the code of conduct) to submit a list of questions to be asked at the Cabinet meeting. Questions must relate to an item on the agenda for that meeting. Questions submitted under this paragraph must be received by the Monitoring Officer no later than 10.00am the working day before the Cabinet meeting; or
- (b) if invited to by the person presiding but only for items on the Agenda.

2.3 What business?

At each meeting of the Cabinet or a Committee of the Cabinet the following business will be conducted:-

- (a) apologies for absence;
- (b) confirm as a correct record and sign the Minutes of the last meeting;
- (c) the receipt of any petitions (submitted and presented in accordance with the Council's [Petition Scheme](#));
- (d) matters referred to the Cabinet, whether by the Overview and Scrutiny Committee, or by the Council for reconsideration in accordance with the provisions of contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules;
- (e) consideration of reports from the Overview and Scrutiny Committee; and
- (f) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

2.4 Who can put items on the Cabinet agenda?

2.4.1 Normally, the Leader will decide upon the schedule for the meetings of the Cabinet.

2.4.2 An item will be placed on the agenda of the next available meeting of the Cabinet where the Overview and Scrutiny Committee, the Joint Audit and Standards committee or the full Council have resolved that an item be considered by the Cabinet. There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by the Overview and Scrutiny or the Joint Audit and Standards Committees.

2.4.3 The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which meeting the item will be considered.

2.5 Method of Voting

2.5.1 The primary method of voting at all meetings will be electronic voting.

If electronic voting is not available, the Chair of the meeting will determine the voting to be used. This could include, but is not limited to, voting by:

- show of hands,
- roll call, or
- if there is no dissent, affirmation of the meeting.

2.5.2 A record of how each Councillor voted during the electronic vote will be published on the Council's website.

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

- 1.1 These rules apply to all meetings of the Council, its Committee and Sub-Committees (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 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 5 working days' notice of any meeting (excluding the day of publication and the day of the meeting) by posting details of the meeting at the Council Offices at Endeavour House, 8 Russell Road, Ipswich, IP1 2BX (the designated office).

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 the designated office at least 5 working days before 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 Monitoring 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 for 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 Monitoring Officer 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 any other reasonable costs.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

7.1 The Council will make available copies of the following for 6 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) summary of any proceedings not open to the public where the Minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1 List of background papers

The Monitoring 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 their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information.

8.2 Public inspection of background papers

The Council will make available for public inspection for 4 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 at and available to the public at the designated office.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – requirement to exclude public

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

10.2 Exempt information – discretion to exclude public

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

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

10.3 Meaning of confidential information

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

10.4 Meaning of exempt information

Exempt information means information falling within the following 7 categories (subject to any condition):

Category	Condition – see notes below
1. Information relating to any individual.	(1)
2. Information which is likely to reveal the identity of an individual.	(1) and (2)
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	(1), (2) and (3)
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.	(1) and (2)
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	(1) and (2)

Category	Condition – see notes below
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.	(1) and (2)
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	(1) and (2)
For Standards Committees or Standards Sub-Committees (SI 2006/87) -	
7A. Information which is subject to any obligation of confidentiality.	(1) and (2)
7B. Information which relates in any way to matters concerning national security.	(1) and (2)
7C. The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee in reaching any finding on a matter referred.	(1) and (2)

Notes:

- (1) As long as the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- (2) As long as it does not relate to proposed development for which the Council or any other Council as Planning Authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
- (3) Provided that the information is not required to be registered under:
 - (a) the Companies Act 1985
 - (b) the Friendly Societies Act 1974
 - (c) the Friendly Societies Act 1992
 - (d) the Industrial and Provident Societies Acts 1965 to 1978
 - (e) the Building Societies Act 1986
 - (f) the Charities Act 1993

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 their 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.

12. SCRUTINY COMMITTEE ACCESS TO DOCUMENTS

12.1 Rights to copies

Subject to Rule 12.2 below, the Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet (or its panels) and which contains material relating to any business transacted at a public or private meeting of the Cabinet.

12.2 Limit on rights

The Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

13. ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS

13.1 Material relating to previous business

All Councillors will be entitled to inspect any document which is in the possession or under the control of the Cabinet and contains material relating to any business previously transacted at a private meeting unless it contains exempt information falling within paragraphs 1. to 7. of the categories of exempt information.

13.2 Nature of rights

These rights of a Councillor are additional to any other right they may have.

14. APPLICATION OF RULES TO THE CABINET

- 14.1 Rules 14-23 apply to the Cabinet and its Committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1-13 unless Rule 15 (General Exception) or Rule 16 (Special Urgency) apply. A key decision is as defined in Article 12 of this Constitution.

- 14.2 If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the Forthcoming Decisions List by which it is to be decided, then it must also comply with Rules 1-12 unless Rule 15 (General exception) or Rule 16 (Special urgency) apply. A key decision is as defined in Article 12 of this Constitution.

This requirement does not include meetings whose sole purpose is for officers to brief Councillors.

15. PROCEDURE BEFORE TAKING KEY DECISIONS OR HOLDING EXECUTIVE MEETINGS IN PRIVATE

15.1 Key decisions

- 15.1.1 Subject to Rule 16 (General exception) and Rule 17 (Special urgency), a key decision may not be taken unless:-

- (a) a notice (called here a Forthcoming Decisions List) has been published in connection with the matter in question, at least 28 clear days before the decision is to be taken; and
- (b) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (Notice of Meetings).

15.2 Matters to be considered in private

- 15.2.1 At least 28 clear days before a private meeting of the Cabinet, or a committee or joint committee of the Cabinet, the decision-making body must make available and publish on its website a notice including a statement of the reasons for the meeting, or part of the meeting, to be held in private.
- 15.2.2 At least five clear days before a private meeting, the decision-making body must make available and publish on its website an additional notice of its intention to hold a meeting or part of a meeting in private, including a statement of the reasons for the meeting to be held in private, details of any representations received by the decision-making body about why the meeting should not be open to the public, and a statement of its response to any such representations. For ease of reference this notice will be incorporated into the agenda for the meeting in question.

16. THE FORTHCOMING DECISION LIST

16.1 Publication of Forthcoming Decision List

16.1.1 **The Forthcoming Decision List** will be prepared by the Leader to ensure that 28 clear days' notice of the taking of any key decision, or the holding of any meeting, or part of a meeting, in private, is given. This document will be made available for inspection at the Council's offices and on its website.

16.2 Contents of the Forthcoming Decisions List

16.2.1 The **Forthcoming Decision List** will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:-

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

16.2.2 The **Forthcoming Decision List** will also detail any matters which it is intended will be considered in private, and the reason for the matter being considered in private.

16.2.3 Exempt information need not be included in a **Forthcoming Decision List** and confidential information cannot be included.

17. GENERAL EXCEPTION

17.1 If a matter which is likely to be a key decision has not been publicised with 28 clear days' notice then subject to Rule 18 (Special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision; and

- (b) the proper officer has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made; and
- (c) the proper officer has made copies of that notice available to the public at the Council's offices and on its website; and
- (d) at least five clear days have elapsed following the day on which the proper officer made the notice available.

17.2 Where such a decision is taken collectively, it must be taken in public, unless it relates to exempt information as determined under Section 100 of the Local Government Act 1972, when the public will be excluded.

18. SPECIAL URGENCY

18.1 Key decisions

18.1.1 If by virtue of the date by which a decision must be taken Rule 16 (General exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Overview and Scrutiny Committee, or if the Chair of the Overview and Scrutiny Committee is unable to act, then the agreement of the Vice-Chair will suffice.

18.2 Matters to be considered in private

18.2.1 Where the date by which a meeting must be held makes publication within 28 clear days, and repeated within 5 days, impracticable, the meeting may only be held in private where agreement has been obtained from the Chair of the Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. If there is no Chair, or if the Chair is unable to act, then the agreement of the Vice-Chair will suffice.

18.3 In the case of both key decisions and matters to be considered in private, as soon as practicable after the decision-maker has obtained such agreement, the decision-maker will make available at the Council's offices, and on its website, a notice setting out the reasons why the decision or matter is urgent and cannot reasonably be deferred.

19. REPORT TO COUNCIL

19.1 When an Overview and Scrutiny Committee can require a report

19.1.1 If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:-

- (a) treated as being a key decision; or
- (b) the subject of the general exception procedure; or

- (c) the subject of an agreement with the Overview and Scrutiny Committee Chair, or the Vice-Chair, under Rule 17; the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies.

19.1.2 The report will include:-

- (a) the decision and the reasons for the decision;
- (b) the decision making body by which, or the individual by whom, the decision was made; and
- (c) the reasons as to why the decision was considered not to be a key decision.

19.1.3 The power to require a report rests with the Overview and Scrutiny Committee but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chair or any 5 Councillors. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

19.2 **Cabinet's report to Council**

19.2.1 The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that.

19.2.2 The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

19.3 **Quarterly reports on special urgency decisions**

19.3.1 The Leader will submit quarterly reports to the Council on the Executive decisions taken (if any) in the circumstances set out in Rule 17 (Special urgency) in the preceding three months.

19.3.2 The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken together with the reasons for the decision and why the matter was considered to be urgent.

20. **RECORD OF DECISIONS**

20.1 After any meeting of the Cabinet or any of its Committees, whether held in public or private, the proper officer or their nominee will produce a record of every decision taken at that meeting as soon as practicable.

20.2 The record will include:-

- (a) a record of the decision including the date it was made;

- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest in relation to the matter decided which is declared by any member of the decisionmaking body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service.

21. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

- 21.1 The Cabinet will meet in public to consider matters which are not key decisions, unless confidential or exempt information is being discussed.

22. OFFICERS

- 22.1 The Head of the Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.

- 22.2 A Cabinet meeting may only take place in the presence of the Chief Executive or their nominee with responsibility for recording and publicising the decisions and the provisions of Rule 19 will apply.

23. DECISIONS BY INDIVIDUALS

23.1 Reports intended to be taken into account

- (a) Where a Cabinet member or officer receives a report, which will be taken into consideration when a key decision is made, they shall not make that decision until the report has been available for public inspection for at least five clear days.
- (b) The Cabinet member or officer making the decision shall ensure that Democratic Services make the report available for inspection by the public as soon as is reasonably practicable after that officer or member receives it.
- (c) The officer who prepares the report shall, in any report to be available for inspection by the public, include a list of background papers for the report or part of the report, and shall ensure that the background papers are available on the Council's website.

23.2 Provision of reports to Overview and Scrutiny Committees

23.2.1 Where a report has been submitted to a Cabinet Member or officer with a view to it being considered when a key decision is made, the person who submitted the report shall, as soon as is reasonably practicable, ensure that it is available electronically to the Chair of the Overview and Scrutiny Committee or, where there is no Chair, to every member of the Overview and Scrutiny Committee.

23.3 Record of individual decision

23.3.1 As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet, or after an officer has taken a decision closely associated with the discharge of an executive function, they will prepare, or instruct the proper officer to prepare, a record of the decision which must include:-

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected at the time when the decision was made;
- (d) a record of any conflict of interest declared by any Cabinet member who is consulted in relation to the decision; and
- (e) in respect of any declared conflict of interest a note of any dispensation granted by the Council's Head of Paid Service.

23.3.2 The provisions of Rules 7 and 9 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information.

23.3.3 Where an officer has taken a key decision this decision should be published on the forthcoming decisions list for 28 days before the decision is taken. Once the decision has been taken officers should allow 5 clear working days before implementing the decision for the call-in period to elapse.

24. OVERVIEW AND SCRUTINY COMMITTEE MEMBERS' ACCESS TO DOCUMENTS

24.1 Rights to copies

Subject to Rule 26.2 below, a member of an Overview and Scrutiny Committee will be entitled, no later than 10 clear days after the Cabinet receives the request, to copies of any document which is in the possession or control of the Cabinet and which contains material relating to :-

- (a) any business transacted at a public or private meeting of the Cabinet or its Committees; or
- (b) any decision taken by an individual member of the Cabinet; or
- (c) any decision that has been made by an officer of the authority which is closely associated with the discharge of an executive function.

24.2 Limit on rights

A member of an Overview and Scrutiny Committee will not be entitled to:-

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (c) any document or part of a document containing the advice of a political adviser or assistant.

24.3 Where the Cabinet determines that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraphs 23.1 or 23.2 it must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

25. ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS

25.1 Material relating to previous business

All Councillors will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees, and contains material relating to any business previously transacted at a private meeting unless it contains:-

- (a) exempt information falling within paragraphs 1, 2, 3 (to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract), 4, 5 and 7 of the categories of exempt information; or
- (b) the advice of a political adviser.

25.2 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which relates to any key decision unless paragraph (a) and/or (b) in 24.1 above applies.

25.3 Nature of rights

These rights of a Councillor are additional to any other rights they may have.

26. CONFIDENTIALITY

- 26.1 No member of the Council, nor any co-opted member of any committee, sub-committee, panel or working group, shall without the permission of the Council or (in respect of Cabinet functions) the Cabinet, or (in respect of their functions) of the appropriate committee, sub-committee, panel or working group, disclose any exempt or confidential matter unless and to the extent only that that matter shall have been placed in the public domain by the Council, Cabinet, committee, sub-committee, panel or working group (as the case may be).

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BUDGET AND POLICY FRAMEWORK

1. THE FRAMEWORK FOR DECISION-MAKING

- 1.1 The Council will be responsible for the adoption of a budget and major policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.
- 1.2 Decisions by the Cabinet and any other Committees must be in line with the budget and major policy framework. The Senior Leadership Team and any staff with delegated authority (or otherwise authorised to act under a power delegated to another officer) will operate within the budget and policy framework and financial regulations and contract standing orders.
- 1.3 Any changes to the budget and policy framework are reserved to the Council.
- 1.4 The process by which the budget and policy framework is undertaken will be determined and kept under review annually.

2. IN YEAR CHANGES TO THE BUDGET AND POLICY FRAMEWORK

- 2.1 No changes to any policy and strategy which make up the policy framework may be made by Cabinet or officer with delegated authority except changes necessary to ensure compliance with the law, ministerial direction or government guidance.

3. BUDGET VIREMENT AND CARRY FORWARD

- 3.1 These are governed by financial regulations and the detailed financial procedures issued by the CFO.
- 3.2 Any budget virement and carry forwards exceeding £25,000 that affects the level of service delivery requires the approval of the Cabinet.

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SCRUTINY PROCEDURE RULES

1. The Council will have the Scrutiny Committees set out in Article 7 and will appoint to them as it considers appropriate from time to time.

1.1 The roles of the formal Committees are as follows:

(a) Joint Audit and Standards Committee

This Committee discharges the Audit Committee function for the authorities providing a strengthened governance assurance mechanism to Councillors as a focused control mechanism in this time of change and increased risk of governance failure. The Standards Committee function is also provided through this Joint Committee. The linking of these oversight functions recognises the strong synergies between a widened audit function which focuses on the ethical culture in the organisation and the Standards function which seeks to develop high ethical standards for Councillors, thus ensuring a comprehensive and unified approach for both Councillors and officers.

(b) Overview and Scrutiny Committee

This Committee provides a focus for scrutinising the work of external stakeholders and service providers, and the role of holding the Cabinet to account.

Scrutiny ensures that Cabinet are held accountable for their decisions, that their decision-making process is clear and accessible to the public and that there are opportunities for the public and their representatives to influence and improve public policy.

(c) Joint Overview and Scrutiny Committee

This Committee provides a focus for scrutinising matters which affects both Councils.

2. **SCRUTINY**

2.1 The key purpose of the Overview and Scrutiny Committee is to:-

(a) scrutinise the work of external stakeholders and service providers;

(b) hold Cabinet to account;

(c) be the home of call-in (see below);

(d) be the home of Councillor call for action (see below).

- 2.2 To ensure that actions of the Cabinet accord with the relevant policies and budget of the Council.
- (i) To review relevant decisions of the Cabinet referred pursuant to the "Call-in Protocol" (set out below) whereupon the Committee may either –
 - (a) confirm or accept the decision of the Cabinet which may then be implemented immediately, or
 - (b) refer the matter back to the Cabinet for further consideration, or
 - (c) refer the matter to Council for a final determination, or for referral back to the Cabinet, or
 - (d) defer consideration until a specified time when further reports shall be considered.
 - (ii) In the event that the matter is referred back to Cabinet in accordance with (i) (b) above, and the Cabinet does not accept the recommendations of the Scrutiny Committee, then in these circumstances the original decision of the Cabinet, together with the report and recommendations of Scrutiny Committee shall be referred to Council for consideration and Cabinet cannot implement its original decision until Council has debated the matter.
 - (iii) In undertaking such a review of any decision, the Overview and Scrutiny Committee may question members of the Cabinet and the Chief Executive, Directors and any other person (with their consent) and shall consider whether the appropriate criteria were applied in reaching the decision in question, whether the decision accords with the policy of the Council, is lawful and/or within the powers of the Council and whether it contributes to the efficient, effective and economic discharge of the function.

3. GENERAL

- 3.1 As soon as it is practicable after the start of each municipal year the Committee shall prepare a work programme showing the matters they propose to scrutinise during that year.
- 3.2 A copy of the approved work programme shall be sent to full Council for information, the Overview and Scrutiny Committee need not keep to the approved work programme.

4. WHO MAY SIT ON A SCRUTINY COMMITTEE?

- 4.1 All Councillors, except the members of the Cabinet, may be members of a Scrutiny Committee. No Councillor may be involved in scrutinising a decision in which they have been directly involved.
- 4.2 Non-Elected members could be representatives of other local authorities, emergency services, voluntary groups, health providers, social landlords.

5. NON-ELECTED MEMBERS

- 5.1 The Scrutiny Committees or any Sub-Committees shall be entitled to recommend to Council the appointment of a number of people as non-voting non-elected members. Non-voting members shall be subject to the same rules relating to declarations of interests as members.

6. WORK PROGRAMME

- 6.1 The Scrutiny Committees/Sub-Committees will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.

7. AGENDA ITEMS

- 7.1 Any member of a Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Corporate Manager – Democratic Services that they wish an item relevant to the functions of the Committee or Sub-Committee to be included on the Agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Corporate Manager – Democratic Services will ensure that it is included on the next available Agenda.
- 7.2 Any member of the Council who is not a member of the Scrutiny Committees may give written notice to the Corporate Manager – Democratic Services that they wish an item to be included on the Agenda of the relevant Scrutiny Committee. If the Corporate Manager – Democratic Services receives such a notification, then they will include the item on the first available Agenda of the relevant Scrutiny Committee for consideration by the Committee.
- 7.3 The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet to review particular areas of Council activity. Where they do so, the Scrutiny Committees shall report their findings and any recommendations back to the Council via the Cabinet.. The Cabinet and Council shall consider the report of a Scrutiny Committee within one month of receiving it.

8. REPORTS FROM SCRUTINY COMMITTEES

- (a) Once it has formed recommendations, the Overview and Scrutiny Committee will prepare a formal report and submit it to the appropriate Strategic Director for consideration by the Cabinet (if the recommendations are consistent with the existing budgetary and policy framework) or to the Council as appropriate (if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If a Scrutiny Committee cannot agree on one single final report to the Council or the Cabinet as appropriate, then not more than one minority report may be prepared and submitted for consideration to the Council or Strategy Committee with the majority report.

- (c) The Council or the Cabinet shall consider the report of the Overview and Scrutiny Committee within two months of it being submitted to the Strategic Director.

9. RIGHTS OF SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

- (a) In addition to their rights as Councillors, members of Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 3 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny Committees as appropriate depending on the particular matter under consideration.

10. MEMBERS AND OFFICERS GIVING ACCOUNT

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

and it is the duty of those persons to attend if they are required, save that in exceptional circumstances where those persons are unable to attend they could nominate an officer to attend on their behalf.

- (b) Where any Councillor or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the appropriate Strategic Director. The Strategic Director shall inform the Councillor or Officer in writing giving at least five working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to 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 preparation of that documentation.

- (c) Where, in exceptional circumstances, (for example illness) the Councillor or Officer is unable to attend on the required date, and it is not appropriate for another person to substitute then the Overview and Scrutiny Committee shall, in consultation with the Councillor or officer, arrange an alternative date for attendance to take place within a maximum of twenty-one days from the date of the original request.

11. ATTENDANCE BY OTHERS

- 11.1 A Scrutiny Committee may invite people other than those referred to in the paragraph above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Councillors and Officers in other parts of the public sector and shall invite such people to attend, and these attendances of course are entirely optional.

12. CALL-IN

- 12.1 Call-in should only be used in exceptional circumstances.
- 12.2 Any key decision or any decision taken by Cabinet is subject to the call-in procedure set out below.
- 12.3 A key decision made by an officer with delegated authority is subject to the call-in procedure set out below.
- 12.4 Every decision which is subject to call-in cannot be implemented until 5pm on the fifth working day after the call-in period starts.
- 12.5 The call-in period starts on the day on which the decision is published.
- 12.6 Where a decision is subject to call-in and is not taken at a formal meeting the decision must be published as soon as possible on the Councils website.
- 12.7 Every substantive decision taken with respect to Cabinet functions is subject to call-in apart from a decision falling within one or more of the following categories:-
 - (a) A decision which is not a key decision and which has been taken by an officer under delegated powers.
 - (b) A decision which the decision maker has certified as urgent (giving the reason for urgency).
 - (c) A decision by Council.
 - (d) A decision to make a proposal, recommendation or request to Council or a Committee or Working Group or a Panel of the Council.

- (e) Any decision if at the time when the decision has been taken 20 call-in notices have already been served during that Council year.
- (f) A decision taken at stages (i) to (j) of the call-in process.

12.8 Call in process:-

Stage 1

- (a) When a decision is made by the Cabinet, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two days of being made. All Councillors will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called in.
- (c) During that period of time, a minimum of five members including at least one member from a minority party or an independent member (but not a member of the Cabinet) may request that a decision of the Cabinet be called-in for scrutiny by the appropriate Scrutiny Committee. The request shall be submitted to the Monitoring Officer.

Stage 2

- (d) When the Monitoring Officer receives a valid call-in notice with respect to a decision. That decision may not be implemented until that decision has completed the call-in process.
- (e) Upon receipt of a call-in request, the Monitoring Officer shall consult with the Chair of the Overview and Scrutiny Committee to decide which would be the most appropriate format for the Scrutiny Committee to consider the call-in.
- (f) The Chair of the Overview and Scrutiny Committee shall consider the validity of a call-in request in consultation with the Monitoring Officer.
- (g) The Chair may request that particular Councillors or officers attend the call-in.
- (h) Where a 'call-in' is deemed valid the Monitoring Officer shall call a meeting of the Overview and Scrutiny Committee on such a date as they may determine, after consultation with the Chair (or Vice-Chair in his or her absence) of the Committee. Such meeting to be held as soon as practicable.

Stage 3

- (i) After considering the decision, the Scrutiny Committee will then decide to take the following courses of action:-
 - (i) refer it back to the Cabinet for reconsideration, together with the observations of the Overview and Scrutiny Committee. Cabinet will then take a final decision and that decision cannot be called in.
 - (ii) Seek the advice of the Monitoring Officer as to whether the decision is contrary to, or not wholly in accordance with the policy framework or the budget, and if applicable refer the matter to full Council for a final decision.

in each case setting out in writing the nature of its concerns.

- (j) If referred to Cabinet, the Cabinet shall then reconsider as soon as practicable. If Cabinet does not accept the recommendations of the Scrutiny Committee the issue shall be referred to Council for consideration. If Cabinet accepts the recommendations of the Scrutiny Committee, it may adopt the amended decision.
- (k) The Overview and Scrutiny Committee may refer any called in decision to the Monitoring Officer/Section 151 Officer if it considers it to be contrary to the policy framework or budget. The officers will then submit a report on the matter to the next meeting of Cabinet. A copy of the report will be sent to all members of the Council. No action may be taken in respect of the decision or its implementation pending that meeting.
- (l) If in that report the Monitoring Officer and/or the Chief Finance Officer is of the view that the decision referred to them by the Overview and Scrutiny Committee is not a departure from the policy framework or budget the decision can be implemented immediately. A report to this effect will be submitted to the Overview and Scrutiny Committee for information. However if a referred matter is deemed to be a departure from the policy framework or the budget by the Monitoring Officer/Section 151 Officer the Cabinet has two options:-
 - (i) Firstly it may choose to adjust its decision to bring it within the policy framework or budget, in which case it can then be implemented. In these circumstances the Cabinet would submit a report to the next meeting of the Overview and Scrutiny Committee explaining its actions.
 - (ii) Secondly if the Cabinet does not wish to adjust its original decision, it must prepare a report for the full Council. This report must include the views of the Overview and Scrutiny Committee. No action may be taken in respect of the decision or its implementation until the Council has met to consider the matter.

- (m) If following the setting up of the meeting for consideration of the call-in request the Overview and Scrutiny Committee does not meet on the date specified by the Monitoring Officer, the decision shall take effect on the date it is known that the meeting will not take place. If the Committee does meet but does not refer the matter back to the Cabinet or refer it to Council the decision shall take effect on the date of the Overview and Scrutiny Committee meeting.
- (n) If the matter was referred to full Council under (i) (ii) above or in circumstances where the Cabinet did not accept the recommendations of the Overview and Scrutiny Committee (as set out in (i) above) and Council does not object to the original decision, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if Council does object, Council will refer any decision to which it objects back to the Cabinet, together with the Council's views on the decision. The Cabinet shall then make its decision in accordance with the views expressed by Council at a meeting convened to reconsider the matter as soon as practicable following Council's referral.
- (o) If the Council does not meet, or if it does but does not refer the decision back to the Cabinet the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

12.9 A proposal should only be called in once. If, however, the Cabinet substantially amends the original proposal in a way which the Overview and Scrutiny Committee has not considered, nor could reasonably have foreseen, to the extent that in reality it is a different proposal, the Overview and Scrutiny Committee has the right to call it in again.

13. **PROCEDURE ON CALL-INS**

13.1 The end of the call-in period will normally be 5.00 p.m. on the fifth working day after the publication of the Cabinet decision. The Monitoring Officer will be responsible for informing the Leader of the Council and the Senior Leadership Team of any item that has been called-in.

13.2 Officers need to bear in mind that if a call-in is registered, then the Cabinet decision cannot be actioned until finally dealt with. Only work that can be undertaken without presuming the ultimate decision can be undertaken.

13.3 The item called in will require the following papers:-

- (a) the report that was presented to the Cabinet;
- (b) the relevant extract of the Cabinet Minutes;
- (c) any supplementary report, either updating figures and information which was supplied orally to the Cabinet or giving further updated information available to the Cabinet, or both.

- 13.4 Councillors who have exercised call-in can withdraw their request at any time before the meeting either individually or “en bloc”.
- 13.5 Officers may be approached for information before the Overview and Scrutiny Committee and they are referred to the Councillor/Officer protocol to deal with any such issues. Generally any information which is necessary for the Councillor’s understanding of the item coming to Overview and Scrutiny Committee is a matter that must be dealt with by the Officer. In cases of confidential/exempt matters the same applies but for good administrative practice this should be limited to members of the Cabinet, Overview and Scrutiny Committee and Councillors who have called-in the item.
- 13.6 At the meeting, the Overview and Scrutiny Committee shall determine whether the called-in item shall be further considered having regard to the reasons given in the call-in request in relation to the criteria specified in the call-in Protocol against which a call-in request is to be determined. If the reason for the call-in is not, in the opinion of the Committee, a valid reason for call-in, no further consideration of the item shall take place and the decision of the Cabinet shall take immediate effect but if the Committee is satisfied that the call-in request cites a valid reason for call-in, it will proceed to determine the merits of the reason. The Committee will determine the focus of the evidence that it wishes to hear in relation to the Decision.
- 13.7 The Overview and Scrutiny Committee will consider the called in decision. The protocol before and during the meeting will be as follows:-
- (a) The Chair will speak with the lead signatory before the Committee to determine the scope of the call-in. This will be put to the Committee for approval at the start of the meeting.
 - (b) The call-in members to make a presentation for their reasons for the call-in (this will be no greater than 10 minutes).
 - (c) The Chair will then ask:
 - (i) The appropriate Cabinet member to present the reason(s) why the decision was taken by Cabinet (this will be no greater than 10 minutes)
 - (ii) In circumstances where an officer key decision has been called in, the officer will be asked to present why the reason was taken (this will be no greater than 10 minutes)
 - (d) The Committee will then be given the opportunity to question the lead signatory and the portfolio holder or officers to ask them to provide further information.
 - (e) The Committee will then be able to ask officers, other members of the Cabinet, members and members of the public (if the public is allowed to be present) to provide further information and/or answer questions.

- (f) In light of new or additional information gathered during points (d) and (e) above, further questions may be asked of the lead signatory or the Portfolio Holder(s) or officers.
- (g) The Portfolio Holder or officer followed by the lead signatory will be asked to summarise their respective cases. The allowed time for each summary will be five minutes.
- (h) Members of the Cabinet and the lead signatory will then leave the room.
- (i) Debate findings
- (j) There will be a vote giving the reason for the Overview and Scrutiny Committee's decision (if the Cabinet member has indicated that they are prepared to take the matter back to the Committee that will be noted and referred to together with the reason).
- (k) The Chair of the Overview and Scrutiny Committee will have the discretion to operate the above process flexibly where it is considered that changes would be conducive to the effective performance of the Scrutiny role.

14 **QUESTIONING**

Scrutiny Committee members may ask any questions which are supplemental or related to the reason(s) attributable to call-in. The decision as to whether such questions are appropriate will be a matter for the Chair of Overview and Scrutiny Committee.

15 **CONSIDERING EVIDENCE**

A member of the Overview and Scrutiny Committee should participate in the determination and voting on a matter that has been called-in, only if they have been present during the Committee's consideration of the item.

16 **CALL-IN AND URGENCY**

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet 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's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Council must agree both that the decision proposed is reasonable in all circumstances and to it being treated as a matter of urgency. In the absence of the Chair the Vice-Chair's consent shall be required. In the absence of both, the Head of Paid Service or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

17 **COUNCILLOR CALL FOR ACTION ([PROTOCOL 3](#))**

Any Councillor may request a Councillor Call for Action (CCfA) under the terms of the CCfA Protocol contained in Part 3 of this Constitution. The operation of CCfA will be in full compliance of the Protocol.

18 **PROCEDURE FOR SCRUTINY COMMITTEE MEETINGS**

(a) Overview and Scrutiny Committees shall consider the following business:-

- (i) Minutes of the last meeting;
- (ii) Declarations of interest,
- (iii) Consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
- (iv) Responses of the Cabinet to reports of the Overview and Scrutiny Committee; and
- (v) The business otherwise set out on the Agenda for the meeting.

(b) Where the Overview and Scrutiny Committee conducts investigations 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:-

- (i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy and that they treat the Committee members and Officers with respect and courtesy; and
- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

In addition the following principles shall also apply:-

- (a) Where someone requested to attend is genuinely unable to attend, then they may nominate another Councillor or Officer who is able to speak on the topic to attend.
- (b) Anyone asked to speak to an Overview and Scrutiny Committee shall be entitled to see the Terms of Reference of the particular matter under consideration by the Overview and Scrutiny Committee before attending to speak.

- (c) Anyone asked to speak to an Overview and Scrutiny Committee shall be entitled to see the public papers which have been made available to the Overview and Scrutiny Committee and wherever possible on the same timescale for a member of the Overview and Scrutiny Committee.
- (d) Anyone asked to speak to an Overview and Scrutiny Committee shall wherever possible be given access to statements submitted by people from whom the Overview and Scrutiny Committee has already heard but not those who have not yet given evidence. The Chair and members of the Overview and Scrutiny Committees shall have a discretion to disclose other papers, including statements submitted by following speakers and confidential (exempt) material, if they consider that will help the speakers to address a particular point or will otherwise assist the Overview and Scrutiny Committee's examination of the issue.
- (e) All speakers shall respect the confidentiality of any confidential or exempt information they receive and shall not disclose it without the authorisation of the Overview and Scrutiny Committee.
- (f) Speakers may submit papers in advance to the Overview and Scrutiny Committee but such papers shall be clear and succinct.
- (g) Speakers shall be able to bring such notes and diaries as are helpful to them in assisting the Overview and Scrutiny Committee, but shall expect to make available any such notes to the Committee on the request of the Chair.
- (h) Papers submitted by speakers shall become public documents once they have presented their evidence and shall be cited as background papers to the Overview and Scrutiny Committee's published report unless they contain exempt information.
- (i) Overview and Scrutiny Committee members may expect to ask searching questions but will always behave in a polite and respectful way to anyone contributing to Overview and Scrutiny Committee's proceedings.
- (j) The speaker shall have at least five minutes to contribute evidence or a longer period as the Chair of an Overview and Scrutiny Committee may specify. If someone making such a contribution exceeds the time limit given the Chair may stop them. The Chair may also structure a discussion and limit the time allowed for questioning by members of the Overview and Scrutiny Committee.
- (k) Speakers shall be entitled to a copy of any draft Minute or other record taken of their contribution for comment. Should they feel that such record is not accurate then they shall be given the opportunity to make a written representation asking for the correction to be submitted to the next meeting of the Overview and Scrutiny Committee.
- (l) Overview and Scrutiny Committee meetings shall be open to the press and public except where they are considering matters which would give rise to the

disclosure of confidential or exempt information as defined in Schedule 12A of the Local Government Act 1972.

- (m) Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

19 DOCUMENTATION

19.1 Overview and Scrutiny Committee:-

- (a) may commission research or advice (including from external organisations) to assist in any deliberations.
- (b) shall have access to all relevant papers of the Council.

19.2 Overview and Scrutiny Committee members who have access to confidential material shall at all times respect the confidentiality of that material and shall not use it in a context other than the Overview and Scrutiny Committee examination without the permission of the Overview and Scrutiny Committee.

19.3 Overview and Scrutiny Committees will also have access to background information for a range of sources, including:-

- The Policy Framework and Strategic Plan.
- Service plans.
- Audit Management letter.
- Internal and external audit plan.
- Government reports and national studies.
- CIPFA statistics.
- Complaints.
- Representations from the community (individuals, community groups, local members, Area Committees and Forums, residents, surveys, etc.).
- Research published by other organisations or commissioned by Scrutiny Committees.
- Evidence from expert witnesses at the Overview and Scrutiny Committee's request.

PROTOCOL 3

BABERGH DISTRICT COUNCIL

COUNCILLOR CALL FOR ACTION PROTOCOL

1. Introduction

- 1.1 The “Councillor Call for Action” (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007, and came into force on 1 April 2009.
- 1.2 The 2007 Act enables any member of the Council to refer to the Overview and Scrutiny Committee any local government matter which affects their Ward and is relevant to the functions of the Committee.
- 1.3 In addition, Section 119 of the Police and Justice Act 2006 came into force on 30 April 2009 and enables any member of the Council to refer to the Crime and Disorder Committee any local crime and disorder matter which affects their Ward. The Overview and Scrutiny Committee will discharge the function of the Crime and Disorder Committee.
- 1.4 The power to refer a matter is available only where the matter is of direct concern to the Ward or division which the Councillor represents. The matter may affect all or part of the Ward Member’s area or any person who lives or works in that area. A Councillor can refer a matter even if no citizen has asked them to consider it, and there is no requirement for Councillors in multi-member wards to agree – any of them can refer a matter.

2. Limitations

- 2.1 It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, trying to overcome them.

3. Issues excluded from referral as a CCfA

- 3.1 The Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:
 - 3.1.1 Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:

Council Tax/Housing Benefit appeals

Issues currently under dispute in a court of law.

- 3.1.2 Any matter relating to a planning or listed building application or enforcement decision.
- 3.1.3 Any matter relating to a licensing application, review or enforcement decision.
- 3.1.4 Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or any of its Sub-Committees.
- 3.2 A matter will not be excluded under 3.1.1 to 3.1.3 where the allegation consists of the function not being discharged at all or that the function has failed or is failing on a systematic basis.
- 3.3 A referral, provided it is covered by the legislation and is not an excluded matter (see above), will ensure that the matter is included on the agenda of the Overview and Scrutiny Committee. It is then up to the members of the Committee to decide whether or not to take the matter further.
- 3.4 A referral made to the Overview and Scrutiny Committee is seen as being the end of the CCfA process (the last resort) and not the first step.

4. Steps to be taken prior to making a Councillor Call for Action referral

- 4.1 Prior to a councillor referring a matter as a CCfA to the Overview and Scrutiny Committee, a Councillor **must** have tried to resolve the issue/problem themselves using all mechanisms and resources available to them at ward level. Councillors should:
- If a local crime and disorder matter, raise the issue through the Community Safety Partnership to find a way to resolve the issue.
 - Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letter written on behalf of constituents, discussion at public meetings, petitions, communication with local MPs and Councillors in other authorities etc.
 - Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with officers and/or Councillors, questions at committees, motions on the agenda at full Council etc.
 - Ensure that this is not an issue that is currently being or should be pursued via the Council's complaints procedure.
 - Ascertain whether or not any other form of local scrutiny is investigating the issue, e.g. Suffolk County Council.

5. How to make a Councillor Call for Action referral

- 5.1 If the issue/problem is still not resolved the Councillor can refer it to the Overview and Scrutiny Committee as a “Councillor Call for Action”. To do this the councillor should complete and submit to the Strategic Director a CCfA Request Form outlining what the issue is and what steps have been taken towards a resolution. The request form, a specimen is attached as [Appendix 1](#), is available on the Council’s website, or from the Strategic Director. The request form for a CCfA includes:
- The name of the Councillor and ward they represent
 - Title of the CCfA and date of submission
 - Why you think the issue should be looked at by the Overview and Scrutiny Committee
 - A brief synopsis of what the main areas of concern are
 - What evidence you have in support of your CCfA
 - Which areas or community groups are affected by the CCfA
 - What you have done to try and resolve the issue prior to requesting a CCfA
 - Whether the CCfA is currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints process
 - Whether there are any deadlines associated with the CCfA of which the Overview and Scrutiny Committee needs to be aware.
- 5.2 The Strategic Director will receive the referral form, log it to track its progress, and, after consultation with the Monitoring Officer, assess the issue to ensure that it is covered by the legislation referred to above and is not a matter excluded from referral to the Overview and Scrutiny Committee. A decision that a matter is excluded pursuant to paragraph 3.1.4 above will only be taken by the Strategic Director in consultation with the Chair of the relevant Overview and Scrutiny Committee.
- 5.3 The Strategic Director will inform the Chair of the relevant Overview and Scrutiny Committee that the item will be included on the next Committee agenda. The Councillor will be informed whether or not their referral has been successful.
- 5.4 A successful referral will ensure that the CCfA will be placed on the next agenda of the Overview and Scrutiny Committee. It is then up to the members of the Committee to decide whether or not to take the matter further.

6. Decision of the Committee whether to take the matter further

6.1 In deciding whether or not to take the matter further the relevant Overview and Scrutiny Committee will consider:

- Anything that the Councillor has done in relation to this matter; and
- Representations made by the Councillor as to why the Committee should take the matter up. (Councillors have the option of either presenting their CCfA form without supporting papers, or of preparing a report setting out their views).

6.2 The criteria the Committee will use to decide whether or not to take the matter further include:

- Is the Committee satisfied that all reasonable attempts have been made to resolve the issue by the Ward Councillor? And do the responses received by the referring Councillor demonstrate that the matter is not being progressed?
- Has the Committee considered a similar issue recently – if yes have the circumstances or evidence changed?
- Is there a similar or related issue which is the subject of a review on the current work plan? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account.
- Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the Councillor received?
- Is this a case that is being or should be pursued via the Council's complaints procedure?
- Is it relating to a "quasi-judicial" matter or decision such as planning or licensing?
- Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the local community)?
- Is this an issue currently being looked at by another form of local scrutiny, e.g. Suffolk County Council?
- And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring Councillor's ward?

6.3 In considering the CCfA, the Overview and Scrutiny Committee may invite the Chief Executive or relevant Director, Head of Service or external organisation to discuss the issue with the Committee and answer any questions.

- 6.4 If the Committee decides not to accept the CCfA referral it must inform the Councillor and provide reasons.
- 6.5 If the Committee decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work plan. This could include:

Before holding a formal hearing:

- Asking the service area(s)/partner organisation(s) to respond to the CCfA
- Setting up a research group to undertake a more in-depth review.

At formal hearings

- Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the Cabinet/partner organisation.

7. Potential outcomes

- 7.1 Following a formal hearing, there are a number of potential outcomes from the Committee meeting:

- The Committee could determine not to make a report or recommendations (perhaps because it is not considered the right time to consider a particular issue), with the ward Councillor notified in writing;
- The Committee could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;
- The Committee could write a report and make recommendations on the CCfA to the Cabinet and/or relevant partners.
- The Committee could make a report or recommendations to full Council where the CCfA is a local crime and disorder matter.

- 7.2 Once the Committee has completed its work on the CCfA referral, the Councillor who made the CCfA referral will receive a copy of any report or recommendations made. The report will also be made available on the Council's website, unless the matter was an exempt item, in which case the report cannot be made public.

8. Timescales

- 8.1 Once the CCfA has been assessed as not being a matter which is excluded from referral to the Overview and Scrutiny Committee, the item will be included on the next Committee agenda.

- 8.2 If the Committee agrees to take the matter forward, the hearing will usually be held as an item on the next available agenda. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.
- 8.3 Should a CCfA hearing result in recommendations to the Cabinet or full Council being made, an item will be placed on the agenda for the next Cabinet or Council meeting, respectively.
- 8.4 Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations, although they are under no legal obligation to do so.

APPENDIX 1 – COUNCILLOR CALL FOR ACTION REQUEST FORM

This form should be used by any Councillor who would like the Overview and Scrutiny Committee to consider a Councillor Call for Action in their ward.

Councillor

The ward you represent:

Title of your Councillor Call for Action:

Date of Submission:

Have you approached the Overview and Scrutiny Committee on the same issue in the past six months?

Yes

No

Why you think the issue should be looked at by the Overview and Scrutiny Committee:

Please give a brief synopsis of the main areas of concern:

What evidence do you have in support of your CCfA:

Which areas or community groups are affected by the CCfA:

How have you tried to resolve the issue:

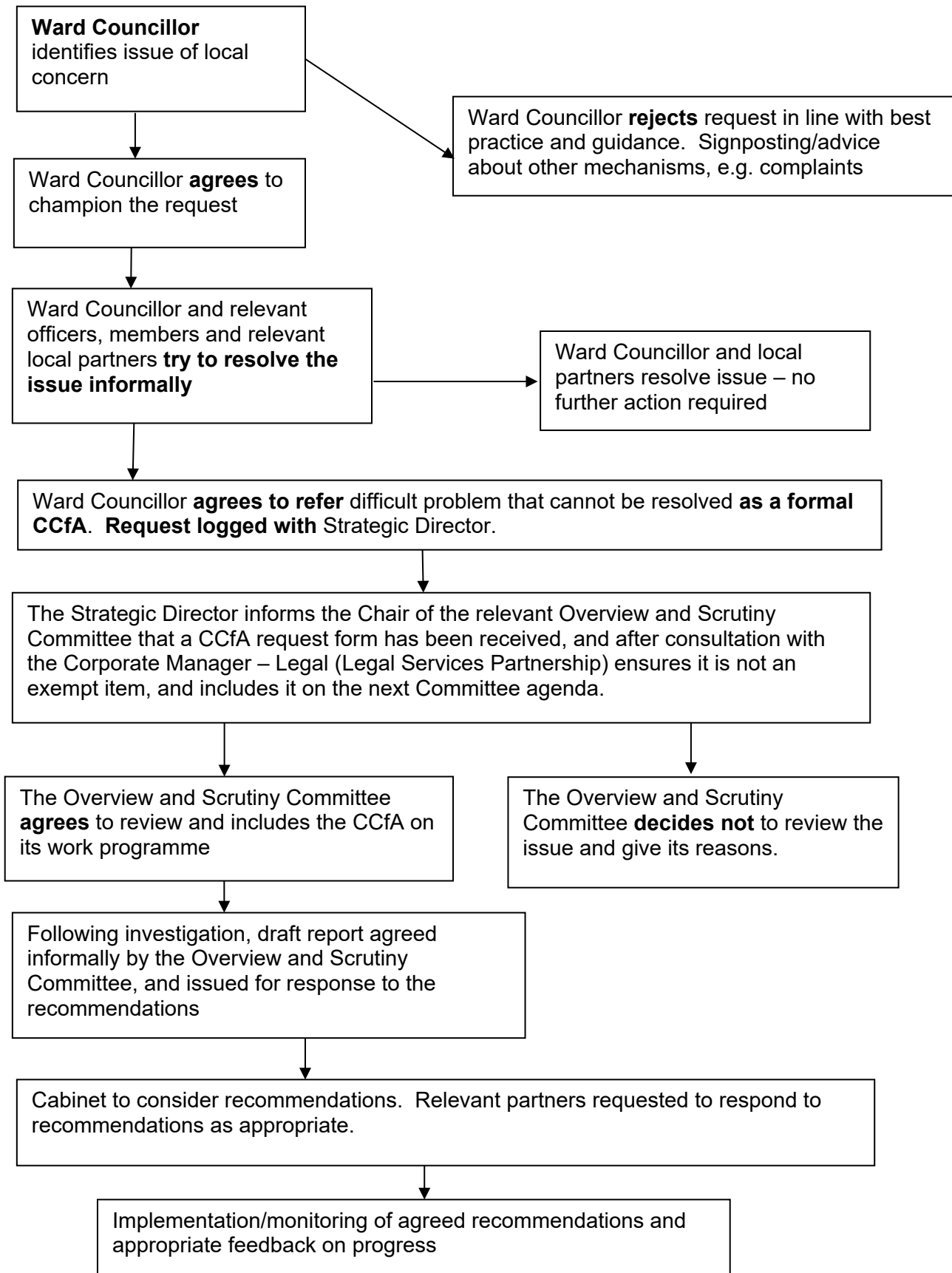
Is the CCfA currently the subject of legal action by any party (to your knowledge) or being examined by a formal complaints process?

Are there any deadlines associated with the CCfA of which the Scrutiny Committee needs to be aware:

Please complete and return the form to:

Strategic Director
Council Offices
Endeavour House
8 Russell Road
IPSWICH
IP1 2BX

APPENDIX 2 – SUMMARY OF CCFA MECHANISM



APPENDIX 3 – EXPLANATORY NOTES

1. Definition of a local government matter and a local crime and disorder matter

Local government matter

For the purpose of the 2007 Act a “local government matter”, in relation to a member of a local authority is one which:

- Relates to any discharge of any function of the authority;
- Affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area (i.e. it must be specific to a particular locality); and
- Is not an excluded matter.

However, the guidance produced by the Centre for Public Scrutiny and Improvement and Development Agency advises that, to give full effect to CCfA, the interpretation of “local government matter” needs to be broader. This includes issues relating to the Council’s partners, in line with the area focus of Comprehensive Area Assessment (CAA), and the fact that an authority’s duties increasingly impact on other organisations, and involve partners within and outside the Local Strategic Partnership (LSP).

Local crime and disorder matter

A “local crime and disorder matter”, in relation to a member of a local authority, has been defined in the 2006 Act to mean a matter concerning:

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour adversely affecting the local environment); or
- (b) the misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area.

2. Definitions of “vexatious”, “persistent”, “discriminatory” and “not reasonable”

Statutory regulations deal with matters that can be excluded from CCfA, stating that “any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee is to be excluded”.

Vexatious/Persistent

Deciding whether a request is vexatious is a balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid – it may relate to a systematic problem that has not been effectively resolved.

CCfAs need to be looked at on their merits, rather than on the basis of who is bringing them, or whether somebody thinks there is an ulterior motive for them being brought.

Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the Councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the Councillor's requirements.

Discriminatory

A modern interpretation of the word “discrimination” is provided at Section 45 of the Equality Act 2006, in relation to religion and belief, as follows:

A person (A) discriminates against another (B) if on the grounds of the religion or belief of B or of any other person except A, A treats B less favourably than he treats others. This definition can easily be amended to deal with other forms of discrimination, such as discrimination for reasons of sex and/or race. So a discriminatory CCfA might be one which implies or states that a group of people or an area should receive better, or worse, services on account of that group's predominant religion, race, gender or other characteristic, as covered by discrimination legislation.

Not reasonable

It is suggested that, in the interests of transparency, authorities do not interpret “not reasonable” as being the same as the legal word “unreasonable”. It is best to consider it as a qualifier to the word “vexatious”, as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

3. Structure of the CCfA hearing

A CCfA hearing will be based on the Overview and Scrutiny Committee's protocol for dealing with call-in hearings.

The following protocol is intended to formalise the conduct of CCfA hearings and the preparation work carried out in the run-up to such a hearing. It should be noted, however, that the protocol may be varied by the Chair of the Overview and Scrutiny Committee to meet the requirements of any particular circumstances.

Prior to the hearing

1. The CCfA Request Form and any additional papers provided by the referring Councillor will be published with the agenda for the meeting.
2. The referring Councillor and relevant officers and partners will be invited to the meeting.
3. Any other relevant external witnesses will be invited to the meeting.
4. Seven days' notice of a request to attend the meeting will be given to all participants. If a question plan is to be produced, seven days' notice of the questions planned will also be given to participants.
5. Prior to the meeting any Councillor who may have a conflict of interest will be given relevant advice by the Monitoring Officer.

The hearing

1. The CCfA hearing will normally be the first item of business on the agenda, in order that participants and other witnesses are not kept waiting.
2. Participants and witnesses will be placed around the table with the Committee if space permits, but if there is a large number of witnesses or other attendees at the meeting; they may be required to wait in a separate seating area or the public gallery.
3. The referring Councillor will be invited to make a presentation outlining his or her main reasons for referring the matter as a CCfA. A question and answer session will follow.
4. Any other parties relevant to the hearing, for example Portfolio Holders, officers or partners, will be invited to make presentations outlining their response to the CCfA. Question and answer sessions will follow.
5. Any other relevant external witnesses will be invited to make a presentation to the Committee without interruption, following which there will be a question and answer session.
6. Witnesses will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.
7. The referring Councillor will be given the opportunity to add any points of clarification before any resolution or recommendation is moved.

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BABERGH AND MID SUFFOLK DISTRICT COUNCILS PETITIONS SCHEME

- 1. PETITIONS**
- 2. WHAT ARE THE GUIDELINES FOR SUBMITTING A PETITION?**
- 3. TYPES OF PETITIONS**
- 4. WHAT WILL THE COUNCIL DO WHEN IT RECEIVES MY PETITION?**
- 5. HOW WILL THE COUNCIL RESPOND TO PETITIONS?**
- 6. E-PETITIONS**
- 7. WHAT CAN I DO IF I FEEL MY PETITION HAS NOT BEEN DEALT WITH PROPERLY?**

APPENDIX A

APPENDIX B

1. PETITIONS

- 1.1 The Council has determined that for the purposes of this Scheme a petition is a formal written document requesting or supporting a particular outcome. For practical purposes, we set a requirement for at least 20 signatories before we treat it as a petition.
- 1.2 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.
- 1.3 Petitions can be sent to:
- Babergh District Council
Endeavour House
8 Russell Road
Ipswich
Suffolk IP1 2BX
- 1.4 If your petition is classed as an 'ordinary petition' and has received 1,000 signatures or more it will be scheduled for a Council debate (please see section 3 below). If this is the case we will let you know the date of the meeting at which it is to be debated.

2. WHAT ARE THE GUIDELINES FOR SUBMITTING A PETITION?

- 2.1 Any person who lives, works or studies in the Babergh area for a petition submitted to Babergh District Council and Mid Suffolk area for a petition submitted to the Mid Suffolk District Council can submit a petition including children and young people (Under 18). This is normally the only person we will contact concerning the petition. If the petition does not identify a petition organiser, we will contact the person or organisation that submitted the petition to agree who should act as the petition organiser.
- 2.2 Petitions submitted to the Council **must** include the following to be considered valid:-
- The name, address or place of work or study and signature of any person supporting the petition. Supporters of the petition can be anyone who lives, works or studies in the area of the District Council.
 - The contact address of the petition organiser (we will use this address for any communications concerning the petition).
 - A clear and concise statement covering the subject of the petition.
 - What action the petitioners wish the Council to take.
- 2.3 Appendix A to this Scheme includes a check list and sample form.

- 2.4 If you want your petition to be debated at a meeting of the Council (“Petitions for Debate”) or to trigger a public meeting of a Scrutiny Committee at which a specific officer will be required to report (“Petitions to Hold an Officer to Account”) the petition will need to contain a higher number of signatories (see section 3).
- 2.5 The Strategic Director has the power to reject a petition if it:
- Does not qualify under the scheme;
 - It is vexatious, abusive or otherwise inappropriate;
 - It is a petition qualifying under another enactment;
 - It is excluded by order;
 - It relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.
- 2.6 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.
- 2.7 Petitions which are the same or substantially the same as petitions which have been considered in the previous twelve months will be dealt with having regard to the consideration and outcome of the earlier petition. This may result in the Council declining to take any action on the later petition. It will be for the Council to determine whether a petition is the same or substantially the same as an earlier petition.
- 2.8 Petitions which are the same or substantially the same as petitions which have not yet been considered by Council or the relevant Committee may be combined into one petition for consideration, providing that all of the relevant petition organisers agree to this and that the petitions relate to the same ward(s). If the petition organisers do decide to combine their petitions, signatories to more than one of those petitions will not be duplicated on the final petition presented to Council or the relevant Committee. If the petition is to be presented at a meeting of a Council or one of its Committees, all of the relevant petitions organisers will be asked to determine between them whom amongst them will address the Council. It will be for the Council to determine whether a petition is the same or substantially the same as another petition, and the Petitions Officer will contact the petition organisers to discuss their preferred course of action (as above) if this is the case.

3. TYPES OF PETITIONS

- 3.1 There are five different types of petition, as set out below. How we deal with a petition will depend on the type of petition you submit:-

(a) **Ordinary Petitions**

These are petitions which do not come within any of the specific types outlined below (Please note that petitions which raise issues of possible Councillor misconduct under the Suffolk Local Code of Conduct arising under the Local Government Act 2000 will be reported to the Monitoring Officer, rather than considered under this Petition Scheme).

The Petitions Officer will arrange for each Ordinary petition to be reported to the relevant decision maker who has the power to take a decision on the matter in question.

(b) **Petitions for Debate**

Any ordinary petition which contains at least 1,000 valid signatories or petitioners will be reported to and debated at a meeting of the Council. It will be for the Council to judge whether there are 1,000 valid signatories or petitioners contained in the petition. Consultation petitions, statutory petitions or petitions to hold an officer to account which contain over 1,000 signatories or petitioners will not be debated by full Council but will undergo the normal processes for each respective type of petition as outlined below.

The following process will be followed for petitions being presented to full Council for debate:

- (i) Petition organiser (or a representative) to present the petition for up to 3 minutes
- (ii) Relevant Portfolio Holder invited to respond to the petition for up to 3 minutes
- (iii) Local Councillors (if necessary) invited to respond to the petition for up to 3 minutes
- (iv) Council to debate the petition and make a decision to either:
 - a. vote in support of the petition;
 - b. vote against the petition;
 - c. note the petition;
 - d. refer the petition to another body, Portfolio Holder or officer for consideration;
 - e. agree any other appropriate action.

A maximum of 30 minutes will normally be allowed at the meeting to consider the petition. The Chair may use their discretion to extend this timescale if necessary. Any petition relevant to a particular item of business will be discussed under that item whilst petitions that do not relate to an ordinary item of business will be considered at the start of the meeting.

If any clarification of what the petitioner has said is required, the Chair will have the discretion to allow Councillors to ask questions.

(c) **Consultation Petitions**

These are petitions in response to an invitation from the Council for representations on a particular proposal or application, for example on planning or licensing applications. Consultation petitions which are received by the response date in the consultation invitation will be reported to the Committee or Sub-Committee having the responsibility for the matter in its terms of reference and taken into account when the matter is considered, either by the relevant Committee/Sub-Committee or by the authorised officer acting under delegated powers.

(d) **Statutory Petitions**

Particular Acts of Parliament require the Council to consider certain petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

(e) **Petitions to Hold an Officer to Account**

If you want your petition to be considered at a meeting of an Overview and Scrutiny Committee, where an officer, identified either by name or by post title, will be required to answer questions on the conduct of a particular matter for which they are responsible as part of their duties, your petition has to contain at least 1,000 signatories (reduced to 500 signatories where the petition relates to a local issue, affecting no more than 2 electoral wards within the Council's area). The Council has determined that such petitions must relate to the Chief Executive, a Director or a Head of Service of the Council. Such a petition may, for example, ask a senior officer to explain the progress on an issue or to explain advice that they have given. (Please note that where the petition raises issues of competence or misconduct, the petition will be referred to the Chief Executive [or to the Monitoring Officer if the petition relates to the misconduct of the Chief Executive] and will be considered under the authority's Disciplinary Procedures, and not under this Petitions Procedure).

The following process will be followed for petitions to hold an officer to account which do *not* relate to misconduct or competence:

- a) Petition organiser (or a representative) to present the petition for up to 3 minutes and set out any questions they would like to be addressed
- b) Relevant officer invited to respond to the petition and address any questions raised
- c) Local Councillors (if necessary) invited to respond to the petition for up to 3 minutes
- d) Committee to debate the petition and make a decision to either:
 - a. vote in support of the petition;
 - b. vote against the petition;
 - c. note the petition;

- d. refer the petition to another body, Portfolio Holder or officer for consideration;
- e. agree any other appropriate action.

If any clarification of what the petitioner has said is required, the Chair will have the discretion to allow Councillors to ask questions.

4. WHAT WILL THE COUNCIL DO WHEN IT RECEIVES MY PETITION?

- 4.1 The principles set out below will be applied to all petitions that are within the scope of this Scheme. There are additional provisions earlier on in this Scheme for those petitions that are sufficiently subscribed to trigger a full Council 'requirement to debate' or Overview and Scrutiny Committee 'calling a (senior) officer to account' (See Section 3 under the relevant headings).
- 4.2 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.
- 4.3 If a petition is not a consultation petition and does not trigger the provisions for a full Council debate or holding an officer to account at an Overview and Scrutiny Committee meeting, it will be dealt with as an ordinary petition. The Council will reasonably determine how it will be dealt with and what the process will be. This may be a referral to the appropriate Committee, Director or other appropriate officer.
- 4.4 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. If the petition needs more investigation, we will tell you the steps we plan to take.
- 4.5 Other procedures apply if the petition relates to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor) or a matter where there is already an existing right of representation or appeal, such as Council tax banding and non-domestic rates. For further information on these procedures you can speak to the relevant department.
- 4.6 We will not take action on any petition which the Strategic Director considers to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

5. HOW WILL THE COUNCIL RESPOND TO PETITIONS?

- 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
 - Holding an inquiry into the matter
 - Holding a public meeting

- Holding a consultation
- Holding a meeting with petitioners
- Referring the petition for consideration by the relevant Overview and Scrutiny Committee of the Council*
- Calling a referendum
- Writing to the petition organiser setting out our views about the request in the petition.

5.2 All petitions which meet the requirements of the Scheme will be reported to the next meetings of the Council and relevant Committee/Sub-Committee.

* The Overview and Scrutiny Committee is a committee of Councillors who are responsible for scrutinising the work of the Council, in other words, the Overview and Scrutiny Committee has the power to hold the Council's decision makers to account. If the petition is about something over which the Council has no direct control (for example, the local railway or hospital or any matter relating to a different Council) it will refer the petition organiser to the relevant body.

6. E-PETITIONS

6.1 The Council welcomes e-petitions which are created and submitted to the Council through the Council's approved e-petitions software.

6.2 The Council will not respond to e-petitions which are submitted by other means, and such e-petitions will be rejected.

6.3 E-petitions must follow the same guidelines as paper petitions except that they will include only lists of names and addresses and not actual signatures. Those subscribing to the petition must confirm that they live, work or study in the local area of Babergh District Council. The petition organiser will need to provide us with their name, postal address and e-mail address and also confirm that they live, work or study in the area of Babergh District Council. The petition organiser will need to decide how long the petition will be open for. Most petitions run for three months, but the petition organiser can choose a shorter or longer timeframe, up to a maximum of six months.

6.4 When an e-petition is created, it may take five working days before it is published online. This is because we have to check that the petition's content is suitable before it is made available on the website.

6.5 If the Council feels it cannot publish your petition for some reason, the Council will contact the petition organiser within this time to explain. The petition organiser will be able to change and resubmit the petition if necessary. If the petition organiser does not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

6.6 When an e-petition has closed, it will automatically be submitted to the Council at the address below. In the same way as a paper petition, the petition organiser will receive an acknowledgement within ten working days.

6.7 Petitions received in response to statutory consultation on planning and licensing applications fall outside of this Petition Scheme. They will continue to be reported to the Planning and Licensing Committees.

7. WHAT CAN I DO IF I FEEL MY PETITION HAS NOT BEEN DEALT WITH PROPERLY?

7.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request within 30 days of being notified of the response that the Council's Overview and Scrutiny Committee reviews 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.

7.2 We will make sure that your request for review is dealt with by the relevant Overview and Scrutiny Committee. If that committee has previously been involved with the consideration of the petition we will, if it is appropriate and necessary to do so, arrange for the review to be considered by a different committee.

7.3 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.

7.4 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.

7.5 The following process will be followed:

- The petition organiser to submit an appeal by contacting the Petitions Officer.
- Within 5 working days of receipt of intention to appeal, the Petitions Officer will notify the petition organiser of the time, date and place of the next convenient meeting of the Overview and Scrutiny Committee.
- The petition organiser will be invited to address the Committee for up to 3 minutes on why the Council's decision or the handling of the petition was inadequate. Any local Councillors, if relevant, will also be invited to this meeting.

APPENDIX A

PETITION SCHEME CHECKLIST

1. Any petition must meet the Council's Petition Scheme requirements and be signed by at least 20 people.
2. Individuals signing this petition must be persons who either live, work or study in Babergh.
3. Petitions calling for an officer to give evidence must contain at least 1,000 valid signatories or petitioners. Please indicate the appropriate senior officer you wish called to give evidence or alternatively to which service your issue of concern relates. Please see section 2 for what constitutes a 'valid' petition.
4. Please send your petition to:
Committee Services
Babergh and Mid Suffolk District Councils
Endeavour House
8 Russell Road
Ipswich IP1 2BX

APPENDIX B

TEMPLATE FOR WRITTEN PETITIONS

Contact details of the lead petitioner (the person the Council will contact):

We the undersigned petition the Council to:

Summary of action already taken:

Name (please print)	Contact details (please print)	Signature	Please tick relevant box		
			Live	Work	Study
	[Address – must include!] [Telephone No.] [Email]				

FINANCIAL REGULATIONS AND PROCEDURE RULES

INTRODUCTION

1 Financial Regulations

- 1.1 The following financial regulations take account of CIPFA guidance – with amendments to reflect the Council’s local arrangements and requirements.
- 1.2 Financial Regulations and Procedure Rules provide the framework for managing the Council’s financial affairs. They apply to every Councillor and officer of the Council and anyone acting on its behalf.
- 1.3 They set out the principles to be followed in securing the proper administration of the financial affairs of both Babergh and Mid Suffolk District Councils. They apply to every Councillor and Officer of the Authorities and anyone acting on its behalf.
- 1.4 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, is properly authorised, provides value for money and achieves best value.
- 1.5 The Council’s financial procedures rules guidance contains the operational detail which underpins the financial regulations and is issued to officers by the S151 Officer. Councillors, officers and others acting on behalf of the Council are required to follow this guidance. The following matters are covered in the financial procedure rules guidance:
 - Banking arrangements and Imprest Accounts (petty cash)
 - Income collection and raising debts
 - Ordering goods and services and paying invoices
 - Procurement Cards
 - Assets and Security
 - Salaries, Wages and Pensions
 - Insurances
 - Budget virements (transfers) and carry forwards.
- 1.6 Directors are responsible for ensuring that all officers in their departments and those acting on behalf of the Councils are aware of the existence and content of the Council’s Financial Procedure Rules, Contract Standing Orders and other internal regulatory documents and that they comply with them.
- 1.7 Each Senior Officer shall consult the S151 Officer with respect to any matter which is liable to materially affect the finances of the Council before any provisional or other commitment is incurred and before the S151 Officer reports the matter to Cabinet through the budget monitoring reporting if material, see A.15 below.
- 1.8 The S151 Officer shall report to the Councils any significant failure to comply with these rules which comes to their attention.

- 1.9 There are five financial regulations which cover:
- A: Financial Management
 - B: Financial Planning
 - C: Risk Management and Control of Resources
 - D: Systems and Procedures
 - E: External Arrangements
- 1.10 These Regulations (and associated procedures/guidance) are to be read in conjunction with the Constitution and Scheme of Delegation and the S151 Officer shall determine any matter on which conflict may arise.
- 1.11 Failure to observe these Regulations may be classified as misconduct justifying disciplinary action.

A: FINANCIAL MANAGEMENT

INTRODUCTION

- A.1 Financial management covers all financial responsibilities and accountabilities of the Council, Cabinet, Committees and key officers in relation to the running of the authority, including the policy framework and budget (which is covered in Article 13 of the Constitution).

THE COUNCIL

- A.2 The Council is responsible for approving the Policy Framework and budget. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in its Constitution. The Council has a statutory responsibility for setting the Council Tax, determining borrowing limits and considering reports by the S151 Officer (under section 114 of the Local Government Act 1988).
- A.3 Arrangements for delegated powers are set out in the Scheme of Delegation in the Constitution.

CABINET

- A.4 Cabinet is responsible for proposing the policy framework and budget to the full Council, and for discharging functions in accordance with this.

OVERVIEW AND SCRUTINY COMMITTEE

- A.5 This is responsible for scrutinising Cabinet decisions before or after they have been implemented and for holding the Cabinet to account. Overview and Scrutiny Committee is also responsible for reviewing the general policy and service delivery of the authority.

DUTIES OF SENIOR OFFICERS

S151 Officer/Chief Financial Officer (CFO)

- A.6 Section 151 of the Local Government Act 1972 requires local authorities to make arrangements for the proper administration of their financial affairs and appoint a CFO to have responsibility for those arrangements.
- A.7 The Chartered Institute of Public Finance and Accounting (CIPFA) Statement on the role of the Chief Financial Officer (CFO) in public service organisations defines the role of a CFO as:
- a key member of the Leadership Team, helping it to develop and implement strategy and to resource and deliver the organisation's strategic objectives sustainably and in the public interest;
 - must be actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered, and alignment with the organisation's financial strategy; and
 - must lead the promotion and delivery by the whole organisation of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.
- A.8 To deliver these responsibilities the CFO:
- must lead and direct a finance function that is resourced to be fit for purpose; and
 - must be professionally qualified and suitably experienced.
- A.9 To view CIPFA's statement on the Role of Chief Finance Officer in Local Government please use the following link:
- <http://www.cipfa.org/policy-and-guidance/reports/the-role-of-the-chief-financial-officer-in-local-government>
- A.10 The S151 Officer is responsible for advising the Cabinet and the Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be "contrary to the budget" include:
- initiating a new policy or spending not provided for in the approved budget
 - committing expenditure in future years to above the budget level
 - budget transfers above virement limits
 - causing the net expenditure financed from council tax, grants and corporately held reserves to increase, or to increase more than the reported amount.

A.11 The S151 Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Local Government Act 2003
- The Accounts and Audit Regulations 2015

A.12 The S151 Officer is responsible for:

- The proper administration of the Council's financial affairs
- Setting and monitoring compliance with financial management standards
- Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- Providing financial information and advice
- Preparing medium term financial planning, revenue budget and capital programme
- Treasury management.

A.13 Under Section 114 of the Local Government Finance Act 1988 the S151 Officer will report to Council, Cabinet and the External Auditor if the Authority 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.

A.14 Section 114 of the 1988 Act also requires:

- The S151 Officer to nominate a properly qualified member of staff to deputise should they be unable to perform the duties under section 114 personally;
- The Council to provide the S151 Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

SENIOR LEADERSHIP TEAM

A.15 The Senior Leadership Team is responsible for:

- Ensuring that Councillors are advised of the financial implications of all proposals and that the financial implications have been agreed by the S151 Officer.
- Signing contracts in relation to their specific areas on behalf of the authority in accordance with the Procurement Scheme of Delegation.
- Consulting with the S151 Officer to seek approval on any matter likely to materially affect the Council's finances, before any commitments are incurred.

CORPORATE MANAGERS AND PROFESSIONAL LEADS

A.16 Corporate Managers and Professional Leads have responsibility for managing and monitoring budgets, under the guidance and direction of the Senior Leadership Team.

BUDGET MANAGEMENT, MONITORING AND CONTROL

A.17 The S151 Officer is responsible for putting into place effective procedures for ensuring that guidance and financial information is available to enable budgets to be managed, monitored and controlled effectively. The S151 Officer will report to the Cabinet on the overall position and variances compared to the Budget on a regular basis.

A.18 It is responsibility of the Senior Officers (Directors, Corporate Managers and Professional Leads) to control income and expenditure within their area and to monitor performance, taking account of financial information and advice provided. They should take any action necessary to avoid exceeding their budgets and alert the S151 Officer to any problems as soon as possible.

BUDGET VIREMENT (TRANSFERS)

A.19 Details of the arrangements and procedures for virement (transfer) of expenditure or income between budgets and the limits that apply are set out in financial procedures.

A.20 Senior Officers are responsible for agreeing in-year virements within these limits, in consultation with the S151 Officer where required.

YEAR-END BUDGET CARRY FORWARDS

A.21 Details of the arrangements and procedures for carrying forward budget underspends at the end of each financial year are also set out in financial procedures.

ACCOUNTING POLICIES

- A.22 The S151 Officer is responsible for selecting which accounting policies should be adopted and regularly reviewing them, ensuring that they are applied consistently.

ACCOUNTING RECORDS AND RETURNS

- A.23 The S151 Officer is responsible for determining the accounting procedures and records that are required for the Council.

THE ANNUAL STATEMENT OF ACCOUNTS

- A.24 The S151 Officer is responsible for ensuring that these are prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA). The Joint Audit and Standards Committee is responsible for approving the annual Statement of Accounts.

B: FINANCIAL PLANNING

COUNCIL

- B.1 The Council is responsible for approving the policy framework and budget within which the Council operates. It is also responsible for approving and monitoring compliance with the authority's overall framework of accountability and control. The framework is set out in its Constitution. In terms of financial planning, the key elements are:

- Strategic Plan and Delivery Plans
- Medium Term Financial Strategy
- Asset Management Plan/Strategies
- Revenue Budget and Capital Programme (including associated Investment Strategies)
- Advice on the robustness of estimates and adequacy of reserves
- Treasury Management Strategy

CABINET

- B.2 The Cabinet is responsible for:
- Approving the general format of the budget on the advice of the S151 Officer. This will include allocation of resources, proposed changes to charges for services and proposed taxation/council house rent levels.
 - Approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.
 - Taking in-year decisions on resources and priorities in order to deliver the policy framework and budget within the financial limits set by the Council.

SENIOR OFFICERS

B.3 Senior Officers are responsible for:

- Drawing up the key elements of the Council's policy framework and budget
- Reviewing and proposing resource allocation processes (in conjunction with the S151 Officer) to Councillors.
- Contributing towards the financial planning arrangements and ensure that Operational Delivery Teams operate within guidelines that are issued.

BUDGET AND CAPITAL PROGRAMME

PREPARATION

B.4 The S151 Officer is responsible for ensuring that a revenue budget and capital programme is prepared on an annual basis and a rolling Medium Term Financial Strategy (MTFS) for consideration by Cabinet before submission to Council. The MTFS will be reviewed annually.

B.5 It is the responsibility of Senior Officers to ensure that the budget and capital programme reflects agreed objectives and strategic/service priorities and that these are prepared in line with guidance issued by Cabinet and the S151 Officer.

B.6 Senior Officers are responsible for ensuring that budgets and capital programme are based upon reliable estimates and are prepared in accordance with guidance issued by the S151 Officer.

RESOURCE ALLOCATION

B.7 The S151 Officer (in conjunction with the Senior Leadership Team) is responsible for developing, maintaining and reviewing a resource allocation process that ensures it reflects the policy framework.

GUIDELINES

B.8 Guidelines on budget and capital programme preparation are issued by the S151 Officer. These take account of:

- legal requirements
- medium-term financial planning
- strategic/annual delivery plans
- forecast available resources
- spending/cost pressures
- relevant government guidance
- Council policies
- Treasury Management Strategy

MAINTENANCE OF RESERVES

- B.9 It is the responsibility of the S151 Officer to advise Cabinet and/or the full Council on the robustness of estimates and adequacy of reserves.
- B.10 The principles for use of reserves detailed in the MTFs/Annual Budget will be followed.
- B.11 Directors, in consultation with the S151 Officer, are authorised to utilise credit balances up to a threshold of £150,000 on the reserve accounts within their area of responsibility to finance expenditure relating to the purpose of the reserve. Anything above this amount will need to go on the Forthcoming Decision List and approved by Cabinet.

C: RISK MANAGEMENT AND CONTROL OF RESOURCES

INTRODUCTION

- C.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
- C.2 The Accounts and Audit Regulations require that the Council's financial management is adequate and effective and that there is a sound system of financial control that facilitates the effective exercise of the Council's functions and that includes risk management arrangements.
- C.3 Senior Officers are responsible for reviewing the effective management of risks, internal controls and governance, supported by the Corporate Manager – Internal Audit and the S151 Officer.
- C.4 The S151 Officer is responsible for ensuring that proper insurance exists where appropriate.

RISK MANAGEMENT

- C.5 The Cabinet is responsible for recommending approval of the Council's Risk Management strategy. The Joint Audit and Standards Committee is responsible for ensuring that there is a robust and effective risk management process in place.
- C.6 The Corporate Manager – Internal Audit is responsible for preparing the Council's Risk Management strategy and for promoting it throughout the Council and maintaining and reporting on the Council's Significant Risk Register.

INTERNAL CONTROL

- C.7 Internal control refers to the systems of control devised by management to help ensure the Council's objectives and strategic/service priorities are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- C.8 The systems of internal control should ensure compliance with all applicable statutes and regulations, and other relevant best practice. They should also ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other policies that govern their use.
- C.9 It is the responsibility of Senior Officers to 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.

AUDIT REQUIREMENTS AND INSPECTION

- C.10 The basic duties of the external auditor are governed by Section 5 of the Audit Commission Act 1998. The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit. The S151 Officer is responsible for ensuring that this is achieved.
- C.11 Internal Audit will advise and report to management and the Joint Audit and Standards Committee on whether the Council's governance – appropriate risk management processes, control systems and operational procedures – are in place and operating properly.
- C.12 This scope will extend to systems or services provided wholly by, or in conjunction with other organisations, including partnership arrangements.
- C.13 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs who have statutory rights of access. It is the responsibility of Senior Officers and all officers to co-operate and provide such information as required by those bodies.

PREVENTING FRAUD AND CORRUPTION

- C.14 The Corporate Manager – Internal Audit is responsible for:
- the development and maintenance of a Prevention of Financial Crime Policy and ensuring that Councillors and staff are aware of its contents.
 - ensuring that there is a pro-active approach to fraud prevention, detection and investigation and promote a council-wide anti-fraud culture across both organisations.

- C.15 All officers are responsible for giving immediate notification to the Corporate Manager – Internal Audit on fraud matters where there are grounds to suggest that fraud or corruption have occurred.

MONEY LAUNDERING

- C.16 The Corporate Manager – Internal Audit is the Money Laundering Reporting Officer (MLRO) and is responsible for ensuring that proper procedures are in place to combat the possibility of the authority being used for money laundering purposes.

ASSETS

- C.17 Senior Officers are responsible for ensuring that records and assets are properly maintained and securely held. They must also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

STAFFING

- C.18 The Chief Executive, as Head of Paid Service, is responsible for determining overall staffing requirements. Cabinet will consider changes to these within the overall policy and budget framework.
- C.19 The Senior Leadership Team is responsible for controlling total staff numbers.
- C.20 The Director (Corporate Resources) is responsible for ensuring that there is proper use of the job evaluation or other agreed systems for determining the remuneration of a job.
- C.21 Appointments of all employees shall be made in accordance with the regulations of the Council and the approved establishments, grades and rates of pay.

TREASURY MANAGEMENT

- C.22 The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities. The code includes a 'Treasury Management Policy Statement'. The S151 Officer is responsible for implementing and monitoring the statement and will advise the Cabinet immediately of any significant amendment to the Code and any consequent or necessary amendment to the Treasury Management Policy Statement and/or Treasury Management Strategy.
- C.23 The S151 Officer is responsible for submitting to the Cabinet/Council:
- a proposed Treasury Management Strategy before the start of each financial year
 - a mid year and annual review of activity compared to the approved strategy by 30 September of the succeeding financial year.

- C.24 The S151 Officer is responsible for reporting to the Cabinet any significant variations to the approved strategy during the year.
- C.25 All executive decisions on borrowing, investment or financing shall be delegated to the S151 Officer, who is required to act in accordance with CIPFA's *Code of Practice for Treasury Management in Local Authorities*.

D: SYSTEMS AND PROCEDURES

INTRODUCTION

- D.1 Sound systems and procedures are essential to an effective framework of accountability and control.

GENERAL

- D.2 The S151 Officer issues guidance and requirements in relation to the above (see also Financial Regulation C: Risk Management and Control of Resources which covers advice and reports by the Corporate Manager – Internal Audit on systems of internal control).
- D.3 Senior Officers have responsibility to ensure adherence to these.
- D.4 Any changes made by Senior Officers to the existing financial systems or the establishment of new systems must be approved by the S151 Officer. Senior Officers are responsible for the proper operation of financial processes in their own areas.
- D.5 Any changes to agreed procedures by Senior Officers to meet their own specific service needs are to be agreed with the S151 Officer.
- D.6 Senior Officers should ensure that staff receive relevant training and guidance.

INCOME AND EXPENDITURE

- D.7 Guidance and procedures on the collection of all money due to the Council will be under the supervision of the S151 Officer.
- D.8 It is the responsibility of Senior Officers to identify staff authorised to act on their behalf in respect of making payments, receiving income and placing orders, together with the limits of their delegated authority.
- D.9 The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control with the following exception:-

The process of debt write-off related to the functions of the Shared Revenues Partnership (SRP) which is delegated to authorised SRP officers in consultation with the SRP Joint Committee, within limits as agreed by that Committee.

PAYMENTS

- D.10 The S151 Officer is responsible for arrangements relating to all payments (to suppliers, contractors, employees and Councillors).

TAXATION

- D.11 The S151 Officer is responsible for advising Senior Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.
- D.12 The S151 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.

TRADING ACCOUNTS

- D.13 It is the responsibility of the S151 Officer to advise on the establishment and operation of trading accounts.

E: EXTERNAL ARRANGEMENTS

INTRODUCTION

- E.1 The local authority 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.

PARTNERSHIPS

- E.2 The Cabinet is responsible for approving delegations, including frameworks for partnerships. The Council will continually look for opportunities to form partnerships with other local public, private, voluntary and community sector organisations to address local needs and priorities.
- E.3 The Cabinet can delegate functions – including those relating to partnerships – to officers. Where functions are delegated, the Cabinet remains accountable for them to the full Council.
- E.4 The Chief Executive or other Senior Officers represent the authority on partnerships and external bodies.
- E.5 Senior Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.
- E.6 The S151 Officer ensures that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory.

EXTERNAL FUNDING

- E.7 The S151 Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

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CONTRACT STANDING ORDERS

Contents

- 1. INTRODUCTION**
 - 2. COMPLIANCE WITH CONTRACT PROCEDURE RULES**
 - 3. PROBITY**
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 - 5. LIQUIDATED DAMAGES**
 - 6. PERSONAL INTERESTS**
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 - 12. PURCHASE AND WORKS ORDERS**
 - 13. CONTRACT MANAGEMENT**
 - 14. PREVENTION OF BRIBERY & CORRUPTION**
-

CONTRACT STANDING ORDERS

1. INTRODUCTION

1.1 These Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972 and the purpose is to provide a framework within which commissioning and purchasing decisions are undertaken to enable the Council to:

- deliver its priorities
- use its resources efficiently
- commission quality goods, services and works
- operate in a fair, open and transparent manner
- safeguard its reputation from the implication of dishonesty or corruption.

1.2 These Contract Standing Orders provide the minimum standards and requirements that shall be met on all occasions when the Council enters into an agreement for the supply of goods, services or the execution of works. Further guidance that shall also be applied is provided in the Council's Commissioning and Procurement Manual.

1.3 These Contract Standing Orders apply to all contracts, leases, concessions and agreements entered into by or on behalf of the Council; except where:

- The goods, services or works are provided by a wholly owned subsidiary of the Council or where the Council controls the subsidiary in a similar way to which control is exercised over their own departments, more than 80% of the subsidiary's activities are undertaken for the Council and there is no direct private capital participation in the subsidiary.
- The Council collaborates with other Public Authorities to deliver a public service with a view to achieving objectives that they have in common and the collaboration is implemented in a manner governed solely by considerations relating to the public interest.
- The Council has established a Mutual Organisation delivering a service contract in relation to education, healthcare and housing, health and social work services, or library and other cultural services. A contract may be awarded for no more than 3 years.
- Circumstances where purchases are made or services rendered as a consequence of a contract made by another Local Authority, Government Department, Government Body or Agent, the benefits of which the Council obtains as a result of participation in a consortium.

- Goods are purchased by public auction.
 - The lending or borrowing of money.
 - The appointment of any Officer directly employed by the Council.
 - The sale or purchase of any land or buildings.
 - The provision of services by Legal Counsel.
 - Agreements setting out the conditions which the Council will provide funding to particular voluntary sector bodies.
 - The goods or services are supplied at a fixed price or the prices are wholly controlled by trade organisations or Government order and no satisfactory alternative is available.
- 1.4 The Rules do not apply to contracts of employment, contracts for the acquisition or disposal of interests in land, and contracts for unique artistic performances or unique art work. Exemption is also permissible where work of an emergency nature is required or where only one supplier could carry out the work.
- 1.5 Where the Council acts in partnership with another organisation then, if agreed with The Director of Corporate Resources, the contractual and tendering procedures of the partner organisation may be used in substitution, in whole or in part, for the Rules. Where the Council is the lead authority these Rules are to be followed.
- 1.6 Directors are responsible for ensuring that all employees in their departments receive any required training and guidance and fully comply with these Rules.

2. COMPLIANCE WITH CONTRACT PROCEDURE RULES

- 2.1 The provisions contained in the Rules are subject to the statutory requirements of both the European Union (EU) and the United Kingdom (UK) Government. The letting and content of contracts shall conform to all statutory requirements and be subject to any over-riding directives of the EU relating to contracts and procurement. This cannot be waived, since a failure to comply with European legislation may result in a legal challenge with consequent reputational and financial risk. In estimating relevant contract values, officers shall have regard to the principle of aggregation. Repeat purchases of the same set of goods over a sustained period may exceed the EU or the Council's thresholds.
- 2.2 In estimating relevant contract values, officers may be unsure as to which banding category the procurement will fall. When a project may be close to two bandings, the higher banding of the two shall be chosen.

3. PROBITY

3.1 In every instance there shall be a record of the process which will include, subject to the limits set out in Table 1, the following:

- (a) The officer(s) undertaking the procurement process and taking the decisions and appropriate delegated decision reports and notices.
- (b) The rationale for the procurement route taken (including open or restricted procedure of above EU thresholds). See Procurement Manual for thresholds.
- (c) A copy of the specification.
- (d) Copies of all tenders & completed supplier questionnaires.
- (e) A copy of the evaluation process and reasons for the decisions as to acceptance or rejection for every tender.
- (f) A copy of the award letter (including the “standstill” and other notification letters).
- (g) A copy of the final contract.
- (h) A copy of the contract review and management process including the officer responsible for on-going contract management.

3.2 Segregation of duties

The activities relating to the contracting and procurement processes are segregated in particular between the following phases:

- requisition
- authorisation
- purchase order
- receipt
- payment

4 DELEGATED AUTHORITY

4.1 All commissioning and procurement activity by the Council shall be undertaken in compliance with the Council’s Procurement Scheme of Delegation which is provided in Table 1.

4.2 Delegation of Authority to Approved Officers

Corporate Managers have responsibility to delegate authority to Approved Officers and shall ensure that they have the appropriate levels of capability and understanding to undertake the role.

4.3 **Recording of Delegations**

Effective records of delegations shall be maintained in the Council's Authorised Signatory List which the Council's Section 151 Officer or their nominee has responsibility for the compilation of. Corporate Managers (or the role which succeeds this role) have responsibility to ensure that details of Approved Officers are maintained in the Authorised Signatory List.

4.4 **Variation from the Procurement Scheme of Delegation**

Where requirements for high value contracts and purchase orders occur on a regular basis the Section 151 Officer may approve a variation from the Standard Procurement Scheme of Delegation for requirements up to £250k. Any such variations shall be recorded in the Council's Authorised Signatory List.

4.4 **Key Decisions**

Where the spend is £150k or more please refer to the constitution Part 1, 12.7.1. you will be required to complete a proforma to add the item on the Forthcoming Decisions List, advise should be sought from committees@baberghmidsuffolk.gov.uk

Key decisions are required to be on the Forthcoming Decisions List for a minimum of 28 clear days.

Table 1 – Standard Procurement Scheme of Delegation

£ Value excl. VAT	Approve the Selection of Suppliers to Invite to Tender	Approve the award of business	Signing of contracts	Approval of purchase or works orders, payment vouchers or invoices	Approval of contract extensions	Approval of exemption from undertaking competitive sourcing
Up to £25k	Not Applicable	Approved Officer	Approved Officer	Approved Officer	Approved Officer	Corporate Manager
£150k (Note 1)	Not Applicable	Corporate Manager	Corporate Manager	Corporate Manager	Corporate Manager	Corporate Manager
£150k to £250k (Note 1)	Corporate Manager	Director	Director	Director	Director	Director
Over £250k (Note 1)	Corporate Manager	Deputy Chief Executive	Council's Monitoring Officer	Deputy Chief Executive	Deputy Chief Executive	Deputy Chief Executive

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Notes

(1) Key Decision – see section 4.5 above.

5. LIQUIDATED DAMAGES

- 5.1 For any contract a provision for liquidated damages should be considered. However where it is estimated to exceed £100,000 in value or is for the execution of works, or for the supply of goods or materials by a particular date or series of dates, provision shall be made for liquidated damages. The amount to be specified in each such contract shall be determined by the relevant Director in consultation with the Director of Law & Governance/Monitoring Officer and the Director for Corporate Resources.

6. PERSONAL INTERESTS

- 6.1 Employees of the Council and members of the Council shall give notice in writing to the Council of any pecuniary interest, direct or indirect, which they have in a contract entered into (or to be entered into) by the Council.
- 6.2 Such notification shall be given to the Council's Monitoring Officer.
- 6.3 Officers employed by the Council must comply with the code of conduct for employees relating to conflicts of interest.

7. MANAGEMENT OF RECORDS

- 7.1 Proper records of all communications, reports, minutes, meetings, quotes, tenders, contract and other relevant documents shall be retained securely so as to protect the integrity of the process and managed in accordance with the Council's policy on The Management and Retention of Records.
- 7.2 A record of all Contracts shall be entered into the Council's Contract Register.

8. PRINCIPLES

- 8.1 The following principles shall be applied to all the Council's commissioning and procurement.

8.2 Fairness and Transparency

All of the Council's commissioning and procurement shall be undertaken in an open and fair manner which provides the same information to all suppliers and an equal opportunity to all potential suppliers. The Council shall ensure that comparable situations are not treated differently and that different situations are not treated similarly.

8.3 The Principle of Proportionality

The Council's commissioning and procurement shall be undertaken with regard to the principle of proportionately. Requirements placed upon suppliers shall be appropriate for attaining the objective pursued and shall not go beyond what is required to achieve the objectives of the procurement.

8.4 **Value for Money**

The selection of offers for goods, services or the execution of works from suppliers shall be based upon achieving value for money for the Council.

8.5 **Sustainability**

The selection of offers for goods, services or the execution of works from suppliers shall ensure that sustainable and ethical sources of supply with minimal impact upon the environment are used.

8.6 **Economic and Social Development**

Subject to the test of fairness and equality for potential suppliers the requirement to support specific regional economic and social development opportunities may be included.

9. **SOURCING PROCESSES**

9.1 The sourcing process that shall be used will depend upon the type and estimated value of the requirement (excluding VAT), refer to Table 2.

9.2 Requirements shall not be broken down into smaller portions (lots) for the purpose of avoiding the application of the procurement thresholds.

9.3 **Market Research and Pre-Procurement Engagement**

Access to accurate and relevant commercial intelligence and knowledge of the marketplace is necessary in deciding which procurement option is best. Relevant markets need to be researched and understood, however, care must be taken to ensure this does not distort competition or prejudice any bidder or potential bidder.

There are instances where it is beneficial to undertake pre-procurement market engagement. This may be to better understand the capacity of the market or to allow potential bidders to position themselves appropriately in order to tender effectively. In any case care must be taken and pre-procurement activity should only be undertaken following guidance from the Procurement team.

Table 2 – Sourcing Processes

Value of Expenditure	Sourcing Process
Less than £1k – All Categories	Verbal or email confirmation from supplier, pricing obtained from suppliers' catalogue.
£1k to £25k – All Categories	A written quote from the supplier shall be obtained.
£25k to £150k – All Categories	At least three quotes shall be invited using the Formal Quotation Process.
Over £150k – All Categories	<p>A Tender shall be undertaken and advertised nationally and also in the EU where the value threshold for the UK Public Contract Regulations is passed for the relevant category:</p> <ul style="list-style-type: none"> • Goods and Services • Light Touch Services (see Note 1) • Works <p>Definitions of the categories and the current UK Public Contract Regulations Value Thresholds are available in the Commissioning and Procurement Manual.</p>

Note (1) Light Touch Services are health, social and related services, administrative social, educational and cultural services, compulsory social services, benefit services, community social and personal services, religious services, catering services for private households, prison services, postal services, investigation and security services.

10. EXEMPTIONS TO UNDERTAKING A COMPETITIVE SOURCING PROCESS

- 10.1 Exemptions to the requirement to undertake a competitive sourcing process shall be approved in accordance with the Council's Procurement Scheme of Delegation and can only be undertaken in the circumstances listed in Table 3.
- 10.2 All exemptions must follow the agreed exemption process and must be approved by Procurement Board, before any expenditure is undertaken.

Table 3- Exemptions to Undertaking a Competitive Sourcing Process

Type of Exemption	Criteria	£ Value for which this Exemption can be Applied
Sole Provider	Where for technical or artistic reasons connected with the protection of exclusive rights only a single supplier can meet the requirements.	Unlimited
Urgency A	Emergency action is required which acting diligently the Council could not have foreseen and if not taken would provide an unacceptable impact upon on the delivery of the Council's services.	Up to the value of the UK Public Contract Regulations value thresholds.
Urgency B	In cases of extreme urgency, where the health and safety of the public is at stake and the likelihood of harm during the period of delay is considerable, for reasons unforeseeable by and not attributable to the Council.	Unlimited
Urgency A&B cannot be relied upon where a lack of forward planning has precluded a compliant procurement process		
Additional Requirements	Where the Council requires a contractor to provide additional goods or carry out additional works or services beyond 50% of the original contract value (including any extension included in the original terms of the contract); which the Council acting diligently could not have foreseen and undertaking a further competitive sourcing process is unlikely to deliver value for money and will impede upon the delivery of the Council's services. The extension cannot include a variation in the scope of the contract.	The contract can be extended by its original value once again. However the total value of the contract must not exceed the UK Public Contract Regulations value threshold for the relevant category.
Best Value	Where there is sufficient evidence that only one supplier is able to provide the goods or undertake the services or works within the required timescale and undertaking a competitive sourcing process would be unlikely to deliver value for money and will impede upon the delivery of the Council's services.	£150k

Notes

- (1) The UK Public Contract Regulations value thresholds are available from the Commissioning and Procurement Manual.

The Councils' Contract Standing Orders do not allow the extension of any Supply Arrangement which has been awarded without competition. As such in these circumstances a further exemption would need to be approved.

11. EXTENSION OF CONTRACTS

- 11.1 The term of existing contracts shall only be extended if satisfactory performance has been provided from the contracted supplier and there is adequate budgetary provision.
- 11.2 Contracts shall only be extended where competition was used to select the Supplier.
- 11.3 Contracts shall only be extended for any period that was provided for in the original terms of the contract unless clause 8.4 applies.
- 11.4 Where the Council requires a contractor to provide additional goods or carry out additional works or services due to circumstances which acting diligently the Council could not have foreseen an extension of up to 50% of the original value of the contract (which includes any extension periods provided for in the terms of the original contract) can be undertaken.
- 11.5 Contracts shall not be varied with regard to the scope and the type of goods, services or works that they deliver unless, the variation has already been provided for in the original contract terms or the changes are not substantial and do not alter the nature of the Contract.

12. PURCHASE AND WORKS ORDERS

- 12.1 With the exception of the requirements included on the Council's Purchase Order Exemption List an official Purchase or Works Order must be used to undertake all financial commitments on behalf of the Council.

13. CONTRACT MANAGEMENT

13.1 Management of the Performance of Contracts

Officers should consider the appropriate frequency of contract management activity based upon the critically, complexity and value of the contract. Contract Management activity should be undertaken in conjunction with key users of the goods, services or works. Effective records of reviews must be maintained.

- 13.2 Where the performance of the contracted supplier falls below the required levels of service the Officer responsible for the contract shall ensure that the Contractor is made aware in a timely manner. Effective records shall be maintained of the actions agreed with the Contractor to correct the performance failures.
- 13.3 Where the performance of the Contractor continues to fall below the required level of service a formal meeting shall be undertaken with the Contractor and a notice of default served in accordance with the relevant process contained in the Conditions and Terms of the Contract.

- 13.4 Officers will work with Contractors on a partnership basis to deliver solutions to performance issues. A partnership approach is essential for longer term contracts where changes in the requirements of the Councils and the technology base will impact the performance required from the contract and the processes used to deliver the goods, services or works.

14. PREVENTION OF BRIBERY & CORRUPTION

- 14.1 Councillors and officers involved in the letting of contracts and the purchase of goods and services must ensure they comply with the relevant code of conduct and shall state at the earliest stage if the procurement procedure if they have any foreseeable conflicts of interest.
- 14.2 Any gift offered, either during a contract process or prior to or after the procedure must be reported in accordance with the Councils policy as set out in the Code of Conduct Policy for Councillors and Employees. If any person believes such a gift to have been offered as an inducement please contact the Corporate Manager Internal Audit or the Monitoring Officer immediately. Please report any suspicions of bribery through the Councils Whistleblowing Policy.

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STAFF EMPLOYMENT PROCEDURE RULES

1. RECRUITMENT AND APPOINTMENT

- (a) Declarations
 - (i) The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons.
 - (ii) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by them.
- (b) 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) Nothing in paragraphs (i) and (ii) above will preclude a member from giving a written reference for a candidate for submission with an application for appointment.

2. RECRUITMENT OF CHIEF [OFFICERS], MONITORING OFFICER AND SECTION 151 OFFICER

Where the Council proposes to appoint any of the above posts and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

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

3. APPOINTMENT OF HEAD OF PAID SERVICE

This process will be subject to proposed mandatory standing orders regulations (see paragraph 6 later).

The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Council's Joint Appointments Committee.

4. APPOINTMENT OF DIRECTORS (INCLUDING THE MONITORING OFFICER AND THE CHIEF FINANCIAL OFFICER)

The Joint Appointments Committee will appoint any Directors and Deputy Chief Executive. Designation of any officers as Monitoring Officer and the Chief Finance Officer (Section 151 Officer) will be made by full Council on the recommendation of the Head of Paid Service.

5. OTHER APPOINTMENTS

- (a) **Officers below Director level.** Appointment of Officers below Director level (other than assistants to political groups) is the responsibility of the Head of Paid Service or their nominee and may not be made by Councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. DISCIPLINARY ACTION

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Financial Officer may be suspended whilst an investigation takes place into any alleged misconduct by a resolution of the Council at an extraordinary or ordinary meeting. The suspension will be on full pay and last no longer than two months. The Monitoring Officer and Chief Financial Officer will not be suspended during the period during which they are undertaking a formal investigation under their statutory powers.
- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those Officers except in accordance with a recommendation in a report made by a designated independent person.
- (a) **Councillors** will not be involved in the disciplinary action against any Officer below Director level except where such involvement is necessary for any investigation or inquiry into alleged misconduct though the Council's disciplinary capability and related procedures as adopted from time to time may allow a right of appeal to Councillors in respect of disciplinary action.

7. DISMISSAL

Councillors will not be involved in the dismissal of any Officer below Service Manager level except where such involvement is necessary for any investigation or inquiry into alleged misconduct though the Council's disciplinary, capability and related procedures as adopted from time to time may allow a right of appeal to Councillors in respect of dismissals.

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PART 4

Codes and Protocols

MEMBERS' CODE OF CONDUCT

CODE OF CONDUCT FOR EMPLOYEES

PROTOCOL ON MEMBER/STAFF RELATIONS

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MEMBERS' CODE OF CONDUCT

Suffolk Local Code of Conduct for Members

In accordance with section 26 to 37 of the Localism Act 2011, on 19 and 21 June 2012 respectively Babergh and Mid Suffolk District Councils (individually “the Council”) resolved to adopt the Suffolk Local Code of Conduct to take effect from 25 May 2022 for the purposes of discharging its duty to promote and maintain high standards of conduct within its area.

Until otherwise amended or replaced by a decision of the Council, the Suffolk Local Code of Conduct set out below shall hereafter apply to all elected members and any co-opted members entitled to vote on any decisions of the Council or its Committees, Sub-Committees or Joint Committees when acting in their capacity as a member of the Council.

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 behaviors 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. It is a template for councils to adopt in whole and/or with local amendments.

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

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

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 fails 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:

1.1 I treat other councillors and members of the public with respect.

1.2 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:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 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:

3.1 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:

4.1 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. 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.**

4.2 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.

4.3 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:

5.1 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:

6.1 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:

7.1 I do not misuse council resources.

7.2 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.

8. Complying with the Code of Conduct

As a Councillor:

- 8.1 I undertake Code of Conduct training provided by my local authority.
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- 8.4 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:

- 9.1 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:

- 10.1 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.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 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 Interests)**.

“**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 interest 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.

Nonparticipation 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]

Disclosure of Other Registerable Interests

6. 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

7. 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.

8. Where a matter arises at a meeting which **affects** –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a relative or close associate; or
- c. 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

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

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. 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.

10. [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](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by them in carrying out their duties as a councillor, or towards their 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.
Contracts	Any contract made between the councillor or their 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.

Land and Property	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 their 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.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	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 their 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.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the 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 their 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) anybody 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
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes or
 - (iii) 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 neighboring 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.

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CODE OF CONDUCT FOR EMPLOYEES

1. Introduction

- 1.1 The public is entitled to expect the highest standards of conduct from all employees who work in local government.
- 1.2 This Code is based on a model produced by the Local Government Management Board and the Local Authority Associations. The Babergh and Mid Suffolk branch of UNISON and the Mid Suffolk branch of Unite have been consulted on this Code and has given its full support.
- 1.3 Throughout the Council many of the professional groups, and others, will have their own codes of practice which will be complementary to this Code. In addition it may be necessary to introduce special procedures, rules etc for specific matters which will be issued to appropriate employees, as and when necessary.

2. Status of the Code

- 2.1 This Code has been adopted by Babergh District Council and Mid Suffolk District Council. It sets out the minimum standards that must apply. The aim of the Code is to lay down guidelines for employees which will help maintain and improve standards and protect them from misunderstanding or criticism.

3. Interpretation

- 3.1 In this Code unless the context otherwise requires the following expressions have the following meanings:

"Employees" means all persons employed under a contract of employment by Babergh District Council and Mid Suffolk District Council.

"Council" includes both Babergh and Mid Suffolk District Councils

"Councillor" includes both Babergh and Mid Suffolk District councillors.

"Contractor" includes contractors engaged by Babergh or Mid Suffolk District Council or the two councils jointly.

4. Scope of the Code

- 4.1 The Code applies to all employees.
- 4.2 Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. Activities carried out by employees acting on behalf of the Council as members of companies or voluntary organisations will be subject to the minimum standards within this Code.

5. Standards

- 5.1 Local government employees are expected to give the highest possible standard of service to the public, and, where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality.
- 5.2 Employees will be expected to report directly to the Chief Executive or the relevant officer in the Senior Leadership Team or in exceptional circumstances through their trade union, and without fear of any recrimination:-
- (a) any deficiency in the standard or provision of any service;
 - (b) any breach of the policies, procedures, standing orders or financial regulations of the Council;
 - (c) any favouritism or discrimination shown to any person;
 - (d) any impropriety or misconduct.
- 5.3 Employees shall immediately bring to the attention of the Director (or in the case of a Director the Chief Executive) if they believe that there is an actual or potential conflict of interest between Babergh District Council and Mid Suffolk District Council or between roles and responsibilities which the Employee undertakes for each Council.

6. Disclosure of information

- 6.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to Councillors, auditors, government departments, service users and the public. The Council may decide to be open about other types of information.

Employees must be aware of which information the Council is and is not open about, and act accordingly.

- 6.2 Employees must not use any information obtained in the course of their employment and which is not available to the general public, for personal gain or benefit, nor should they pass it on to others who might use it in such a way unless there is a legal requirement to do so. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the authority must not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

7. Political neutrality

- 7.1 Employees serve the Council as a whole. It follows that they must serve all councillors and not just those of the controlling group (if there is one), and must ensure that the individual rights of all Councillors are respected.

- 7.2 Subject to any rules approved by the Council, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality. An Employee shall, therefore, be entitled to be accompanied by a colleague when advising any political group.
- 7.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.
- 7.4 Any Political Assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set out in paragraphs 7.1 to 7.3.

8. Relationships

8.1 Councillors

Employees are responsible to the Council through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the authority's work. Mutual respect between employees and Councillors is essential to good local government. However close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and, wherever reasonable and possible, should be avoided.

8.2 The Local Community and Service Users

Employees must always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial delivery of services to all groups and individuals within that community as defined by the policies of the Council.

8.3 Contractors

If there is likely to be a conflict of interest, employees must make known in writing to their Director all relationships of a business or private nature with existing or potential Council contractors known to the employee. Orders and contracts must be awarded on merit, by fair competition against other tenders, where appropriate, and no special favour must be shown to potential contractors (particularly those run by, for example, friends, partners or relatives) in the tendering process. No part of the community should be improperly or illegally discriminated for or against.

- 8.4 Employees who, in the course of their job, engage or supervise contractors or have any other official relationship with contractors and have previously had, or currently have, a relationship in a private or domestic capacity with contractors (or their senior staff), must declare that relationship in writing to their Director.

9. Appointments and other employment matters

- 9.1 Employees involved in appointments must ensure that these are made on the basis of merit. There is a strong risk of illegality if an employee makes an appointment based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees must not be involved in appointments where they are related to an applicant, or have a close personal relationship outside work with them.
- 9.2 Similarly, employees must not be involved in decisions relating to discipline, promotion or pay adjustments of any employee who is a relative, partner, etc.

10. Outside Commitments

- 10.1 The NJC Scheme of Conditions of Service for APT&C staff states at Section 7, paragraph 70(b) on Official Conduct:

"An officer's off-duty hours are their personal concern but they should not subordinate their duty to their private interests to put themselves in a position where their duty and their private interests conflict. The employing authority should not attempt to preclude officers from undertaking additional employment, but any such employment must not, in the view of the authority, conflict with or react detrimentally to the authority's interests or in any way weaken public confidence in the conduct of the authority's business."

The national conditions of service for chief officers and those for chief executives also mirror the above points.

- 10.2 All employees have conditions of service which require them to obtain written consent from their manager to take any outside employment. All employees must be clear about their contractual obligations and should not take outside employment which conflicts with either Council's interests. Employees can appeal their manager's decision in writing to the relevant Director.
- 10.3 The Council will not consent to employees engaging in any other business which would result in plans or drawings prepared by them outside their official duties with the Council, being presented with applications for determination by the Council or its Directors.
- 10.4 Employees must adhere to any Council rules on the ownership of intellectual property created during their employment - this could include patents, copyrights, trademarks and other intellectual property.

11. Personal interests

- 11.1 Employees must declare in writing to their Director any financial or non-financial interests which could reasonably be considered to conflict with the Council's interests.
- 11.2 Employees must declare in writing to their Director membership of any organisation not open to the public without formal membership, and with commitment of allegiance, and which has secrecy about rules or membership or conduct (eg. the freemasons, some friendly societies etc.).
- 11.3 The Director will treat any such declarations in confidence and will only disclose them in appropriate situations.
- 11.4 For the avoidance of doubt declarations must be made under clause 11.1-11.3 above if the interest conflicts with either or both Babergh or Mid Suffolk District Council's interests.

Note: The Local Government Act 1972 provides that if employees know that a contract in which they have a financial interest is before the Local Authority, they must give notice of that interest to the Local Authority.

12. Equality issues

- 12.1 Employees must ensure that any Council policies relating to equality issues are complied with in addition to the requirements of the law. All members of the community, customers and other employees have a right to be treated with fairness and equity.

13. Separation of Roles During Tendering

- 13.1 Employees involved in the tendering process and dealing with contractors must be clear on the separation of client and contractor roles in the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability, separation of activity as appropriate, and openness.
- 13.2 Employees in contractor or client units must exercise and display fairness and impartiality when dealing with all customers, suppliers, contractors and sub-contractors.
- 13.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation.

- 13.4 Employees contemplating a management buyout, or otherwise considering tendering for Council work, should, as soon as they have formed a definite intent, inform their Director in writing and withdraw from the contract awarding processes.
- 13.5 Employees must ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to a business run by them or a business employing them in a senior or relevant managerial capacity.

Note: Attention is also drawn to the Council's Standing Orders on Contracts and the Financial Regulations.

14. Corruption

- 14.1 It is a serious criminal offence for employees corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person. If a substantiated allegation is made it is for the employees to demonstrate that any such rewards, given or received, have not been corruptly obtained.

15. Use of Financial Resources

- 15.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid any action, which by its nature, could lead to a legal challenge against the Council.

16. Hospitality and Gifts

- 16.1 The NJC Scheme of Conditions of Service for APT&C staff states at paragraph 70(a) on Official Conduct:

"The public is entitled to demand of a local government officer conduct of the highest standard and public confidence in their integrity would be shaken were the least suspicion to arise that they could in any way be influenced by improper motives."

- 16.2 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community (including the business community). Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented. They should be properly authorised and recorded in the Council's Gifts and Hospitality Register.
- 16.3 When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.

- 16.4 When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.
- 16.5 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal; such hospitality does not need to be recorded. In receiving such corporate hospitality employees must ensure that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
- 16.6 Employees should only accept gifts in accordance with the following guidance:
- (i) There can be little doubt that the acceptance of gifts by Council employees from persons who have, or may seem to have, dealings with the Council would be viewed with suspicion by the general public and would make the employee concerned and the Council extremely vulnerable to criticism. Therefore an employee should tactfully refuse any personal gift which is offered to them or to a member of their family by, or indirectly attributable to, any person who has, or may have, dealings of any kind whatsoever with the Council.
 - (ii) The only exception to this rule is small gifts; i.e. items of a value up to £10.00. In such cases, however, whilst the gift may be accepted, it must be entered into the Gifts and Hospitality Register.
 - (iii) If there is any doubt about whether a gift may be accepted, the gift should be politely and tactfully refused.
 - (iv) Employees are reminded that, under the provisions of Section 117 of the Local Government Act 1972, Officers employed by a Local Authority are forbidden under the colour of their office and employment to accept any fee or reward other than their proper remuneration and any person who contravenes this provision would be liable on summary conviction to a fine not exceeding £2,500 (currently). It is also an offence under the Bribery Act 2010 to offer, promise or give a financial or other advantage in respect of the award or performance of a contract.
 - (v) In the event of an employee receiving a gift without warning (this would include bequests under a will for example) which does not fall within the exception mentioned in (ii) above, this should be reported immediately to the Chief Executive who, in consultation with the Chair of the appropriate Committee, will decide whether the gift should be retained by the employee, returned or forwarded to some charitable or other deserving cause.

17. Sponsorship - Giving and Receiving

- 17.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 17.2 Where the Council wishes to sponsor an event or service, special care must be taken to ensure that if any benefit accrues to employees, partners, spouses or relatives, full disclosure is made under the hospitality procedure above before the venture is pursued. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and conflicts of interest avoided.

PROTOCOL ON COUNCILLOR/STAFF RELATIONS

1. Introduction

- 1.1 The relationship between Councillors and Staff is essential to the successful working of the organisation. This relationship within the authority is characterised by mutual respect, informality and trust. Councillors and Staff must feel free to speak to one another openly and honestly.

The purpose of this Protocol is to help Councillors and Staff to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this protocol lies with the Head of the Paid Service.

- 1.2 The Protocol must be read and operated in the context of any relevant legislation and national and local Codes of Conduct and any procedure for confidential reporting.

2. Roles of Councillors and Staff

- 2.1 The respective roles of Councillors and Staff can be summarised as follows:

Councillors and Staff are servants of the public and they are indispensable to one another however. Their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Staff are responsible to the Council. Their job is to give advice to Councillors and to the authority, and to carry out the authority's work under the direction and control of the Council, the relevant committees and Panels. Mutual respect between Councillors and Staff is essential to good local government.

2.2 Councillors

Councillors have four main areas of responsibility:-

- (a) determining the policy of the authority and giving it political leadership;
- (b) monitoring and reviewing the performance of the authority in implementing that policy and delivering services;
- (c) representing the authority externally; and
- (a) acting as advocates on behalf of their constituents.
- (b) In relation to Cabinet members, to discharge executive functions in line with the constitution.

It is not the role of Councillors, other than Cabinet members, to involve themselves in the day to day management of the authority's services. Cabinet members contact in the main will be with senior staff connected to their portfolios.

2.3 **Staff**

The role of Staff is to give advice and information to Councillors and to implement the policies determined by the authority.

In giving such advice to Councillors, and in preparing and presenting reports, it is the responsibility of the Officer to express their own professional views and recommendations. Whilst an Officer may report the views of individual Councillors on an issue, if the Councillor wishes to express a contrary view they should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view.

Certain Staff e.g. Chief Executive, Monitoring Officer, Section 151 Officer have responsibilities in law over and above their obligations to the authority and to individual Councillors, and Councillors must respect these obligations, must not obstruct Staff in the discharge of these responsibilities, and must not victimise Staff for discharging these responsibilities.

3. **Expectations**

3.1 **Councillors can expect from Staff:-**

- (a) A commitment to the authority as a whole, and not to any political group.
- (b) A working partnership.
- (c) An understanding of and support for respective roles, workloads and pressures.
- (d) Timely response to enquiries and complaints.
- (e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of Staff.
- (f) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold.
- (g) Awareness of and sensitivity to the political environment.
- (h) Respect, dignity and courtesy.
- (i) Training and development in order to carry out their role effectively.
- (j) Integrity, mutual support and appropriate confidentiality.

- (k) That employees will not use their relationship with Councillors to advance their personal interests or to influence decisions improperly.
- (l) That Staff will at all times comply with the relevant Code of Conduct.
- (m) Support for the role of Councillors as the local representatives of the authority.

3.2 **Staff can expect from Councillors:-**

- (a) A working partnership.
- (b) An understanding of and support for respective roles, workloads and pressures.
- (c) Political leadership and direction.
- (d) Respect dignity and courtesy.
- (e) Integrity, mutual support and appropriate confidentiality.
- (f) Not to be subject to bullying or to be put under undue pressure. Councillors should have regard to the seniority of Staff in determining what are reasonable requests, having regard to the power relationship between Members and Staff, and the potential vulnerability of Staff, particularly at junior level.
- (g) That Councillors will not use their position or relationship with Staff to advance their personal interests or those of others or to influence decisions improperly.
- (h) That Councillors will at all times comply with the relevant Code of Conduct.

4. **Relations between Councillors and Staff**

- 4.1 Mutual respect between Councillors and staff is essential to good local government. Personal relationships or close personal familiarity between individual Councillors and staff can damage this relationship and prove embarrassing to other Councillors and staff.
- 4.2 It is not enough to avoid actual impropriety. Councillors and staff should at all times avoid any occasion for suspicion and any appearance of improper conduct.
- 4.3 Where there is a close relationship, it should be declared by both the Councillor and Officer to the Chief Executive who will treat them as confidential. The Councillor should also advise their Group Leader.

- 4.4 A close relationship includes any family business or close personal relationships. It is not possible to define exactly the range of relationships that would be considered close or personal. Examples however would include a family or sexual relationship and regular social mixing such as holidays or evening meals together.
- 4.5 In their dealings with staff (especially junior staff) Councillors need to be aware that it is easy for staff to be overawed and feel at a disadvantage. Such feelings can be intensified where Councillors hold official and/or political office.
- 4.6 A Councillor should not pressure an Officer to do something they are not authorised to do and which is against their professional judgement. A Councillor should also not require an Officer to do something which is outside their normal duties or working hours.
- 4.7 An Officer must not seek to influence a Councillor to do something that may be advantageous to the member of staff personally or professionally or injurious to another Officer. Any approaches of this nature should be reported to the Managing Director.
- 4.8 No Councillor or Officer shall criticise or otherwise undermine the other at Council or other public meetings.
- 4.9 Councillors will take no part in the appointment or dismissal of staff below Chief Officer, nor should they seek to influence in any way the appointment or dismissal of a particular person.

5. Staff relationships with Chair, Vice-Chair and Group Leaders

- 5.1 It is important that there are close working relationships between senior staff and senior members. However, such relationships should never be allowed to become so close or appear to be close, so that the ability of a staff member to deal impartially with other Councillors or groups is questioned.
- 5.2 The Chief Executive and S151 Officer are expected to work closely with the Leaders and Chairs of the Committees and to meet regularly with them.
- 5.3 A Chair should not seek to influence a member of staff to reduce the options or withhold information which should properly be reported to the appropriate Committee.
- 5.4 Any issues arising relating to such reports that cannot be resolved will be referred to the Chief Executive for resolution. The Chief Executive has the ultimate responsibility for the content of the agenda.
- 5.5 Staff are accountable to the Head of Service and whilst Staff should always seek to assist any Councillor, they should not go beyond the limits of whatever authority they have been given by their manager.

5.6 Prior to the Council and Committee meetings, it is normal for the appropriate staff to meet informally with the Chair and Vice-Chair in the case of the Council and other group spokesmen to discuss matters on the agenda, answer any questions that Councillors have which might improve the running of the meeting and also to enable specific issues to be highlighted for which staff and Councillors may need to prepare. These meetings should be regarded as confidential meetings.

6. Political Groups

6.1 The operation of political groups is an integral feature of local government, and such political groups have an important part to play in the development of policy and the political management of the authority.

6.2 Staff serve the Council as a whole and not exclusively any political group, combination of groups or any individual member of the Councils.

6.3 Officer Attendance

(a) Any political group may request the Chief Executive to attend a meeting of the group, consisting of members of the Councils only, to advise on any particular matter relating to the authority.

(b) The Chief Executive may arrange for the attendance of a representative in their stead, or may decline to attend or to provide a representative where they are of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.

(c) Staff' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Advice will not deal with any political implications of the matter or any option, and staff will not make any recommendation to a political group.

(d) Staff will respect the confidentiality of any matter which they hear in the course of attending a political group meeting.

7. When things go wrong

7.1 Procedure for Staff

From time to time the relationship between Councillors and staff may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior Manager or Councillors, staff will have recourse to their Head of Service or to the Council's Monitoring Officer, as appropriate to the circumstances. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive, who, having advised the Leader of the Council and the appropriate group leader will decide on the course of action to be taken.

7.2 Procedure for Councillors

In the event that a Councillor is dissatisfied with the conduct, behaviour or performance of a member of staff, the matter should be raised with the appropriate Head of Service. Where the member of staff concerned is a Head of Service, the matter should be raised with the Chief Executive. If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedure.

8. Councillors in their ward role

- 8.1 Staff should inform Councillors about major issues concerning the Council and more specifically about issues affecting the wards that Councillors represent.
- 8.2 Whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be informed and involved, as appropriate. Similarly whenever a public meeting is organised by the Council to consider a local issue, all the Councillors representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting.

9. Support services

- 9.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying room bookings etc) to Councillors is to assist them in discharging their role as a member of the Council. Such support services should only be used for Council business. They should never be used in connection with party political or campaigning activity or for private purposes.
- 9.2 All Councillors are required to agree to adopt and abide by the Council's Corporate Internet and E-mail Policy.

10. Councillors' access to information and Council documents

- 10.1 If a Councillor requires information or advice from a member of staff they should approach a senior member of staff. It is not usually appropriate for Councillors to deal directly with a junior member of staff.
- 10.2 Councillors have a statutory right to inspect any Council document which contains material relating to business which is to be transacted at a Council or Committee meeting. This right applies irrespective of whether the Councillor is a member of the Committee and extends not only to reports which are to be submitted to that meeting, but to any relevant background papers. This right does not apply to certain documents which disclose exempt information.
- 10.3 A Councillor does not have a right to request information out of curiosity. They must demonstrate a need to know the contents of a document to enable them to carry out their duties as a Councillor. It is for the Chief Executive or Head of Service to determine whether a Councillors' request for information is justified and can be met from within existing resources.

10.4 Any information provided to a Councillor must only be used for the purpose for which it is provided and a Councillor must never disclose or use any confidential information.

11. **Correspondence**

11.1 Councillors must not normally communicate in the name of the Council with any outside body or person. All such communications should be carried out by the appropriate member of staff.

11.2 It may be appropriate in some circumstances for a letter to be sent in the name of a Councillor, for example in response to a letter of complaint sent direct to that Councillor, but this should be the exception rather than the norm and it should only be done following consultation with the Chief Executive or Head of Service.

11.3 Letters which create contractual, legal or other obligations or which give instructions on behalf of the Council must never be sent out in the name of a Councillor.

11.4 Staff should consider when providing information to one Councillor, whether others should be informed e.g. in relation to a Ward or local matter, unless there are good reasons for not making the information more widely available.

12. **Media**

12.1 In general Councillors provide comment and views while staff provide factual information. If a Councillor is unsure about the circumstances of a particular issue he should contact the appropriate Officer concerned or ask the Press Office to do so.

13. **Redress and breach of this protocol**

13.1 If a Councillor considers that they have not been treated with the proper respect and courtesy or that a member of staff is otherwise in breach of this protocol, they should raise the matter with the member of staff's Head of Service or the Chief Executive.

13.2 If a member of staff has similar concerns about a Councillor, they should raise the matter with their Head of Service or the Chief Executive. In such circumstances the Chief Executive will take appropriate action by approaching the individual Councillor or group leader.

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MEMBERS' ALLOWANCES SCHEME

1. INTRODUCTION, TITLE AND INTERPRETATION

- 1.1 Babergh District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended) (the Regulations) hereby makes the following scheme which may be cited as the Babergh District Council Members' Allowances Scheme and shall have effect from 08 May 2023 until otherwise varied.
- 1.2 In this Scheme:
'Councillor' means an elected Member of Babergh District Council
'Member' includes co-opted Members and elected Members
- 1.3 The requirements for the Review of this Scheme shall be operated in accordance with the Regulations.

2. GENERAL

- 2.1 Under the scheme Councillors are entitled to the following allowances in connection with performing their duties:
- (a) Basic Allowance – this is a flat rate allowance payable to every Councillor (£6,870 per annum).
 - (a) Special Responsibility Allowance (SRA) – this allowance is for certain Councillors, in recognition of their additional responsibilities arising from their appointment to the offices specified in Paragraph 3 below. Only 2 SRA (the larger/largest if two or more appointments are made) may be claimed per Councillor.
 - (b) Travel and Subsistence Allowances – the detailed rules in connection with entitlement to these allowances are set out in paragraphs 8 and 9 below.
 - (c) Childcare and Dependants' Carers' Allowances – these can be claimed in accordance with the provisions set out in paragraph 10 below.
 - (d) Parental Leave Policy – Babergh and Mid Suffolk District Council's Parental Leave Policy can be found in Schedule D of this document.
- 2.2 The Allowances referred to in 2.1 (a), (b) and (c) and 2.2 above may be withheld from, or repaid by, Members in respect to any period during which they are suspended or partially suspended from responsibilities or duties as a Member for breaches of the Code of Conduct as provided for in the Regulations.
- 2.3 That the Basic Allowance be increased in line with the Local Government Officer pay awards until the scheme is next reviewed in 2026 or earlier. If a future officer pay award was to be in the form of a lump sum the increase would be calculated by establishing the percentage increase of the lump sum using the council's average officer wage.

3. SPECIAL RESPONSIBILITY ALLOWANCE (SRA)

The current levels of Special Responsibility Allowance are as follows:-

	£ (per annum)
Chair of the Council	6,870
Vice-Chair of the Council	3,435
Leader of Council	17,175
Deputy Leader of the Council	8,587
Chair of Planning Committee	6,870
Vice-Chair of Planning Committee	3,435
Chair of Scrutiny Committee	6,870
Vice-Chair of Scrutiny Committee	3,435
Chair of Joint Audit and Standards Committee	3,435
Planning Committee Members	859
Political Group Leaders (5 or more members)	5,152
Political Group Leaders (less than 5 members)	1,717
Chair of Regulatory Committee	3,435
Vice-Chair of Regulatory Committee	1,717
Cabinet Member with Portfolio	8,587
Cabinet Member without Portfolio	3,435
Lead Member	5,152

4. PAYMENT OF BASIC AND SPECIAL RESPONSIBILITY ALLOWANCES

- 4.1 Special Responsibility Allowances and Basic Allowances are paid on a monthly basis, as part of the normal payroll process. The actual payment day is normally the 25th day of the month.

5. NOTICE TO FOREGO ENTITLEMENT TO ALLOWANCE(S)

- 5.1 A Member may give notice in writing to the Corporate Manager for Governance and Civic Office that they wish to forego any part of the entitlement to any allowance.

6. PART – YEAR ADJUSTMENTS

- 6.1 The payment of Basic Allowances, Special Responsibility Allowances and Co-opted Members Allowances shall be adjusted accordingly to reflect any Member's part-year entitlement to such an allowance. Where a Member's term of office commences part-way through the financial year (commencing on 1 April) they shall be entitled to the proportion, by reference to the number of days, of the allowance which the period of the term of office bears to the whole of the financial year.

7. ATTENDANCE BY COUNCILLORS AT MEETINGS OF COMMITTEES TO WHICH THEY HAVE NOT BEEN APPOINTED

- 7.1 Attendance by Councillors at meetings of Committees upon which they have not been appointed to serve shall be eligible for travel and subsistence allowances as follows:-
- (a) To Chair of Committees, Sub-Committees, Task Groups and Panels presenting reports to Committees of which they are not Members
 - (b) To Councillors attending any Committee where they are not Members of the Committee to address the Committee.

[NB. See also 8.3 below – SUBSTITUTES]

8. TRAVEL ALLOWANCE

- 8.1 Councillors are able to claim travel allowances for travel from, and return to, home or work to attend duties for which the payment of travel allowances has been approved. Approved duties include those set out in Schedule A.
- 8.2 Travel and Subsistence Allowances are paid to accord with the rates payable to Council employees from time to time with the exception of overnight absences. Details of the current rates payable are set out in Schedule B.

8.3 For the avoidance of doubt, Councillors who attend as substitutes for other Councillors at certain Committee and Sub-Committee meetings shall be eligible for travel and subsistence allowances in accordance with Council Procedure Rule No. 5.

8.4 Where a Councillor is appointed as the Council's representative at meetings falling within Schedule A, a substitute Councillor may attend such meetings where the appointee is unable to attend and the appointee so requests, and the substitute Councillor will be eligible for travel and subsistence allowances.

[Notes:- (a) Such substitute Councillors are asked to inform the Director - Law & Governance / Corporate Manager –Governance and Civic Office so that the payment of appropriate allowances can be authorised.

(b) If an appointee finds that it is difficult to attend meetings falling within Schedule A on a regular basis, then they should consider their continued appointment and contact the Corporate Manager Governance and Civic Office - to discuss the matter.

9. **SUBSISTENCE ALLOWANCES**

9.1 Where Councillors undertake approved duties involving absences of more than four hours which extend over a period which fully covers a normal evening meal-time, an allowance for a meal may be claimed. The rates and full details are set out in Schedule B.

10. **CHILDCARE AND DEPENDANTS' CARERS' ALLOWANCES**

10.1 Allowances for meeting the costs of Childcare and/or Dependants' Carers can be claimed by Councillors to enable them to undertake approved duties as defined in Schedule A.

10.2 Childcare Allowance up to £13.00 per hour, and Dependants Relative Care/Specialist Nursing Care Allowance up to £30 per hour are payable on the production of satisfactory receipts. Claims should be made as referred to in Paragraph 11.1 below.

10.3 Childcare and Dependants' Carers' Allowances –

- (a) are not payable in respect of care undertaken by a family member, friend or neighbour but should be for professional care and
- (b) are payable for the duration of the approved duty undertaken by the Councillor, including travelling time.

11. CLAIMS FOR ALLOWANCES

- 11.1 Councillors are required to submit claims electronically through the Oracle system. The Oracle site can be accessed from any computer/mobile device, provided the link has been stored, so claims can be entered at any time of the day from home, Council offices or elsewhere.
- 11.2 A Councillor who is also a serving Member of another Authority should use the forms of, and claim from, that Authority, in respect of the relevant approved duty undertaken for that body. Similarly, where a Councillor receives an allowance from another body for travel or subsistence, they should only claim from that body.
- 11.3 A claim for all relevant travel and subsistence allowances should be made within three months of the expenditure being incurred.
- 11.4 In respect of subsistence it should be noted that the Scheme entitles Councillors to claim the actual cost incurred up to the maximum amount detailed in Schedule B. In other words, if the amount spent is below the maximum then only the amount spent may be claimed.

12. TAXATION

- 12.1 Allowances are liable for Income Tax and National Insurance contributions.
- 12.2 Councillors are advised to seek independent advice on their own taxation position.
- 12.3 Councillors seeing constituents at home will not have income tax deducted from relevant travel expenses if they have completed the Declaration form supplied by the Corporate Manager – Governance and Civic Office.

SCHEDULE A

1. The following approved duties are eligible for the payment of Travel and Subsistence Allowances:-
 - (a) the attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body;
 - (b) the attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and one or more local authority(ies) within the meaning of section 270(1) of the Local Government Act 1972, or a sub-committee of such a joint committee provided that –
 - (i) where the authority is divided into two or more political groups it is a meeting to which members of at least two such groups have been invited, or
 - (ii) if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;
 - (c) the attendance at a meeting of any association of authorities of which the authority is a member;
 - (d) the attendance at a meeting of the Cabinet or a meeting of any of its committees, where the authority is operating executive arrangements;
 - (e) the performance of any duty in pursuance of any standing order made under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened;
 - (f) the performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
 - (g) the carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or of any of its committees or sub-committees.
2. For the avoidance of doubt, attendance at meetings of the bodies listed in (a) below (or as may be amended by the Council from time to time), or in connection with the duties described in (b) (c) and (d) below is included in the categories set out in paragraph 1. above.

Assembly of the East of England LGA

Association for Suffolk Museums

Babergh and County Domestic Violence and Abuse Forums
Dedham Vale and Stour Valley Joint Advisory Committee (JAC)
East Suffolk Internal Drainage Board
Gainsborough's House Society Board of Governors
Greenways Countryside Project JAC
Haven Gateway Partnership
Ipswich and District Citizens Advice Bureau
Ipswich Strategic Planning Area Board
Joint Waste Management Board
Local Government Association and its Executive, Boards, Panels, Commissions including Partnerships, Forums, Policy Review Groups, Special Interest Groups and Task Groups etc together with the Annual Meeting and Conference, the LGA General Assembly and the East of England Assembly of Leaders
Pin Mill Bay Management Community Interest Company
South Suffolk Leisure Trust Board
Sudbury and District Citizens Advice Bureau
Suffolk Coast and Heaths AONB Joint Advisory Committee (JAC) and Partnership
Suffolk Flood Risk Management Scrutiny Sub-Committee
Suffolk Health and Wellbeing Board
Suffolk Health Scrutiny Committee
Suffolk Joint Emergency Planning Policy Panel
Suffolk Police and Crime Panel
Suffolk Rail Policy Group
Suffolk Waste Partnership (SWP)
The Quay Theatre at Sudbury Ltd – Management Board
Western Suffolk Community Safety Partnership

- (b) Attendance at meetings to compile draft lists of Committee, Task Group and Panel Memberships.
- (c) Attendance by the Chair and/or the Vice Chair of the Council, a Committee, Sub Committee, Task/Project Group, Working Party, Panel or Advisory Group to discuss with Officers the business of his Committee, Sub Committee, Task Group, Working Party, Panel or Advisory Group (or business of the Council in the case of the Chair or Vice Chair of the Council) on not more than two occasions per cycle of meetings where it is not practicable for such business to be conducted by the Councillor when they visit the Council Offices in connection with another approved duty.

- (d) Attendance by a Councillor at a meeting called by an Officer to discuss or carry out the business of the Council where it is not practicable for such business to be conducted by the Councillor when visits to the Council Offices are made in connection with another approved duty.
- (e) District Councillors attending Parish Council meetings, as the district ward representative for that area, with the exception of when the District Councillor was also a Parish Councillor for that Parish Council.

SCHEDULE B

TRAVEL AND SUBSISTENCE ALLOWANCES

(a) **Councillor's own motor vehicle**

The rate for travel by a Councillor's own private motor vehicle shall be 45p per mile. Passenger allowance can be claimed for taking other members and officers to meetings etc, at 5p per mile for one or more passengers.

A passenger's name(s) must be listed with the journey details, and the extra 5p claimed in Section 5 of the claim form.

Claims for longer journeys will be capped at the cost of undertaking the journey by public transport if this is a suitable and reasonable option.

Councillors are encouraged to reduce their reliance on motorised transport when carrying out Council business including IT related/home working solutions.

(b) **Travelling to or from a Railway Station and Centres of Public Transport**

If a Councillor's own motor vehicle is used, the appropriate mileage allowance can be claimed.

(c) **Miscellaneous Expenses connected with the use of Vehicles**

The amounts actually incurred on tolls, ferries and parking (including overnight) will be reimbursed.

(d) **Taxi Fares**

The amount to be claimed by Councillors will be the cost of travel by public transport save when travel by taxi is occasioned by reason of urgency or when no public transport is reasonably available. In these circumstances the actual amount of the fare and any reasonable gratuity paid will be reimbursed.

(e) **Hire of Vehicles**

The rate of travel by a hired motor vehicle other than a taxi cab shall not exceed the rate which would have been applicable had the vehicle belonged to the Councillor who hired it, except that the actual cost of hiring may be reimbursed in cases where it can be shown that the expense could not be avoided.

(f) **Railway and Bus Fares**

Reimbursement of fares actually paid. Bookings for rail tickets should be made via the Governance Team.

(g) **Bicycle Allowance Scheme**

Mileage rates can be claimed at 27.7p per mile. This rate will attract a profit element on which tax and national insurance will be deducted.

Members should provide: -

- (a) Their own bicycle, together with any associated running expenses,
- (b) Wet weather/reflective protective clothing,
- (c) Protective helmet (which must be worn at all times when using a bicycle on Council business)
- (d) Insurance cover relating to damage or theft.

(i) **Subsistence Allowance**

The maximum rates are:

For absences, not involving an absence overnight, from the usual place of residence, actual expenditure will be reimbursed up to the following amounts: -

Evening Meal Allowance	£20
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(j) **Overnight Absences**

Overnight accommodation must be arranged by the Council on behalf of the Councillor, subject to the Director – Law & Governance being authorised to agree reasonable accommodation rates.

In an emergency a councillor may claim for the actual cost of hotel accommodation and meals with the agreement of the Corporate Manager for Governance and Civic Office and on the production of receipts.

SCHEDULE C

GUIDELINES FOR USE OF DELEGATED POWER BY DIRECTOR - LAW AND GOVERNANCE IN RESPECT OF MEMBERS CONFERENCES/SEMINARS/MEETINGS

1. INTRODUCTION

- 1.1 Under the Scheme of Delegation, the Director - Law & Governance has been granted delegated authority to approve attendance by Members (at conferences, seminars or meetings) which has not previously been approved by the Council.
- 1.2 In exercising their delegation the Director - Law & Governance must have regard to these guidelines.

2. GUIDELINES

- 2.1 The Director - Law & Governance must ensure that there is sufficient budgetary provision taking into account:-
 - (a) The financial provision required for the support and development needs of all Members for the financial year in question.
 - (b) The cost and quality of the course/seminar/conference where applicable.
- 2.2 The Director - Law & Governance must ensure that:
 - (a) The meeting/conference/seminar is relevant to the Member's role and responsibilities at the Council, (e.g. by virtue of membership of a Committee, Sub-Committee, Task Group, Panel or Outside Body) or, their position as Chair or Vice-Chair of a Committee, Sub-Committee, Task Group, Panel or Outside Body, or Leader/Portfolio Holder OR
 - (b) Attendance would be beneficial to the Council or non-attendance would be prejudicial to the Council or its standing in the wider community, OR
 - (c) The conference/seminar provides necessary or relevant training or education to the Member(s) in their capacity as a District Councillor, OR
 - (d) The conference/seminar forms part of an agreed programme of training for Members, AND the conference/seminar does not duplicate attendance by that Member at a previous conference/seminar/meeting.

SCHEDULE D

BABERGH AND MID SUFFOLK DISTRICT COUNCIL PARENTAL LEAVE POLICY

CONTENTS

1. Aim of the Policy
2. Leave Provision of the Policy
3. Basic Allowance and Special Responsibility Allowances (SRA's) During Parental Leave
4. Resigning from Office and Elections
5. Ward Duties
6. Parental Bereavement

1. Aim of the Policy

- 1.1 This policy sets out councillors' entitlements to Parental Leave (covering maternity, paternity shared parental and adoption leave) and relevant allowances.
- 1.2 The objective of the policy is to provide a positive environment for councillors with family responsibilities and to ensure that councillors are able to take appropriate leave at the time of birth or adoption, that both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio holders and others in receipt of Special Responsibility Allowances (SRA) during any period of leave taken.
- 1.3 Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of local authority councillors. It will also assist with retaining experienced councillors-particularly women and making public office more accessible to individuals who might otherwise have felt excluded from it.

2. Leave Provisions of the Policy

- 2.1 Councillors who are the designated carer, are entitled to up to 6 months parental leave from the due date, or date of placement in respect of adoption, with the option to extend up to 52 weeks by agreement.
- 2.2 In addition legal advice has been taken on these policies, and they conform with current requirements
 - Leave Periods

Councillors giving birth are entitled to up to 6 months maternity leave from the due date, with the option to extend up to 52 weeks by agreement if required.

In addition, where the birth is premature, the councillor is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months' period. In such cases any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.

In exceptional circumstances, and only in cases of prematurity of 29 days or more, additional leave may be taken by agreement, and such exceptional leave shall not be deducted from the total 52- week entitlement.

Councillors shall be entitled to take a minimum of 2 weeks paternity leave following the birth of their child (ren) if they are the biological father or carer of the child as nominated by their partner/spouse.

A councillor who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from Council.

Where both parents are councillors leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.

A councillor who adopts a child through an approved adoption agency shall be entitled to take up to six months adoption leave from the date of placement, with the option to extend up to 52 weeks by agreement if required.

Any councillor who takes maternity, shared parental or adoption leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six-month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six-month period.

Any councillor intending to take maternity, paternity, shared parental or adoption leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return.

Any councillor taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

3. Basic Allowance and Special Responsibility Allowances (SRA's) During Parental Leave

3.1 All councillors shall continue to receive their Basic Allowance in full whilst on maternity, paternity, or adoption leave.

- Special Responsibility Allowances

Councillors entitled to a Special Responsibility Allowance shall continue to receive their allowance in full in the case of maternity, paternity, shared parental or adoption leave.

Where a replacement is appointed to cover the period of absence that person shall receive an SRA on a pro-rata basis for the period of the temporary appointment.

The payment of Special Responsibility Allowances, whether to the primary SRA holder or a replacement, during a period of maternity, paternity, shared parental or adoption leave shall continue for a period of six months, or until the date of the next Annual Meeting of the Council, or until the date when the member taking leave is up for election (whichever is soonest). At such a point, the position will be reviewed, and will be subject to a possible extension for a further six-month period.

Should a Member appointed to replace the Member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than two Special Responsibility Allowances shall apply.

Unless the Member taking leave is removed from their post at an Annual General Meeting of the Council whilst on leave, or unless the Party to which they belong loses control of the Council during their leave period, they shall return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began.

4. Resigning from Office and Elections

- 4.1 If a member decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.
- 4.2 If an election is held during the Member's maternity, paternity, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and SRA if appropriate will cease from the Monday after the election date when they would technically leave office.

5. Ward Duties

- 5.1 Councillors who take parental leave will be able to nominate another councillor to deal with local issues in their Ward. It will be the responsibility of the councillor to hold discussions with their preferred nomination to arrange this. Where this hasn't been possible, the councillor taking parental leave will need to raise this with their Political Group Leader.
- 5.2 Where a councillor has limited alternatives to nominate due to low political representation, the Leader will decide with the member the most appropriate way in which their ward duties can be covered.
- 5.3 Councillors are responsible for putting an out of office message redirecting queries to a designated councillor. However, if they still wish to respond to emails/correspondence whilst taking parental leave, they are at liberty to undertake this activity.
- 5.4 Committee Services will provide help and advice where appropriate and arrange for officers in service areas to respond to enquiries.

6. Parental Bereavement Leave (miscarriage or still birth)

- 6.1 A premature birth is defined as any birth which takes place before the 37th week of pregnancy. Neo-natal means "relating to new-born children". A child is classed as a neonate from their birth until the 28th day after their Expected Due Date.
- 6.2 If a councillor has a stillbirth on or after the 25th week of their pregnancy, they will still be eligible to receive parental leave and allowances as normal. If a councillor miscarries earlier than the 25th week of their pregnancy they will not qualify for parental leave and allowances, and any time off will count as sickness absence. The Council will endeavour to support them throughout this difficult time.

- 6.3 The Council understands that it may not always be possible to notify it immediately of a premature birth, or a neo-natal care situation. However, it asks that the parent or a family member informs the Council as soon as possible so that the correct parental leave and allowances are received. The Council also asks that the councillor keeps Committee Services informed of any changes. The Council may require evidence of the premature birth/neo-natal care when possible. This could be in the form of a birth certificate or a copy of a discharge letter.
- 6.4 On a member's return to take up their duties the Council recommends they meet with their Group Leader (if applicable) and the Corporate Manager Governance and Civic Office to discuss whether any further support is required.

PUBLIC SPEAKING ARRANGEMENTS AT BABERGH DISTRICT COUNCIL'S PLANNING COMMITTEE

- 1.1 If an application is to be decided by Planning Committee, members of the public who are affected by that planning application along with local ward members who are not members of the Committee and county council division members are allowed to speak at the Committee as set out in paragraph 1.3 below.

Do I have to speak at planning committee to put my view across?

- 1.2 Not normally. If you have written expressing a view, whether in support of or objection to an application, then this will be recognised in the Committee papers on the day. The points made in your correspondence will be summarised and fully taken into account in the Officer's report to Committee. Any late representations will also be made available to the Committee members **prior** to the meeting. In the interests of data protection correspondence may be redacted on the planning application file.

Who is allowed to speak?

- 1.3 The following parties, in the order in which they appear below, are allowed to speak at Planning Committee
- A representative of the Parish Council in whose area the application site is located to express the views of the Parish Council;
 - An objector;
 - A supporter;
 - The applicant or professional agent / representative;
 - County Council Division Member(s) who is (are) not a member of the Committee on matters pertaining solely to County Council issues such as highways / education
 - Local Ward Member(s) who is (are) not a member of the Committee
- 1.4 You should not expect to speak unless you have registered your interest in writing with Committee Services following the publication of the Committee's agenda. This can be done by way of email addressed to:
committees@baberghmidsuffolk.gov.uk

If you do not have access to email, you may register by calling the Lead Officer for Planning on 01473 296376.

- 1.5 You must register your interest to speak no later than **two clear working days before the Committee meeting**. You must state which planning application you wish to speak about (application number and address) and provide your name, address and contact number and indicate the capacity in which you wish to speak. By registering your interest you agree to the personal data you provide being used by the Council to facilitate the public speaking arrangements.
- 1.6 All public speakers will be allocated a maximum of **3 minutes** in which to speak, save that Local Ward Member(s) who is (are) not a member of the Committee are allocated a maximum of **5 minutes**. Speeches are timed and the Chair will indicate when your time is up.
- 1.7 For persons other than ward / division members, only one person in each capacity is allowed to speak about each application. Where the Council is notified that more than one person wishes to speak in each category a list will be drawn up to indicate the order in which persons registered their interest. Committee Services will contact the registered parties and indicate where in the list each person is and will share information about other registered speakers. Where more than one person is registered to speak in a particular category it would be helpful for speakers to agree a spokesperson amongst themselves to present all of the relevant views. Where this is not possible then the time will be divided equally amongst all speakers in a particular category. In such circumstances speakers will be expected to co-operate with each other and avoid duplication in their presentations.
- 1.8 The Chair of the meeting has the discretion to allow representatives from more than one Parish Council to speak if they consider it would help clarify the application for Committee members and there would be a clear planning impact upon more than one Parish even though it is beyond the application site. Such arrangements only extend to Parish Councils whose area is immediately adjacent to the area in which the site is located.
- 1.9 The Chair of the meeting also has the discretion to enable more than one person to speak in other capacities if they consider that it would help to clarify the relevant planning issues pertaining to an application and will not lead to a duplication of presentations.
- 1.10 The Chair's decision on the exercise of their discretion is final and may not be questioned in any meeting.

How are applications considered at Planning Committee?

- 1.11 Applications are listed on the agenda for each meeting. It is usual that the order in which items are heard will be re-arranged by the Chair on the day of the meeting to suit public interest in the applications being heard but taking account of Members commitments.

- 1.12 The planning case officer will make a presentation of the key points of an application making reference to appropriate plans, photographs and other information. Photographs will usually have been taken by the officer and it is understood that there can be differing views about what is needed to reasonably inform Members when they decide the application. Officers may be asked questions to clarify relevant information.
- 1.13 At the end of the officer presentation, the public speaking will take place. After members of the public have been heard, the Members who make up the Committee will debate the application and may request further information or advice from the Planning Officer, before coming to a decision.

I will be speaking at Planning Committee, what should I remember and expect?

- 1.14 If you are speaking at Planning Committee, then:
- Remember to arrive in Council Chamber in good time for the meeting and make yourself known to Officers.
 - Remember that you will not be able to speak if you are not present at the start of the meeting or at the expected start time (where a different time is noted on the agenda) or if you have not pre-registered your interest in speaking.
 - Remember that applications may be heard in a different order to that listed in the agenda depending on public interest in the items and Member commitments
 - Remember that consideration of the application will not be deferred if you do not attend.
 - Be ready to answer questions from Councillors on the Committee about what you have said.
 - Remember that you do not have the right to respond further during the debate, or challenge another speaker following your contribution.
 - Act in a way which is orderly and maintains the polite conduct of the meeting.
 - Remember to respect other speakers' right to express their views without interruption.
 - Be ready to co-operate with other people wishing to speak in the same capacity as you and bear in mind the need for balance in time allowed.
 - Remember to keep your presentation to no more than 3 minutes and that the Chair will ask you to draw to a close if you are at risk of speaking beyond your public speaking time.
 - Remember not say anything defamatory, insulting or make personal comments about other people or parties involved in the application.
 - Remember that you are not allowed to circulate your own photographs, drawings, letters, leaflets or other written material to Members at the meeting.
 - Remember not to speak about planning matters which are not on the agenda. The Committee will not normally be able to take these into account and it may waste your public speaking time

What can I speak about?

1.15 You can speak on any application reported to Committee (e.g. applications for planning permission, listed building consent, advertisement consent) provided that what you say is relevant to the application.

- Remember to speak about relevant material planning considerations such as:-
 - Previous decisions of the Council on the same site or similar;
 - Design, appearance, layout;
 - Effects on amenity, loss of light, overshadowing, loss of privacy, noise or smell nuisance;
 - Impact on trees;
 - Listed buildings and heritage matters;
 - Highway safety or parking;
 - Planning policy;
 - Case law

- Remember that certain things are not material planning considerations and cannot be taken into account such as:-
 - Effect on property values;
 - Loss of view;
 - Covenants or other private property rights;
 - Motivation behind an application;
 - Matters covered by other legislation



PLANNING CHARTER

Adopted at Babergh District Council on 30 November 2016
Revised: 7 February 2018 Planning Committee Minute Reference 128

Babergh District Council
The Constitution: Part 7: Planning Charter
(Adopted at Babergh District Council on 30 November 2016)
(Revised - Planning Committee on 7 February 2018 – Minute No. 128)
Revised 24/10/2023

This Planning Charter supplements the Council's Code of Conduct and where appropriate Members should refer to the Code of Conduct as well as this Charter.

The advice of the Monitoring Officer may be sought on the interpretation of either this Charter or the Code of Conduct.

1. INTRODUCTION

- 1.1 Planning affects land and property interests. It is not an exact science and is sometimes contentious because decisions affect the daily lives and private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. It is important to remember however, that the key purpose of the planning system is to regulate the development and use of land in the public interest.
- 1.2 The aim of the Planning Charter is to ensure that planning decisions are made openly, impartially, with sound judgment and for justifiable reasons. Elected Members are democratically accountable decision-makers who have been elected to provide and pursue policies for the local area. Members are entitled to be pre-disposed to make planning decisions in accordance with their views, taking account of relevant policies, provided that they have considered all material considerations and have given fair consideration to relevant points raised.
- 1.3 If Members do not abide by this Charter, they may put:
- The Council at risk from complaints of maladministration or challenges about the legality of the planning decision; and
 - Themselves at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.
- 1.4 This Charter applies to all elected Members and is relevant to all elements of the planning process. However, certain elements of the Charter will only apply to formal decision-making by Members.

2. THE ROLE AND CONDUCT OF MEMBERS AND OFFICERS

- 2.1 Members and Officers have complementary but different roles. Both serve the public, but Members are responsible to the electorate while Officers are responsible to the Council as a whole. The role of a member of the Planning Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

- 2.2 Whilst all Members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent for Planning Committee Members, as the key role of the planning system is the consideration of development proposals in the wider public interest.
- 2.3 Members' decisions should not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, Members alone have the responsibility to decide what view to take. When dealing with planning issues and decisions, Members must therefore, consider all material planning issues in the light of Development Plan policies, Government advice and their own individual judgement before making a decision in the interests of the area as a whole.
- 2.4 Whilst Members should take account of all views expressed, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.5 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that Code may be subject to disciplinary action by the Institute.
- 2.6 Officers in their role of advising Members shall provide:
- 2.6.1 impartial and professional advice;
 - 2.6.2 consistency in the interpretation of planning policy; and
 - 2.6.3 written reports covering all necessary information for a decision to be made [see section 8].
- 2.7 The Council endorses the statement in the Royal Town Planning Institute ("RTPI") code that, '*RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions*', and extends it to apply to all Officers in the authority advising on planning matters.
- 2.8 That Members may not always follow the advice of their Planning Officers is perfectly proper providing they have sound planning reasons for so doing. The Planning Officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because the Council, its Members or other Officers, have prevailed upon the Planning Officer to put forward his or her professional view as something other than it really is.

3. DEVELOPMENT PROPOSALS AND INTERESTS

3.1 Section 25 of the Localism Act 2011 states that a Member is not to be taken to have had, or to appear to have had, a closed mind when making a decision just because the Member had previously done anything that directly or indirectly indicated what view they took, or would or might take, on any matter relevant to the decision. This means that councillors are free to speak about planning applications and other matters and express their views about them than has traditionally been the case.

3.2 Members may have other interests which may influence their decision, but which will not amount to Interests within the meaning of the Code of Conduct. In order to maintain the integrity of the planning system, Members should however be careful to ensure that such interests do not unduly influence their decisions. Examples of such interests are:-

3.2.1 from ward concerns;

3.2.2 from membership of other Committees of the Council;

3.2.3 from membership of Suffolk County Council;

3.2.4 from membership of Parish or Town Councils;

3.2.5 from membership of other public or community bodies;

3.2.6 from membership of voluntary associations and trusts (including where appointed by the Council);

3.2.7 from a connection with a particular policy initiative of the Council;

3.2.8 from membership of clubs, societies and groups; and

3.2.9 from hobbies and other leisure interests

Such interests may mean that a Member is involved with a planning application before the matter comes before the Planning Committee. Such involvement will not on its own debar a Member of Planning Committee from participating in decision-making **providing that** the Member has not already decided how they will vote on the matter before the Planning Committee and has publicly indicated in that alternative forum that they have not decided how they will vote.

3.3 If your interest is a **disclosable pecuniary interest** or an **interest leading to bias**, for example in cases where applications are made by you, your close associates or family or by a body of which you are a member, or on land which you own, you must notify the Monitoring Officer in writing as soon as you are aware of the matter and must not:

- 3.3.1 participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority, except by using your rights to address the Planning Committee where you disclose the nature of your interest and leave the meeting after you have exercised any such right;
- 3.3.2 sit in the public gallery when the matter is discussed by the Planning Committee;
- 3.3.3 try to represent Ward views – you should get another Ward Member to do so instead;
- 3.3.4 seek to influence whether the application will be determined under delegated powers or by the Planning Committee;
- 3.3.5 seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Member. This would include using your position to discuss that proposal with officers or Members in circumstances where other members of the public would not have the same opportunity to do so or seeking to unduly influence their decision on the matter.

4. THE ROLE OF DISTRICT WARD AND COUNTY COUNCIL DIVISION MEMBERS

- 4.1 When determining planning matters the duty of a Ward Member (which for the purposes of this Charter shall mean a District Ward Member or County Council Division Member) is to the whole community not just to the people in your Ward area. You must ensure that decisions are impartial and you should not improperly favour, or appear to improperly favour, any person, company, group or locality, including the residents of your Ward.
- 4.2 Ward Members (both District and County Council) who are not members of the Planning Committee may exercise separate speaking rights as a Ward Member in accordance with the Public Speaking Arrangements for the Planning Committee. However, if you have a disclosable pecuniary interest or an interest leading to bias you will not be able to do this. If you do exercise speaking rights:
 - advise Committee Services that you wish to speak in this capacity at least two clear working days before the meeting;
 - you should seat yourself in the place allocated to Ward Members at the Planning Committee; and
 - at, or immediately prior, to the meeting you should not circulate written information to the Committee.

5. PRE AND POST APPLICATION AND OTHER DISCUSSIONS

- 5.1 Discussions between an applicant and the Council prior to the submission of a planning application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between the Council and an applicant after the submission of proposals, is commonplace and an important part of the planning process. However, discussions should take place within clear guidelines.
- 5.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, are provisional, and cannot prejudice any formal planning decision made by the Council subsequently.
- 5.3 Officer advice should be consistent and based upon the Development Plan and any other material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 5.4 A written note should be made by the Officer of all potentially contentious meetings, or from the point at which it becomes obvious that a meeting has become contentious. Two or more Officers should attend potentially contentious meetings. Where only one Officer is present and it becomes apparent that the meeting is becoming contentious, the Officer may choose to defer further discussion and re-arrange the meeting or organise a further meeting to enable another one or more Officers to attend the remainder of discussion. A note should also be taken of potentially contentious telephone discussions.
- 5.5 Members need to preserve their role as impartial decision makers and should not take part in pre or post submission discussions and negotiations with applicants regarding development proposals without officers being present. Where Members wish to be involved in pre or post submission discussions, it should only be as part of a structured arrangement agreed with Officers. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants or at any time prior to the decision being made.
- 5.6 Members may be provided within information from pre-application discussions at the discretion of the Professional Lead – Growth and Sustainable Planning. Such information shall only be provided where the applicant has given their consent and on the strict understanding that it is treated in confidence by the relevant Members.

- 5.7 Members may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they must maintain a clear distinction between receiving information and negotiating. Any significant information received by Members which may be relevant to the planning merits should be brought to the attention of the Officer dealing with the application. Members who are approached for planning, procedural or technical advice should refer the applicant to the relevant Officer.

6. LOBBYING

- 6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who object to a proposal will often seek to influence the decision by an approach to their local member or members of a Planning Committee. However, reacting to lobbying can lead to the impartiality of a Member being called into question and require that Member to declare an interest.
- 6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the Planning Officer all need to be considered before a Member is in a position to make a balanced judgement on the merits of the case. Members should provide the case officer with copies of any lobbying material they may have received
- 6.3 The time for individual Members of the Planning Committee to make a decision on a proposal is at the Planning Committee meeting when all available information is to hand and has been duly considered.
- 6.4 A Planning Committee Member is free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to Officers). Even though they may agree with a particular view, Members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Members do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Members who are lobbied should:
- 6.4.1 make clear that they reserve their final decision on a proposal until the committee meeting;
 - 6.4.2 only give procedural advice;
 - 6.4.3 consider referring those lobbying to the relevant Officer who can provide further advice; and
 - 6.4.4 not seek to meet an applicant or potential applicant alone.

- 6.5 Members of the Planning Committee must not organise support or opposition for a proposal or lobby other Members. Equally important, Members must not put improper pressure on Officers for a particular recommendation.
- 6.6 Members of a Planning Committee must be free to vote as they consider appropriate, having regard to all relevant planning matters. A Member cannot be instructed how to exercise their vote on a planning matter.
- 6.7 Members should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn provide appropriate advice.

7. MEMBER REFERRALS TO COMMITTEE

- 7.1 Officers agree not to determine planning applications using their delegated authority where a Member of the Council requests that the application is determined by the Planning Committee and the request is made in accordance with this Charter.
- 7.2 Members should discuss any potential referral with the case officer in the first instance. Members should not request a referral unless the application involves significant policy, consistency or other material considerations and a decision on the application is of more than local significance. It is the responsibility of Members to make up their own mind whether there are significant issues which warrant a referral to the Committee, the fact that members of the public or other interested parties have asked for the application to be referred to Committee is not sufficient on its own to warrant a referral.
- 7.3 Where a Member makes a referral request, this should be done using the form appearing in Appendix 1. It is important that the form is completed in full, setting out the planning reasons for their request. A referral may be made on a conditional basis, for example if the Member only wishes the Committee to consider the application if the Officer decision was going to be a certain way (either approval or refusal).
- 7.4 Members should make any referral request as soon as it can be reasonably concluded that a referral is required and no later than 28 days after the application has been publicised. Where possible a referral request should not be made before the expiration of the statutory date for responses from consultees as this may affect the reasons for any referral. The case officer will be able to clarify when this date is.

- 7.5 To facilitate the operation of the Member referral arrangements, Officers will:-
- electronically circulate a list every week to all Members containing details of applications registered. The list will identify the date of registration of each application;
 - support Members in the use of the planning services web pages and registration as a user to ensure appropriate notifications on applications
 - use reasonable judgement to keep the Ward Member(s) informed of significant objections received in respect of applications within their ward; and
 - brief Members on relevant planning policies and make them available through the Council's website.
- 7.6 Upon receipt of a referral request the Corporate Manager – Growth & Sustainable Planning will report the call in request to the Delegation Panel as soon as reasonably practicable. The Delegation Panel will comprise the Chair and Vice Chair of Planning Committee together with the Corporate Manager – Growth & Sustainable Planning. The Corporate Manager will support the Panel and record its conclusion. The Member making the request will be invited by the Corporate Manager to attend for the purposes of clarification. The case officer will brief the Panel as to the facts and key planning issues of the application.
- 7.7 The function of the Panel is not planning decision making but simply to decide whether the application proceeds to determination at Planning Committee or under delegation. If the Panel decide that the application does involve significant policy, consistency or other material considerations and a decision on the application is of more than local significance then the application will be reported to committee once publicity and consultations are complete and the application has been evaluated by officers. If the Panel decide that the application does not involve significant policy, consistency or other material considerations and a decision on the application is not of more than local significance then the application will proceed to be determined under delegation.
- 7.8 The reasons for a Member referral and the identity of the Member making the referral will be summarised in the officer's report to the Committee.

8. APPLICATIONS IN WHICH MEMBERS OR OFFICERS ARE DIRECTLY CONCERNED

- 8.1 It is vital to ensure that development proposals or representations submitted by Members or Officers or by their close family are handled in a way that does not give any grounds for accusations of favouritism or suspicions of impropriety.

- 8.2 Where a Member or Officer (or a close family member or such persons) submits an application which shall include permitted development notifications and other planning related consents then, if objections are received from statutory consultees or other persons notified of the application, the application will be reported to the Planning Committee for a decision. If no objections are received then the application may, subject to the file being reviewed by the Director – Planning for Growth, be determined in accordance with the Scheme of Delegation and the Protocol for the Use of Planning Officer Delegations. The relevant time for determining whether the application needs to be reported to the Planning Committee is the date of registration of the application.
- 8.3 The same requirement for the application to be reported to the Planning Committee applies to former Members or Officers for a period of **one year** from the date on which they term of office or employment ceases.
- 8.4 The fact that the application is from a Member or Officer (or their close family) or former Member or Officer will be highlighted in the committee report.
- 8.5 A Member or Officer who has an interest in an application either by reason of it being (i) their application (ii) an application by a close family member or (iii) an application on which they have made representations shall take no part in the processing or deciding of the application.
- 8.6 Where a Ward Member makes representations on an application which go beyond pre-disposition, then they will not be permitted to speak at the Planning Committee.

9. OFFICER REPORTS

- 9.1 Planning Officers will submit written reports to the Planning Committee on planning applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material planning considerations. Where a planning application requires an environmental impact assessment the Planning Officer shall include in their report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with their own comments. The reports will include a summary of representations made about the application. The Planning Officer in their report will give a reasoned assessment of the proposals and a justified recommendation.

- 9.2 Members are expected to have read all of the reports on the agenda for a Planning Committee meeting in advance of the meeting. It should be borne in mind that, following *R (Lee Valley Regional Park Authority) v Epping Forest District Council*¹, an officer report is not to be read in an unduly critical way, but fairly and as a whole and in light of the fact that Members of the Planning Committee can be expected to be reasonably familiar with local circumstances and with relevant policies at national and local level and to understand what the law requires of them when determining a planning application. At the meeting, Officers will summarise the contents of the report and highlight any updates which have arisen since the agenda was published.
- 9.3 The Planning Officer will have available for Members' inspection the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.
- 9.4 Any relevant planning information received after the written report has been prepared will be summarised in a written supplementary update paper where possible. The supplementary update paper will be circulated to Committee Members in advance of the meeting. Where it is not possible to summarise that information in a written supplement (for example because it is information received the day before the Committee meeting) the information will be the subject of a verbal summary at the meeting itself. In the event of significant new information being received, the Professional Lead - Growth and Sustainable Planning, or in their absence, the most senior Planning Officer present may recommend that the meeting be adjourned to allow time for the new material to be read or that consideration of the application be deferred.
- 9.5 In the event that an application is altered or there is significant new information arising between the preparation of the report and its discussion by the Planning Committee, the Chair of the Committee in consultation with the Professional Lead - Growth and Sustainable Planning may decide in advance of the meeting to remove an item from the Committee agenda. Once the meeting has been opened, any proposal to defer consideration of an application will only be approved by consent of the Committee.

10. SITE INSPECTIONS

- 10.1 A site inspection may be held if the Planning Committee considers it will assist members in reaching their decision.
- 10.2 Members should not request that a site inspection be held unless it is strictly necessary. A site inspection may be necessary where:
- 10.2.1 particular site factors are so significant in terms of the weight attached to them relative to other factors and/or the difficulty of their assessment in the absence of a site inspection; or

¹ [2016] EWCA Civ 404

- 10.2.2 there are exceptional site factors which need to be carefully addressed.
- 10.3 Members should not request a site inspection where the Planning Committee has previously undertaken such an inspection unless there has been any material change in circumstances – for example, a new development which changes the character of the locality.
- 10.4 When a site inspection is held prior to the meeting of the Planning Committee it is desirable that all Members attending the Planning Committee should have attended the site visit. Members voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application. Information gained from the site visit should be reported back to Committee so that all members have the same information.
- 10.5 Planning Committee Members should not enter a site which is subject to a formal application other than as part of an official site inspection, even in response to an invitation, as this may give the impression of bias. If a Member feels it is essential to visit the site other than through attending the official site inspection, the Member should firstly have spoken to the Planning Officer about their intention to do so and if appropriate, the Planning Officer will normally suggest that they accompany the Member on their site visit. A note of the discussion between the Member and Officer will be placed on the planning file. If such a visit takes place the Member should explain the circumstances relating to the visit at the discussion of the application at the Planning Committee. This does not preclude a Member from viewing a site from any public vantage point.
- 10.6 The procedure to be adopted at site inspections is detailed in Appendix 2 to this Charter.

11. DECISION-MAKING AT PLANNING COMMITTEE

- 11.1 The process to be followed for any planning application to be determined by the Planning Committee is as follows:
- 11.1.1 Officer presentation of the application outlining the form of development, the locality of the application site and the relevant planning issues;
- 11.1.2 Public speaking. The adopted public speaking arrangements can be viewed on the Council's website; these arrangements are reviewed annually in line with this Charter. During public speaking, Members may ask questions of the speakers if the Member requires clarification on points that they have raised as part of their speech. Members may ask questions on issues that the speaker. However, Members should not use questions as a means to extend any speaker's allocated time;

- 11.1.3 Debate on the item. Following public speaking, the item will be opened up for debate by the committee members. Members should where possible avoid putting forward any motion (whether in accordance with the Officer recommendation or otherwise) until after the debate has concluded. This will ensure (a) Members have heard all views on the application which will avoid a perception of having come to the meeting with a closed mind; and (b) that the debate is not stifled generally. If necessary, Officers will provide advice during the course of the debate on any planning issues or points of law;
- 11.1.4 Vote. Upon the proposal and seconding of a motion, the vote will then be taken. If no seconder is found then an alternative motion will be sought by the Chair.
- 11.2 When considering planning applications Members should:
- 11.2.1 make decisions in accordance with the Development Plan unless material considerations indicate otherwise;
- 11.2.2 come to a decision only after due consideration of all of the information before you. If there is insufficient time to digest new information defer making a decision to a later meeting or if there is insufficient information before you, request the additional information;
- 11.2.3 ensure that if moving, seconding, or supporting a proposal contrary to officer recommendations or the Development Plan that the planning reasons for doing so are clearly justified before any vote is taken. Be aware that Members may have to justify the resulting decision by giving evidence in the event of any appeal or other challenge;
- 11.2.4 only vote or take part in the meeting's discussion on a proposal if they have been present to hear the entire debate, including the officers' introduction and any public speaking;
- 11.2.5 ensure that reasons for rejecting a report's recommendations are clearly stated at the meeting and subsequently recorded in the minutes
- 11.3 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission. All planning decisions must be founded upon valid planning reasons which can be substantiated.
- 11.4 It will be inevitable that for some applications all the relevant material planning considerations may not point unequivocally to whether to grant or refuse. Having identified all the material planning considerations and put to one side all the immaterial considerations, Members must come to a decision which can be substantiated.

- 11.5 Members or members of the public must **not** communicate (whether orally or in writing) with Members of the Planning Committee during the committee proceedings, which includes any adjournment, other than through the scheme for public speaking or through the Chair as this may give the appearance of bias. If a Member or member of the public attempts to communicate with a Member of the Planning Committee, that Member should immediately report this to the Chair and the legal adviser present. If that communication is in a written or electronic format then the Member should not read it and, having reported the communication, give the document or provide a copy of it (in the case of something in electronic format) to the legal adviser.

12. APPLICATIONS BY THE COUNCIL OR APPLICATIONS AFFECTING COUNCIL OWNED LAND

- 12.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. It is also entirely proper for development proposals to be put forward for land owned by the Council, whether or not the Council is the applicant.
- 12.2 Proposals submitted by the Council or involving Council owned land shall be considered in the same way as those by private developers.
- 12.3 Any such applications shall be reported to the Planning Committee for determination. The Officer's report should clearly identify the Council's interest in the application.
- 12.4 Decisions on applications in which the Council is the applicant or landowner must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council. It is important that the Council is seen to be treating all such applications in the same way as any other application as well as actually doing so.
- 12.5 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

13. REVIEW OF DECISIONS

- 13.1 The Local Government Association recommends that Members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.
- 13.2 In accordance with this recommendation, arrangements will be made for Members of the Planning Committee to visit a sample of implemented planning permissions throughout the District every year.

14. TRAINING

- 14.1 Mandatory training for members of Planning Committee is held for all Members new to the Committee, and also as refresher training for existing Committee members. **Members must not participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.**
- 14.2 Other topical planning sessions are organised from time to time. Members should endeavour to attend such sessions, particularly if these are designed to extend Members' knowledge of planning law, procedures, Codes of Practice and the Development Plan and thus assist Members in carrying out their role properly and effectively.

15. REVIEW OF THE CHARTER

- 15.1 This Charter is a living document and it is the responsibility of the Director – Law & Governance and Monitoring Officer to ensure that it is kept up to date to reflect current legislation and guidance, the Council's structure and any other relevant considerations. The Charter will be reviewed annually.
- 15.2 The Director – Law & Governance and Monitoring Officer will advise Members when any substantive amendments are made to the Planning Charter and will provide Members with an electronic copy of it.
- 15.3 A copy of the Charter will be maintained on the Council's website.

APPENDIX 1

MEMBER REFERRAL TO COMMITTEE

(Completed form to be sent to Case Officer and Professional Lead - Growth and Sustainable Planning)

Planning application reference	
Parish	
Member making request	
Please describe the significant policy, consistency or material considerations which make a decision on the application of more than local significance	
Please detail the clear and substantial planning reasons for requesting a referral	
Please detail the wider District and public interest in the application	
If the application is not in your Ward please describe the very significant impacts upon your Ward which might arise from the development	
Please confirm what steps you have taken to discuss a referral to committee with the case officer	

PROCEDURES AND CONDUCT AT SITE INSPECTIONS

Who may attend

1. Access to premises to conduct a site inspection is with the consent of the landowner (or other person entitled to give consent). The landowner is therefore entitled to be present at the site inspection. The applicant and / or their professional representative are also entitled to be present. Unless invited by the Chair to answer specific questions, the landowner, agent and professional representative may not otherwise contribute to the proceedings at the site inspection. Landowners, applicants and professional agents are expected to act in the spirit of co-operation to enable the site inspection to be undertaken in the presence of those invited.
2. Subject to any conflict of interest, all Members and substitutes of the relevant Committee are entitled to attend. The Ward Member is also permitted to attend. Other Members may attend with the prior consent of the Chair of the Committee.
3. Subject to any conflict of interest, 1 representative of the Parish / Town Council is also permitted to attend.
4. The role of the Ward Member and parish / town council representative will be to provide any relevant factual local information concerning the site or the surrounding area which is not readily apparent. The Chair of the site inspection will invite such submissions after the Officer's presentation and once Members have had opportunity to ask questions.
5. The Case Officer for the application which has prompted the site inspection will attend along with such other supporting Officers or specialist advisers (e.g. local highway authority) as the Corporate Manager - Growth and Sustainable Planning considers appropriate.
6. The inspection is not a meeting which is open to the public, nor a formal meeting of the Committee, and so no other persons shall be permitted to attend unless the Chair considers there are exceptional circumstances and exercises their discretion to allow other persons to be present. Normally, it will be unnecessary for any other persons to contribute to the inspection. Verbal representations are facilitated through the public speaking session at the Committee meeting itself.
7. It is essential that Members and Officers ensure that those attending are not led to believe that a decision has been made at the site inspection.

Procedure to be followed

8. The Chair (or in their absence, the Vice-Chair or in the absence of both the Chair and Vice-Chair such other person as may be agreed by those Members in attendance to lead the site inspection) will have conduct of the site inspection and will adopt such procedure as they consider appropriate having regard to Council procedures and charters.
9. Unless the Chair indicates otherwise, the usual procedure to be followed in respect of planning applications will be as set out below:
 - (1) The site inspection will be 'opened'. The Chair will explain the purpose of the inspection and that no representations on the merits of the application will be heard, nor will any decision be made before the application is reported to the Planning Committee.
 - (2) The Chair will make introductions and ascertain the identities of those present, who as set out above, will be limited to:
 - Members of the Committee and substitutes
 - Landowner
 - Applicant
 - Applicant's professional representative
 - 1 Parish / Town Council representative
 - Ward Member/s
 - Case Officer, supporting officers and/or specialist advisers
 - (3) The Case Officer will be invited to briefly explain:
 - (a) why the Committee has been invited to inspect the site
 - (b) the facts of the application, and
 - (c) any views received from consultees which are relevant to the inspection.
 - (4) The Case Officer will point out key features.
 - (5) Any specialist adviser will explain relevant issues
 - (6) The applicant / professional representative may be questioned on any factual aspect of the proposal

- (7) The Parish / Town Council representative will be invited to provide any relevant factual local information concerning the site or the surrounding area which is not readily apparent.
 - (8) The Ward Member will be invited to point out any factual features of the site or surrounding area or to ask questions about the proposal
 - (9) Members of the Committee and substitutes will be invited to ask questions. No discussion on the merits of the application will take place.
 - (10) The Case Officer will be invited to ask any questions to seek clarification of any issues
 - (11) Members will be given opportunity to inspect the site / area in more detail
 - (12) The Chair closes the site inspection.
10. If there is interruption, lobbying or other conduct which may affect the impartiality of the site inspection, then the Chair may at any time bring the site inspection to a close. If that happens, there may not be opportunity to reconvene the inspection at a future date.

Conduct at site inspections

11. Members attend site inspections in their official capacity and the Code of Conduct for Members and this Charter applies throughout. A Member with a Disclosable Pecuniary Interest in the item must not attend the site inspection.
12. In addition to the Code, both Members and Officers should adhere to the general principles of good governance set out below:-
 - There should be no discussion of the application or matter that prompted the site inspection. Care is needed to ensure that Members and Officers do not have private discussions which could be perceived as a discussion of the merits of the application or engage in conversations that could be misconstrued.
 - No views on the application or matter should be expressed. Members must not give any indication as to how they may vote.
 - Members and Officers should stay together as a group at all times to ensure that all Members receive equal information.
 - Members and Officers arriving early at the site must not commence any part of the inspection before the inspection has been opened by the Chair.

- The purpose of the site inspection is not to secure views on the application and there must accordingly be no discussions with Members of the public or other persons present who may seek to influence the Member's views.



Protocol for Use of Planning Officer Delegations

- (1) This Protocol is supplemental to the Scheme of Delegation adopted by Full Council. It sets out the circumstances in which the Head of Economy agrees to refer certain planning applications to Committee for determination.
- (2) Pursuant to the Scheme of Delegation, the Head of Economy has delegated authority to determine all applications within their area of responsibility subject to the decision being “in accordance with the overall policies and procedures approved by the Council”.
- (3) For the purposes of the Scheme of Delegation, a decision on a planning application is “in accordance with the overall policies and procedures approved by the Council” where the decision is made in accordance with the National Planning Policy Framework as determined by the Head of Economy acting in consultation with the Chair and/or Vice-Chair of the Planning Committee.
- (4) The Head of Economy agrees not to exercise their delegated authority where:-
 - (a) a Member of the Council requests that the application is determined by the appropriate Committee and the request has been made in accordance with the Planning Code of Practice or such other protocol / procedure adopted by the Council
 - (b) it is a major application (as defined in law) for:-
 - development within Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (or any amendment or statutory re-enactment thereof)
 - a residential development for 15 or more dwellings
 - the erection of any industrial building/s with a gross floor space exceeding 3,750 sqm
 - a retail development with floor space exceeding 2,500 sqm
 - a renewable energy development, as defined by Government guidance, (unless the application would be refused under delegated authority)
 - (c) the Head of Economy considers the application to be of a controversial nature.

