

## BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

<b>From: Interim Assistant Director – Law and Governance and Monitoring Officer</b>	<b>Report Number: S30</b>
<b>To: Babergh District Council Mid Suffolk District Council</b>	<b>Date of meeting: 28 June 2016 Date of meeting: 29 June 2016</b>

### CONSTITUTIONAL UPDATE – PHASE 1

#### 1. Purpose of Report

- 1.1 To provide the Council with an update on the progress being made with regard to updating the Council's Constitution, which also forms part of the on-going Strengthening Governance review.
- 1.2 To ask that Council approve the recommendation as set out below.

#### 2. Recommendation

- 2.1 That the Constitution attached at Appendix A be adopted.

#### 3 The Joint Strategic Plan

The core of an Enabled and Efficient organisation is Good Governance. The Constitution is a key document reflecting the strength in our Governance.

#### 4 Background and Key Information

- 4.1 The Council as part of its on-going Strengthening Governance review earlier this year, established a Members Task and Finish group consisting of the following Councillors:-

##### **BDC**

Jennie Jenkins  
Simon Barrett  
Clive Arthey  
Sue Carpendale  
Margaret Maybury

##### **MSDC**

Derrick Haley  
Nick Gowrley  
Andrew Stringer  
Penny Otton  
John Levantis

- 4.2 The Group, as part of its work programme, discussed and considered the current Constitution and have indicated its approval for the Monitoring Officer to make non-substantive housekeeping changes.
- 4.3 In April Council granted the Monitoring Officer a delegation to carry out relevant housekeeping changes to the current Constitution, (to be exercised after consultation with Lead Members; the Monitoring Officer explained at Council by this she meant the Members of the above Task and Finish group and where appropriate any other Councillors such as Chairs of Committees).

- 4.4 At a recent meeting of the Task and Finish group a revised Constitution was circulated highlighting the housekeeping changes made.
- 4.5 At this stage of the Constitution review only non-substantive changes have been made for example, where necessary legislative changes have been carried out, unnecessary duplication has been removed, some changes to the Procedure Rules have been made to reflect statutory requirements and some visuals have been inserted.
- 4.6 The attached Constitution has also been reformatted to be user friendly, it will be easier to amend and is compatible with the web and mobile devices. The functions and terms of reference of Committees have been re-ordered so that they sit together under the same section. For example, Article 8 incorporated the terms of reference of the Joint Standards Board with Suffolk County Council, which now have been moved to Part 2 of the Constitution that describes the responsibility of the Council and its Committees.
- 4.7 Some of the Articles have also been simplified and/or removed where not relevant. In addition to this some Protocols, Schemes and Appendices that are not required by law or necessary have also been removed but these will be available on the Council's website for example, the Members Allowances Section, the Compliments/Complaints Policy, the Petitions and Public Participation Scheme, the Filming/Videoring guidance and the Whistleblowing Policy. The Planning Charter will also be available on the website. The implication of removing these documents from the body of the Constitution does not lessen their importance or weight in law.
- 4.8 Moving forward, there will be further (Phase 2) changes suggested that will be brought back to Council for approval.

## **5. Financial Implications**

- 5.1 None.

## **6. Legal Implications**

- 6.1 Local Government Acts 1972 and 2000 (as amended) require all Local Authorities to have in place and maintain an updated written Constitution.
- 6.2 A Local Authority must prepare and keep up to date a document (referred to as its Constitution), which contains –
- (i) a copy of the authority's Standing Orders (to govern the general function of that authority).
  - (ii) to maintain Contract Standing Orders
  - (iii) a copy of the authority's Code of Conduct for Members (under section 28 of the Localism Act 2011),
  - (iv) such information as the Secretary of State may direct, and
  - (v) such other information (if any) as the Authority considers appropriate.
- 6.3 The Council could be judicially reviewed if Councillors take decisions, which are contrary to published policy, protocols and procedures and therefore, Councillors should still be aware of and adhere to the documents, which have been removed from the Constitution.

6.4 The policies, protocols and procedures will still need to be kept under review by the Council's Monitoring Officer.

## 7. Risk Management

7.1

Risk Description	Likelihood	Impact	Mitigation Measures
It is a high risk not to regularly review the Constitution and ensure it reflects current practice and Legislation.	Unlikely	Bad	As a core tenet of good governance the Council keeps its Constitution under regular review and amends it, both to reflect experience and changing circumstances.

## 8. Equality Analysis

8.1 There are no immediate equality issues.

## 9. Shared Service / Partnership Implications

9.1 The new Constitution has been implemented on the basis that the Constitution should be aligned across both Councils as far as possible.

## 10. Appendices

Title	Location
Appendix A – Constitution	Attached

## 11. Background Documents

11.1 None.

### Authorship:

Suki Binjal  
Interim Assistant Director – Law and  
Governance and Monitoring Officer

01473 825811 or 01449 724854  
[suki.binjal@baberghmidsuffolk.gov.uk](mailto:suki.binjal@baberghmidsuffolk.gov.uk)



# APPENDIX A

DRAFT

## Babergh District Council The Constitution

## Contents

[Summary and Explanation](#)

[Part 1: The Articles](#)

[Part 2: Responsibility of Functions](#)

[Part 3: Rules of Procedure](#)

[Part 4: Codes and Protocols](#)

## SUMMARY AND EXPLANATION

### Contents

<b>The Council's Constitution</b>	<b>4</b>
<b>What's in the Constitution?</b>	<b>4</b>
<b>How the Council operates</b>	<b>5</b>
<b>How decisions are made</b>	<b>6</b>
<b>Scrutiny</b>	<b>6</b>
<b>The Council's Staff</b>	<b>7</b>
<b>Citizens' Rights</b>	<b>7</b>

## 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 12 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### What's in the Constitution?

[Article 1](#) of the Constitution commits the Council to provide a clear and accountable way of making decisions. Articles 2-12 explain the rights of citizens and how the key parts of the Council operate. These are:

- [Article 2](#): Members of the Council
- [Article 3](#): Citizens and the Council
- [Article 4](#): The Council
- [Article 5](#): Chairing the Council
- [Article 6](#): Scrutiny Committees
- [Article 7](#): Committees
- [Article 8](#): The Babergh and Mid Suffolk Joint Standards Committee
- [Article 9](#): Joint Arrangements
- [Article 10](#): Officers
- [Article 11](#): Finance, Contracts and Legal Matters
- [Article 12](#): Review and Revision of the Constitution

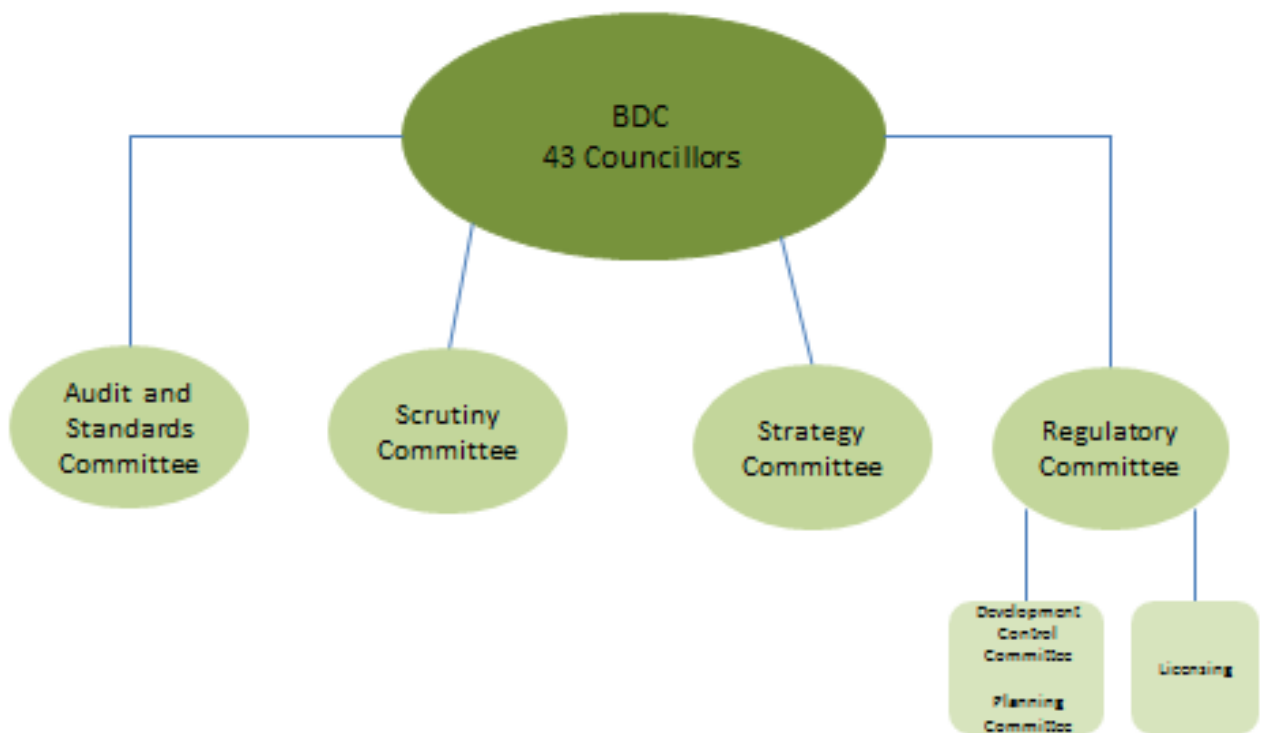
## How the Council operates

The Council is composed of 43 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.

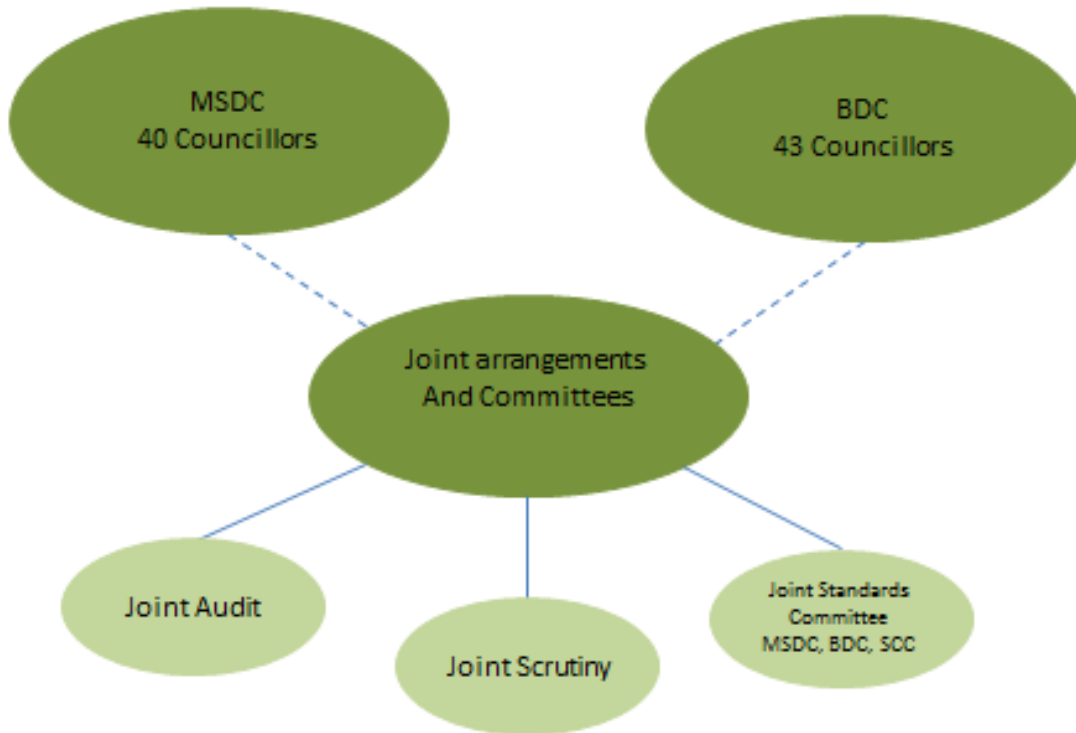
Councillors have agreed to follow a Code of Conduct to ensure high standards in the way they undertake their duties.

All Councillors meet together as the Council. Meetings of the Council are normally open to the Public. Here Councillors decide the Council's overall policies and set the budget each year. The Council will appoint and determine the remit of the Committees of the Council and approve the discharge of functions by staff. It will also deal with all functions which it is statutorily required to exercise.

Mid Suffolk District Council and Babergh District Council have decided that they will cooperate in order to provide services to their respective residents in the most cost effective way possible. The two Councils will work together side by side with fully integrated staff.







## How decisions are made

The overall policy framework and budget of the Council are agreed by the Council. Inside the framework decision making on a day to day basis is delegated to Committees or to Officers. Regulatory Committees or Panels exercise a number of functions including making decisions on planning applications, licensing and most other regulatory business.

Other groups may make recommendations to these Committees.

Meetings of the Council's Committees are open to the Public except where confidential or exempt matters are being discussed.

## Scrutiny

The Scrutiny function is performed by the Joint Scrutiny Committee and Joint Audit and Standards Committee supporting the work of the Council as a whole. It allows citizens to have a greater say in Council matters by holding investigations in public into matters of local concern. These can lead to reports and recommendations which advise the Committees of the Council and the Council as a whole on its policies, budget and service delivery. The Joint Scrutiny Committee also monitors the decisions of other Committees. It can "call in" a decision which has been made but not yet implemented, enabling further consideration of whether the decision is appropriate and based on all the relevant information. The Joint Scrutiny Committee

will address matters which are being progressed across both Councils. Issues that are pertinent to a single Council area will remain the preserve of that Council's dedicated Scrutiny Committee.

## **The Council's Staff**

The Council has people working for it (called "staff") to give advice, implement decisions and manage day to day delivery of its services. Some staff have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between staff and Members of the Council. Mid Suffolk District Council and Babergh District Council share a common and integrated group of staff to work for them and carry out the functions of advising, implementing decisions and managing the day to day delivery of their respective functions.

## **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 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 and its Committees except where confidential or exempt information is being considered.
- Participate in questions by the public at Council meetings and contribute to investigations by the Scrutiny Committees.
- Complain to the Council in accordance with the Complaints procedure.
- Complain to the Ombudsman if they think the Council has not followed its procedures properly. However they should only do this after using the Council's own complaint process.
- Complain to the Joint Standards Committee 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 vote and sign a petition to request a referendum for an elected mayor from of Constitution and to petition the Council in respect of variety of matters set out in the Petitions Scheme.

**PART 1**  
**ARTICLES OF THE CONSTITUTION**

Table of Contents

ARTICLE 1 – THE CONSTITUTION.....	9
ARTICLE 2 – MEMBERS OF THE COUNCIL .....	10
ARTICLE 3 – CITIZENS AND THE COUNCIL .....	11
ARTICLE 4 – THE COUNCIL .....	12
ARTICLE 5 – CHAIRING THE COUNCIL.....	13
ARTICLE 6 – SCRUTINY COMMITTEES .....	14
ARTICLE 7 – COMMITTEES.....	15
ARTICLE 8 - THE BABERGH AND MID SUFFOLK JOINT STANDARDS COMMITTEE .....	16
ARTICLE 9 - JOINT ARRANGEMENTS.....	17
ARTICLE 10 - OFFICERS .....	18
ARTICLE 11 – FINANCE, CONTRACTS AND LEGAL MATTERS.....	19
ARTICLE 12 – REVIEW AND REVISION OF THE CONSTITUTION.....	20

---

## 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 Constitution, and all its appendices, is the Constitution 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 will monitor and evaluate the operation of the Constitution as set out in Article 12.

## ARTICLE 2 – MEMBERS OF THE COUNCIL

---

### Composition

2.1 The Council will comprise 43 Councillors, otherwise called 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 Commission 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.

### 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 such 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 4 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 an elected mayor form of Constitution.
  - (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 Executive Committee; 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.
  - (d) **Complaints.** Citizens have the right to complain to:
    - i. the Council under its complaints scheme;
    - ii. the Ombudsman after using 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 COUNCIL

---

4.1 The Council is responsible for approving the budget and policy framework. This article defines the functions that are reserved for decision by the Council, which are as follows;

### 4.2 Policy Framework

(a) The policy framework includes the following plans and strategies:-

- i. The Strategic Plan;
- ii. The Local Development Framework, with reference to relevant plans such as the Core Strategy and Statement of Community Involvement;
- iii. Crime and Disorder Reduction Strategy;
- iv. Corporate Plan;
- v. Sanctions Policy; Quality Projects Management Action Plan;
- vi. Statement of Licensing Policy under Licensing Act 2003 and Gambling Act 2005;
- vii. Health and Wellbeing

(b) Those other plans and strategies which the Council has determined should be adopted by the Council as part of the policy framework.

### 4.3 Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting council house rents and other service charges, setting the council tax and making decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits in accordance with the requirements of the Prudential Code and the CIPFA Treasury Management Code of Practice.

### 4.4 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.

### 4.5 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) and on current practice which allows certain matters to be referred to Council for decision. Reference to any Statutes referred to in this article shall include any amendment or re-enactment of the Statute. Full details of the Councils Functions are to be found in Part 2 of the Constitution.

## ARTICLE 5 – CHAIRING THE COUNCIL

---

### **Role and Function of the Chairman**

- 5.1 The Chairman of Council and in his/her absence, the Vice-Chairman will have the following roles and functions:-
- 5.2 The Chairman and Vice-Chairman will be elected by the Council annually. The Chairman will have the following responsibilities:-
- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
  - (b) 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;
  - (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community;
  - (d) to promote public involvement in the Council's activities;
  - (e) to be the conscience of the Council;
  - (f) to attend such civic and ceremonial functions as the Council and he/she determines appropriate; and
  - (g) to be the expression of the will of the Council.



## ARTICLE 6 – SCRUTINY COMMITTEES

---

- 6.1 The Council has in place its own Scrutiny Committee but it also has agreed to have in place a Joint Scrutiny Committee with Mid Suffolk District Council.
- 6.2 As the Council is a Committee system Local Authority, in compliance with Section 9P(2) of the Local Government Act 2000 this constitutes the Council's statement within its Constitution that the Council has resolved to have an Overview and Scrutiny Committee under section 9JA of the Local Government Act 2000.
- 6.3 The Terms of Reference of each Committee are set out in Part 2 of this Constitution.

DRAFT

## ARTICLE 7 – COMMITTEES

---

### **Regulatory and other Committees**

- 7.1 The Council will appoint Committees set out in Part 2 of this Constitution to discharge the functions described in their Terms of Reference.
- 7.2 The Council has Regulatory Committees which deal with Planning related and Licensing related matters. These are quasi-judicial functions.
- 7.3 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.

DRAFT

## ARTICLE 8 - THE BABERGH AND MID SUFFOLK JOINT STANDARDS COMMITTEE

---

- 8.1 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.
- 8.2 The Code of Conduct for Members is set out in Part 4 of this Constitution.
- 8.3 Babergh, Mid Suffolk and Suffolk County Council have agreed to establish a Committee known as the Suffolk Joint Standards Board.
- 8.4 The Terms of Reference are set out in Part 2 of this Constitution.

DRAFT

## ARTICLE 9 - JOINT ARRANGEMENTS

---

### **Arrangements to promote well-being**

- 9.1 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.

### **Joint arrangements**

- 9.2 The Council may establish 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.
- 9.3 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**

- 9.4 The Access to Information Rules in Part 3 of this Constitution apply.

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

- 9.5 The Council may delegate functions to another local authority.
- 9.6 The decision whether or not to accept such a delegation from another Local Authority shall be reserved to the Council meeting.

### **Contracting out**

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

## ARTICLE 10 - OFFICERS

---

### 10.1 Management Structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons for the following posts, who will be designated as statutory chief officers and will have the functions described in Part 2 – Functions of Officers.
  - i. *Head of Paid Service*
  - ii. *Monitoring Officer*
  - iii. *Chief Finance Officer*

### Proper Officers

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

### Management Scheme of Officer Delegation

- 10.3 The Council will keep an appropriate up to date Management Scheme of Officer Delegation.
- 10.4 Any officer referred to by his/her title/post throughout this Constitution will automatically succeed his/her successor in title/post.

### Pay Policy Statement

- 10.5 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 11 – FINANCE, CONTRACTS AND LEGAL MATTERS

---

### **Financial management**

11.1 The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

### **Contracts**

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

### **Legal proceedings**

11.3 The Assistant Director Law and Governance is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Assistant Director of Law and Governance considers that such action is necessary to protect the Council's interests.

### **Authentication of documents**

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

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

11.5 The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer and/or Assistant Director Law and Governance. 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 Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer/and or etc or some other person authorised by him/her. A record of every sealing must be made and consecutively numbered in a register maintained by the Monitoring Officer and/or Assistant Director Law and Governance or some other person authorised by him/her.

## ARTICLE 12 – REVIEW AND REVISION OF THE CONSTITUTION

---

### **Duty to Monitor and Review the Constitution**

- 12.1 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.
- 12.2 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. He/She shall report any amendments made to the next available Council meeting for noting.

### **Changes to the Constitution**

- 12.3 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,

in which case the Monitoring Officer may make such a change.

- 12.4 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.
- 12.5 Other changes to the Constitution shall come into effect at such a date as the Council may stipulate.

**PART 2**

**Responsibility of Functions**

<b>POWERS AND DUTIES OF THE COUNCIL AND ITS COMMITTEES .....</b>	<b>22</b>
<b>STRATEGY COMMITTEE.....</b>	<b>26</b>
<b>PLANNING COMMITTEE .....</b>	<b>29</b>
<b>THE BABERGH AND MID-SUFFOLK JOINT STANDARDS BOARD .....</b>	<b>31</b>
<b>JOINT AUDIT AND STANDARDS COMMITTEE.....</b>	<b>36</b>
<b>BABERGH AUDIT COMMITTEE .....</b>	<b>38</b>
<b>JOINT SCRUTINY COMMITTEE .....</b>	<b>40</b>
<b>BABERGH SCRUTINY COMMITTEE.....</b>	<b>42</b>
<b>JOINT APPOINTMENTS COMMITTEE .....</b>	<b>44</b>
<b>JOINT HEALTH AND SAFETY COMMITTEE .....</b>	<b>46</b>
<b>JOINT STAFF CONSULTATION COMMITTEE.....</b>	<b>47</b>
<b>REGULATORY COMMITTEE .....</b>	<b>49</b>
<b>LICENSING ACT 2003 COMMITTEE .....</b>	<b>51</b>
<b>GAMBLING ACT 2005: SCHEME OF DELEGATIONS.....</b>	<b>55</b>
<b>BABERGH AND MID SUFFOLK JOINT HOUSING BOARD .....</b>	<b>57</b>
<b>GENERAL DELEGATIONS .....</b>	<b>63</b>



## **POWERS AND DUTIES OF THE COUNCIL AND ITS COMMITTEES**

---

### **THE COUNCIL**

- 1.1 The Council is the ultimate decision making body of Babergh District Council and the principal forum for major political debate. All Councillors who have been elected to represent the district attend the Council meeting. 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 Through the Constitution it delegates responsibility for carrying out many of the District Council's functions and policies. It also agrees the membership of the Committees and Sub-committees. The Council is responsible for:
- 1.31 The adoption and changing of the Constitution.
  - 1.32 The approval and adoption of the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer.
  - 1.33 The Adopting of rules relating to meetings and proceedings, procurement and contracts and any subsequent amendment of these documents.
  - 1.34 The approval of arrangements for the discharge of functions by senior staff of the Council and for the authorisation of senior staff as necessary.
  - 1.35 The responsibility for appointing of the:-
    - (i) Leader of the Council;
    - (ii) Deputy Leader of the Council;
    - (iii) Chairman of the Council;
    - (iv) Vice-Chairman of the Council;
    - (v) Chairmen (and Vice) of any other appointed Committees or relevant Sub-Committees.
    - (vi) Portfolio Holders.
  - 1.36 Agreeing and/or amending the terms of reference for Committees, 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).

- 1.37 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 him or her 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.

- 1.38 Appointing representatives to outside bodies, including Joint Committees established with other Local Authorities, unless the appointment has been delegated by the Council.
- 1.39 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. To appoint or dismiss, in accordance with statutory procedures, the following staff:
- (i) The Chief Executive (the Head of the Council's Paid Service).
  - (ii) The Monitoring Officer.
  - (iii) The Electoral Registration Officer.
  - (iv) The Returning Officer for the purpose of conducting elections.
  - (v) The Chief Finance Officer (S151 Officer) (if not the Chief Executive or a Director).
- 1.310 To agree the Council's budget.
- 1.311 To fix Council house rents and other service charges.
- 1.312 Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills.
- 1.313 The exercise of functions, changing the name of the area.
- 1.314 Considering reports which any Committee refers to it in accordance with this Constitution.
- 1.315 Requesting the Scrutiny Committee to prepare a report on any particular issue.
- 1.316 Deciding issues where a decision of the Executive Committee 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.
- 1.317 The authorisation of the making of an application:
- i. 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

- ii. 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.
- 1.318 To determine any issues which in the opinion of the Chief Executive are of an exceptional nature and warrant consideration by the Council.
- 1.319 To consider alterations to electoral arrangements including:
- (i) any proposed alterations to District boundaries or electoral areas.
  - (ii) approval to the making of Orders altering the number of Parish Councillors for any Parish.
  - (iii) the designation of polling places.
- 1.320 To debate Council wide issues including those included in Government White Papers.
- 1.321 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.
- 1.322 To enable individual Councillors to pursue issues, ask questions and initiate policy.
- 1.323 The adoption of Financial Regulations and Procedures and any subsequent amendment, variation, revocation or re-enactment of these documents.
- 1.324 The exercise of functions in relation to the Local Government Pension Scheme.
- 1.325 The promotion of, or opposition to, Local Bills in Parliament.
- 1.326 All other matters which by law must be referred to Council.

## STRATEGY COMMITTEE

---

MEMBERS 10 QUORUM 3

### General Role

The formulation (in consultation with other Committees/Groups where necessary) of the policy framework and budget and the implementation of these in respect of Council functions and services not otherwise the responsibility of the Council or any other Committee.

### Frequency of Meetings

There shall be scheduled monthly meetings (but not usually in August). Additional meetings may be called from time to time as deemed appropriate.

### Substitutes

Any Member of the same political group except Members of the Scrutiny Committee.

### 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 Audit 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.

- (xix) To take action or make recommendations to Council after considering reports from Scrutiny Committee (Joint or otherwise) and the Audit and Standards Committee (Joint or otherwise).
- (xx) To set up and monitor the activity of Working Groups (including the Transformation Enquiry Groups) and receive reports and recommendations from them, in line with agreed protocols.

DRAFT

## PLANNING COMMITTEE

---

MEMBERS

14

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.

**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.

DRAFT

## 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 Chairman of any Council, any Cabinet, Executive or Strategy Committee 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 Chairman 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 his or her 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 Chairman of any Council and any Cabinet or Strategy Committee 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) He or she resigns by giving written notice to the Proper Officer of the Council that appointed him or her.
  - b) He or she is removed or replaced by the Council that appointed him or her.
  - c) He or she is disqualified from membership of the Joint Standards Board.
  - d) He or she ceases to be eligible for appointment to the Joint Standards Board in the capacity in which he or she was 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 his or her membership of the Joint Standards Board.
  - g) The Council which appointed him or her 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. He or she 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.

## **JOINT AUDIT AND STANDARDS COMMITTEE**

---

**MEMBERS** 16 (8 from each Council)  
Council)      **QUORUM** 4 (At least 1 from each Council)

### **General Role**

To ensure a consistent approach, avoid duplication of resources and improve joint working between both Councils. This Committee will only seek to address matters which are being progressed across both Councils.

Issues that are pertinent only to a single Council area will remain the preserve of the Mid Suffolk Audit Committee or the Babergh Audit Committee.

Note: There are separate Terms of Reference for the Mid Suffolk and Babergh Audit Committees which set out their specific roles and functions.

### **Frequency of Meetings**

Every two months.

### **Substitutes**

Any Member from the same political group and Council, except the Chairman of the Council or Members of the Executive or Strategy Committees.

### **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 Head of 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 his or her statutory role and the issuing of guidance on his or her role from time to time.
- (xiii) Support the Section 151 officer responsible for the administration of the relevant Council's financial affairs in his or her statutory role in connection with financial probity and the issuing of national guidance on his or her role from time to time.
- (xiv) To peruse, review and comment upon the non-salaried expenses of Council officers.



## BABERGH AUDIT COMMITTEE

---

MEMBERS                      8    QUORUM                      3

### General Role

Monitoring the work of the Council's external and internal auditors, and taking such decisions as are necessary to ensure the auditors' work is in accordance with statutory requirements and best practice, and that their recommendations are acted upon appropriately.

Note: The Babergh and Mid Suffolk Joint Audit and Standards Committee ensures a consistency of approach, avoids duplication of resources and improves joint working between both Councils and will only address matters which are being progressed across both Councils.

Issues that are pertinent only to a single Council area will remain the preserve of the Babergh Audit Committee.

**Frequency of Meetings** - As and when required.

**Substitutes** - Any Member from the same political group, except Members of the Strategy Committee.

### Role and Function

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

- (i) Undertake the Council's responsibilities in relation to financial governance issues.
- (ii) Review and approve the financial statements (including the Statement of Accounts), and the external auditors' reports to Members, and monitor management action in response to the issues raised by external audit.
- (iii) Support the Corporate Manager – Internal Audit for ensuring that effective arrangements are in place with regard to risk management arrangements, the internal control environment, whistle blowing and associated anti-fraud and anti-corruption work.
- (iv) 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.
- (v) Review and consider the annual Treasury Management Strategy of the Authority, receive reports on performance during the year and ensure appropriate Member training and guidance is provided.

- (vi) Receive reports on complaints made under the Suffolk Local Code of Conduct for Members.
- (vii) Support the Monitoring Officer in his or her statutory role and the issuing of guidance on his or her role from time to time.
- (viii) Support the Section 151 Officer responsible for the administration of the Council's financial affairs in his or her statutory role in connection with financial probity and the issuing of national guidance on his or her role from time to time.

DRAFT

## JOINT SCRUTINY COMMITTEE

---

MEMBERS 16 (8 from each Council)

QUORUM 4 (at least 1 from each Council)

### General Role

Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Councils' functions;

Make reports and/or recommendations to the full Councils' and/or the Executive and Strategy Committees in connection with the discharge of any functions;

Make reports or recommendations to the Councils' or the Executive and Strategy Committees with respect to matters affecting the area or its inhabitants;

This Committee will seek to address matters which are being progressed across both Councils'. Issues that are pertinent only to a single Council area will remain the preserve of that Council's Scrutiny Committee.

### Frequency of Meeting

Every two months.

### Substitutes

Any Member from the same political group and Council except Members of the Strategy/Executive Committees.

### Role and Function

- (i) (a) **Performance monitoring and review.**
  - i) Question Members of the Executive and Strategy Committees and 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 its work.
  - (e) **Task and Finish Panels.** To number 3 or 5 members. When established a clear remit should be set with defined outcomes, time span and reporting requirements.
- (ii) Conduct its proceedings in accordance with the Scrutiny Procedure Rules set out in Part 34 of the Constitution.

DRAFT

## BABERGH SCRUTINY COMMITTEE

---

MEMBERS            8                    QUORUM            3

### General Role

Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;

Make reports and/or recommendations to the full Council or the Strategy Committee in connection with the discharge of any functions;

Make reports or recommendations to the full Council or the Strategy Committee 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

As and when required.

### Substitutes

Any Member from the same political group and Council except Members of Strategy Committee.

### Role and Function

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

- (i) (a) **Performance monitoring and review.**
  - i) Question Members of the Strategy Committee and 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 its work.

- (e) **Task and Finish Panels.** To number 3 or 5 members. When established a clear remit should be set with defined outcomes, time span and reporting requirements.
- (ii) Conduct its proceedings in accordance with the Scrutiny Procedure Rules set out in Part 3 of the Constitution.

DRAFT

## **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.

DRAFT



## **JOINT HEALTH AND SAFETY COMMITTEE**

---

**MEMBERS** 8 (4 from each Council)      **QUORUM** 3 (At least 1 from each Council)

### **General Role**

The promotion of consultation and co-operation between the Councils and its employees in instigating, developing and carrying out measures to ensure the health and safety at work for employees and members of the public.

### **Frequency of Meetings**

There shall be scheduled half yearly meetings. Additional meetings may be called from time to time.

### **Substitutes**

None.

### **Role and Function**

- (i) The study of accident and notifiable statistics and trends, so that reports can be made to senior management on unsafe and unhealthy conditions and practices, together with recommendations for corrective action.
- (ii) Examination of safety inspection and audit reports on a similar basis.
- (iii) Consideration of reports that safety representatives may wish to submit.
- (iv) Assistance in the development of safety rules and safe systems of work.
- (v) Monitoring of the effectiveness of the safety content of employee training.
- (vi) Monitoring of the adequacy of safety and health communication and publicity within the Councils.
- (vii) The provision of a link with the appropriate enforcing authority.

## **JOINT STAFF CONSULTATION COMMITTEE**

---

**MEMBERS** 6 (3 from each Council)      **QUORUM** 3 (At least 1 from each Council)

(PLUS 6 union representatives from recognised trade union branches across both Councils)

### **General Role**

The purpose of the JSCC is to provide a forum for discussion, informal consultation and negotiation between Elected Members, senior managers and employee representatives of the Councils recognised trade union bodies.

### **Frequency of Meetings**

There shall be scheduled half yearly meetings. Additional meetings may be called from either side.

### **Substitutes**

Any Member.

### **Functions**

- (i) The JSCC will consider matters of collective interest including:
  - Employee relations matters
  - Terms and conditions of employment
  - Equality issues
  - Welfare
  - Working arrangements
- (ii) The Chairman will rotate annually between the member representatives of the Councils and the Union representatives. The Vice-Chairman should be nominated from the opposite side to that from which the Chairman is appointed.
- (iii) The JSCC will make recommendations to the appropriate Committee or Council as necessary.
- (iv) The JSCC will conduct its business in the spirit of openness and co-operation to support constructive employment relations across the Councils.

Note: Individual issues will be addressed through the relevant employment policies and their respective appeal procedures i.e. grievance, discipline, grading and will not be considered by the JSCC.

DRAFT

## REGULATORY COMMITTEE

---

MEMBERS 10

QUORUM 3

### General Role

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

### Frequency of Meetings

Every two months (Regulatory Committee).

As and when required (Regulatory Sub-Committee).

### Substitutes

Any Member from the same political group providing requisite training undertaken.

No substitutes for Regulatory Sub-Committee.

### 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 power to attach conditions to any licence, certificate or consent
  - a power to refuse to grant any licence certificate or consent
  - a power to set general conditions and regulations with respect to all licences of a certain kind
  - the power to revoke or suspend licences certificates or consent
  - 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.

(a) **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 his/her delegated authority but refers the matter to the Regulatory Committee for consideration in accordance with a protocol approved by the Regulatory Committee.

(b) **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 his/her delegated authority.

## LICENSING ACT 2003 COMMITTEE

---

MEMBERS                      10 at Babergh                      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.

### Frequency of Meetings

Every two months (Licensing Act 2003 Committee)

As and when required (Licensing Sub-Committee)

### Substitutes

Any Member from the same political group providing requisite training undertaken.

No substitutes for Licensing Sub-Committee.

### 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).
- (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 Licensing Act 2003.

### LICENSING ACT 2003: SCHEME OF DELEGATIONS

Matter to be dealt with	Committee	Sub Committee	Officers
		WHERE OBJECTION, REPRESENTATION or REVIEW	<u>NO OBJECTION</u> 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		All cases	

Matter to be dealt with	Committee	Sub Committee	Officers
		WHERE OBJECTION, REPRESENTATION or REVIEW	<u>NO OBJECTION</u> or <u>REPRESENTATION</u>
premises certificate			
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	
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

(b) **Gambling Act 2005**

- (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.

DRAFT

**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				All cases

Matter to be dealt with	Council	Committee	Sub Committee	Officers
			<b>WHERE OBJECTION, REPRESENTATION or REVIEW</b>	<b>NO OBJECTION or REPRESENTATION</b>
machine permits				
Consideration of temporary use notice				All cases
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.

## Babergh and Mid Suffolk Joint Housing Board

---

### Terms of Reference and Constitution

1. **Membership:** 6 Councillors (3 from each Council)  
6 tenants/leaseholders (3 from each Council)
2. **Quorum:** 4 (1 Councillor and 1 tenant/leaseholder from each Council)
3. **Frequency of meetings:** Meetings will be held monthly
4. **Purpose of the Board (Terms of Reference)**
  - To review policy on any aspect of the landlord function
  - To be consulted on and then advise and make recommendations to Strategy and Executive Committees on financial matters relating to the Housing Revenue Account (HRA)
  - Support the active involvement of tenants and leaseholders in the process of decision making on housing (HRA) related matters
  - Provide a means of improving delivery of the housing service
5. **Nomination of Councillors**
  - Councillors will be nominated to the Board by each Council in accordance with its own constitutional arrangements
6. **Election of tenants**
  - Every tenant and leaseholder of Mid Suffolk and Babergh District Councils will have an opportunity to vote for a candidate in their area
  - Elections will be held every 4 years to coincide with the District Council elections
7. **Qualifying to stand as a Candidate**

All tenants will be given an opportunity to stand for election to the Board. A formal ballot will be held in which every tenant will be eligible to vote for their chosen candidate.

Each candidate or Board member **must**:

- Be over the age of 18 years.
- Be a current tenant or leaseholder of Babergh or Mid Suffolk District Council.
- Live within the electoral area in which they are standing for election.

Each candidate or Board member **must not**:

- Be under a “Notice Seeking Possession” in respect of their tenancy.

- Be an employee of either Babergh or Mid Suffolk District Council.
- Be a serving member of the Tenant Scrutiny Panel
- Be the subject of a bankruptcy restrictions order or an interim order
- Have been convicted, in the United Kingdom, the Channel Islands or the Isle of Man, within the last 5 years of any offence punishable by imprisonment (whether suspended or not) for a period of not less than 3 months without the option of a fine.
- Be disqualified from being elected or being a member of either authority under Part III of the Representation of the People Act 1983.

## **8. Key Roles and responsibilities of Board Members**

- Act in the interest of the tenants of Mid Suffolk and Babergh District Council. Board members are custodians of the tenants' interests and finances. Their behaviour and decisions should reflect this responsibility.
- To contribute to and share responsibility for all Board decisions.
- Prepare for and attend meetings, training and other events as required.
- Maintain the standards set out in the Code of Conduct for tenant involvement.
- Monitor the Councils' performance, budgets, controls, complaints and decisions and the performance of comparable bodies.
- Ensure that the Council Housing Services of Babergh and Mid Suffolk District Councils comply with the Tenant Services Authority Regulatory Framework.
- Ensure that the policy and practices of Babergh and Mid Suffolk District Council Housing Services are in keeping with its Strategic Priorities and Delivery Programme outcomes.

## **9. Confidentiality**

- Board members will have access to such information necessary to carry out their role. Information regarded as confidential should not be divulged to anyone, other than Board members and Council officers entitled to know it.

## **10. Allowances**

- Tenant Board members will be entitled to claim an allowance for each meeting attended up to £500 per annum. They will also be entitled to mileage and childcare expenses at the approved rate.
- Elected Members will be entitled to claim travelling expenses in accordance with the Councils scheme of allowances.

## **11. Functions of the Board**

The Board will make strategic and policy decisions about the HRA landlord related functions of both councils. In general terms these are:

- The review and development of the HRA Business Plan.

- All housing landlord strategy and new policy development issues.
- All tenant services and housing management functions
- The review and development of housing maintenance and improvement programmes
- Leasehold property management.
- Compliance with the Tenant Services Authority regulatory framework.
- A monitoring role relating to operational HRA services.
- Rent and budget setting are not included in the remit although the Board will have a consultative role in these issues.

## 12. Governance

- All Board Members will have equal voting rights.
- All issues will be decided on a simple majority of board members present at the meeting.
- If there are an equal number of votes for and against, the Chair will have a second or casting vote.
- The Chair will be determined annually by the members of the Joint Housing Board, alternating between tenant/member on an annual basis.
- A Vice-Chair will also be determined annually, ideally being a tenant when the Chair is a Councillor and vice versa.
- The quorum of the meeting will be one third of the Board membership (i.e. 4). With one tenant and one member being from each Council.
- The Board will determine which matters are solely to be voted on by MSDC members and BDC members.
- When a decision is the concern of one Council a quorum will be one Tenant Board Member and one Elected Member of the Council to whom the decision relates.
- When making decisions, the Joint Housing Board will consider the Strategic Priorities of both Councils and ensure these are embedded in everything done with a corporate context and connection.
- The Joint Housing Board activities are authorised without recourse to Committees of either Council following an amendment to the current Scheme of Delegation which is in place at present in both Councils placing delegations on the Head of Housing.
- When an issue has both HRA and non HRA aspects the board will make decisions on the HRA aspect and have a consultative role in the non HRA aspect.
- The Councillor Membership of the Joint Housing Board will be politically balanced.
- Meetings will be held monthly in the afternoon or early evening.
- Venue for the meetings will alternate between the two Councils.

- The Joint Housing Board will report to Babergh District Council's Strategy Committee and Mid Suffolk District Council's Executive Committee.

### **Additionally the Joint Housing Board will**

- Have the power to deselect any Tenant Board Member who is absent from three consecutive meetings without good reason or is guilty of a breach of the Code of Conduct.

### **13. Confidentiality and Data protection**

The business of the Board may involve dealing with issues of a confidential or sensitive nature and members must exercise care and discretion. All information must be kept in accordance with the Data Protection Act 1998. This also includes storing of information in paper files, or electronically.

- Any confidential information that is presented to or discussed by the Board should not be disclosed to anyone apart from the board. The only exceptions to this are:
  - a) That you have the consent of a person authorised to give it.
  - b) You are required by law to do so.
  - c) The disclosure is made to a third party for the purpose of obtaining professional advice providing that the third party agrees not to disclose the information to any other person.
- A Board member must not prevent another person from gaining access to information to which a person is entitled by law.
- Board members must not disclose information that they have received in their role for personal advantage or that of anyone known to them or to discredit or disadvantage others.

## DELEGATIONS TO OFFICERS

### INTRODUCTION

The Scheme of Delegation set out below has been approved and adopted for the purposes of Section 101 of the Local Government Act 1972.

The following powers and duties are delegated to the officers named 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 Assistant Director

For the Section 151 Officer, the Assistant Director Corporate Resources (or Strategic Director) if he/she is the Section 151 Officer

For the Monitoring Officer, the Assistant Director if he/she is the Monitoring Officer.

### GENERAL PROVISIONS

1. Any delegation to an officer which authorises the incurring of any expenditure will be subject to there being sufficient budgetary provision to cover that expenditure.
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.
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 and any other conditions imposed either by the Council or by statute and any Code of Practice relating to specific functions which may be adopted.
4. 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 postholder of the new post designation.
5. Officers with delegated powers may in writing authorise another officer or officers to exercise those powers in particular circumstances or generally. Such authorisations may be subject to limitations and conditions. The officer with the delegated power shall keep a Register of all authorisations granted. *Note: Copies of all authorisations shall also be sent to the Monitoring Officer.*



6. All Heads of Service with the exception of the Head of Economy, and also the Monitoring Officer, have delegation to seek planning permission under the Town and Country Planning General Regulations 1992 and to give to the local planning authority any written notice required by the Regulations.

DRAFT

## GENERAL DELEGATIONS

---

To the Chief Executive, Strategic Directors and Assistant Directors together referred to as “Principal Officers”)

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 he/she is responsible (See Schedule below, as may be amended from time to time) subject to any action by the Principal Officer under his/her delegated power being in accordance with:

- 1 The overall policies and procedures approved by the Council or the relevant Committee as appropriate;
- 2 The Council’s Rules of Procedure set out in Part 3 of the Constitution.
- 3 Human Resources Policies and Procedures;
- 4 Approved capital and revenue budgets where an increase in expenditure or a reduction in income is involved;
- 5 In addition to the constraints referred to above, there are exceptions to officers’ delegated powers. There is no delegation to officers of
  - (a) matters specifically reserved to Council or Committee and
  - (b) any matter which by law may not be delegated to an officer.

## RESPONSES TO CONSULTATION

The relevant Assistant Director shall be authorised to submit responses on consultation on matters within their functions and area of responsibility. If any consultations are deemed by the Assistant Director Law and Governance to be of sufficient significance they will be referred to the relevant Committee.

Matters that are likely to be of sufficient significance are consultation documents on national, regional or local issues which have been or likely to be high profile, complicated and controversial.

Should the deadline for the response not enable the matter to be considered by the Committee then the Assistant Director Law and Governance, in consultation with the relevant Head of Service and Committee Chairman be authorised to submit a response, a copy of which will be submitted to the next meeting of that Committee for information.

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.

Members are of course entitled to make separate individual, personal responses to the consultation.

## SCHEDULE OF DELEGATIONS

<b><u>Post</u></b>	<b><u>Function and areas of responsibility</u></b>
Chief Executive	Head of Paid Service Overall corporate management and operational responsibility (including management responsibility for all officers and staffing matters). Chairman of the Joint Management Board Returning Officer for Elections and Electoral Registration Officer
Strategic Director	Achieving strategic outcomes and commissioning activities relating to places in Babergh and Mid Suffolk.
Strategic Director	Achieving strategic outcomes and commissioning activities relating to citizens and communities.
Strategic Director	Achieving strategic outcomes and commissioning activities to ensure Babergh and Mid Suffolk District Councils are optimising integrated management, staffing and working practices in order to transform what they do and how they do it to support achievement of people and place outcomes. To ensure appropriate specialist expertise is available in the Corporate Directorate, to arrange for the proper designation of appropriate posts and ensure the proper functioning of the Section 151 Officer and Monitoring Officer statutory roles.
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.
Note: The Section 151 Officer and Monitoring Officer posts may be held by a designated officer in this structure.	

Head of Housing	<p>Landlord Services Management of Housing Stock, Upgrading Repairs and Rents Private Sector Housing Homelessness Right to Buy Supported Housing, Housing Advice Community Alarms Commissioning Housing Repairs and Maintenance Surveyors and Building Services Property, Accommodation and Facilities</p>
Head of Communities	<p>Community Development Support to Communities of Interest and Characteristic Arts Sports and Leisure Health Improvement and Health and Wellbeing Partnership Community Safety and Community Access Countryside Services Rights of Way Children and Young People Local Partnerships Joint Service Delivery Partnerships Business Continuity, Emergency Planning and GOLD support Grants to Communities Equalities and Diversity – Service delivery Community Rights</p>
Head of Economy	<p>Planning Policy Housing Strategy and Enabling including Gypsy and Traveller Sites Tourism and Tourist Information Centres Economic Development and Regeneration Planning and Development Control Building Control Conservation Access to Grants for Local Authority Activities including Planning Obligations Community Infrastructure Levy Local Enterprise Partnership and other Economy Partnerships Focused Partnership Working</p>
Head of Environment	<p>Development of all aspects of the Environment Agenda Environmental Health Enforcement Safety and Food Safety</p>

	Noise and other Nuisance Pollution Control Licensing Open Space and Grounds Maintenance Waste Management Environmental Management Street Scene Car Parks and Public Conveniences Arboriculture
Head of Corporate Organisation	Human Resources and Organisational Development (including training and development) Governance Democratic and Member Services Electoral Services Executive Support and Business Management Communications Legal Services Internal Audit Policy Development and Corporate Planning Performance Management Health and Safety Occupational Health Equality and Diversity – Corporate
Head of Corporate Resources	Financial Matters Financial Management ICT Data and Information Management (Freedom of Information, Access to and Management of Observatory, all Land and Asset Related Information Services etc) Land Charges Revenues and Benefits Asset Utilisation Procurement and Contracting including Commissioning Support to External Audit Customer access and complaints handling (including Ombudsman cases)

## **DELEGATION MATTERS SUBJECT TO CONSULTATION WITH CHAIRMAN (OR VICE-CHAIRMAN IN ABSENCE) OF APPROPRIATE COMMITTEE**

### **Power to act out of meeting – General Power**

Where, in his/her 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 Chairman of the appropriate Committee on the action to be taken by the Chief Executive.

This power shall not apply to:-

- (a) Matters reserved to the Council by statute or common law without power of delegation to a Committee.
- (b) The setting of Council taxes.
- (c) Incurring of expenditure for which no allowance has been made in the annual budget unless the approval of the Chairman of the Council, and of the Chairman of the Strategy Committee 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 Strategy Committee 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.

Power to respond to consultation documents on strategic and short term plans and programmes for the Health Service.

The Head of Environment in consultation with the Chairman of the Strategy Committee is empowered to respond to the Strategic Health Authority's consultation documents on strategic and short term plans and programmes.

## **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. In consultation with Strategic Directors to employ outside consultants and firms in cases where he/she is satisfied that it is necessary to do so in order to carry out work which cannot be dealt with by in-house staff.

### **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:  
  
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;  
  
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.
2. 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.
3. To authorise officers to enter land and premises where an authorised officer of the Council may do so under any enactment.
4. To authorise, issue and serve all Statutory Notices (including Requisitions for Information) under any enactment.
5. To sign and seal documents on behalf of the Council.
6. To issue enforcement notices and/or serve stop notices under the Town and Country Planning Act 1990.
7. To determine applications for Lawful Development Certificates pursuant to Sections 191-194 of the Town and Country Planning Act 1990.

8. To accept statutory declarations for the purpose contained in the Housing Acts 1980, 1985 and 1988.
9. 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.
10. 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.
11. 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

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

### Local Government Act 1972

<u>Section</u>	<u>Description</u>	<u>Proper Officer</u>
13(3)	Chairman of Parish Meeting and Proper Officer shall become a body corporate where there is no separate parish council.	Chief Executive
83(1)	Receipt of Declaration of Acceptance of Office.	Monitoring Officer/ Chief Executive
84	The Officer to whom a person elected to any office under the Council may give written notice of resignation.	Monitoring Officer/ Chief Executive
88(2)	The Officer who may convene a meeting of the Council for the election to fill a vacancy.	Chief Executive
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.	Chief Executive
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 Information	Assistant Director Law and Governance
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.	Director Law and Governance
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

<b><u>Section</u></b>	<b><u>Description</u></b>	<b><u>Proper Officer</u></b>
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.	Chief Executive
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.	Chief Executive
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.	Chief Executive
-------	---	-----------------

#### **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	Assistant Director Corporate Resources
-----	-----------------------------	---

Note: Infectious disease legislation for which Babergh is the enforcing Authority is co-ordinated to a large extent by the joint approaches of the Assistant Director Environment and Projects 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>
<b>Public Health Act 1936</b>		
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)
<b>Public Health (Control of Disease Act) 1984 as amended, and any subordinate Regulations or Orders</b>		
Wherever Proper Officer is referenced or specified:-		CCDC
61	Powers of entry	CCDC or Assistant Director Environment and Projects
62	Supplementary powers of entry	CCDC or Assistant Director Environment and Projects
<b>National Assistance Act 1948 (as amended) and Section 61 of the National Assistance Act 1951</b>		
47	Removal to suitable premises of persons in need of care and attention	Assistant Director Environment and Projects to appoint consultant(s) as necessary to act as the Medical Officer of Health

**Powers of entry and authorisation of officers**

The Assistant Director Environment and Projects is appointed to authorise officers to exercise powers of entry given under Section 61 of the Public Health (Control of Diseases) Act 1984 and Section 55 of the National Assistance Act 1948.

### Food Safety Act 1990

<u>Section</u>	<u>Description</u>	<u>Proper Officer</u>
49	Proper Officer of the Authority as regards documents relating to matters within his/her province.	Assistant Director Environment and Projects

### Representation of the People Act 1983

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

### Local Elections (Principal Areas) Rules 1986

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

### Housing Act 1985

606(1) and (2)	Reports on unfitness and clearance.	Assistant Director Supported Living
----------------	-------------------------------------	-------------------------------------

### Local Government Finance Act 1988

114	Financial Report to the Authority	Section 151 Officer
-----	-----------------------------------	---------------------

### Local Government and Housing Act 1989

4	Head of Paid Service	Chief Executive
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. <u>Anti-Social Behaviour, Crime and Policing Act</u>	Monitoring Officer
----	--	--------------------

## DEPUTY PROPER OFFICER PROVISIONS

In respect of the purposes for which the Chief Executive is the Proper Officer of the Council, the Strategic Director for the time being be authorised to act as such Proper Officer and as Deputy Returning Officer for all purposes for Elections and as Deputy Electoral Returning 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 Assistant Director Strategic Director.

For a Strategic Director, the Chief Executive or another Strategic Director.

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 Assistant 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 Assistant Director Environment and Projects.

Any Proper officer may appoint any other person in writing to act on his/her behalf.

**Part 3**  
**Rules of Procedure**

<b>RULES OF PROCEDURE.....</b>	<b>75</b>
<b>COUNCIL PROCEDURE RULES .....</b>	<b>76</b>
<b>BUDGET &amp; POLICY FRAMEWORK.....</b>	<b>106</b>
<b>SCRUTINY PROCEDURE RULES .....</b>	<b>107</b>
<b>REPORTS FROM SCRUTINY COMMITTEES.....</b>	<b>110</b>
<b>FINANCIAL REGULATIONS AND PROCEDURES .....</b>	<b>136</b>
<b>CONTRACT STANDING ORDERS.....</b>	<b>148</b>
<b>STAFF EMPLOYMENT PROCEDURE RULES.....</b>	<b>156</b>

DRAFT

## **COUNCIL PROCEDURE RULES**

**All of these rules apply to meetings of the Council.**

**Rules [5-12](#), [14-18](#), [20](#), [23-29](#) apply to Council and Committee meetings.**

### **1. ANNUAL MEETING OF THE COUNCIL (Council only)**

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 4<sup>th</sup> day after the election) In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (a) elect a person to preside if the Chairman and Vice Chairman are not present
- (b) elect the Chairman of Council;
- (c) elect the Vice-Chairman of Council;
- (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 Chairman, Leader and/or Head of Paid Service
- (g) elect a Leader
- (h) elect Chairmen and Vice-Chairmen of Committees and Sub-Committees;
- (i) appoint Committees and Sub-Committees as the Council considers appropriate;
- (j) consider any business set out in the notice convening the meeting;
- (k) decide the allocation of seats [and substitutes] to political groups in accordance with the political balance rules;
- (l) receive nomination and appoint Councillors to serve on each Committee and outside body/partnership.

## **2. ORDINARY MEETINGS (Council only)**

- (a) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (b) deal with any item required by statute to be dealt with before any other item;
- (c) approve the minutes of the last meeting;
- (d) receive any announcements from the Chairman, Leader and/or Head of Paid Service;
- (e) receive notification of petitions;
- (f) 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;
- (g) consider questions from, and provide answers to, Members on any matter in relation to which the Council has powers or duties or which affects the District;
- (h) deal with any business from the last Council meeting;
- (i) receive reports and recommendations from the Council's Committees and receive questions and answers on any of those reports;
- (j) receive reports about, and receive questions and answers on, the business of joint arrangements and external organisations;
- (k) consider motions;
- (l) receive reports from Portfolio Holders;
- (m) receive reports from the Chairman of Joint Scrutiny Committee;
- (n) consider any other business specified in the summons to the meeting.

## **3. EXTRAORDINARY MEETINGS (Council only)**

Calling extraordinary meetings.

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings;

- (a) the Council by resolution;
- (b) the Chairman of Council;



- (c) the Monitoring Officer;
- (d) the Chief Finance Officer; and
- (e) where at least one-third (rounded up) Members of the Council have signed a requisition presented to the Chairman of Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### **4. APPOINTMENT/DELEGATIONS TO COMMITTEES**

##### **4.1 Delegation of Functions**

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

##### **4.2 Appointment of Committees and Sub-Committees**

The Council shall at the Annual Meeting appoint such Committees and Sub-Committees as it is required to appoint and may appoint such other Committees, Sub-Committees, Panels and Task Groups as are necessary to carry out the work of the Council.

##### **4.3 Election of Chairman of Council**

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

##### **4.4 Election of Chairmen and Vice-Chairmen**

The Chairmen and Vice-Chairman of Committees and Sub-Committees shall be elected at the Annual Council Meeting.

##### **4.5 Holding of Office**

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

##### **4.6 Dissolution of Committee**

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

##### **4.7 Urgent Items**

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 Chairman for specific reasons which are to be included in the Minutes.

## 5. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

### 5.1 Substitutes for Committees shall be as follows:-

COMMITTEE	SUBSTITUTES
Executive	Any Member of the same political group except members of the Scrutiny Committee.
Development Control A and B	Any Member of the Council, providing the substitute has undertaken the requisite planning training.
Planning Referrals	None.
Regulatory	Any Member of the Council, providing the substitute has undertaken any requisite training.
Licensing Act 2003	Any Member of the Council, providing the substitute has undertaken any requisite training.
Joint Audit and Standards	Any Member from the same political group and Council, except members of the Executive Committee.
Audit	Any Member from the same political group, except members of the Executive Committee.
Joint Scrutiny	Any Member from the same political group and Council, except members of the Executive Committee.
Scrutiny	Any Member from the same political group, except members of the Executive Committee.
Joint Appointments	Any Member from the same political group and Council.

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

### 5.2 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.

### 5.3 Substitution

Substitute Members may attend meetings in that capacity only:

- (a) to take the place of the ordinary Member;
- (b) where the ordinary member will be absent for the whole of the meeting; and
- (c) after the Strategic Director (Corporate) has been notified by 1.00 p.m. on the previous working day before the commencement of the meeting.

### 5.4 Members of Executive Committee cannot be substitute Members for Scrutiny Committees, or vice versa.

- 5.5 No Member may be involved in scrutinising a decision in which he or she has been directly involved. Members acting as substitute Members on the Joint Scrutiny Committee and Mid Suffolk Scrutiny Committee should not take part in any business being considered by the Joint Scrutiny and Mid Suffolk Scrutiny Committee in circumstances where the substitute Member has been directly involved in determining the issue under scrutiny.
- 5.6 Substitutes for Development Control 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 Member has undertaken the requisite training.

## **6. MEMBER ATTENDING / SPEAKING AT A COMMITTEE WHERE NOT A MEMBER**

A Councillor not serving on a particular Committee may request permission from the Chairman 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.

## **7. TIME AND PLACE OF MEETINGS (Council and Committee)**

The time and place of meetings will be determined by the Strategic Director (Corporate) and notified in the summons.

## **8. NOTICE OF AND SUMMONS TO MEETINGS (Council and Committee)**

The Strategic Director (Corporate) will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Strategic Director (Corporate) will send a summons signed by him/her to every Member of the Council or leave it at his/her usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **9. CHAIRMAN OF MEETING (Council and Committee)**

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairmen of Committees and Sub-Committees.

## **10. REMOVAL OF CHAIRMAN OF COUNCIL/COMMITTEES (Council and Committee)**

- 10.1 At any meeting of the Council a Member may propose that "the meeting has no confidence in the Chairman". The motion shall after debate be put and if carried the Chairman shall consider his or her position, and report his or her decision to the Council as soon as possible.
- 10.2 At any meeting of a Committee, Sub-Committee, Panel or Task Group a Member may propose that "the meeting has no confidence in the Chairman", the question shall after debate be put and if carried by a majority of at least two thirds of the Members present the Chairman shall stand down and the remainder of the meeting shall be chaired by the Vice-Chairman or in his or her absence by a Member elected for that purpose by the meeting.
- 10.3 Following a successful vote of no confidence in the elected Chairman he or she shall not officiate at any subsequent meeting of the Committee, Sub-Committee, Panel or Task Group 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 Chairman of the relevant Committee shall be declared vacant and a new Chairman shall be elected by the Council.

## **11. DURATION OF MEETING (Council and Committee)**

The duration of any meeting shall be at the absolute discretion of the Chairman.

## **12. QUORUM (Council and Committee)**

- 12.1 Save as provided for in 12.2 below, the quorum of a meeting will be one quarter of the whole number of Members (for the avoidance of doubt this will be rounded up to the next whole number). During any meeting if the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining issues will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.
- 12.2 The quorum of a meeting of the Regulatory Sub-Committee and the Licensing Sub Committee will be 3 Members.

## **13. ORDER OF BUSINESS (Council)**

- 13.1 Subject to what follows, the order of business at every meeting of the Council will be:-
- (a) To appoint a person to preside if the Chairman and Vice-Chairman are absent.
  - (b) To deal with any item required by statute to be dealt with before any other item.

- (c) To approve as a correct record and sign the minutes of the last meeting of the Council.
- (d) To receive declarations of interests.
- (e) Chairman/Leader Announcements.
- (f) To receive notification of petitions.
- (g) To dispose of any business remaining from a previous meeting.
- (h) To receive and consider all other reports, minutes and recommendations of Committees in date order of meeting.
- (i) To consider amendments and motions moved without notice in accordance with Council Procedure Rule 18.
- (j) To consider motions on notice received under Council Procedure Rule 17 in the order received.
- (k) To consider questions received under Council Procedure Rule 15.
- (l) To consider questions received under Council Procedure Rule 16.
- (m) Other business, if any, specified in the summons.

The order of business (with the exceptions of items (a), (b) and (c)) may be altered by the Chairman or by a resolution following a motion moved, seconded and put to the meeting without debate.

#### **14. PETITIONS (Council and Committee)**

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.

#### **15. QUESTIONS BY THE PUBLIC (Council and Committee)**

##### **15.1 General**

Members of the public may ask questions of any Chairman of a Committee in accordance with the meeting Agenda.

## 15.2 Order of Questions

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

## 15.3 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 Strategic Director (Corporate) no later than midday two 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 Chairman to whom it is to be put.

For the avoidance of doubt a working day is a day when the Council offices are open for business e.g. for a meeting on a Monday the question should be received by 12 noon the previous Wednesday.

## 15.4 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 Chairman shall also have the discretion to limit the number of questions received at any one meeting.

## 15.5 Scope of Questions

The Strategic Director (Corporate) 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; or
- (d) requires the disclosure of confidential or exempt information.

## 15.6 Record of Questions

The Strategic Director (Corporate) will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

## 15.7 Asking the Question at the Meeting

The Chairman will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, he or she may ask the Chairman to put the question on his/her behalf. The Chairman 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.

## 15.8 **Supplementary Question**

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 15.5 above.

## 15.9 **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 Member to whom it was to be put, will be dealt with by a written answer and be made available on request.

## 15.10 **Reference of Question to a Committee**

Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

## **16. QUESTIONS BY MEMBERS (Council and Committee)**

### 16.1 **On Reports of Committees and Portfolio Holders/Lead Members**

A Member of the Council may ask the Chairman of a Committee any question without notice upon an item of the report of the Committee when that item is being received or under consideration by the Council.

### 16.2 **Questions on Notice at Full Council**

Subject to Rule 16.4 a Member of the Council may ask:

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

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

### 16.3 **Questions on Notice at Committees and Sub-Committees**

Subject to Rule 16.4 a Member of a Committee or Sub-Committee may ask the Chairman of it 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.



## 16.4 Notice of Questions

A Member may only ask a question under Rule 16.2 or 16.3 if either:

- (a) he/she has given by noon at least 2 clear working days' notice in writing or by electronic mail of the question to the Strategic Director (Corporate). For the avoidance of doubt a working day is a day when the Council offices are open for business e.g. for a meeting on a Monday the question should be received by 12 noon the previous Wednesday.
- (b) the question relates to urgent matters, he/she has the consent of the Chairman to whom the question is to be put and the content of the question is given to the Strategic Director (Corporate) by 4 p.m. on the working day prior to the meeting.

## 16.5 Response

An answer may take the form of:

- (a) a direct oral answer;
- (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.

## 16.6 Supplementary Question

A Member asking a question under Rule 16.2 or 16.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

## 17. MOTIONS ON NOTICE (Council and Committee)

### 17.1 Notice

Except for motions which can be moved without notice under Rule 18, written notice of every motion, signed by at least 1 Member, must be delivered to the Strategic Director (Corporate) not later than 7 clear working days (that is not counting the day of the meeting and the day of receipt) before the date of the meeting. Motions (except for those rejected under the provisions of 17.2 below) will be entered in a book open to public inspection.

### 17.2 Motion set out in Agenda

Motions for which notice has been given will be listed on the Agenda in the order in which notice was received, unless the Member giving notice states, in writing, that



he/she proposes to move it to a later meeting or withdraw it save that the Strategic Director (Corporate) may reject any motion if she/he considers that it:-

- A) Does not relate to the business of the Council or affect the District;
- B) Is defamatory, frivolous or offensive; or
- C) Is a motion which the Council has no power to pass or which contravenes any provision in these Rules of Procedures.

17.3 If the subject matter of any motion in respect of which notice has been duly given falls within the terms of reference of any Committee it shall, upon being moved and seconded, stand referred to that Committee or to such other Committee or Committees as the Council may determine without discussion for initial consideration, investigation and further report back to the Council as soon as practical.

The Chairman may use discretion and allow the motion to be dealt with at the meeting at which it is brought forward. If the Member is not on the Committee then he/she should be invited to the relevant meeting.

#### 17.4 **Scope**

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

### 18. **MOTIONS WITHOUT NOTICE (Council and Committee)**

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the Minutes;
- (c) to change the order of business in the Agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;

- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council Procedure Rule other than Council Procedure Rules Nos. 23.6 and 24.2;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a Member named under Rule 27.3 or to exclude him or her from the meeting under Rule 27.4;
- (p) to give the consent of the Council where its consent is required by this Constitution.

## **19. RULES OF DEBATE (Council only)**

### **19.1 No Speeches until Motion Seconded**

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

### **19.2 Right to Require Motion in Writing**

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

### **19.3 Secunder's Speech**

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

### **19.4 Content and Length of Speeches**

Speeches must be directed to the question 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 Chairman.

### **19.5 When a Member may Speak Again**

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

- (a) to speak once on an amendment moved by another Member;

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

#### 19.6 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add wordsas 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 motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 19.7 Alteration of Motion

- (a) A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

### 19.8 **Withdrawal of Motion**

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

### 19.9 **Right of Reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

### 19.10 **Motions Which May be Moved During Debate**

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules;
- (h) to not hear further a Member named under Rule 27.3 or to exclude him or her from the meeting under Rule 27.4.

### 19.11 Closure Motions

- (a) The following motions may not be moved or seconded by the proposer or seconder of the motion or amendment, or by a Member who has already spoken:-
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### 19.12 Point of Order

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

### 19.13 Personal Explanation

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

## 20. MOTIONS AFFECTING EMPLOYEES (Council and Committee)

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.

## **21. STATE OF THE DISTRICT DEBATE (Council)**

### **21.1 Calling of Debate**

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

### **21.2 Form of Debate**

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

### **21.3 Chairing of Debate**

The debate will be chaired by the Chairman of Council.

### **21.4 Results of Debate**

The results of the debate will be:

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

## **22. PREVIOUS DECISIONS AND MOTIONS (Council only)**

### **22.1 Motion to Rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 14 Members.

### **22.2 Motion Similar to One Previously Rejected**

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 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **23. VOTING (Council and Committee)**

### **23.1 Majority**

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

### **23.2 Chairman's Casting Vote**

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

### **23.3 Budget Meetings**

Immediately after any vote is taken at a budget decision meeting of the Council the names of members 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.

### **23.4 Show of Hands**

Unless a ballot or recorded vote is demanded under Rules 23.5 and 23.6, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **23.5 Ballots**

In the case of the appointment of Members only, the vote will take place by ballot if 6 Members present at the meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

### **23.6 Recorded Vote**

If 5 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the Minutes. A demand for a recorded vote will override a demand for a ballot.

### **23.7 Right to Require Individual Vote to be Recorded**

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

## **23.8 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.

## **24. MINUTES (Council and Committee)**

### **24.1 Signing the Minutes**

The Chairman 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.

### **24.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting**

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

### **24.3 Form of Minutes**

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

## **25. RECORD OF ATTENDANCE (Council and Committee)**

All Members 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.

## **26. EXCLUSION OF PUBLIC (Council and Committee)**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 28 (Disturbance by Public).

## **27. MEMBERS' CONDUCT (Council and Committee)**

### **27.1 Standing to Speak (Council only)**

When a Member speaks at full Council he/she must stand and address the meeting through the Chairman. If more than one Member stands, the Chairman will ask one to speak and the others must sit. Other Members must remain seated whilst a



Member is speaking unless they wish to make a point of order or a point of personal explanation.

### **27.2 Chairman Standing**

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

### **27.3 Member not to be Heard Further**

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

### **27.4 Member to Leave the Meeting**

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

### **27.5 General Disturbance**

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

## **28. DISTURBANCE BY PUBLIC (Council and Committee)**

### **28.1 Removal of Member of the Public**

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

### **28.2 Clearance of Part of Meeting Room**

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

## **29. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES (Council and Committee)**

### **29.1 Suspension**

All of these Council Rules of Procedure except Rule 23.6 and 24.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council is present. Suspension can only be for the duration of the meeting.

### **29.2 Amendment**

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

## **30. CHANGES IN COUNCIL PROCEDURE RULES (Council only)**

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

## **31. INTERPRETATION OF PROCEDURE RULES**

- (1) The ruling of the Chairman as to the construction or application of any Procedure Rule or as to any proceedings of the Council shall not be challenged.
- (2) For the purposes of these Council Procedure Rules in the absence at the relevant time of the Strategic Director (Corporate) compliance with the terms of the relevant Standing Order shall be deemed to have occurred if the notice, submission or application is given to the Chief Executive.

## **32. APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the above Council Procedure Rules apply to meetings of full Council. Only Rules 5-14, 16-18, 20, 23-29 (but not Rule 27.1) apply to meetings of Committees and Sub-Committees.

## **33. CHARTER ON PUBLIC SPEAKING AT DEVELOPMENT CONTROL/PLANNING COMMITTEES**

The arrangements for public speaking are set out below:-

- 33.1 If an application is to be decided by Planning Committee members of the public who are affected by that planning application, have the right to speak to the Members at that committee. A leaflet is available which sets out the general principles for this, as contained in this Procedure Rule. The practical arrangements on the day remain at the discretion of the Chairman of the meeting whose decision on arrangements is final.
- 33.2 How are applications discussed at Planning Committee?

Page **95** of ?

Applications are listed in a schedule to the agenda for each meeting. It is usual that the order in which items are heard will be re-arranged by the Chairman on the day of the meeting to suit public interest in the applications being heard taking account of Members commitments.

The planning case officer will usually 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.

The Ward Member(s) will normally be invited to speak after public speaking. The arrangements for public speaking are described in more detail below. After members of the public have been heard the Councillors 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.

### 33.3 **Do I need to speak at planning committee?**

Not normally. If you have written expressing a view, whether in support or objection to an application, then this will be recognised in the Committee papers on the day.

Usually your full letter, together with all of the letters, emails and other third party contributions to the deliberations will be made available to the Committee members **prior** to the meeting.

In the interests of data protection correspondence may have been redacted.

### 33.4 **Who is allowed to speak?**

Those wishing to will be invited to speak by the Chairman. This will be done in the following order:

- Parish Clerk or Parish Councillor representing the Council in which the application site is located;
- Objectors;
- Supporters;
- The applicant or professional agent / representative.

Public speakers in each capacity will normally be allowed 3 minutes to speak.

Ward Members are invited to speak at this stage.

The key principle behind public speaking arrangements will be to ensure a balanced opportunity, by time allowed, for persons speaking in each capacity to

make their presentation. In the interests of committee efficiency normally only one individual will be allowed to speak in each capacity.

Public speakers wishing to speak in the same capacity as another person (e.g. objectors) may find it useful to get together with others and agree a spokesman to present all of their views. Exceptionally the Chairman may allow more than one person to speak in each capacity (e.g. applicant and his/her agent) if he/she considers that will help clarify the application for committee members and will not lead to duplication of presentations.

If public speakers who wish to speak in the same capacity cannot agree between them who is to speak then the Chairman will normally split the available time equally between them to ensure that their cumulative time does not exceed that of others speaking in a different capacity in order to safeguard balance. In such circumstances speakers will be expected to co-operate and avoid duplication in their presentations.

Exceptionally the Chairman may allow representatives of more than one Parish, adjoining that in which the site is located, to speak if this will help clarify the application for Committee members and there would be a clear planning impact upon that Parish even though it is beyond the application site. In the case of complex applications special public speaking arrangements may be agreed in advance by the Planning Committee. Public speaking arrangements remain at the final discretion of the Chairman on the day having regard to this guidance.

**33.5 What is the procedure for public speaking?**

<b>DO</b>	<b>DON'T</b>
Do arrive in the Council Chamber early and make yourself known to the Officers. The Officers will normally ask people arriving if they are interested in a particular item and wish to speak on it before the meeting begins.	Don't expect to speak if you are not present at the start of the meeting or if you have not indicated that you wish to speak in advance.
Do be aware 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.	
Do be ready to answer questions, from Councillors on the Committee, about what you have said.	Don't expect a right to further respond during the debate, or challenge another speaker following you, if you have already spoken and made yourself available to answer questions.
Do respect other speakers' right to express their views without interruption.	Don't act in a way which undermines the orderly and polite conduct of the meeting. If you do the Chairman may ask you to leave.

DO	DON'T
Do 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.	Don't expect to speak for longer than anyone else speaking in a different capacity to you.
Do ensure that you keep your presentation to no more than 3 minutes.	Don't expect to speak for longer than 3 minutes. The Chairman will ask you to draw to a close at that time even if you have not said everything you intended.

The Councillors who make up the Committee will debate the matter after hearing from all of the public speakers. They may seek further factual information from a speaker after his presentation and public speakers should be prepared to answer questions. If Members of Committee wish to ask questions of a speaker then the Chairman will use their discretion to allow appropriate time but will take reasonable steps to safeguard balance in time.

### 33.6 What can I speak about?

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.

DO	DON'T
<p>Do speak about relevant planning considerations which may include:-</p> <ul style="list-style-type: none"> <li>• Previous decisions of the Council on the same site or similar;</li> <li>• Design, appearance, layout;</li> <li>• Effects on amenity, loss of light, overshadowing, loss of privacy, noise or smell nuisance;</li> <li>• Impact on trees;</li> <li>• Listed buildings and heritage matters;</li> <li>• Highway safety;</li> <li>• Planning policy;</li> <li>• Case law.</li> </ul>	<p>Don't speak about things which are irrelevant to planning which may include:-</p> <ul style="list-style-type: none"> <li>• Effect on property values;</li> <li>• Loss of view;</li> <li>• Covenants;</li> <li>• Motivation behind an application;</li> <li>• Matters covered by other legislation.</li> </ul>
Do be aware that in the interests of transparency the meeting may be publicly recorded or filmed.	Don't say anything defamatory, insulting or make personal comments about other people or parties involved in the application.

DO	DON'T
Do discuss photographs or drawings you would like to circulate with the planning case officer in advance so that he can liaise with the Chairman and clarify whether you are likely to be allowed to do this. The case officer may be able to include details or photographs in their own presentation which you can refer to.	Don't expect to circulate your own photographs or drawings. This will only be allowed exceptionally by the Chairman if he considers it will help clarify the committees understanding of the application.
	Don't expect to upload photographs onto the Councils' IT system.
	Don't 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.

The Councillors who make up the Committee debate the matter, and may request further information or advice from the Planning Officer, before coming to a decision.

Note: - References to Planning Committee will mean Planning Committee at Babergh District Council and Development Control Committee at Mid Suffolk District Council unless the context indicates otherwise. At Mid Suffolk District Council the principles applicable to Development Control Committee shall also apply at Planning Referrals Committee.

### 34. RIGHTS TO RECORD MEETINGS (ie the proceedings at a meeting)

- 34.1 The public may record (eg film, audio, tweet, blog) meeting which are open to the public.
- 34.2 The Chair of the meeting has the discretion to stop or suspend recordings 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-siting 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 recording (eg film, audio, tweet, blog) you must not do so in a manner which constitutes an invasion of privacy.
- 34.3 Those recording meetings are strongly urged to respect the wish of any member of the public not to be recorded.

- 34.4 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.
- 34.5 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.
- 34.6 The Council has a protocol in place in respect of recording at meetings which is available on the Council's website.

DRAFT



## ACCESS TO INFORMATION PROCEDURE RULES

### 1. SCOPE

These rules apply to all meetings of the Council, its Committee and Sub-Committees (together called meetings).

### 2. ADDITIONAL RIGHTS TO INFORMATION

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

### 3. RIGHTS TO ATTEND MEETINGS

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

### 4. NOTICES OF MEETING

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 131 High Street, Needham Market, Ipswich IP6 8DL (the designated office).

### 5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

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

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**

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 his/her opinion:

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

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

### **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**

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)
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)

Category	Condition – see notes below
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**

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## **12. SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **12.1 Rights to copies**

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

### **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 MEMBERS**

### **13.1 Material relating to previous business**

All Members will be entitled to inspect any document which is in the possession or under the control of the Executive Committee 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 Member are additional to any other right he/she may have.

## **BUDGET & POLICY FRAMEWORK**

1. The framework for decision-making
  - 1.1 The Council will be responsible for the adoption of a budget and 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 Executive Committee to implement it.
  - 1.2 Decisions by the Executive Committee and other Committees must be in line with it. The Management Board, Heads of Service and staff with delegated authority 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 Executive Committee 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 Executive Committee.

## **SCRUTINY PROCEDURE RULES**

1. The Council will have the Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time.

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 Members as a focused control mechanism in this time of change and increased risk of governance failure. The Standards Committee function is already provided through a joint Committee, however the oversight of the delivery of this function sits with this 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 Members, thus ensuring a comprehensive and unified approach for both Members and officers.

- b) Joint Scrutiny Committee

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

Scrutiny ensures that executives 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.

## SCRUTINY

The key purpose of the Scrutiny Committee is to:-

- (a) scrutinise the work of external stakeholders and service providers
- (b) hold Executive to account
- (c) be the home of call – in (see below)
- (d) be the home of Councillor call for action (see below)

To ensure that actions of the Executive Committee accord with the relevant policies and budget of the Council.

- (i) To review relevant decisions of the Executive Committee referred pursuant to the "Call-in Protocol" (set out below) whereupon the Committee may either –
  - (a) confirm or accept the decision of the Executive Committee which may then be implemented forthwith, or
  - (b) refer the matter back to the Executive Committee for further consideration, or
  - (c) refer the matter to Council for a final determination, or for referral back to the Executive Committee, 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 Executive Committee in accordance with (i) (b) above, and the Executive Committee does not accept the recommendations of the Scrutiny Committee, then in these circumstances the original decision of Executive Committee, together with the report and recommendations of Scrutiny Committee shall be referred to Council for consideration and Executive Committee cannot implement its original decision until Council has determined the matter.
- (iii) In undertaking such a review of any decision, the Scrutiny Committee may question Members of the Executive Committee and the Chief Executive, Directors and Heads of Service 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.



## GENERAL

To prepare an Annual Work Programme and to submit to the Council an Annual Report on the Committee's work which shall include suggestions for future Work Programmes and amended working methods as appropriate.

### WHO MAY SIT ON A SCRUTINY COMMITTEE?

All Councillors, except the Members of Executive Committee, may be Members of a Scrutiny Committee. No Member may be involved in scrutinising a decision in which he/she has been directly involved.

Non-Elected Members could be representatives of other local authorities, emergency services, voluntary groups, health providers, social landlords.

### NON-ELECTED MEMBERS

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.

### WORK PROGRAMME

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.

### AGENDA ITEMS

- 11.1 Any Member of a Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Strategic Director (Corporate) that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the Agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Strategic Director (Corporate) will ensure that it is included on the next available Agenda.
- 11.2 Any Member of the Council who is not a Member of the Scrutiny Committees may give written notice to the Strategic Director (Corporate) that he/she wishes an item to be included on the Agenda of the relevant Scrutiny Committee. If the Strategic Director (Corporate) receives such a notification, then he/she will include the item on the first available Agenda of the relevant Scrutiny Committee for consideration by the Committee.
- 11.3 The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and, if it considers it appropriate, Executive Committee 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 Executive Committee. Executive Committee and Council shall consider the report of a Scrutiny Committee within one month of receiving it.



## REPORTS FROM SCRUTINY COMMITTEES

- (a) Once it has formed recommendations, the Scrutiny Committee will prepare a formal report and submit it to the Strategic Director (Corporate) for consideration by Executive Committee (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 Executive Committee as appropriate, then not more than one minority report may be prepared and submitted for consideration to the Council or Executive Committee with the majority report.
- (c) The Council or the Executive Committee shall consider the report of the Scrutiny Committee within two months of it being submitted to the Strategic Director (Corporate).

## 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 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive Committee and Scrutiny Committees as appropriate depending on the particular matter under consideration.

## 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 Executive Committee, the Head of Paid Service, and any Director or Head of Service to attend before it to explain in relation to matters within their remit:-
  - (i) any particular decision of the Executive Committee 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 Member or Officer is required to attend a Scrutiny Committee under this provision, the Chairman of that Committee will inform the Strategic Director (Corporate). The Strategic Director (Corporate) shall inform the Member or Officer in writing giving at least five working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, (for example illness) the Member or Officer is unable to attend on the required date, and it is not appropriate for another person to substitute then the Scrutiny Committee shall, in consultation with the Member 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.

## **ATTENDANCE BY OTHERS**

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 Members and Officers in other parts of the public sector and shall invite such people to attend, and these attendances of course are entirely optional.

## **CALL-IN**

Call-in should only be used in exceptional circumstances. These are where Members of the Scrutiny Committees consider that one or more of the circumstances set out in Protocol 2 apply.

- (a) When a decision is made by the Executive Committee, 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 Members 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 four Members (but not the Chairman of a Scrutiny Committee or a member of Executive) may request that a decision of the Executive Committee be called-in for scrutiny by the appropriate Scrutiny Committee. The request shall be submitted to the Strategic Director (Corporate) in the prescribed form set out in Protocol 1 in hard copy form, by fax or by email.

- (d) Upon receipt of a call-in request, the Strategic Director (Corporate) shall consult with the Monitoring Officer and the Chairmen of Scrutiny Committees to decide which would be the most appropriate Scrutiny Committee to consider the call-in having regard to the terms of reference of each Committee.
- (e) The Chairman of the appropriate Scrutiny Committee, determined in accordance with (d) above, shall consider the validity of a call-in request in consultation with the Strategic Director (Corporate) and the Monitoring Officer. Thereafter, if so requested by the Chairman, the Strategic Director (Corporate Services) shall call-in the decision for scrutiny by the appropriate Scrutiny Committee and shall then notify the decision-maker of the call-in.
- (f) The Strategic Director (Corporate) shall call a meeting of the Committee on such a date as he/she may determine, where possible after consultation with the Chairman (or Vice Chairman in his or her absence) of the Committee, such meeting to be held as soon as practicable.
- (g) Any Member named on the call-in request may attend and speak at the meeting of the Scrutiny Committee at which the call-in is considered.
- (h) If having considered the decision, the Scrutiny Committee is still concerned about it, then it may either:-
  - (i) refer it back to the Executive Committee for reconsideration, or
  - (ii) refer it to Council for a final determination, or for referral back to Executive Committee as provided in (k) below, or
  - (iii) defer the matter to a future meeting for further information.in each case setting out in writing the nature of its concerns.
- (i) If referred to Executive Committee, that Committee shall then reconsider as soon as practicable. If Executive Committee does not accept the recommendations of the Scrutiny Committee the issue shall be referred to Council for consideration. If Executive Committee accepts the recommendations of the Scrutiny Committee, it may adopt the amended decision.
- (j) If following the setting up of the meeting for consideration of the call-in request the Scrutiny Committee does not meet on the date specified by the Strategic Director (Corporate), 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 Strategy Committee, or refer it to Council the decision shall take effect on the date of the Scrutiny Committee meeting.
- (k) If the matter was referred to full Council under (h) (ii) above or in circumstances where the Executive Committee did not accept the recommendations of the 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 either make a final determination on the matter or refer any decision to which it objects back to the Executive Committee, together with the Council's views on the decision. The Executive Committee 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.

- (l) If the Council does not meet, or if it does but does not refer the decision back to Executive Committee, 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.

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

## **PROCEDURE ON CALL-INS**

- 11.4 The end of the call-in period will normally be 5.00 p.m. on the fifth working day after the publication of the Executive Committee decision. The Strategic Director (Corporate) will be responsible for informing the Chairman of the Executive Committee, the Chief Executive, Directors/Heads of Service of any item that has been called-in.
- 11.5 Officers need to bear in mind that if a call-in is registered, then the Executive Committee decision cannot be actioned until finally dealt with. Only work that can be undertaken without presuming the ultimate decision can be undertaken.
- 11.6 The item called in will require the following papers:-
  - (a) the report that was presented to the Strategy Committee;
  - (b) the relevant extract of the Executive Committee Minutes;
  - (c) any supplementary report, either updating figures and information which was supplied orally to the Executive Committee or giving further updated information available to the Executive Committee, or both.
- 11.7 Members who have exercised call-in can withdraw their request at any time before the meeting either individually or "en bloc".
- 11.8 Officers may be approached for information before the Scrutiny Committee and they are referred to the Member/Officer protocol to deal with any such issues. Generally any information which is necessary for the Member's understanding of the item coming to 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 Executive Committee, Scrutiny Committee and Members who have called-in the item.

11.9 At the meeting, the 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 Executive Committee 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, and with regard to the hearing of that evidence, the following will be the usual order of appearance:-

- (a) The author of the call-in report notifies Members of the Scrutiny Committee of the updated position.
- (b) The "call-in" Members (one or all) make a presentation of their reasons for call-in.
- (c) Members of the Scrutiny Committee may question them.
- (d) The Chairman of the Executive Committee (or his or her nominated representative) explains why the decision was made.
- (e) Members of the Scrutiny Committee may question him/her.
- (f) Any other contributions from representatives from outside the Council.
- (g) Members of the Scrutiny Committee may question him/her.
- (h) The author of the report presents his/her papers with or without comments. The Officer is not expected to make a further presentation.
- (i) Members of the Scrutiny Committee may question him/her.
- (j) Member of the Executive Committee (as in (d) above) to respond.
- (k) Discussion takes place.
- (l) There will be a vote giving the reason for the Scrutiny Committee's decision (if the Executive Committee Member has indicated that he/she is prepared to take the matter back to the Committee that will be noted and referred to together with the reason).
- (m) The Chairman of the 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.

## **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 Chairman of Scrutiny Committee.

## **CONSIDERING EVIDENCE**

A Member of the Scrutiny Committee should participate in the determination and voting on a matter that has been called-in, only if he or she has been present during the Committee's consideration of the item.

## **EXCEPTIONS**

In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:-

That each Scrutiny Committee may only call-in ten decisions per year (save that Council may decide at any time to increase the number of call-ins each year as provided for in Article 4 of this Constitution);

## **CALL-IN AND URGENCY**

The call-in procedure set out above shall not apply where the decision being taken by the Executive Committee is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public'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 Chairman 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 Chairman the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her 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.

## **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 5 of this Constitution. The operation of CCfA will be in full compliance of the Protocol.

## **PROCEDURE FOR SCRUTINY COMMITTEE MEETINGS**

- (a) 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 Executive Committee to reports of the Scrutiny Committee; and
  - (iv) The business otherwise set out on the Agenda for the meeting.
- (b) Where the 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 he or she may nominate another Member or Officer who is able to speak on the topic to attend.
- (b) Anyone asked to speak to a Scrutiny Committee shall be entitled to see the Terms of Reference of the particular matter under consideration by the Scrutiny Committee before attending to speak.
- (c) Anyone asked to speak to a Scrutiny Committee shall be entitled to see the public papers which have been made available to the Scrutiny Committee and wherever possible on the same timescale for a Member of the Scrutiny Committee.
- (d) Anyone asked to speak to a Scrutiny Committee shall wherever possible be given access to statements submitted by people from whom the Scrutiny Committee has already heard but not those who have not yet given evidence. The Chairman and Members of the Scrutiny Committees shall have a discretion to disclose other papers, including statements submitted by following speakers and confidential (exempt) material, if he or she considers that will help the speakers to address a particular point or will otherwise assist the 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 Scrutiny Committee.

- (f) Speakers may submit papers in advance to the 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 Scrutiny Committee, but shall expect to make available any such notes to the Committee on the request of the Chairman.
- (h) Papers submitted by speakers shall become public documents once they have presented their evidence and shall be cited as background papers to the Scrutiny Committee's published report unless they contain exempt information.
- (i) Scrutiny Committee Members may expect to ask searching questions but will always behave in a polite and respectful way to anyone contributing to Scrutiny Committee's proceedings.
- (j) The speaker shall have at least five minutes to contribute evidence or a longer period as the Chairman of a Scrutiny Committee may specify. If someone making such a contribution exceeds the time limit given the Chairman may stop him or her. The Chairman may also structure a discussion and limit the time allowed for questioning by Members of the 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 Scrutiny Committee.
- (l) 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 Executive Committee and/or Council as appropriate and shall make its report and findings public.

## DOCUMENTATION

A 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.



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 Scrutiny Committee examination without the permission of the Scrutiny Committee.

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 Scrutiny Committee's request.

**PROTOCOL 1**

Attn: **Strategic Director (Corporate)**

**BABERGH DISTRICT COUNCIL**

**REQUEST FOR CALL-IN**

**Dated** .....

We would like to call in the decision as detailed below:

Decision making body or individual Date decision made

What decision do you want the Scrutiny Committee to consider

Reason for calling in the decision *(continue on separate sheet if necessary)*

Desired Witnesses

Members calling in the decision\*

1 Signed .....

2 Signed .....

3 Signed .....

4 Signed .....

\*NB1 Call-in can be requested by any four Members excluding the Chairmen of the Joint Scrutiny Committees and Executive Committee Members.

\*NB2 The Call-in request can be submitted by fax, email or paper copy.

## PROTOCOL 2

### BABERGH DISTRICT COUNCIL

#### PROTOCOL FOR USE OF CALL-IN PROCEDURE

Issues can be investigated in depth (in which case an Assessment Sheet should be drawn up as a first step), or be looked at over one meeting, or be for information only.

Members of the Scrutiny Committees also have the right to challenge an Executive Committee decision before it is implemented and ask Executive Committee or Council to reconsider, through the call-in procedure.

Set out below are the criteria against which the Council expects any request for call-in to be judged.

Members should refer to the Scrutiny Procedure Rules referred to in Part 4 of the Constitution, with particular reference to Paragraphs 1a.

The Council does **NOT** expect Members to call in an Executive Committee decision **UNLESS** one or more of the following circumstances applies –

- there is reasonable concern over the lawfulness of the decision;
- the decision appears to be contrary to the Budget or one of the policy framework plans or strategies;
- the decision appears to be inconsistent with any other policy approved by Council or the Executive Committee;
- the decision appears to be inconsistent with recommendations previously made by a Scrutiny Committee and accepted by Council or the Executive Committee;
- the Executive Committee has overlooked some relevant and material consideration in arriving at its decision;
- the Executive Committee appears to have acted unreasonably in failing to consult relevant stakeholders on some relevant and material issue before arriving at its decision;
- the Executive Committee has not taken its decision in accordance with the decision making principles set out in Article 11 of the Constitution; or
- the Executive Committee has taken a decision outside its Terms of Reference as set out in the Responsibilities for Functions in Part Three of the Constitution.

In addition, the Council expects Members to satisfy themselves, before deciding to call in a particular Executive Committee decision that the delay which will ensue, as a consequence of calling in the decision in question, is unlikely to cause prejudice to the interests of the Council or third parties.

**SCRUTINY COMMITTEE**

**ASSESSMENT SHEET FOR REVIEWS**

<b>What is to be reviewed?</b>	
<b>Why?</b>	
<b>What benefits are expected?</b>	
<b>What needs to be examined and asked?</b>	
<b>Documents/evidence/research</b>  <i>What?</i>  <i>Why?</i>	<b>Questions to be asked</b>
<b>Site visits</b>  <i>Where?</i>  <i>Why?</i>	<b>Questions to be asked</b>
<b>Consultation</b>  <i>Who/what?</i>  <i>Why?</i>	<b>Questions to be asked</b>
<b>Witnesses</b>  <i>Who?</i>  <i>Why?</i>	<b>Questions to be asked</b>
<b>What resources will be needed for the review?</b>	
<b>Over what period should it be carried out?</b>	Start  Complete
<b>Who will be the lead officer?</b>	

## PICK ANALYSIS

In developing its annual work programme, Scrutiny Committees should be clear about the reasons for selecting particular issues and what they are seeking to achieve.

The list of topics and issues for the work programme can be a very long one if not careful. PICK can be used to prioritise the types of issues to choose. PICK stands for:

- P Public Interest
- I Impact
- C Council Performance
- K Keep it Context

### **P for Public Interest**

Councillors are the eyes and ears of the public, ensuring that the policies, practices and services delivered by both Mid Suffolk District Council and external organizations, are meeting local needs and to an acceptable standard. The concerns of local people should therefore influence the issues chosen for scrutiny.

### **I for Impact**

Scrutiny is about making a difference to the social, economic and environmental well-being of the area. Not all issues of concern will have equal impact on the well-being of the community. This should be considered when deciding the work programme, and priority be given to those issues that have more impact.

### **C for Council Performance**

Scrutiny is about improving performance and ensuring the people of Mid Suffolk are served well. Councillors will need good quality information to identify areas of poor performance both within the Council and externally. There are no shortage of Performance Indicators available in the public service arena, both national and local, although the quality and relevance will vary. There is a need to select the most relevant performance indicators and to seek an interpretation of results.

### **K for Keep it in Context**

To avoid duplication or wasted effort priorities should take account of what else is happening in the areas being considered. Is there a Best Value Review happening or planned? Is the service about to be inspected by an external body? Are there major legislative or policy initiatives already resulting in change? If these circumstances exist councillors may decide to link up with other processes (e.g. Best Value Review) or defer a decision until the outcomes are known or conclude that the other processes will address the issues.

## PICK CHECKLIST

More “ticks” across all four categories indicates that the topic is more suitable for in depth review.

<p>Public Interest</p> <ul style="list-style-type: none"> <li>• There is evidence of significant public interest in this topic</li> <li>• It is a “high profile” topic for specific local communities or communities of interest</li> <li>• This is an area where we received a lot of complaints and / or bad press</li> <li>• The review will need to include participatory events and opportunities for local people and / or organizations to have their say</li> <li>• Substantial survey or research work is required</li> </ul>
<p>Impact</p> <ul style="list-style-type: none"> <li>• This review will have a significant impact on the “well being” of Mid Suffolk</li> <li>• A local community or community of interest have much to gain or lose</li> <li>• Work is needed to develop the routes to influencing change (e.g. with partners)</li> <li>• This could make a big difference to the way services are delivered</li> <li>• This could make a big difference to the way resources are used</li> </ul>
<p>Council Performance</p> <ul style="list-style-type: none"> <li>• The Council and / or other organizations are not performing well in this area</li> <li>• We do not understand why our performance differs from others</li> <li>• We are performing well but spending too much money in this area</li> <li>• There are few local or national performance measures / targets for this service</li> <li>• This service is fundamental to the achievement of Council objective(s)</li> </ul>
<p>Keep it in Context</p> <ul style="list-style-type: none"> <li>• This service will not be part of a BV Review or external inspection in the next 2 years</li> <li>• This service will be reviewed or inspected soon but Scrutiny can make a positive contribution by focusing on key areas of interest and making recommendations</li> <li>• This service has not been recently reviewed or inspected</li> <li>• There are no current major changes to service that reduce or pre-empt the value of review</li> <li>• Service changes are planned and Scrutiny can positively influence change</li> </ul>

## PROTOCOL 3

### MID SUFFOLK 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 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 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 him/her 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.
- 1.1.4 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 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 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 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 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 members, 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 Scrutiny Committee as a “Councillor Call for Action”. To do this the councillor should complete and submit to the Strategic Director (Corporate) 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 (Corporate). 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 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 Scrutiny Committee needs to be aware.
- 5.2 The Strategic Director (Corporate) will receive the referral form, log it to track its progress, and, after consultation with the Solicitor to the Council, 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 Scrutiny Committee. A decision that a matter is excluded pursuant to paragraph 3.1.4 above will only be taken by the Strategic Director (Corporate) in consultation with the Chairman of the relevant Scrutiny Committee.
- 5.3 The Strategic Director (Corporate) will inform the Chairman of the relevant 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 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 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 Member's ward?

- 6.3 In considering the CCfA, the 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 Executive Committee 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 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 Executive Committee or full Council being made, an item will be placed on the agenda for the next Executive Committee or Council, 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 Scrutiny Committee to consider a Councillor Call for Action in their ward.

<b>Councillor</b>
-------------------

<b>The ward you represent:</b>
--------------------------------

<b>Title of your Councillor Call for Action:</b>
--

<b>Date of Submission:</b>
----------------------------

Have you approached the Scrutiny Committee on the same issue in the past six months?
Yes    No <input type="checkbox"/> <input type="checkbox"/>

<b>Why you think the issue should be looked at by the Scrutiny Committee:</b>
---

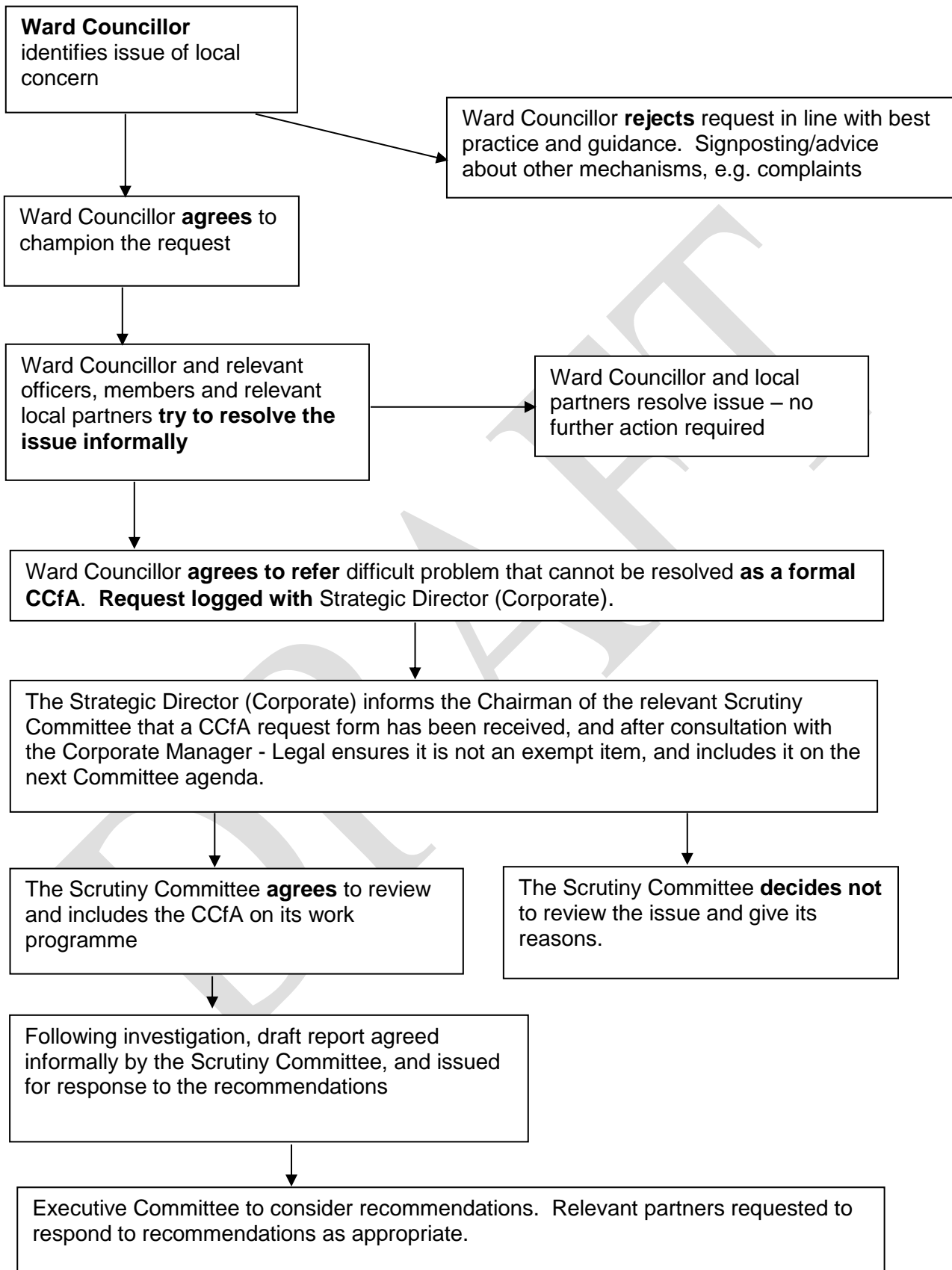
<b>Please give a brief synopsis of the main areas of concern:</b>
---

<b>What evidence do you have in support of your CCfA:</b>
<b>Which areas or community groups are affected by the CCfA:</b>
<b>How have you tried to resolve the issue:</b>
<b>Is the CCfA currently the subject of legal action by any party (to your knowledge) or being examined by a formal complaints process?</b>
<b>Are there any deadlines associated with the CCfA of which the Scrutiny Committee needs to be aware:</b>

**Please complete and return the form to:**

Strategic Director (Corporate)  
Council Offices  
High Street  
Needham Market  
IPSWICH  
IP6 8DL

## 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 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 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 Chairman of the 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 member 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.

## **FINANCIAL REGULATIONS AND PROCEDURES**

### **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 They ensure that the Council has sound financial management policies in place and that they are strictly adhered to, with financial procedures and additional guidance issued by officers to support them.
- 1.3 The regulations also provide clarity about the financial responsibilities and accountabilities of, Members, the Chief Executive, the Monitoring Officer, the Chief Financial Officer (CFO), other officers. Each regulation sets out the key underlying principles in relation to these.
- 1.4 In addition, they provide the framework for managing the Council’s financial affairs. They apply to every Member and officer of the Authority and anyone acting on its behalf.
- 1.5 All Members 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.
- 1.6 The CFO is responsible for reviewing these financial regulations and submitting any additions or changes to Members for approval. The CFO is also responsible for reporting, where appropriate, breaches of the Regulations to the Council and/or to the Executive Committee.
- 1.7 The CFO is also responsible for providing advice to underpin the financial regulations that Members, officers and others acting on behalf of the authority are required to follow.
- 1.8 Heads of Service are responsible for ensuring that all staff in their service are aware of the existence and content of the authority’s financial regulations and associated procedures/guidance that is issued and that they comply with them.
- 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 CFO shall determine any matter on which conflict may arise.
- 1.11 Failure to observe these Regulations may be classified as misconduct justifying disciplinary action.

## 2. Financial Procedures

The following matters, relating to the operational detail, are covered in financial procedures guidance issued to officers by the Chief Financial Officer (Section 151 Officer):

- 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.

### NOTE

The term “Chief Financial Officer (CFO)” refers to the post holder who, under section 151 of the Local Government Act 1972, is nominated by the Council as being responsible for its financial affairs.

## **A: FINANCIAL MANAGEMENT**

### **INTRODUCTION**

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

### **THE COUNCIL**

A.2 The Council is responsible for approving the policy framework and budget within which the Executive 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. The Council has a statutory responsibility for setting the Council Tax, determining borrowing limits and considering reports by the CFO (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.

### **EXECUTIVE COMMITTEE**

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

### **SCRUTINY COMMITTEES**

A.5 These are responsible for scrutinising Executive Committee decisions before or after they have been implemented and for holding the Executive to account. Scrutiny Committees are also responsible for reviewing the general policy and service delivery of the authority.

### **AUDIT AND STANDARDS COMMITTEES**

A.6 These are responsible for monitoring financial arrangements and the Treasury Management Strategy, consider the effectiveness of risk management and fraud prevention arrangements and receiving external and internal audit reports.

### **CHIEF FINANCIAL OFFICER**

A.7 The CFO is responsible for advising the Executive Committee 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 total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase more than the reported amount.

A.8 The CFO has clearly defined statutory duties in relation to the financial administration and stewardship of the authority. 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 Accounts and Audit Regulations 2003
- Local Government Act 2003.

A.9 The CFO is responsible for:

- the proper administration of the authority'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 the revenue budget and capital programme
- treasury management.

A.10 Section 114 of the Local Government Finance Act 1988 requires the CFO to report to the full Council, Executive Committee and 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 of deficiency to the authority
- is about to make an unlawful entry in the Council's accounts.

A.11 Section 114 of the 1988 Act also requires:

- The CFO to ensure cover is arranged in the event of absence or sickness
- The Council to provide the CFO with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

## **MANAGEMENT BOARD AND HEADS OF SERVICE**

A.12 These are responsible for:

- Ensuring that Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the CFO.
- Signing contracts in relation to their specific areas on behalf of the authority in accordance with the Procurement Scheme of Delegation.

- A.13 It is the responsibility of Management Board and Heads of Services to consult with the CFO and seek approval on any matter liable to affect the authority's finances materially, before any commitments are incurred.

#### **CORPORATE MANAGERS**

- A.14 Corporate Managers have responsibility for managing and monitoring budgets, under the guidance and direction of Heads of Service.

#### **BUDGET MANAGEMENT, MONITORING AND CONTROL**

- A.15 The CFO 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 CFO will report to the Executive Committee on the overall position and variances compared to the Budget on a regular basis.

- A.16 It is responsibility of the Head of Service and Corporate Managers to control income and expenditure within their area and to monitor performance, taking account financial information and advice provided. They should take any action necessary to avoid exceeding their budgets and alert the CFO to any problems as soon as possible.

#### **BUDGET VIREMENT (TRANSFERS)**

- A.17 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.18 Management Board, Heads of Service and Corporate Managers are responsible for agreeing in-year virements within these limits, in consultation with the CFO where required.

#### **YEAR-END BUDGET CARRY FORWARDS**

- A.19 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.20 The CFO is responsible for selecting and reviewing accounting policies and ensuring that they are applied consistently.

#### **ACCOUNTING RECORDS AND RETURNS**

- A.21 The CFO is responsible for determining the accounting procedures and records that are required for the Council.

#### **THE ANNUAL STATEMENT OF ACCOUNTS**

- A.22 The CFO 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 Audit Committee is responsible for approving the annual Statement of Accounts.



## **B: FINANCIAL PLANNING**

### **INTRODUCTION**

B.1 The Council is responsible for agreeing the Council's policy framework and budget, which will be proposed by the Executive Committee. 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

B.2 The Executive Committee is responsible for 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.

B.3 The Executive Committee is also responsible for 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.

### **MANAGEMENT BOARD AND HEADS OF SERVICE**

B.4 These 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 CFO) to Members.

### **CORPORATE MANAGERS**

B.5 Corporate Managers contribute towards the financial planning arrangements and ensure that Operational Delivery Teams operate within guidelines that are issued.

### **BUDGET AND CAPITAL PROGRAMME**

#### **FORMAT**

B.6 The Executive Committee, on the advice of the CFO, will approve the general format of the budget. This will include allocation of resources, proposed changes to charges for services and proposed taxation/council house rent levels.



### **PREPARATION**

- B.7 The CFO 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 the Executive Committee before submission of Council. The MTFS will be reviewed annually.
- B.8 It is the responsibility of Management Board and Heads of Service 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 the Executive Committee and CFO.
- B.9 Heads of Service and Corporate Managers are responsible for ensuring that budgets and capital programme are based upon reliable estimates and are prepared in accordance with guidance issued by the CFO.

### **RESOURCE ALLOCATION**

- B.10 The CFO (in conjunction with Management Board and Heads of Service) is responsible for developing, maintaining and reviewing a resource allocation process that ensures it reflects the policy framework.

### **GUIDELINES**

- B.11 Guidelines on budget and capital programme preparation are issued by the CFO. 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.12 It is the responsibility of the CFO to advise the Executive Committee and/or the full Council on the robustness of estimates and adequacy of reserves.
- B.13 The principles of reserves detailed in the MTFS/Annual Budget will be followed.

## **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 business and operational risks to the Council.
- C.2 The Accounts and Audit Regulations 2011 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 Management Board, Heads of Service and Corporate Managers 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 CFO (was the Committee) is responsible for ensuring that proper insurance exists where appropriate.

### **RISK MANAGEMENT**

- C.5 The Council is committed to establishing an effective risk management framework and culture to enable management at all levels to deliver their objectives in the light of those risks.
- 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 Integrated Significant Business Risk Register.
- C.7 The Joint Audit and Standards Committee is responsible for approving the Council's risk management strategy and reviewing and monitoring the arrangements for managing risk.

### **INTERNAL CONTROL**

- C.8 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.9 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.10 It is the responsibility of Heads of Service and Corporate Managers 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.11 The basic duties of the external auditor are governed by Section 5 of the Audit Commission Act 1998. The Accounts and Audit Regulations require every local authority to maintain an adequate and effective internal audit. The CFO is responsible for ensuring that this is achieved.
- C.12 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.13 This scope will extend to systems or services provided wholly by, or in conjunction with other organisations, including partnership arrangements.
- C.14 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies including HM Revenues and Customs, who have statutory rights of access. It is the responsibility of Management Board, Heads of Service and all officers to co-operate and provide such information as require by those bodies.

### **PREVENTING FRAUD AND CORRUPTION**

- C.15 The Corporate Manager – Internal Audit is responsible for:
- the development and maintenance of a Prevention of Financial Crime Policy and ensuring that Members 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.16 All Members of staff 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.17 The Corporate Manager – Internal Audit for ensuring that proper procedures are in place to combat the possibility of the authority being used for money laundering purposes.

### **ASSETS**

- C.18 Heads of Service and Corporate Managers 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.19 The Chief Executive is responsible for determining overall staffing establishments and requirements. The Executive Committee will consider changes to these within the overall policy and budget framework.
- C.20 Management Board are responsible for controlling total staff numbers in conjunction with Heads of Service.
- C.21 The Strategic Director (Corporate) 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.22 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.23 The Council has adopted CIPFA's *Code of Practice for Treasury Management in Local Authorities*, the code includes a 'Treasury Management Policy Statement'. The CFO is responsible for implementing and monitoring the statement and will advise the Executive Committee 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.24 The CFO is responsible for submitting to the Executive Committee/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.25 The CFO is responsible for reporting to the Executive Committee any significant variations to the approved strategy during the year.
- C.26 All executive decisions on borrowing, investment or financing shall be delegated to the CFO, 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 financial systems and procedures are essential to an effective framework of accountability and control.

### **GENERAL**

- D.2 The CFO 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 Management Board, Heads of Service and Corporate Managers have responsibility to ensure adherence to these.
- D.4 Any changes made by Heads of Service or Corporate Managers to the existing financial systems or the establishment of new systems must be approved by the CFO. Heads of Service are responsible for the proper operation of financial processes in their own areas.
- D.5 Any changes to agreed procedures by Heads of Service or Corporate Managers to meet their own specific service needs are to be agreed with the CFO.
- D.6 Heads of Service and Corporate Managers 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 CFO.
- D.8 It is the responsibility of Heads of Service and Corporate Managers 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 Executive Committee 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 Committee, within limits as agreed by that Committee.

### **PAYMENTS**

- D.10 The CFO is responsible for arrangement relating to all payments (no suppliers, contractors, employees and Members).

### **TAXATION**

- D.11 The CFO is responsible for advising Heads of Service, 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 CFO is responsible for maintaining the authority'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 CFO 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 and environmental well-being of its area.

### **PARTNERSHIPS**

- E.2 The Executive Committee 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 Executive Committee can delegate functions – including those relating to partnerships – to officers. Where functions are delegated, the Executive Committee remains accountable for them to the full Council.
- E.4 The Chief Executive or other senior officers represent the authority on partnership and external bodies.
- E.5 Heads of Service and Corporate Managers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.
- E.6 The CFO ensures that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory.

### **EXTERNAL FUNDING**

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

## CONTRACT STANDING ORDERS

(updated October 2015)

### 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:
- furthers 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 should 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 should be applied to all of the Council's commissioning and procurement 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 Councils where the Councils control 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 Councils and there is no direct private capital participation in the subsidiary.
  - The Councils collaborate 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 Councils' have 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 Councils obtain 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 Councils.
- The sale or purchase of any land or buildings.
- The provision of services by Legal Counsel.
- Agreements setting out the conditions which the Councils 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.

## **2. Delegated Authority**

- 2.1 All commissioning and procurement activity by the Council should be undertaken in compliance with the Council's Procurement Scheme of Delegation which is provided in Table 1.



**Table 1 – Standard Procurement Scheme of Delegation**

<b>£ Value excl. VAT</b>	<b>Approve the Selection of Suppliers to Invite to Tender</b>	<b>Approve the award of business</b>	<b>Signing contracts of</b>	<b>Approval of Purchase orders and invoices</b>	<b>Approval of certification of completion for services and works</b>	<b>Approval of contract extensions</b>	<b>Approval of exemption to undertake a competitive sourcing</b>
<b>Up to £10k</b>	Not Applicable	Approved Officer	Approved Officer	Approved Officer	Approved Officer	Approved Officer	Corporate Manager
<b>£10k to £75k</b>	Not Applicable	Corporate Manager	Corporate Manager	Corporate Manager	Approved Officer	Corporate Manager	Corporate Manager
<b>£75k to £250k</b>	Corporate Manager	Head of Service	Councils' Monitoring Officer	Head of Service	Corporate Manager	Head of Service	Head of Service
<b>Over £250k</b>	Corporate Manager	Director and Mid Suffolk Executive and Babergh Strategy Committees for Strategic Contracts	Councils' Monitoring Officer	Director	Corporate Manager	Director	Director
<b>All values</b>	For the Best Value Exemption for to undertake a competitive sourcing process approval for all values is required by: Head of Legal and Governance and the Corporate Manager Commissioning & Procurement.						

## 2.2 Delegation of Authority to Approved Officers

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

## 2.3 Recording of Delegations

Effective records of delegations should be maintained in the Councils' Authorised Signatory List which the Councils' Section 151 Officer or his/her nominee has responsibility for the compilation of. Corporate Managers have responsibility to ensure that details of Approved Officers are maintained in the Authorised Signatory List.

## 2.4 Approval of the Award of Business of Strategic Contracts

For the purpose of approval strategic contracts are defined as:

- Over £250k in value **and**
- The goods, services or works have a significant impact upon the delivery of the Councils' services are not replacements for an existing operation.

Following the completion of the evaluation phase of procurement for a Strategic Contract approval of the award of business must be obtained from the Executive Committee or/and Strategy Committees. This approval can be delegated from the relevant Committee(s) to an Officer with the appropriate level of responsibility, however the delegation must be in place before the procurement process commences.

## 2.5 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 should be recorded in the Councils' Authorised Signatory List.

## 3. Personal Interests

3.1 Employees of the Council and Members of the Councils should give notice in writing to the Council of any pecuniary interest, direct or indirect, which he/she has in a contract entered into (or to be entered into) by the Council.

3.2 Such notification should be given to the Council's Monitoring Officer.

## 4. Management of Records

4.1 Proper records of all communications, reports, minutes, meetings, quotes, tenders, contract and other relevant documents should 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.

4.2 A record of all Contracts should be entered into the Council's Contract Register.

## **5. Principles**

5.1 The Councils are required to comply with the Fundamental Treaty Principles of the EU which should be applied to all of the Councils' commissioning and procurement, the principles are:

- Non-discrimination on the basis of nationality
- Transparency
- Equality and fairness

5.2 All of the Councils' commissioning and procurement should be undertaken in an open and fair manner which provides the same information to all suppliers and an equal opportunity to all potential suppliers.

5.3 The Councils should ensure that comparable situations are not treated differently and that different situations are not treated similarly.

5.4 The process of the Councils' commissioning and procurement and the impact of the outputs and outcomes achieved should not impact adversely upon any communities or groups within a community.

5.5 The Councils' commissioning and procurement should be undertaken with regard to the principle of proportionately. This requires that requirements placed upon suppliers should be appropriate for attaining the objective pursued and should not go beyond what is required to achieve the objectives of the procurement.

5.6 The selection of offers for goods, services or the execution of works from suppliers should be based upon achieving value for money for the Council, utilising sustainable and ethical sources of supply with minimal impact upon the environment.

5.7 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.

## **6. Sourcing Processes**

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

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

**Table 2 – Sourcing Processes**

Value of Expenditure	Where an Approved List of Suppliers is Not Used	Where an Approved List of Suppliers is Used (see Section 7)
<b>Less than £1k – All Categories</b>	Verbal or email confirmation from supplier, pricing obtained from suppliers' catalogue.	<b>Councils' Standing List</b> –as required by the procedures of the relevant Standing List.  <b>Framework Agreement</b> – as required by the procedures of the relevant Framework Agreement.
<b>£1k to £10k – All Categories</b>	At least one Informal Quote.	
<b>£10k to £30k – All Categories</b>	At least three Informal Quotes.	
<b>Goods and Services- £30k to £75k</b>	At least three Formal Quotes.	
<b>Goods and Services £75k to £172k</b>	Tender advertised nationally.	
<b>Goods and Services (apart from Light Touch Services<sup>1</sup>) over £172k</b>	Tender advertised in EU and undertaken using the formal EU Procurement Regime.	
<b>Light Touch Services £75k to £625k</b>	Tender advertised nationally.	
<b>Light Touch Services over £625k</b>	Tender advertised in EU, the formal EU Procurement Regime does not have to be applied, however the EU Treaty principles should be applied and the Contract Award should be published in OJEU.	
<b>Works £30k to £150k</b>	At least three Formal Quotes.	
<b>Works £150k to £4.3m</b>	Tender advertised nationally.	
<b>Works over £4.3m</b>	Tender advertised in EU and undertaken using the formal EU Procurement Regime.	

**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.

6.3 A Standing list of suppliers may be compiled where the business requirements of the Council require access to a number of suitably qualified suppliers for a specific category, value or quantity of goods, services or the execution of works. Invitations to quote for these categories will be limited to those suppliers whose names are included on the list compiled and maintained for that purpose. All suppliers included on a standing list should be given equal opportunities to respond to invitations to quote.

## 7. Exemptions to Undertaking a Competitive Sourcing Process

Exemptions to the requirement to undertake a competitive sourcing process should be approved in accordance with the Councils' Procurement Scheme of Delegation and can only be undertaken in the circumstances listed in Table 3.

**Table 3- Exemptions to Undertaking a Competitive Sourcing Process**

Type of Exemption	Criteria	£ Value for which this Exemption can be Applied
<b>Sole Provider</b>	<i>Where for technical or artistic reasons connected with the protection of exclusive rights only a single supplier can meet the requirements.</i>	<i>Unlimited</i>
<b>Urgency A</b>	Emergency action is required which acting diligently the Council(s) could not have foreseen and if not taken would provide an unacceptable impact upon on the delivery of the Councils' services. This exemption cannot be applied where insufficient time has been allowed to undertake the relevant procurement process.	<i>Goods and Services up to £172k</i> <i>Works up to £4.3m</i>
<b>Urgency B</b>	<i>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 Councils.</i>	<i>Unlimited</i>
<b>Additional Works or Services</b>	Where the Councils require 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 Councils 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 Councils' services, an exemption may be used. The extension cannot include a variation in the scope of the contract.	The contract can be extended to its original value once again and the total expenditure (including the value of the original contract) cannot be above: <ul style="list-style-type: none"> <li>• £172k for goods and services.</li> <li>• £625k for Light Touch Services</li> <li>• Works up to £4.3m</li> </ul>

Type of Exemption	Criteria	£ Value for which this Exemption can be Applied
<b>Best Value</b>	Where there is sufficient evidence that only one supplier is able to undertake the work 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 Councils' services, an exemption may be used. This exemption cannot be applied where insufficient time has been allowed to undertake the relevant procurement process.	£75k for Goods and all types of Services £150k for Works

## 8. Extension of Contracts

- 8.1 The term of existing contracts may only be extended if satisfactory performance has been provided from the contracted supplier and there is adequate budgetary provision.
- 8.2 Contracts may be extended for any period that was provided for in the original terms of the contract.
- 8.3 Where the Councils require a contractor to provide additional goods or carry out additional works or services due to circumstances which acting diligently the Councils 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.
- 8.4 Contracts may 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.

## 9. Purchase and Works Orders

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

## 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 him/her.
- (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 8 later).

The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or Sub-Committee of Council.

### 4. Appointment of Directors (including the Monitoring Officer and the Chief Financial Officer)

The Executive Committee or a Sub-Committee of the Executive Committee or a panel of Officers established by the Executive Committee will appoint Directors.

### 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 his/her 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.
- (c) **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 Members 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 Members in respect of dismissals.

DRAFT

**PART 4: Codes and Protocols**

**Contents**

<b>4.1 MEMBERS' CODE OF CONDUCT .....</b>	<b>160</b>
<b>4.2 CODE OF CONDUCT FOR EMPLOYEES.....</b>	<b>167</b>
<b>4.3 PROTOCOL ON MEMBER/STAFF RELATIONS .....</b>	<b>175</b>

DRAFT

## 4.1 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 1 July 2012 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.

### Preamble

The Suffolk Local Code of Conduct shall be interpreted in accordance with the following 7 principles of public life identified by the Committee on Standards in Public Life chaired by Lord Nolan:

**Selflessness** – Holders of public office should act solely in terms of the public interests. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**Integrity** – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability** – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness** – Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty** – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in any way that protects the public interest.

**Leadership** – Holders of public office should promote and support these principles by leadership and example.

**SUFFOLK LOCAL CODE OF CONDUCT APPLICABLE TO ELECTED MEMBERS AND CO-OPTES APPOINTED TO THE COUNTY, BOROUGH, DISTRICT AND PARISH COUNCILS IN SUFFOLK**

1. You must treat others with respect.
2. You must not:-
  - (1) do anything which may cause your authority to breach any of the Council's duties under the Equality Act 2010;
  - (2) bully any person;
  - (3) intimidate or attempt to intimidate any person who is or is likely to be:-
    - (a) a complainant,
    - (b) a witness, or
    - (c) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
  - (4) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
3. You must not:-
  - (1) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-
    - (a) you have the consent of a person authorised to give it;
    - (b) you are required by law to do so;
    - (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (d) the disclosure is reasonable, in the public interest, made in good faith and in compliance with the reasonable requirements of the authority; or
  - (2) prevent another person from gaining access to information to which that person is entitled by law.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

5. You:-
- (1) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (2) must, when using or authorising the use by others of the resources of your authority:-
    - (a) act in accordance with your authority's reasonable requirements;
    - (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (3) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
6. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:-
- (a) your authority's Chief Finance Officer; or
  - (b) your authority's Monitoring Officer,
- where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.
7. **Registration of Interests**
- (1) You must register within 28 days of becoming a member of the Council (and to notify the Council's Monitoring Officer of any changes within 28 days) any Disclosable Pecuniary interests you may have for publication in the Register of Members' Interests.
  - (2) You may not at any time discharge any function or participate in any Council business or discussions, or vote on any issues that relate to or concern any of your Disclosable Pecuniary Interests where you are aware that you have a relevant Disclosable Pecuniary Interest. You may not remain in the chamber or meeting room or in the public gallery when any matter that relates to any of your Disclosable Pecuniary Interests is under discussion or debate unless you have requested and obtained a written dispensation from your Council's Monitoring Officer or other arrangement in advance of the relevant meeting.
  - (3) You must register within 28 days of becoming a member of the Council and to notify your Council's Monitoring Officer of any changes within 28 days any non-statutory Local Non Pecuniary Interests set out in Appendix A to this code, but you may participate in any discussions or

debates relating or concerning any of your Local Non Pecuniary Interests after the date of registration.

- (4) You must declare any Disclosable Pecuniary Interest or Local Non Pecuniary Interest to a meeting where business is relevant to those interests, including those interests that are already registered with the Monitoring Officer or where registration is pending.
- (5) You must register, within 28 days, any gifts and hospitality received by you in accordance with the instructions issued within your Council by the Monitoring Officer.
- (6) The Council's Register of Interests will be available for inspection at the Council offices during normal office hours, and will be published on the Council's website.

## 8. Sensitive Interests

You may also apply to your Council's Monitoring Officer for non-publication of the full details of any of your Disclosable Pecuniary Interests or Local Non Pecuniary Interests where you reasonably believe that publication of the details of a particular Disclosable Pecuniary Interests or Local Non Pecuniary Interests could result in your being subjected to violence or intimidation. In considering such applications the Monitoring Officer shall have regard to any representations made by you in determining whether he or she considers the relevant Disclosable Pecuniary Interest or Local Non Pecuniary Interest should be treated as a Sensitive Interest and excluded from the published version of the Register of Members' Interests.

**Part 1**  
**Description of categories of Disclosable Pecuniary Interests**

1. Any employment, office, trade, profession or vocation carried on by you or a relevant person for profit or gain.
2. Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your 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 other than from a registered political party.
3. Any beneficial interest in securities of a body where –
  - (1) that body (to your knowledge) has a place of business or land in the area of the Council and,
  - (2) either:
    - (a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (b) the beneficial interest exceeds one hundredth of the total issued share capital of the share capital of that body, if of more than one class, the total nominal value of the shares of any one class.
4. Any contract which is made between the Council and (1) you, (2) your spouse or civil partner, (3) a person with whom you live as husband and wife, (4) a person with whom you live as if you are civil partners (or a body in which you or they have a beneficial interest) –
  - (1) under which goods or services are to be provided or works are to be executed; and
  - (2) which has not been fully discharged.
5. A beneficial interest in any land in the Council's area.
6. Any tenancy where to your knowledge (a) the landlord is the Council and (b) the tenant is a body in which you or a relevant person has a beneficial interest.
7. A licence of any land in the Council's area (alone or jointly with others) that you

or a relevant person occupy for a month or longer.

## Part 2

### Description of categories of Local Non Pecuniary Interests

1. Anybody of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
2. Anybody –
  - (1) exercising functions of a public nature;
  - (2) directed to charitable purposes; or
  - (3) 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;
3. The interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25.

### Confidential Information Protocol

1. A Protocol to support Paragraph 4(a)(iv) of the Members' Code of Conduct which allows for the disclosure of confidential information by a Member where the disclosure is reasonable, in the public interest, made in good faith and complies with the reasonable requirements of the Council.
2. **This Protocol sets out the reasonable requirements of the Council:**
  - (1) That careful consideration is given to the question of whether to make the disclosure and if the disclosure is made, the Member retains a note of the main considerations in reaching that decision.
  - (2) That the content of Committee reports, minutes or appendices that are marked as confidential items will not be disclosed without the prior written agreement of the relevant Head of Service or author of the report who will re-consider the need to retain confidentiality under the provisions relating to exempt information under Schedule 12A of the LGA 1972 and the Freedom of Information Act 2000.
  - (3) That the detail of legal or other professional advice is not disclosed without the prior written agreement of the relevant Head of Service.
  - (4) That the Council's [Whistleblowing Procedure](#) (Appendix 5) (found within the Anti-Fraud and Corruption Policy, and available on the Council's



website) together with the guidelines for reporting concerns (also on the website) are considered.

- (5) That the current Member/Officer Protocol (found in Part 5 of the Constitution) is considered.
  - (6) That the Members' Code of Conduct and associated guidance is considered.
  - (7) That the advice of the Monitoring Officer or Deputy Monitoring Officer is sought prior to disclosure of the information unless agreement has already been secured under (2) or (3) above.
3. Agreement to the disclosure of confidential information may be with or without conditions.
  4. In instances involving particularly sensitive or highly confidential information, a Member may be asked to sign a confidentiality notice before information is released to them. In such cases, it would be the Council's expectation that the information is not disclosed.

## 4.2 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, their Director or Head of Services, 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 members, 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 him/her.
- 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 his personal concern but he should not subordinate his duty to his private interests to put himself in a position where his duty and his 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."

(This quotation applies equally to women).

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 their Head of Service.
- 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 his integrity would be shaken were the least suspicion to arise that he could in any way be influenced by improper motives."

(This quotation applies equally to women).

- 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 him/her or to a member of his/her 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 Sections 1 17 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 Chairman 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.

DRAFT

## 4.3 PROTOCOL ON MEMBER/STAFF RELATIONS

---

### 1. Introduction

- 1.1 The relationship between Members and Staff is essential to the successful working of the organisation. This relationship within the authority is characterised by mutual respect, informality and trust. Members and Staff must feel free to speak to one another openly and honestly.

The purpose of this Protocol is to help Members 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 Members and Staff

- 2.1 The respective roles of Members and Staff can be summarised as follows: Members and Staff are servants of the public and they are indispensable to one another however. Their responsibilities are distinct. Members 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 Members 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 Members and Staff is essential to good local government.

#### 2.2 Members

Members 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
- (d) acting as advocates on behalf of their constituents.

It is not the role of Members to involve themselves in the day to day management of the authority's services.

## 2.3 Staff

The role of Staff is to give advice and information to Members and to implement the policies determined by the authority.

In giving such advice to Members, and in preparing and presenting reports, it is the responsibility of the Officer to express his/her own professional views and recommendations. Whilst an Officer may report the views of individual Members on an issue, if the Member wishes to express a contrary view he/she 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 Members, and Members 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 Members 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 Members 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 Members as the local representatives of the authority.

### 3.2 **Staff can expect from Members:-**

- (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. Members 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 Members 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 Members will at all times comply with the relevant Code of Conduct.

## 4. **Relations between Members and Staff**

- 4.1 Mutual respect between Members and Staff is essential to good local government. Personal relationships or close personal familiarity between individual Members and Staff can damage this relationship and prove embarrassing to other Members and Staff.
- 4.2 It is not enough to avoid actual impropriety. Members 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 Member and Officer to the Chief Executive who will treat them as confidential. The Member 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) Members need to be aware that it is easy for Staff to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold official and/or political office.
- 4.6 A Member should not pressure an Officer to do something he/she is not authorised to do and which is against his professional judgement. A Member should also not require an Officer to do something which is outside his normal duties or working hours.
- 4.7 An Officer must not seek to influence a Member 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 Member or Officer shall criticise or otherwise undermine the other at Council or other public meetings.
- 4.9 Members 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 Chairman, Vice-Chairman 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 Members or groups is questioned.
- 5.2 The Chief Executive and s151 officer are expected to work closely with the Leaders and Chairmen of the Committees and to meet regularly with them.
- 5.3 A Chairman 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 Member, 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 Chairman and Vice-Chairman in the case of the Council and other group spokesmen to discuss matters on the agenda,

answer any questions that Members have which might improve the running of the meeting and also to enable specific issues to be highlighted for which Staff and members 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 Members 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 Members, 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 Members

In the event that a Member 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. Members in their ward role

8.1 Staff should inform Members about major issues concerning the Council and more specifically about issues affecting the wards that Members 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 Members 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 Members 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 Members are required to agree to adopt and abide by the Council's Corporate Internet and E-mail Policy.

## 10. Members' access to information and Council documents

10.1 If a Member requires information or advice from a member of staff they should approach a senior member of staff. It is not usually appropriate for Members to deal directly with a junior member of staff.

10.2 Members 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 Member 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 Member 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 member. It is for the Chief Executive or Head of Service to determine whether a Members' request for information is justified and can be met from within existing resources.



10.4 Any information provided to a Member must only be used for the purpose for which it is provided and a Member must never disclose or use any confidential information.

## 11. Correspondence

11.1 Members 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 Member, for example in response to a letter of complaint sent direct so that Member, 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 Member.

11.4 Staff should consider when providing information to one Member, 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 Members provide comment and views while Staff provide factual information. If a Member 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 Member 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 Member, 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 Member or group leader.