

# CONSTITUTION OF THE COUNCIL

The Council House  
South Street  
Atherstone  
Warwickshire  
CV9 1BD

Telephone : 01827 715341  
Fax : 01827 719225

Website : [www.northwarks.gov.uk](http://www.northwarks.gov.uk)

## CONSTITUTION OF THE COUNCIL

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## **PART 1**

### **SUMMARY AND EXPLANATION**

## **PART 1 : CONTENTS**

### **SUMMARY AND EXPLANATION**

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## 1. **The Council's Constitution**

The North Warwickshire Borough Council has agreed a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure 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 15 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## 2. **What's in the Constitution?**

Article 1 of the Constitution commits the Council to provide strong democratic leadership, with local people having more opportunity to be involved and have their views taken into account, and to carry out its business to the highest standards of ethics, openness and quality. [This is a summary of the purpose of the Constitution from Article 1]. Articles 2-15 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council Meeting (Article 4)
- Chairing the Council (Article 5)
- Executive, Resources, Community and Environment, and Planning and Development Boards (Article 6)
- The Standards Committee (Article 7)
- Joint Arrangements (Article 8)
- Officers (Article 9)
- Decision Making (Article 10)
- Finance, Contracts and Legal Matters (Article 11)
- Review and Revision of the Constitution (Article 12)
- Suspension, interpretation and publication of the Constitution (Article 13).

## 3. **How the Council Operates**

The Council is composed of 35 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 to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Monitoring Officer and Standards Committee trains and advises them on the Code of Conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council also receives reports from the various Boards and can question the Chairman of the Boards about the work of those bodies.

#### **4. How Decisions are made**

Most day to day decisions are made by Policy Boards, or by Senior Officers of the Council acting under powers delegated to them by the Council. The Council has three Policy Boards – the Executive Board, which makes recommendations to the Council on preparing and setting the annual budget and on all the policies and strategies of the Council; the Resources Board, which manages all the Council's financial and property resources; and the Community and Environment Board, which deals with most of the Council's services provided directly to the public, protection of the environment and working in partnership with other organisations. The Planning and Development Board deals with planning applications and the Licensing Committee licensing matters.

Meetings of all these Boards are open to the public except where personal or confidential matters are being discussed.

#### **5. Scrutiny**

The Council has resolved under section 9JA of the Local Government Act 200 not to have a separate Scrutiny Committee given the nature of its committee system form of governance.

## 6. **The Council's Staff**

The Council has people working for it (called "Officers") to give advice, implement decisions, and manage the day to day delivery of its services. Some Officers have a specific statutory duty to ensure that the Council acts within the law and uses its resources wisely. The relationships between Officers and Members are governed by provisions in the Members' and Officers' Codes of Conduct.

## 7. **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.

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 they are registered;
- Contact their local Councillor about any matters of concern to them;
- Obtain a copy of the Constitution;
- Attend meetings of the Council and Boards and in certain circumstance speak and/or ask questions; except where for example, personal or confidential matters are being discussed;
- Petition to request a referendum on a mayoral form of executive;
- Complain or compliment the Council under the Compliments and 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 Compliments and Complaints procedure;
- Complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- Inspect the Council's accounts and make their views known to the external auditor (the District Auditor).

The Council welcomes participation by its citizens on its work. For further information about your rights as a citizen, please contact David Harris, Democratic Services Manager, on 01827 719222, or email [davidharris@northwarks.gov.uk](mailto:davidharris@northwarks.gov.uk).

A statement of the rights of citizens to inspect agendas, reports and background papers for Council or Board meetings, and to attend these meetings, is available at The Council House, South Street, Atherstone, by contacting David Harris (as above), or on the Council web-site ([www.northwarks.gov.uk](http://www.northwarks.gov.uk)). A copy is also attached at Schedule 1/1 to this Part of the Constitution (pages 8 to 11 inclusive).

## SCHEDULE 1/1 – PART 1 OF THE CONSTITUTION

### STATEMENT OF CITIZENS' RIGHTS IN RELATION TO (A) THE INSPECTION OF AGENDAS, REPORTS, MINUTES AND BACKGROUND PAPERS FOR COUNCIL, BOARDSTANDARDS COMMITTEE AND OTHER BODIES' MEETINGS; (B) ATTENDANCE AT THOSE MEETINGS; AND (C) OTHER INFORMATION

#### 1 Introduction

The rights set out in this statement are statutory rights laid down in Sections 100A to 100K (inclusive) of the Local Government Act 1972 (as amended)

This statement is freely available for inspection during normal office hours in the Democratic Services Section of the Assistant Chief Executive and Solicitor to the Council's Division at the Council House, South Street, Atherstone, Warwickshire. Copies can also be obtained, free of charge by contacting David Harris, Democratic Services Manager on 01827 719222 or by email to [davidharris@northwarks.gov.uk](mailto:davidharris@northwarks.gov.uk). Copies are also available by post from the address at the end of this statement and a copy has been posted on the Council's website: [www.northwarks.gov.uk](http://www.northwarks.gov.uk).

#### 2 Rights in relation to the Inspection of Agendas, Reports and Minutes

##### a Before the Meeting

Copies of the agenda for a meeting and reports on items which are likely to be considered in public will be available for public inspection at least five clear days before the meeting. If the meeting is called at shorter notice or if an item is added to the agenda, the document will be available from that time.

##### b At the Meeting

A reasonable number of agendas and reports will be available for the public present at a meeting.

##### c After the Meeting

Copies of the following documents will be available for public inspection for six years following a meeting:

- i the agenda;
- ii any report for an item discussed in public; and
- iii the minutes of the meeting.



### 3 **Rights in relation to Background Papers**

There is, at the end of every report discussed in public, a list of background papers (see below). Members of the public may inspect and copy any of the documents included in the list of background papers. This right exists from the date of publication of the agenda and reports and continues until 4 years after the date of the meeting. There are charges for the inspection and copying of background papers, which are:-

- i Inspection  
The fee for inspecting background papers is £2.50 for each item of business.
- ii Photocopies  
The fee for providing photocopies of background papers is 10p per side, subject to a minimum charge of 50p.

“Background Papers” are documents which have been relied on to an important degree when preparing the reports and which disclose some fact or matter on which the report is based. They do not include published works or those containing exempt or confidential information.

### 4 **Copyright**

Some documents held by the Council are subject to someone else’s copyright. This will apply, for example, to plans provided by Ordnance Survey or documents published by HM Stationery Office. Although these will generally be available for inspection, copyright law will sometimes prevent the Council from being able to supply copies to the public.

### 5 **Inspection of Documents**

Documents open to inspection can be seen in the Democratic Services Section at The Council House, South Street, Atherstone, between 8.50am and 5.15pm on Mondays to Fridays (inclusive) but excluding Bank, Public and other holidays. Some of these documents may be available on the Council’s website.

In the case of background papers, it would be advisable to make an appointment to inspect them, as they will need to be taken from the relevant Council files. This can be done by calling in to the Democratic Services Section; telephoning 01827 719450, 01827 719221 or 01827 719222; or emailing [davidharris@northwarks.gov.uk](mailto:davidharris@northwarks.gov.uk).

### 6 **Rights in relation to attendance at meetings**

Members of the public may attend meetings of the Council, its Boards, the Standards Committee, and other Bodies. There are, however, some exceptions, namely:

- a Working parties and similar meetings where Councillors meet only in an advisory capacity.
- b Non-Council meetings, which, although they may include Councillors, do not make decisions on behalf of the Council (eg school governing bodies, outside organisations).

c For “Confidential” and “Exempt Business”

The public’s right to attend or remain in meetings may be affected when certain types of business are transacted and as detailed below:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
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.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—
  - (a) the Companies Act 1985(1);
  - (b) the Friendly Societies Act 1974(2);
  - (c) the Friendly Societies Act 1992(3);.
  - (d) the Industrial and Provident Societies Acts 1965 to 1978(4);
  - (e) the Building Societies Act 1986(5); or
  - (f) the Charities Act 1993(6).
9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992(7).
10. Information which—
  - (a) falls within any of paragraphs 1 to 7 above; and .
  - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

d Disorderly Conduct or other Misbehaviour at a Meeting

Under the Council’s Procedural Standing Orders, an order may be given to remove any person who persists in interrupting the meeting or, in the case of a general disturbance, the public may be asked to leave. The public may also be excluded before or during a meeting if there is a likelihood of disorder at the meeting.

## 7 **Rights of the public attending meetings**

The public right of access is a right to be present at the meeting, listen to the proceedings and take written notes. In addition the public have a right to speak or ask questions as set out in the meeting.

The Council's own Procedural Standing Orders do allow Members of the public to record, film, photograph and broadcast the proceedings of any of these meetings. This is subject to the Council's Policy on Recording, Filming, Photographing and Broadcasting North Warwickshire Borough Council Meetings.

## 8 **Publicity for Meetings**

A calendar of scheduled meetings is displayed on the Notice Board outside the main entrance to The Council House. In addition, a public notice of each meeting will be displayed on this notice board at least 5 clear days before the meeting (or if the meeting is called at shorter notice, at the time the meeting is actually called).

The calendar of meetings and each agenda will also be displayed on the Council's website – <http://www.northwarks.gov.uk/meetings>

## 9 **Venue for Meetings**

All meetings of the Council, its Boards, the Standards Committee and other Bodies are normally held in the Civic Suite, which is on the ground floor of The Council House in South Street, Atherstone.

## 10 **Rights in relation to other information**

- a Register of Council Members, Wards, and Membership of Boards, Standards Committee and other Bodies.

This register, which is open for inspection, gives details of the names and addresses of all Members of the Council; the bodies on which they serve; and the Wards which they represent.

- b **List of Delegated Powers**

This list, which is also open for inspection, contains details of those powers which the Council has delegated to its officers together with, in each case, the title of the officer who is responsible for exercising that power. The list, by law, excludes short term delegations of less than 6 months duration.

- c **Register of Members' Interests**

The register of interests declared by Members is also available for public inspection at the Council's main offices or on the website - [https://www.northwarks.gov.uk/downloads/download/2223/borough\\_councillors\\_declaration\\_of\\_interests](https://www.northwarks.gov.uk/downloads/download/2223/borough_councillors_declaration_of_interests)

## **PART 2**

### **ARTICLES OF THE CONSTITUTION**

## **PART 2 : CONTENTS**

### **ARTICLES OF THE CONSTITUTION**

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## **ARTICLE 1 – THE CONSTITUTION**

### **1.01 Powers of the Council**

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

### **1.02 The Constitution**

This Constitution, and all its appendices, is the Constitution of North Warwickshire Borough Council.

### **1.03 Purpose of the Constitution**

The purpose of the Constitution is to:

- 1 Ensure that the Council is able to provide strong democratic leadership for the whole of the local community, in partnership with citizens, businesses and other organisations.
- 2 Enable local Councillors to be more effective in serving their local community.
- 3 Give people the opportunity to be more directly involved in local democratic processes.
- 4 Ensure that the Council is fully aware of the views of the community in its decision making, and that decisions are taken efficiently and effectively.
- 5 Seek to ensure that all Council dealings are conducted, and are acknowledged to be conducted, to high standards, in terms of ethics, openness and quality.
- 6 Position the Council and its partners to be able to act quickly and effectively to meet the challenges of an evermore complex and changing environment.
- 7 Facilitate the provision of Best Value Services by the Council.
- 8 Create a powerful and effective means of holding decision makers to public account.
- 9 Ensure that those responsible for decision making are clearly identifiable to local people, and that the reasons for decisions are apparent.

### **1.04 Review of the Constitution**

The Council will monitor and evaluate the operations of the Constitution as set out in Article 12.

## **ARTICLE 2 – MEMBERS OF THE COUNCIL**

### **2.01 Composition and Eligibility**

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

The Council will comprise 35 Members, otherwise called Councillors. Two 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.

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

Only registered voters of the Borough, those living, working or otherwise occupying land there will be eligible to hold the office of Councillor.

### **2.02 Elections and Terms of Councillors**

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. 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.

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

#### **(a) Key Roles**

All Councillors will:

- (i) Collectively be the ultimate policy makers for the Council;
- (ii) Represent their community and individuals and be a channel through which their needs are considered, addressed or met, by contributing to the development and formation of proposals and policies for services and service delivery;
- (iii) Be available to hear complaints, concerns and representations from local residents and deal with them fairly and impartially;
- (iv) Be involved in decision making;
- (v) Be available to represent the Council on other bodies; and
- (vi) Maintain the highest standards of conduct and ethics.

[Note (This note does not form part of the Constitution): Job Descriptions have been prepared for all the various roles that Councillors may perform. Anyone wishing to view these should contact David Harris, whose contact details are on page 9, or can be found in Part 8 of this Constitution.]

(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 exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.
- (iii) For these purposes, “exempt” information is defined in the Access to Information Rules in Part 4 of this Constitution.

2.04 **Conduct**

Councillors will at all times observe the Members’ Code of Conduct set out in Part 5 of this Constitution.

2.05 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution.



## **ARTICLE 3 – CITIZENS AND THE COUNCIL**

### **3.01 Citizens' Rights**

Citizens have the following rights. The 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 executive form of constitution.

#### **(b) Information**

Citizens have the right to:

- (i) Attend, and in some cases speak or ask questions at, meetings of the Council and its Boards and Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) See agendas, reports, background papers and minutes of decisions made by the Council and its Boards and Committees ; and
- (iii) Inspect the Council's accounts and make their views known to the external auditor.

#### **(c) Participation**

Citizens have the opportunity to contribute to the work of the Council, when so requested.

#### **(d) Complaints**

Citizens have the right to complain to:

- (i) The Council under its Compliments and Complaints Procedure;
- (ii) The Ombudsman after using the Council's Compliments and Complaints Procedure; and
- (iii) The Monitoring Officer about a breach of the Councillors' Code of Conduct.

### **3.02 Citizens' Responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers, including via online methods of communication. .

## ARTICLE 4 – THE FULL COUNCIL

### 4.01 Meanings

#### (a) Policy Framework

The policy framework means the following plans and strategies:

- (i) The Corporate Plan
- (ii) The approval or adoption of a plan or strategy for the control of the local authority's borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provision
- (iii) Arranging the overall finances of the Council, including the Budget. (The Resources Board will manage and monitor the Council's budget and financial situation)
- (iv) the North Warwickshire Sustainable Community Strategy,
- (v) the North Warwickshire Local Plan and related planning policy documents, save for those matters within the remit of the Planning and Development Board
- (vi) the Crime and Disorder Reduction Strategy
- (vii) Constitutional matters affecting the name, status, boundary and area of the Borough.
- (viii) The structure, functions and administration of local government as they affect the Borough
- (ix) Electoral matters, including elections, electoral registration and Warding arrangements
- (x) Proposals to confer the titles of Honorary Alderman and Honorary Freeman, under section 249 of the Local Government Act 1972
- (xi) The making or amending of a Members' allowance scheme
- (xii) Approval of arrangements for the appointment of the Chief Executive, Deputy Chief Executive, Assistant Chief Executive and Solicitor to the Council, Assistant Chief Executive (Community Services) and Assistant Directors together with their pay and conditions of service
- (xiv) such other Plans and Strategies as the Council may, from time to time, be required by statute or Government Direction to adopt or which the Council itself decides to adopt.

#### 4.02 **Functions of the Council**

Only the Council will exercise the following functions:

- (a) Adopting and changing the constitution;
- (b) Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) Agreeing and/or amending the terms of reference for Boards, the Standards Committee and other Bodies, deciding on their composition and making appointments to them;
- (d) Appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (e) Adopting an allowances scheme under Article 2.05;
- (f) Changing the name of the Borough, conferring the title of honorary alderman or freedom of the Borough;
- (g) Confirming the appointment of the Head of Paid Service,
- (h) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (i) Accepting a delegation of functions from another local authority under Article 10.04 (b) of this Constitution;
- (j) Adopting and amending the Members' and Officers' Codes of Conduct; and
- (k) All other matters which by law must be reserved to Council.

#### 4.03 **Council Meetings**

There are three types of Council meeting:

- (a) The Annual Meeting;
- (b) Ordinary meetings;
- (c) Extraordinary meetings

and they will be conducted in accordance with the Procedural Standing Orders in Part 4 of this Constitution.

## **ARTICLE 5 – CHAIRING THE COUNCIL**

### **5.01 Role and Function of the Mayor**

The Mayor and the Deputy Mayor will be elected by the Council at the annual meeting of the Council.

The Mayor, and in his/her absence, the Deputy Mayor, will have the following roles and functions:

- 1 To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 2 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;
- 3 To ensure that the Council meeting is a forum for the debate of matters of concern to the local community;
- 4 To promote public involvement in the Council's activities; and
- 5 To attend civic, ceremonial and public functions on behalf of the Council

## **ARTICLE 6 – POLICY AND OTHER BOARDS**

### **6.01 Policy and Other Boards**

The Council will appoint the Boards set out in Part 3 of this Constitution and the Boards will discharge the functions set out there under powers delegated to them or to officers or by submitting recommendations to the Council as detailed in Part 3

## **ARTICLE 7 – THE STANDARDS COMMITTEE**

### **7.01 Standards Committee**

The Council will establish a Standards Committee.

### **7.02 Role and Function**

The Standards Committee will have the following roles and functions;

- (a) Promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- (b) Assisting Councillors and co-opted Members to observe the Members' Code of Conduct;
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) Monitoring the operation of the Members' Code of Conduct;
- (e) Advising, training or arranging to train Councillors and co-opted Members on ethical matters, including the Members' Code of Conduct;
- (f) Advising the Council generally on matters relating to the ethical conduct of the Council and its Members;
- (g) Granting dispensations to Councillors, and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
- (h) Dealing with any reports from the Monitoring Officer
- (i) The exercise of (a) to (h) above in relation to Parish and Town Councils in North Warwickshire and the Members of those Parish and Town Councils.
- (j) Monitoring attendances at meetings of Boards, Committees and other Bodies.

## **ARTICLE 8 – JOINT ARRANGEMENTS**

### **8.01 Arrangements to Promote Well-Being**

The Council, in order to promote the economic, social or environmental well-being of the 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.

### **8.02 Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions (which are not executive functions of that Authority or those authorities) 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.
- (b) Details of any joint arrangements including any delegations to Joint Committees will be found in the Council's scheme of delegation in Part 3 of this Constitution.

### **8.03 Access to Information**

- (a) The Access to Information Procedure Rules in Part 4 of this Constitution apply.
- (b) If the Joint Committee contains Members who are not on the executive of any participating Authority then the Access to Information rules in Part VA of the Local Government Act 1972 will apply.

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

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

### **8.05 Contracting Out**

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

[Note – This note is not part of the Constitution. This article would apply to bodies such as the Community Partnership]

## ARTICLE 9 – OFFICERS

### 9.01 Management Structure

(a) **General**

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

(b) **Chief Officers**

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

Post	Functions and areas of responsibility
Chief Executive	Overall corporate management and operational responsibility (Including overall management responsibility for all Officers). Provision of professional advice and policy guidance to all parties in the decision making process. Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions. Representing the Council on partnership and external bodies (as required by statute or the Council). Elections and electoral registration.
Deputy Chief Executive	Finance (including overall responsibility for the budget), Corporate Services, Audit, Human Resources, Housing, Community Development and Streetscape
Assistant Chief Executive and Solicitor to the Council	Legal, Democratic Services, Forward Planning, Policy Support, Environmental Health and Development Control
Assistant Chief Executive (Community Services)	Reception and Contact Centre, Revenues and Benefits

(c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Assistant Chief Executive and Solicitor to the Council	Monitoring Officer
Deputy Chief Executive	Chief Finance Officer

Such posts will have the functions described in Article 11.02 to 11.04 inclusive.

(d) **Structure**

The Head of Paid Service will publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out as Part 7 of this Constitution.

## 9.02 Functions of the Head of Paid Service

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

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

### (b) Restriction on Functions

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

## 9.03 Functions of the Monitoring Officer

### (a) Monitoring the Constitution

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

### (b) Ensuring lawfulness and fairness of decision making

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

### (c) Supporting the Standards Committee

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

### (d) Receiving Reports

The Monitoring Officer will receive and act on complaints of breaches of the Councillor Code of Conduct

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

The Monitoring Officer will ensure that minutes, agendas, relevant Officer reports and background papers (except those which are confidential or contain exempt information) are made publicly available as soon as possible.

### (f) Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, financial impropriety, and probity to all Councillors.

### (g) Restrictions on Posts

The Monitoring Officer cannot be the Head of Paid Service or the Chief Finance Officer.



#### 9.04 **Functions of the Chief Finance Officer**

(a) **Ensuring lawfulness and financial prudence of decision making**

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

(b) **Administration of Financial Affairs**

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

(c) **Contributing to Corporate Management**

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

(d) **Providing Advice**

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

#### 9.05 **Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

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

#### 9.06 **Conduct**

Officers will comply with the Officers' Code of Conduct set out in Part 5 of this Constitution.

#### 9.07 **Employment**

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out in Part 4 of this Constitution.

## **ARTICLE 10 – DECISION MAKING**

### **10.01 Responsibility for decision making**

The Council will issue and keep up to date a record of which part of the Council or individual has responsibility for particular types of decisions or decisions related to particular areas or functions. This record is set out in Part 3 of this Constitution.

### **10.02 Principles of decision making**

All decisions of the Council will be made in accordance with such of the following principles as are relevant to the particular matter under consideration:

- (a) legality (i.e. the Council will not act unlawfully)
- (b) proportionality (i.e. the action must be proportionate to the desired outcome)
- (c) respect for human rights
- (d) promotion of the economic, social or environmental well-being of the Borough
- (e) consideration of the financial implications
- (f) consideration of crime and disorder implications
- (g) due consultation and the taking of professional advice from officers
- (h) a presumption in favour of openness
- (i) clarity of aims and desired outcomes

### **10.03 Decision making by the Full Council**

The Council meeting will follow the Procedural Standing Orders set out in Part 4 of this Constitution when considering any matters.

### **10.04 Decision making by other Boards, Committees and other Bodies established by the Council**

Other Council Boards and Bodies will follow those parts of the Procedural Standing Orders set out in Part 4 of this Constitution as apply to them.

#### 10.05 **Decision making by Council bodies acting as tribunals**

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

## **ARTICLE 11 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **11.01 Financial Management**

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

### **11.02 Contracts**

Every contract made by the Council will comply with the Contract Standing Orders set out in Part 4 of this Constitution.

### **11.03 Legal Procedures**

The Solicitor to the Council 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 any case where he or she considers that such action is necessary to protect the Council's interests. The Chief Executive may also exercise these powers, where he/she is a qualified Solicitor or Barrister.

### **11.04 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council or the Chief Executive (if a qualified Solicitor or Barrister) or other person authorised by either of them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

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

The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed. The affixing of the Common Seal will be attested by the Chief Executive, the Solicitor to the Council or some other person authorised in writing by either of them.

## **ARTICLE 12 – REVIEW AND REVISION OF THE CONSTITUTION**

### **12.01 Duty to monitor and review the Constitution**

The Chief Executive and 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 make any necessary recommendation to the appropriate Board, Committee, or Council.

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

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

1. observe meetings of different parts of the Member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### **12.02 Changes to the Constitution**

#### **(a) Approval**

Changes to the Constitution will only be approved by the Full Council after consideration of the proposal by the Monitoring Officer.

#### **(b) Change from alternative arrangements to a mayoral form of executive**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals, and must hold a binding referendum.

#### **(c) Change from alternative arrangements to a leader and cabinet form of executive**

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

## **ARTICLE 13 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

### **13.01 Suspension of the Constitution**

#### **(a) Limit to suspension**

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

#### **(b) Procedure to suspend**

A motion to suspend any Standing Orders or rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

#### **(c) Rules capable of suspension**

Subject to paragraph (b) above, any of the Rules of Procedure set out in Part 4 of this Constitution may be suspended in accordance with Article 15.01 to the extent permitted within that Article.

### **13.02 Interpretation**

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **13.03 Publication**

- (a) The Chief Executive will give a printed copy of this Constitution to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Assistant Chief Executive and Solicitor to the Council will ensure that copies are available for inspection at council offices, libraries and other appropriate locations and on the Council's web site, and can be purchased by Members of the local press and the public on payment of a reasonable fee.
- (c) The Assistant Chief Executive and Solicitor to the Council will ensure that the summary of the Constitution is made widely available within the area, and is updated as necessary.

## **SCHEDULE 2/1 – DESCRIPTION OF ALTERNATIVE ARRANGEMENTS**

The following parts of this Constitution constitute the alternative arrangements:

. Article 7 (Policy and other Boards) and the terms of reference for those Boards set out in Part 3.

NB Throughout Part 2 of this Constitution, “Policy Board” means the Executive Board, the Resources Board or the Community and Environment Board.

## **PART 3**

### **RESPONSIBILITY FOR FUNCTIONS**



## **PART 3 : CONTENTS**

### **RESPONSIBILITY FOR FUNCTIONS**

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## **INTRODUCTION**

### **1. Object**

The purpose of Part 3 of the Constitution is to deal with the responsibility for functions, including defining:

- The Main Terms of Reference of:

The Executive Board  
The Special Sub-Group  
The Resources Board  
The Community and Environment Board  
The Standards Committee  
The Planning and Development Board  
The Licensing Committee

- The extent of the powers delegated to those bodies.
- Those powers which have been delegated to Officers.

All the above functions and delegations are set out in Appendix A to this statement. Also included in this statement, at Appendix B, is the most recent Scheme of Delegation as regards the determination of planning applications and forms part of the Planning and Development Board papers. The Scheme of Delegation for the Licensing Committee is set out in Appendix F.

### **2. Delegation of Powers to Boards etc. and Officers**

The powers delegated do not and cannot include the functions reserved to the Council under Article 4.02 of the Articles of the Constitution. They also exclude the power to incur expenditure not provided for in budget estimates or where proposals are contrary to Council policy; and the power to sell the freehold of land or property.

### **3. Powers Delegated to Officers**

- (a) The powers delegated to Officers as set out in this statement, or as conferred from time to time, shall be exercised having regard to the Council's policies and subject to compliance with Standing Orders and Financial Regulations.

The powers listed are those which have been delegated for periods in excess of six months.

- (b) The delegated powers mentioned in (a) above have been set out under the names of the relevant Boards etc. However, there are a number of general powers which have been delegated to the Chief Executive and to the Solicitor to the Council, which have wider application. These are set out in Appendix C.

#### 4. **Proper Officer and Authorised Officer Powers**

Various pieces of legislation refer to functions required to be performed by the “Proper Officer” or the “Authorised Officer” of the Council.

Details of the functions carried out and the postholder who has been designated to perform them are outlined in Appendices D and E

#### 5. **Interpretation**

Throughout Part 3 of this Constitution:

“Chairman” means the Chairman of the relevant Board, who may, in relevant circumstances, also hold another office such as Leader of the Council, a Deputy Leader, or a Spokesperson

“Deputy Leader” means the Chairman of the Resources Board, the Chairman of the Community and Environment Board and the Chairman of the Planning and Development Board

“Policy Board” means the Executive Board, the Resources Board, the Community and Environment Board.

“Spokesperson” means a Councillor appointed, normally at the Annual Meeting of the Council, to act as the Council’s Lead Member and spokesperson on a key cross-cutting theme or for a specific function, who will also ensure that his/her designated area of responsibility is considered and taken into account during the decision making process at meetings of the various bodies of the Council

“Vice-Chairman” means the person who deputises for the Chairman and presides at a meeting of a body in the absence of the Chairman

## **APPENDIX A**

### **THE EXECUTIVE BOARD**

#### **A. Main Terms of Reference**

1. Formulating the overall policy framework for Council approval. This will include:

(a) The approval or adoption of a plan or strategy for the control of the local authority's borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provision

(b) Arranging the overall finances of the Council, including the Budget. (The Resources Board will manage and monitor the Council's budget and financial situation)

(c) The Corporate Plan

(d) the North Warwickshire Sustainable Community Strategy,

(e) the North Warwickshire Development Plan documents, save for those matters within the remit of the Planning and Development Board

(f) the Crime and Disorder Reduction Strategy

(g) Constitutional matters affecting the name, status, boundary and area of the Borough.

(h) The structure, functions and administration of local government as they affect the Borough

(i) Electoral matters, including elections, electoral registration and Warding arrangements, other than those set out in Appendix C

(j) Proposals to confer the titles of Honorary Alderman and Honorary Freeman, under section 249 of the Local Government Act 1972

(k) The making or amending of a Members' allowance scheme

(l) Approval of arrangements for the appointment of the Chief Executive, Deputy Chief Executive, Assistant Chief Executive and Solicitor to the Council, Assistant Chief Executive (Community Services) and Assistant Directors together with their pay and conditions of service

(m) such other Plans and Strategies as the Council may, from time to time, be required by statute or Government Direction to adopt or which the Council itself decides to adopt.

2. The Housing Strategy

3. Strategic and Local Development Framework issues other than those mentioned in Part A, including developing and implementing the Sustainable Community Plan; commenting on Waste and Minerals Plan proposals from Warwickshire County Council; and submitting comments on the statutory plans of neighbouring Authorities.

4. Matters involving more than one Board or where there is a difference of view between them.

5. Representation on outside bodies.
6. Emergency Planning.
7. Approval of the overall management structure and establishment of the Authority.
8. The Food Law Enforcement Service Plan
9. Terms of Reference of the Boards and Standards Committee, together with their composition and any subsequent reviews of such matters.
10. Approval of the overall arrangements for the delegation of powers to Officers and other Committees
11. Any other matter not specifically allocated to another Board, Committee, Body or the Council itself.
12. Any matter implementing any proposal in line with the adopted budget or policy framework

#### **B. Powers Delegated to the Board**

All matters coming within its terms of reference, subject only the exceptions mentioned in paragraph A 1 above and paragraph 2 of the introduction to this part of the Constitution.

#### **C. Powers Delegated to the Safer Communities Sub-Committee**

To implement the approved Crime and Disorder Strategy, focussing in particular on drugs and alcohol issues, support to victims, reducing offending behaviour, partnership working and CCTV.

#### **D. Powers Delegated to the Task and Finish Group**

- (i) The power to consider an item referred to it by the Board in whatever way the Task and Finish Group thinks reasonable.
- (ii) The power to make recommendations to the Board on any such item.

#### **E. Powers Delegated to Officers**

- (i) Various Officers

In the case of emergencies, the Officers named in the County Major Emergency Plan and the Borough Emergency Plan shall have responsibility for the tasks respectively assigned to them in these documents.

- (ii) Assistant Chief Executive and Solicitor to the Council

(a) In consultation with the Ward Members for the area contained in the notice, to deal with consultation from the Police on authorisation notices allowing for the dispersal of groups.

(b) In consultation with the Chairman and the relevant Ward Members, power to instigate legal action against tenants in relation to nuisance issues, subject to him being satisfied that sufficient evidence exists to support such action.

## **SPECIAL SUB-GROUP**

### **A Terms of Reference**

1. Senior staff appointments.
2. Single Status issues.
3. North Warwickshire Accommodation Project.
4. Long Term Sickness Absence.
5. Housing Partnership Procurement.
6. Variations to the staffing establishment below Assistant Director/Assistant Chief Executive level.
7. Recruitment, training, welfare and pay and conditions of service of all employees, (except the Chief Executive, Directors, Assistant Directors and the Assistant Chief Executives) including retirement; redundancy; severance; superannuation and compensation arrangements; health and safety; and grievance and disciplinary matters.
8. Any other issues may be delegated to it from time to time.

### **B Powers Delegated to the Board**

All matters listed under heading A above.

### **C Powers Delegated to Officers**

#### **Chief Executive**

(a) The appointment and dismissal of, and taking disciplinary action against any member of the Council's staff, other than the Head of the Authority's Paid Service, the Directors and Assistant Directors of the Council, and its Assistant Chief Executive. These functions are required to be incorporated in the Council's Constitutional Standing Orders by virtue of Part IV of Schedule 1 to the Local Authorities (Standing Orders) (England) Regulations 2001, which came into effect on 7 November 2001 as amended

N.B. These functions may be discharged by an Officer nominated by the Chief Executive.

(b) To make such temporary appointments as may from time to time be necessary

(c) To determine applications received under the Early Retirement/Severance Scheme, following consultations with the Leader of the Council and Chairman of the Resources Board.

## THE RESOURCES BOARD

### A Main Terms of Reference

- 1 Develop strategies and policies, within its terms of reference, and put them to the Executive Board for consideration and submission to the Council for approval
- 2 Managing the Housing Revenue account and receiving monitoring recommendations from the Housing sub-committee. Managing and monitoring the Council's other budget and overall financial situation including requests for supplementary estimates
- 3 Revenues, non-domestic rating and Council Tax matters.
- 4 Rent Allowances; and Housing and Council Tax Benefits.
- 5 Concessionary Fares.
- 6 Insurance and Risk Management.
- 7 Members' Allowances, including reports from the Independent Remuneration Panel.
- 8 Applications for financial assistance, other than those coming within the purview of the Community and Environment Board.
- 9 Maintenance and management of the Council's land and property holdings, facilities and assets, including:
  - (a) operational buildings including The Council House, Old Bank House and the Sheepy Road Depot
  - (b) land holdings and the Property Portfolio
  - (c) industrial, commercial and shop properties
  - (d) Car parks, bus shelters and public conveniences
  - (e) the vehicle fleet
  - (f) property which does not come under the control of any other Board
- 10 Member Support, Development and Training
- 11 Mayoral facilities, support and functions.
- 12 Central/Internal Support Services (ie, Finance; Internal Audit; Information and Communications Technology; Legal and Estates; Policy Support; Democratic Services; and Member Support Services).
- 13 E-Government Issues
- 14 Submission to the Council of an annual report on the work undertaken by the Board during the year.
- 15 To receive the annual report of the Principal Auditor on the Corporate Counter-Fraud Strategy.
- 16 The Borough Care Community Alarm and Visiting Service and its associated areas of activity, including elderly care issues.

- 17 Authority to make arrangements to undertake call monitoring for individuals in the Borough, who do not qualify for the full Borough Care Service, and in other areas (on behalf of the relevant local authorities and other bodies); and, in consultation with the Assistant Director (Finance and Human Resources), to determine the appropriate weekly charge from time to time.
- 18 The Council's Out of Hours Emergency Response Service.
- 19 Management and development of Closed Circuit Television Schemes.
- 20 Animal Welfare, control of Dogs and pest control.
- 21 Local Land Charges
- 22 maintenance of the Council's housing stock - Council estates
- 23 monitoring of the Housing Revenue Account and making any recommendations to the Executive Board
- 24 Council housing management issues including homelessness, tenancy matters, rent arrears and possession proceedings
- 25 Private sector housing functions, including the renovation, repair and improvement of individual properties; closure and demolition of unfit properties; and harassment and unlawful eviction cases under the Protection from Eviction Act, 1977.
- 26 Partnerships and relationships with Registered Social Landlords and other housing providers, including issues of housing need and supply

## **B Powers Delegated to the Board**

All matters coming within its terms of reference, with the exception of Members' Allowances, and subject only to the exceptions mentioned in paragraph 2 of the introduction to this part of the Constitution.

## **C. Powers Delegated to the Task and Finish Group**

- (i) The power to consider an item referred to it by the Board in whatever way the Task and Finish Group thinks reasonable.
- (ii) The power to make recommendations to the Board on any such item.

## **D Powers Delegated to Officers**

- (i) Chief Executive, Deputy Chief Executive, Assistant Chief Executive and Solicitor to the Council, Assistant Chief Executive (Community Services) and the Assistant Directors**

To agree to the attendance of employees and Members on training courses (including day and block release courses) in accordance with the Council's approved Training budget.

- (ii) Chief Executive**

- (a) Authority to administer the Staff Car Scheme.



- (b) To authorise the granting of car purchase loans within the Council's approved policy.
- (c) To determine, in consultation with the Mayor, the form and content of hospitality to be offered to visitors
- (d) To make arrangements, in consultation with the Mayor, for the Annual Civic Service and the Annual Civic Function and other mayoral engagements.
- (e) To accept, in consultation with the Chairman, insurance renewal terms. (In the absence of the Chief Executive this authority may be exercised by the Deputy Chief Executive).

**(iii) Deputy Chief Executive**

- (a) The power to declare mortgage interest rates under Section 438 and Schedule 16 of the Housing Act, 1985. (This power is to be exercised after consultation with the Chairman and Vice-Chairman of the Resources Board).
- (b) Management of the Hospitality Account
- (c) Powers delegated in the Council's Financial Regulations and Code of Treasury Management

**(iv) Deputy Chief Executive, Assistant Director (Finance and Human Resources) and Assistant Chief Executive (Community Services)**

- (a) Unlimited approval for cheque signing purposes, to release money transfers and to sign official orders

**(v) Assistant Chief Executive and Solicitor to the Council**

- (a) The granting of tenancies up to 3 years of land or premises temporarily surplus to requirements.
- (b) The granting of easements over or under Council land to statutory undertakers and public bodies, including connecting into the Council's drainage system.
- (c) The approval of terms for the sale of land on the Holly Lane Industrial Estate, Atherstone
- (d) the assignment of all Council owned shops, factory units, industrial premises, workspace units and office premises (those over The Arcade shops in Long Street, Atherstone), subject to the receipt of satisfactory references for the prospective assignees and to the payment of all sums due to the Council in respect of the property by the date of assignment
- (e) Fixing the level of rent increases for factory units, industrial premises, shops and offices after taking valuation advice; and determining the dates of implementation of such increases.
- (f) Negotiations for the transfer to the Council of open spaces and amenity areas on private housing and industrial estates, in accordance with the Council's policy.
- (g) Authority to institute legal proceedings, in consultation with the Chairman of the Board and the Assistant Director (Streetscape) for:-

- (i) any contraventions of the provisions of Off Street Parking Places Orders made by the Council;
  - (ii) any unauthorised use of Council owned land by mobile food traders; and
  - (iii) the recovery of outstanding fixed penalty charges for parking.
- (h) Authority to consider Surveillance Requests, under the Regulation of Investigatory Powers Act, 2000. In his absence, this power may be exercised by any other member of the Council's Management Team, and in the absence of all members of Management Team by any other member of the Council's Extended Management Team.
  - (i) Authority to commence proceedings for offences under Sections 111a or 112 of the Social Security Administration Act 1992 following a recommendation to that effect by the Assistant Chief Executive (Community Services) and provided that he is satisfied that the evidence available supports the course of action.
  - (j) Authority, in consultation with the Chairman and the Assistant Director (Housing), to seek an ex-parte Court injunction, where urgent action is required to control nuisance.
  - (k) Authority to serve Notice of Seeking Possession or Notice to Quit, as appropriate, on any remaining under-occupying occupants of a Council property on the death of the secure tenant.
  - (l) The sale of Council houses and the granting of 125 year leases of Council flats under the Government's Right to Buy legislation.
  - (m) Exercise the Council's functions under the Protection from Eviction Act 1977, and any amendments thereof in relation to unlawful eviction or harassment, including the institution of proceedings.
  - (n) Applications to a Magistrates Court for a Removal Order or an Emergency Removal Order, under the National Assistance Acts, in respect of persons in need of proper care and attention, where the necessary certificate is given by the District Medical Officer or the District Medical Officer and a Registered Medical Practitioner.
  - (o) Arrangements, through appropriate officers, for the temporary protection of properties normally occupied by the persons the subject of an order referred to at (n) above.
  - (p) All powers contained within the Anti-Social Behaviour, Crime & Policing Act 2014

**(vi) Assistant Director (Finance and Human Resources)**

- (a) Powers to manage the Council's loan debt, including authority to make arrangements for the raising and repayment of loans related to the Council's cash requirements
- (b) The payment of accounts
- (c) Apply the maximum allowances for Mileage and Subsistence, as prescribed from time to time by the Secretary of State with effect from the relevant date

- (d) Power to write off, as irrecoverable, individual arrears not exceeding £1250
- (e) Authority to refer outstanding debts to debt collection agencies for recovery
- (f) Authority to approve the payment of professional subscriptions

**(vii) Assistant Chief Executive (Community Services)**

- (a) The making of proposals, objections, or agreements related to the Valuation List and to attend local Valuation Tribunals
- (b) Authority to make refunds of overpaid rates, subject to issue of a notification from the Valuation Officer.
- (c) The recovery of non-domestic rates and Council Tax including the issue of notices and the power to prosecute or defend in proceedings before the Magistrates Court. (These powers have also been delegated to the Head of the Revenues and Benefits Shared Service and the Senior Recovery Officer
- (d) Issue travel concession passes or tokens within the policy approved by the Council
- (e) Power to write off, as irrecoverable, individual rent or other arrears not exceeding £1250
- (f) Power to administer the Housing Benefit and Council Tax Benefit Schemes. (This power may be exercised, in the absence of the Assistant Chief Executive (Community Services) by the Deputy Chief Executive or the Customer Services and Benefits Manager).
- (g) Power to administer, on behalf of the Council, the Collection Fund established under Section 89 of the Local Government Finance Act 1988
- (h) The Power, in consultation with the Chairman of the Board, to determine all future applications received for Discretionary Rate Relief from Rural Businesses in respect of Non-Domestic Rates. (Annual report to be submitted to the Board on all applications approved under this delegation).

**(viii) Assistant Director (Streetscape)**

- (a) Letting of the Council Chamber and Committee Room, in accordance with the Council's approved policy.
- (b) Operational management of the Civic Offices and Depot.
- (c) Approval of applications for the use of Council owned car parks.
- (d) Authority to exercise the Council's powers, under the relevant Articles of the Council's Off Street Parking Places Orders, to close temporarily any or all the parking spaces or places; and to suspend any or all of the provisions of the order, in so far as such closures and suspensions relate to events approved under (c) above
- (e) The maintenance of land and premises within the control of the Board
- (f) Purchase and pricing of items for sale from vending machines

- (g) To determine applications by charitable organisations for the use of recreational and other facilities at free or concessionary rates, subject to recovery of heating, lighting and other costs from the organisation and to a report being submitted for information to the next meeting. (This power is to be exercised after consultation with the Chairman and Vice-Chairman of the Board).
- (h) Power to determine applications for the use of Council owned land by circuses and fun fairs, subject to consultation with the Chairman and Vice-Chairman of the Board and to compliance with Minute No 19 of the Leisure Services Committee meeting held on 27 July 1987.
- (i) Amenity grass cutting, under the delegation agreement with the County Council
- (j) power to approve requests to rent Council land in respect of rental values below £1,000 per annum and to approve requests to grant licences to cross/utilise Council land

**(ix) Assistant Director (Housing)**

- (a) The repair of Council dwellings (including planned maintenance) either through the Direct Services Organisation or by contract, subject to compliance with Standing Orders
- (b) To determine applications to erect covered ways, verandas conservatories and other outbuildings; to undertake other alterations to Council dwellings; and applications for the erection by tenants of individual garages and hard standings in front gardens subject to the necessary planning and/or building regulations approvals being obtained.
- (c) The valuation of buildings attached to Council property where compensation is payable upon termination of the tenancy.
- (d) To allocate Council owned dwellings in accordance with the Council's agreed Allocations Policy, current legislation and Government Guidance.
- (e) To allocate garages and parking spaces
- (f) Homelessness matters arising from Part VII of the Housing Act, 1996
- (g) To grant applications for the use of Communal Centres in Sheltered Dwelling Schemes in approved circumstances
- (h) The power to serve Notices of Seeking Possession for contraventions of tenancy conditions – this power is to be exercised in consultation with the Chairman of the Board
- (i) The approval of applications for Housing Renovation and Disabled Facilities Grants
- (j) To determine applications for Home Repairs Assistance Grants
- (k) The service of notices under the following legislation:-
  - (i) Public Health Act 1936 – Sections 83 (filthy or verminous premises) and Environmental Protection Act 1990 – Sections 79 to 80 (disrepair causing a statutory nuisance)

- (ii) Building Act 1984 – Section 76 (disrepair requiring urgent attention)
- (iii) Housing Act 1985 – Sections 189 (repair notice for an unfit house), 190 (repair notice for a house in a state of disrepair), 338 (notice to abate overcrowding), 352 (power to require works to render premises fit for number of occupants in houses in multiple occupation), 354 (power to limit number of occupants), 358 (overcrowding notice) and 364 (power to require information where an overcrowding notice is in force)
- (l) Authority to serve Deferred Action or Renewal Notices, in appropriate cases, under the relevant provisions of the Housing Grants, Construction and Regeneration Act, 1996.
- (m) Payment of compensation for home loss and disturbance, under the provisions of the Land Compensation Act 1973, on the basis of the advice of the Council's Valuer in connection with disturbance compensation.
- (n) Securing the repayment of Improvement Grants, in accordance with the Council's policy, where a breach of grant conditions has occurred. (Where hardship is claimed, the case will be determined by the Board).
- (o) All powers contained within the Anti-Social Behaviour, Crime & Policing Act 2014
- (p) power to approve requests to rent Council land in respect of rental values below £1,000 per annum and to approve requests to grant licences to cross/utilise Council land
- (x) Assistant Director (Corporate Services)**  
 Authority, subject to Management Team approval, to issue amendments from time to time to the Council's Computer Security Policy Guidelines.
- (xi) Generally**  
 Powers as defined in the Council's Financial Regulations

## **THE COMMUNITY AND ENVIRONMENT BOARD**

### **A Main Terms of Reference**

- 1 Develop strategies and policies, within its terms of reference, and put them to the Executive Board for consideration and submission to the Council for approval
- 2 Develop and foster Community and Partnership Working, including Community Development, Community Safety and Health Improvement.
- 3 Economic Development and Tourism, including:
  - a projects, initiatives, regeneration schemes, inward investment and forward planning
  - b employment development
  - c European community matters affecting economic development
  - d the economic vitality and viability of the Borough, its towns and villages
  - e the local economic and labour market
  - f tourism development and promotion
- 4 Community Care and Joint Planning.
- 5 The Council's Out of Hours Emergency Response Service.
- 6 Management and development of Closed Circuit Television Schemes.
- 7 Leisure and Cultural Development, including:-
  - a Arts, Cultural and Entertainment Development
  - b Sports Development, Excellence in Sport, Leisure Unlimited and Mobile Recreation
  - c Community Provision, including Village Hall and Community Projects
  - d Countryside Recreation
  - e Partnership and Resourcing
  - f Financial Assistance and Guarantees for leisure related purposes
  - g Lottery and other grants.
- 8 Highways and Road Traffic Matters, including traffic proposals (as consultees of the County Highway Authority); unadopted roads on Council estates; public footpaths and bridleways; street naming; and street lighting
- 9 Land drainage, engineering and sewer matters.

- 10 Cleansing, Grounds Maintenance and Horticultural Services, Waste Management and Refuse Collection, including litter collection; cesspool emptying; abandoned vehicles; and recycling.
- 11 Pollution Control and Environmental Issues, including implementing sustainability issues; and pest control.
- 12 Commercial Enforcement, including legislation relating to Health and Safety at work; Food Hygiene and Food Control; and Shops.
- 13 Health Promotion and Education.
- 14 Investigation and Control of Communicable Diseases.
- 15 Animal Welfare and Control of Dogs.
- 16 Markets and Fairs.
- 17 Burials and Cremations under the Public Health (Control of Disease) Act, 1984.
- 18 Grant/Contributions to the Meals on Wheels Service.
- 19 Submission to the Council of an annual report on the work undertaken by the Board during the year.
- 20 Maintenance and management of the Council's land and property holdings, facilities and assets including:-
  - (a) outdoor recreational facilities
  - (b) leisure and sports centres
  - (c) Atherstone Arts Centre
  - (d) Atherstone Swimming Pool and Leisure Complex
  - (e) Bodacea's Public House

## **B Powers Delegated to the Board**

All matters coming within its terms of reference, subject only to the exceptions mentioned in paragraph 2 of the introduction to this part of the constitution.

## **C Powers Delegated to Officers**

### **(i) Assistant Chief Executive and Solicitor to the Council**

- (a) Authority, in consultation with the Chairman of the Board, to apply to the Magistrates' Court for a Closure Order for food premises under Sections 11 and 12 of the Food Safety Act 1990.
- (b) Authority to institute proceedings for offences under Sections 7, 8 and 14 of the Food Safety Act 1990 and Regulations made under that Act.
- (c) Authority to initiate legal proceedings for seizure of equipment implicated in cases of noise nuisance and the Chairman of the Board.
- (d) Authority to commence legal proceedings in respect of persons who refuse to pay fixed penalty ticket fines for dog fouling in areas of the Borough covered by the Council's Designated Order.
- (e) Arrangements for the burial or cremation of the bodies of persons in accordance with Section 46 of the Public Health (Control of Disease) Act 1984.
- (f) Authority to prosecute breaches of Anti Social Behaviour Orders.
- (e) Authority, in consultation with the Assistant Directors (Streetscape) and (Housing) to designate enforcement staff and agents in respect of appropriate functions and powers under the Clean Neighbourhoods and Environment Act 2005.
- (f) Authority, in consultation with the Chairman and Ward Members, to issue Notices under Section 23 of the Local Government (Miscellaneous Provisions Act 1976.
- (g) Authority to authorise officers and contractors to enter land for the purpose of inspecting and for taking such other steps as are required to make a tree safe.
- (j) To serve Notices under the following legislation:
  - (i) The Sunday Trading Act 1994;
  - (ii) Public Health Act 1936 – Sections 45, 48 and 50 (drainage to buildings); and 83 and 85 (filthy or verminous premises or persons);
  - (iii) Prevention of Damage by Pests Act 1949 – Section 4 (infestations of rats and mice on land);
  - (iv) Public Health Act 1961 – Section 17 (drainage to buildings) and 34 (offensive accumulations);
  - (v) Control of Pollution Act 1974 – Sections 60 (noise nuisances); 61 (prior consent for work on construction sites; and 93 (authority to obtain information).
  - (vi) Health and Safety at Work Act 1974 – Section 21 (Improvement Notices) – this power may also be exercised by Mr D J Baxendale and Mr S Whiles (Environmental Health Managers), Mrs J Phipps (Environmental Health Officers), Mrs C Randle and Mrs J Rowbottom (Food Safety Officers), and Section 22 (Prohibition Notices) – this power may also be exercised by Mr D J Baxendale and Mr S Whiles (Environmental Health Managers), Mrs J Phipps (Environmental



Health Officers), and Mrs C Randle and Mrs J Rowbottom (Food Safety Officers).

- (vii) Local Government (Miscellaneous Provisions) Act 1976 – Sections 16 (authority to obtain information); 20 (sanitary appliances in entertainment and catering establishments); and 35 (drainage of buildings).
- (viii) Building Act 1984 – Sections 59, 64, 65 and 66 (drainage of buildings); 69 (provision of water supplies); 81 (demolition of buildings) and 84 (paving of common yards and passages).
- (ix) Environmental Protection Act 1990 – Enforcement, Variation, Prohibition, Abatement and Revocation Notices. (These powers may be exercised by the Environmental Health Managers, in the absence of the Assistant Chief Executive and Solicitor to the Council). Also, all Environmental Health Officers and the Senior Pollution Control Officer, the Pollution Control Officers are empowered to serve Abatement Notices under this Act).
- (x) Authority to serve Improvement Notices under Section 10 of the Food Safety Act 1990. This power may also be exercised by the Environmental Health Managers, the Senior Environmental Health Officer, the Environmental Health Officers, Mrs C Randle and Mrs J Rowbottom (Food Safety Officers).
- (xi) Authority to serve an Emergency Prohibition Notice under the Food Safety Act 1990. (This power may also be exercised by the Environmental Health Managers and the Senior Environmental Health Officer).
- (xii) Authority to serve Notices under Section 46 of the Environmental Protection Act 1990. (This power may also be exercised by the Environmental Health Managers in the absence of the Assistant Chief Executive and Solicitor to the Council).
- (xiii) Authority to serve Remediation Notices in respect of contaminated food under the relevant provisions of the Environmental Protection Act 1990.
- (xiv) Authority under Section 19A of the Meat Products (Hygiene) Regulations by virtue of the Meat (Enhanced Enforcement Powers) (England) Regulations 2002 to prohibit the use of equipment, use of part of an approved premises and to regulate the carrying on of the process in approved Meat Product Premises. (This power may also be exercised by the Environmental Health Managers, Senior Environmental Health Officer, Environmental Health Officer (Commercial, Licensing and Health Promotion).
- (xv) Authority to authorise officers to and appropriate contractors for the purposes of issuing fixed penalty notices for littering under Section 88 of the Environmental Protection Act 1990.
- (xvi) Authority to appoint and authorise Health Protection Agency Staff for the relevant purpose under the Public Health (Control of Disease) Act 1984 and allied regulations.
- (xvii) Authority to take action under the Animal Welfare Act 2006. This power may also be exercise by the Environmental Health Manager,

Senior Environmental Health Officer, Senior Pollution Control Officer, the Food Safety Officers and the Pollution Control Officers

- (xviii) Authority to take action under the Food Safety & Hygiene (England) Regulations 2013
- (xix) Authority to take action under the Official Feed And Food Controls (England) Regulations 2009
- (xx) Authority to take action under the Official Controls (Animals, Feed And Food) (England) Regulations 2006
- (xxi) Authority to take action under the Zoo Licensing Act 1981
- (k) To approve chimney heights and furnaces under the Clean Air Act 1993.
- (l) To enter into agreements to carry out rodent control on a contractual basis.
- (m) To make or vary Orders under Section 4 of the Local Government (Miscellaneous Provisions) Act 1982, in relation to take away food shops.
- (n) To arrange for the cleansing or destruction of filthy or verminous articles, under Section 84 of the Public Health Act 1936.
- (o) To deal with rodent infestations on land occupied by more than one owner, under Section 6 of the Prevention of Damage by Pests Act 1949.
- (p) To arrange for the removal and disposal of animals where contraventions of licence conditions exist, under Section 4 of the Dangerous Wild Animals Act 1976. This power may also be exercise by the Environmental Health Manager, Senior Environmental Health Officer, Senior Pollution Control Officer, the Food Safety Officers and the Pollution Control Officers
- (q) To issue authorisations in respect of prescribed processes for local authority air pollution control under the provisions of Part 1 of the Environmental Protection Act 1990, and regulations made thereunder. (This power may be exercised by the Environmental Health Managers in the absence of Assistant Chief Executive and Solicitor to the Council).
- (r) The approval of relevant food premises under regulations made under the Food Safety Act 1990.
- (s) Determine, in consultation with the Chairman, any requests from occupiers of premises for the restoration or continuation of supplies of water, gas or electricity, under Section 33 of the Local Government (Miscellaneous Provisions) Act 1976.
- (u) Authority, under Sections 38 and 39 of the Health and Safety at Work etc Act 1974, to institute proceedings for offences under the Act, following consultation with the Solicitor to the Council. This power may also be exercised by Mr D J Baxendale and Mr S Whiles (Environmental Health Managers) and Mrs J Phipps (Environmental Health Officers).
- (v) Power, in consultation with the Chairman or Vice-Chairman to issue formal cautions in accordance with Home Office Circular 18/1994. In the absence of the Assistant Chief Executive and Solicitor to the Council, this power may be exercised by the Environmental Health Managers.

- (w) Power to grant authorisations, under Section 20 of the Health and Safety at Work etc Act 1974 to named individuals to accompany the Council's Inspectors in entering premises, these individuals to be authorised for a maximum period of 48 hours from the issue of the authorisation, to carry out under the Inspector's supervision all of the functions detailed in Section 20 of the Act (this power may be exercised, in the absence of the Assistant Chief Executive and Solicitor to the Council by one of the two Environmental Health Managers).
- (x) Power to appoint temporary Inspectors, under Section 19 of the Health and Safety at Work etc Act 1974, with the powers of such Inspectors under Section 20 of that Act.
- (y) Power to make payments to the RSPCA each year provided that any increase is based upon the rate of inflation.
- (z) Authority to authorise any Officers he deems appropriate to carry out relevant duties under Section 108 of the Environment Act 1995.
- (aa) Authority to negotiate an economic charge for house clearances etc., in appropriate cases.
- (bb) Authority to revoke or suspend approvals granted under the Meat Products (Hygiene) Regulations 1994 by virtue of the Meat (Enhanced Enforcement powers) (England) Regulations 2000.
- (cc) Authority to approve registrations for Motor Salvage Operators in accordance with the Vehicles (Crime) Act 2001.
- (dd) The power to issue fixed penalty or other notices relating to graffiti or fly posting.
- (ee) The power to stop, search and seize vehicles suspected of fly tipping (this power may also be exercised by individual officers authorised by the Assistant Chief Executive and Solicitor to the Council.
- (ff) The power to authorise officers in respect of Regulations made under the European Communities Act, 1972.
- (gg) To authorise the Dog Warden and other staff in the Assistant Chief Executive and Solicitor to the Council's Division to issue fixed penalty tickets to persons in charge of any dog in North Warwickshire for an offence of failing to remove dog faeces deposited.
- (hh) Authority to take enforcement action under the Health Act 2006

**NB In all matters referred to above, the power delegated to the Assistant Chief Executive and Solicitor to the Council includes, where appropriate, authority to arrange to have work carried out in default and where it is rechargeable to the person on whom the Notice is served or on the property itself.**

**(vi) Officers of the Assistant Chief Executive and Solicitor to the Council's Division**

Authority to investigate cases of alleged statutory nuisance arising from Council-owned dwellings where action available to the Housing Division is inappropriate to resolve the complaints.

(vii) **Inspectors Appointed under Section 19 of the Health and Safety at Work Etc Act 1974**

Power to authorise other persons to accompany them when exercising their power of entry under Section 20(2)(a) of the Act, as needs arise.

(ii) **Assistant Director (Leisure and Community Development)**

- (a) Management of Community resources (Mini bus, Inflatable Castle etc);
- (b) Power to determine applications from outside organisations for small contributions out of the Contributions Fund for trophies etc. (This power is to be exercised after the consultation with the Chairman and Vice-Chairman of the Board).
- (c) Authority, in consultation with the Chairman, to administer the Guarantee Against Financial Loss Scheme for Outside Organisations.
- (d) Authority to investigate all possibilities, in consultation with the Chairman and Vice-Chairman of the Board, for direct applications from the Council for lottery funding.
- (e) Administration of scheme of grants to Sports Coaches, in consultation with the Chairman of the Board.
- (f) Organisation of coaching programmes at Leisure Centres and the approval of the course fees (these powers are to be exercised after consultation with the Chairman and Vice-Chairman of the Board).
- (g) Approval of applications for use of Sports Centres, the Atherstone Leisure Complex, Atherstone Arts Centre and Recreation Grounds;
- (h) Promotion and Marketing of Leisure Facilities .
- (i) In consultation with the Deputy Leader, Vice Chairman of the Board and Opposition Spokesperson, authority to enter into agreement with Parish Councils to carry out inspections on Parish Council Play Areas.
- (j) Replacement of Play Equipment.
- (k) Power to determine applications for the use of Council owned land by circuses and fun fairs, subject to consultation with the Chairman and Vice-Chairman of the Board and to compliance with Minute No 19 of the Leisure Services Committee meeting held on 27 July 1987.
- (l) Authority to determine applications for Sports Passes.
- (m) Authority to negotiate charges above the standard rate for commercial bookings of the Atherstone Memorial Hall. (This power is to be exercised in consultation with the Chairman of the Board).
- (n) Authority, in consultation with the Chairman of the Board, to approve Bank Holiday closures at leisure facilities.
- (o) Authority, in consultation with the Chairman of the Board, to approve closures to the Atherstone Memorial Hall.

(iii) **Assistant Director (Streetscape)**

- (a) Overall responsibility for the management and operation of Atherstone Market.
- (b) Authority to grant permission for local road closure orders under the provisions of Section 21 of the Town Police Clauses Act 1847, where no objections are received as a result of the local consultation process.
- (c) Allocation and letting of football, rugby and cricket pitches; and sports pavilions;
- (d) To determine applications by charitable organisations for the use of recreational and other facilities, including the Market Square, Atherstone, at free or concessionary rates, subject to recovery of heating, lighting and other costs from the organisation and to a report being submitted for information to the next meeting. (This power is to be exercised after consultation with the Chairman and Vice-Chairman of the Board).

(iv) **Assistant Director (Corporate Services)**

- (a) To select names for new streets, after consultation with the Parish or Town Council and Ward Members concerned and referring the matter to the Chairman of the Board in the event of any difference of opinion.
- (b) Authority, in relation to street naming, to:
  - (i) serve notice of objection upon developers in accordance with Section 17(2) of the Public Health Act 1925;
  - (ii) discuss disputed cases with developers; and
  - (iii) withdraw notices of objection, in appropriate cases.

**D. Powers Delegated to the Task and Finish Group**

- (i) The power to consider an item referred to it by the Board in whatever way the Task and Finish Group thinks reasonable.
- (ii) The power to make recommendations to the Board on any such item.

## **THE STANDARDS COMMITTEE**

### **A Main Terms of Reference**

- 1 Promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- 2 Assisting Councillors and co-opted Members to observe the Members' Code of Conduct;
- 3 Advising the Council on the adoption or revision of the Members' Code of Conduct;
- 4 Advising the Council generally on matters relating to the ethical conduct of the Council and its Members;
- 5 Monitoring the operation of the Members' Code of Conduct;
- 6 Advising, training or arranging to train Councillors and co-opted Members on ethical matters, including the Members' Code of Conduct;
- 7 Granting dispensations to Councillors, and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
- 8 Dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an ethical standards Officer to the Monitoring Officer.
- 9 The exercise of 1 to 8 above in relation to Parish and Town Councils in North Warwickshire and the Members of those Councils.
- 10 Monitoring attendances at meetings of Boards, Committees, and other Bodies;

**NB These Terms of Reference need to be identical to those set out in Article 8.03 of the Articles of the Constitution.**

### **B Powers Delegated to the Committee**

The matters set out in A 1,2,5,6,7,8,11 and, where relevant, 9 above.

### **C Powers Delegated to the Officers**

Assistant Chief Executive and Solicitor to the Council

- (a) Powers pursuant to the Council's adopted arrangements for dealing with complaints under the Member Code of Conduct
- (b) Power to grant dispensations where the number of Councillors unable to participate in an item of business would prevent the discharge of that business or significantly affect the political balance of the body.

## THE PLANNING AND DEVELOPMENT BOARD

### A Main Terms of Reference for the Planning and Development Board

Within the policy framework of the Council and having regard to the Development Plan and other material considerations, to deal with the undermentioned matters. (N.B. Where the Board proposes a course of action which would be contrary to any of the above, the application or matter shall be referred to the Council for determination along with the Board's recommendation).

- 1 Consider and determine applications for permission required under:-
  - a development control,
  - b demolition control
  - c listed building consent
  - d control of advertisements
  - e tree and building preservation and conservation
  - f Building Regulations (including dangerous buildings and structures)
  - g High Hedges Remedial Notices
- 2 Authorise the making of Orders and Agreements and the issue of Notices in connection with development control, planning enforcement, trees and listed buildings.
- 3 Authorise, in association with the granting of planning permission, the closure, diversion and creation of public rights of way, including public footpaths and bridleways.
- 4 Submit comments to the Warwickshire County Council, when consulted by them, on planning applications made by that Council.
- 5 Submit comments to neighbouring Authorities, when consulted by them on significant planning applications on or close to the Borough Council's boundaries.
- 6 Public Transport and Goods Vehicle Operator Licensing.
- 7 Requests from the Chief Constable for the Council to make Orders, under Section 13 of the Public Order Act 1986, to prohibit public processions in the Borough.
- 8 Approval of Development Plan Documents, Supplementary Planning Documents and Design Briefs
- 9 Consideration of Waste and Minerals Plan proposals and other statutory plans of neighbouring authorities for recommendation to the Executive Board

- 9 Submission to the Council of an annual report on the work undertaken by the Board during the year.

**B Powers Delegated to the Board**

All matters listed under heading A above.

**C Powers Delegated to Officers**

- (i) Assistant Chief Executive and **Solicitor to the Council**
- (a) A general authority to institute proceedings under Section 35 of the Building Act 1984, against any person who fails to comply with a notice served under the Building Regulations 2000.
  - (b) A general authority to initiate proceedings for contraventions of the Town and Country Planning (Control of Advertisements) Regulations in relation to directional signs for housebuilding sites. (This power is to be exercised after consultation with the Chairman of the Board).
  - (c) Authority to determine whether or not proceedings should be commenced in respect of alleged breaches of advertisement control.
  - (d) Authority to take any enforcement action in respect of cases of unauthorised mobile snack vans/trailers adjacent to the highway.
  - (e) Determination of classes of planning applications defined in the Scheme of Delegation dated June 2014 – **(Copy attached at Appendix B)**
  - (f) Applications for determination under Section 64 of the Town and Country Planning Act 1990, in consultation with the Solicitor of the Council.
  - (g) Determinations whether “County Matters” are involved in planning applications under Schedule 1 of the Town and Country Planning Act 1990.
  - (h) Consultations, at his discretion, with neighbours on planning applications received.
  - (i) Decisions under the Building Regulations 2000 and the Building Act 1984 (including taking appropriate action in respect of dangerous buildings and structures under Section 29 of the Local Government (Miscellaneous Provisions) Act, 1982 to mitigate danger).
  - (j) Authority to forward to Warwickshire County Council written observations on:



- (i) Applications submitted for consultation purposes by that Council under the Town and Country Planning General Regulations 1992;
- (ii) Minerals applications;
- (iii) Waste Disposal applications

Subject in all three cases to the proposal being assessed as a “minor” matter by the Assistant Chief Executive and Solicitor to the Council, and the Chairman and Ward Member(s) agreeing that the matter is a “minor” one and there is no dissention from the proposed observations of the Assistant Chief Executive and Solicitor to the Council.

NB An application shall be brought before the Board for consideration where there is a disagreement on the proposed observations; where there is known public interest in the proposal; or at the discretion of the Assistant Chief Executive and Solicitor to the Council .

- (k) Authority to make directions under Articles 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 to prevent the holding of markets where there are planning grounds for doing so (this action is to be taken in conjunction with the Chairman of the Board and the Local Ward Members).
- (l) Authority to determine which planning applications should be publicised by newspaper advertisement.
- (m) Power to issue Planning Contravention Notices.
- (n) Authority to pursue cases of alleged breaches of advertisement control.
- (o) Authority to determine whether to require an Environmental Impact Assessment Statement in respect of planning matters under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017. (This power is to be exercised in consultation with Local Ward Members on individual cases, with the inclusion of the Chairman and Vice-Chairman of the Board in appropriate cases).
- (p) The submission of objections to the West Midlands Traffic Commissioner against applications under the Public Service Vehicles (Operators’ Licences) Regulations 1995, subject to the objection being reported to the next available meeting.
- (q) The submission of objections to the West Midlands Traffic Commissioner against applications affecting bus services, after consultation with the Ward Members affected;

- (r) Notification to the party concerned of flyposting offences under the Town and Country Planning Act 1990. .
- (s) Power, in emergency circumstances, to make and serve Tree Preservation Orders, Building Preservation Notices and Stop Notices, in consultation with the Chairman of the Board..
- (t) Authority to reject High Hedges applications on the grounds of being frivolous or vexatious, or as insufficient attempts made to resolve without the involvement of the local authority.
- (u) Authority, subject to consultation with the Local Ward Members, to either reject or uphold a High Hedges complaint once it has been registered and to issue any remedial notice.
- (v) Authority to serve notices under section 215 of the Town and Country Planning Act 1990

(ii) Head of Development Control

- (a) Authority to make representations on behalf of the Local Planning Authority in respect of Applications made pursuant to the Licensing Act 2003.
- (b) Authority to make representations on behalf of the Local Planning Authority in respect of Applications made pursuant to the Gambling Act 2005.

## **THE LICENSING COMMITTEE**

### **A Main Terms of Reference for the Licensing Committee**

1. All Licensing and Registration functions, except those reserved at C below for any Licensing Sub-Committee.
2. The periodic review of the policy formulated under the Licensing Act 2003 and recommendation of changes, if any, to the Council.
3. Review licence and registration fees, save for those fees which are prescribed.
4. Formulation and review of standard terms and conditions for licences, registrations and permits
5. Submission to the Council of an annual report on the work undertaken by the Committee and Sub-Committees.

### **B Powers Delegated to the Committee**

All matters listed under A above, with the exception of those matters delegated to the Licensing Sub-Committee at C below.

### **C Licensing Sub-Committee**

#### **(i) Membership**

Any three Members of the Licensing Committee shall act, as and when required, as a Licensing sub-committee

#### **(ii) Terms of Reference**

(a) To hear and determine all licensing applications made under the Licensing Act 2003 unless delegated to officers under D below.

(b) To hear and determine all licensing and registration applications, save for those made under the Licensing Act 2003, where one or more of the following apply:-

- the Council has received objections, adverse reports or unfavourable advice in respect of the application or the applicant
- the relevant Officer is minded to recommend refusal of the application
- the relevant Officer does not wish to exercise his/her delegated powers
- the proposal is in conflict with the Council's policy or general practice.

#### **(iii) Powers delegated to the Licensing Sub-Committee**

All matters listed under the Sub-Committee's terms of reference at (ii) above

## **D Powers Delegated to Officers**

### **(i) Assistant Chief Executive and Solicitor to the Council**

(a) To issue and renew licences and registrations for:

- scrap metal dealers
- food premises
- pet shops
- caravan sites
- dog breeding establishments
- animal boarding establishments
- riding establishments
- dangerous wild animals
- acupuncture
- ear piercing
- electrolysis
- tattooing
- taxis and private hire legislation
- street collections
- house to house collections
- betting, gaming and lotteries
- amusements with prizes (up to 2 machines)
- game dealers
- street trading consents
- sex shops

**Note (i)** In all the cases listed under (a) above, the power delegated does not include the power to refuse a registration or licence. It also assumes that any licence or registration will only be approved after any agreed consultation has been undertaken and that no objection or adverse comments were received during the consultation process.

**Note (ii)** The Assistant Chief Executive and Solicitor to the Council is authorised to determine applications for the renewal of Hackney Carriage or Private Hire Drivers licences from applicants who are outside the normal age range in the Council's policy.

- (b) Suspension and revocation of licences under Part II of the Local Government (Miscellaneous Provisions) Act 1976, and the service of notices under Section 68 of that Act relating to the fitness of vehicles and the accuracy of taximeters.
- (c) Approval of any commercial advertising anywhere on a licensed Hackney Carriage or Private Hire Vehicle.
- (d) Authority to approve individual applications, under Amusement Premises Byelaw 3(2), for the 24 hour opening of the Games Zone on Corley South Motorway Services Area on Bank Holidays. (This power is to be exercised after consultation with the Chairman of the Board and the Police).
- (e) Authority to make Closure Orders in respect of premises to be licensed under the Licensing Act 2003 if a public noise nuisance is being created.

- (f) Determination of applications under the Licensing Act 2003 defined in the Scheme of Delegation dated 22 December 2004 (**Copy attached at Appendix F**).
- (g) Powers contained in the Licensing Act 2003 (These powers are also delegated to Mr S Whiles – Environmental Health Manager).
- (h) To authorise additional posts for the purposes of the Licensing Act 2003.
- (i) Authority in respect of Section 157 of the Gambling Act 2005 to perform the Responsible Authority role in relation to consultation and responses relating to pollution of the environment or harm to human health. (This power can also be exercised by his nominated deputy).
- (j) Determination of applications under the Gambling Act 2005 defined in the Scheme of Delegation (copy attached at Appendix G).
- (k) The power, in consultation with the Ward Members, to apply for a review of any licence granted under the Licensing Act 2003
- (l) The power, in consultation with the Ward Members, to object or otherwise comment on an application for any licence under the Licensing Act 2003.
- (m) The power to object or otherwise comment on an application for a Temporary Event Notice under the Licensing Act 2003 (this power is also delegated to the Environmental Health Manager, Environmental Health Officer and the Senior Pollution Control Officer).
- (n) The power to serve Closure Notices under section 19 of the Criminal Justice and Police Act 2001

**North Warwickshire  
Borough Council**



**Scheme of Delegation to  
the Assistant Chief Executive and Solicitor to  
the Council  
in respect of the  
Determination of Planning Applications**

**June 2014**

## 1. INTRODUCTION

1.1 This Scheme of Delegation enables the Assistant Chief Executive and Solicitor to the Council to undertake certain functions without reporting first to the Council's Planning and Development Board. The legal basis for this delegation from the Board is contained in Section 101 of the Local Government Act 1972, as amended.

1.2 In practice, delegation means the Assistant Chief Executive and Solicitor to the Council taking executive action on behalf of the Council. In the delivery of the planning control service, that means determining planning applications, and making decisions on related matters. The 'boundaries' for this delegation are outlined below by clearly stated and published rules.

## 2. THE PURPOSE OF DELEGATION

2.1 The purpose of delegation is to:

- ❖ leave the Board to focus its time and effort on the most significant matters that affect planning policy;
- ❖ help reduce the time taken for making the more straightforward decisions on planning applications, and related matters, when they are consistent with Council policy as set out in the Development Plan;
- ❖ help the Council to achieve a more flexible and responsive planning control service, so that it can speed up the process of decision making in line with Government guidance, any relevant Performance Indicators and Council objectives;
- ❖ simplify procedures so as to concentrate effort and resources where they are most needed; and
- ❖ release staff time so that it can be redirected to securing better quality development.

2.2 Hence this Scheme of Delegation, by operating within clear guidelines, will be able to deliver planning control decisions which are consistent with the Development Plan, routinely, and with greater speed than where little advantage is taken of delegation.

## 3. THE CONTEXT OF DELEGATION

3.1 This Scheme of Delegation takes into account the following matters which have provided the background against which it has been adopted.

❖ **The Development Plan:** The Planning legislation describes the concept of a "plan-led" decision making process, whereby planning decisions should be taken in accordance with the Development Plan. The Council's approach to new development proposals is thus already laid out in this Plan, and decisions on individual planning applications can be made accordingly.

❖ **The Human Rights Act 1998:** This Act requires the Council to act in a way which is compatible with European Convention Rights. This Scheme of Delegation has been prepared in this knowledge.

3.2 The basis for delegation has generally been accepted by all Local Planning Authorities. It has worked successfully in achieving a more flexible service responding to the variety of calls placed upon an Authority's planning control function. The Scheme outlined below will take North Warwickshire Borough Council's planning control service forward with an improved service delivery.

## **4. THE SCHEME OF DELEGATION**

### **A) Applications**

4.1 The following applications that are submitted to North Warwickshire Borough Council for determination, will be decided by the Planning and Development Board, following consideration of a written report from the Assistant Chief Executive and Solicitor to the Council which will contain a written recommendation in all cases:

- a) All applications that constitute material departures from the Development Plan.
- b) All applications that are required to be accompanied by an Environmental Impact Statement.
- c) any application where a request has been made by either the Chair or Vice-Chair of the Planning and Development Board, or the local ward member(s), and when an approval would involve a legal agreement under planning legislation.
- d) All applications that are made wholly, jointly, or on behalf of North Warwickshire Borough Council, whether on Borough Council land or not, and any application that is made on Borough Council land.
- e) All major applications that are made by the County Council, or that are made jointly, or on behalf of Warwickshire County Council whether on its own land or not, within North Warwickshire.
- f) Any application that is submitted by or on behalf of any Member of the Council; a member of the family of a Member or a person with whom there is a close association, and any member of staff employed by the Council.
- g) Any application where a request based on material planning considerations is made in writing to the Assistant Chief Executive and Solicitor to the Council by any Borough Councillor for referral of that application to the Board.
- h) Any application where the Assistant Chief Executive and Solicitor to the Council considers it appropriate to report to the Board for determination.
- i) Any application where a consultee has submitted an objection in writing, but yet where a recommendation of approval is to be made by the Assistant Chief Executive and Solicitor to the Council.
- j) Any application where, following the receipt of representations that are contrary to the Assistant Chief Executive and Solicitor to the Council's recommendation, and where either the Chair or Vice Chairman of the Planning and Development Board, or the Local Ward Member(s), disagree with that recommendation.

4.2 In all other cases, the determination of applications is delegated to the Assistant Chief Executive and Solicitor to the Council. Each determination shall be accompanied by a written report outlining the reasoning for that determination.

4.3 For the purpose of the Scheme of Delegation, the terms "application" and "Consultee", are defined in Annexe 'A' to this Scheme.

### **B) Consultations**

4.4 When an application is:



- ❖ submitted to the Warwickshire County Council as the Minerals Planning Authority, or the Waste Local Authority for determination, and North Warwickshire Borough Council has been consulted for its observations on that application, or
- ❖ when an application is submitted to a neighbouring Local Planning Authority for determination, and that Authority has consulted North Warwickshire Borough Council for its observations on that application, or
- ❖ when the Council is consulted by others on matters under legislation other than planning legislation, but where these matters are related to planning considerations, then the principles outlined in paragraph 4.1 will apply as to whether the observations of the Council shall be made by the Assistant Chief Executive and Solicitor to the Council under delegated powers, or by the Planning and Development Board.

4.5 In all of the above cases, where the observations are forwarded by the Assistant Chief Executive and Solicitor to the Council under delegated powers, then:

- ❖ he will report to the Planning and Development Board on the observations made, and
- ❖ include on the file, the reasoning behind these observations.

.6 For the purposes of this Scheme of Delegation, examples of the other legislation referred to in paragraph 4.4 is included in Annexe A to this Scheme.

## **5. MEMBER INVOLVEMENT**

5.1 Members and officers work together to determine planning applications. This Scheme of Delegation recognises that there are good reasons for, and advantages in, delegating some decisions to the Assistant Chief Executive and Solicitor to the Council. However, given the high public profile of planning matters, it is inevitable that Members will often become involved in the planning control service during the passage of a planning application through the process. In order to ensure that there is a strong partnership of Members and Officers, but that their respective roles are identified and maintained, the following Best Practice guidelines will be followed:

- ❖ For the purposes of paragraph 4.1 (g) and (j) above, as soon as it becomes apparent that the recommendation of the Assistant Chief Executive and Solicitor to the Council will be contrary to the nature of representations received on any application, then the case officer will contact the Local Ward Member(s), together with the Chair and Vice Chairman of the Planning and Development Board. If no adverse comments are received within seven days, then the matter will be dealt with in line with the Assistant Chief Executive and Solicitor to the Council's recommendation under delegated powers. A record of this contact will be kept on the case file. Contact will be made as early as possible via e-mail, in order to ensure full Member involvement.
- ❖ Ward briefings, either individually or on a group basis, will be held with Members at their request so that they can be kept up to date with applications and their progress towards determination, and other significant 'ward' issues. Current applications and plans can be made available for discussion.
- ❖ All 'significant' applications to be reported to the Board and Ward Members, to enable site visits to be organised at an early stage.
- ❖ Issues and progress reports will be circulated to the Board and Ward Members either by notification or through a report on major and/or sensitive applications, prior to the determination report, so that the material considerations and key matters can be made explicit at an early stage.

❖ Regular post-decision site visits to be made to assess the quality of the decision, and to see the implementation of the scheme, so that there can be continuous monitoring of the quality of decision making.

5.2 The procedure outlined above in respect of Member involvement, will also apply to proposed amendments to development proposals.

## 6. REVIEW DATE

6.1 This Scheme of Delegation will be reviewed by May 2016.

### ITEMS FOR CLARIFICATION

#### A) For the purposes of this Scheme, ‘application’ includes:

applications for:

All types of planning permission  
 Reserved matters  
 Discharge, non-compliance or variation of conditions and minor amendments  
 Advertisement Consent  
 Listed Building Consent  
 Conservation Area Consent  
 Works to Trees subject to Tree Preservation Orders  
 Hazardous Substances Consent  
 Hedgerow Removals  
 Certificates of Lawful Development  
 Prior Notifications and Determinations in respect of agricultural and telecommunications developments together  
 Proposed Amendments to previously approved developments.

#### B) For the purposes of this Scheme, ‘other legislation’ includes:

Forestry Act 1967 Electricity Act 1989 Land Compensation Act 1961 Local Government (Miscellaneous Provisions) Act 1982 Transport Act 1968	eg Felling Licences eg Overhead Lines eg Certificates of Alternative Development
eg Car Boot Sales Notices eg Goods Vehicle Licensing	

C) For the purposes of this scheme, “Consultee” means those organisations referred to in the table contained in Articles 18, 19 and 20, and Schedule 4 to the Town and Country Planning (Development Management Procedure) Order 2015, as amended.

**B EXECUTIVE POWERS OF THE CHIEF EXECUTIVE IN RELATION TO ELECTORAL REGISTRATION, ELECTIONS AND URGENT BUSINESS.**

- (a) To perform the duties of Electoral Registration Officer and to define for that purpose the polling districts and polling places within the Council's area.
- (b) To act as Acting Returning Officer for Parliamentary Elections; as Returning Officer for Borough and Parish Elections; as Deputy Returning Officer for County Council Elections, if appointed by the County Returning Officer; and as Deputy Acting Returning Officer for European Parliament Elections, if appointed by the Acting Returning Officer, or any other role appointed to with regard to any other Election or Referendum.
- (c) Authority to take such urgent action as he or she considers necessary, following consultation with the appropriate Chairman or Portfolio Holder and to the action being reported to the next available meeting of the relevant Board, Committee or Body. (This power may be exercised by the relevant relevant member of the Council's Management Team in the Chief Executive's absence).

**C EXECUTIVE POWERS OF THE ASSISTANT CHIEF EXECUTIVE AND SOLICITOR TO THE COUNCIL IN RELATION TO THE PROTECTION OF PROPERTY AND LEGAL PROCEEDINGS.**

- (a) To take action to prosecute to recover compensation in all cases of damage to any property belonging to the Council.
- (b) To take all necessary action to defend any legal proceedings brought against the Council; and to give notice of any appeal for the purpose of preventing such appeal being barred by lapse of time.
- (c) To settle claims against the Council (unless such claims are covered by insurance) up to, in any one claim, the level of the Council's personal injury insurance excess – currently £500.
- (d) To sign all contracts, agreements and other documents on behalf of the Council without prejudice to the power of the Council to designate by resolution or Financial Regulation any other Officer as proper officer for the purpose of notifying a decision or class of decisions of the Council or placing orders for goods or services.
- (e) Authority to institute legal proceedings of any nature on behalf of the Council.

**N.B. 1. The powers listed in 2(b) and (e) above may also be exercised by the Chief Executive, where he/she is a qualified Solicitor or Barrister.**

**2. The powers listed in 2(a), (c) and (d) above may, in the absence of the Solicitor to the Council, be exercised by the Chief Executive, where he/she is a qualified Solicitor or Barrister.**

**3. The powers listed at 2(d) above may: in the absence of the Solicitor to the Council, also be exercised by the Principal Solicitor.**

**PROPER OFFICER POWERS****A CHIEF EXECUTIVE**

<b>Legislation</b>	<b>Function</b>
1. Representation of the Peoples Act 1983 – section 8 and 35	To act as Electoral Registration Officer and Returning Officer
2. Local Government Act 1972 - Section 83(1) to (4)	To witness and receive Declarations and Acceptances of office
3. Local Government Act 1972 - Section 84	To receive resignations of office
4. Local Government Act 1972 - Section 88(2)	To convene meetings to fill casual vacancies in the office of Mayor
5. Local Government Act 1972 - Section 89(1)(b)	To receive notice of casual vacancy for a Councillor
6. Local Government Act 1972 - Section 248	Keeping the Roll of Freemen of the Borough
7. Local Government Act 1972 - Schedule 12 Paragraph 4(2)(b) Paragraph 4(3)	Summons to Council Meetings Receipt of notices of address to which summons to meetings may be sent
8. Local Government Act 1972 - Sections 100B; 100C; 100D; and 100F Section 100B(2)	Circulation of Reports and Agendas Supply of papers to the press
Section 100B(7)(c)	Summary of minutes concerning exempt business
Section 100C(2)	Compilation of list of background papers
Section 100D(1)(a)	Identification of background papers
Section 100D(5)(a)	Identification of documents which are not open to inspection by Members of the Council
Section 100F(2)	

(The powers listed at A1 to A8 may, in the absence of the Chief Executive, be exercised by the Assistant Chief Executive and Solicitor to the Council. ).

9. Local Government Finance Act 1988 Section 116 Convening of meetings to consider reports made under Section 114 of the Act, including notification of meetings to the Auditor.
10. Local Government and Housing Act 1989 Proper Officer for the purposes of the Act.

**B ASSISTANT CHIEF EXECUTIVE AND SOLICITOR TO THE COUNCIL**

1. Ordnance Survey Act 1841, as amended by Section 191 of the Local Government Act 1972 For the certification of boundaries
2. Local Government Act 1972 – Section 229(5) Certification of Photographic copies of documents
3. Local Government Act 1972 – Section 234(1) and (2) Authentication of Documents
4. Local Government Act 1972 – Section 236(9) and (10) Transmission of copies of byelaws
5. Local Government Act 1972 – Section 238 Certification of byelaws
6. Local Government Act 1972 Schedule 14 (Paragraph 25(7)) Certification of Resolutions
7. Representation of the Peoples Act 1983 – section 8 and 35 To act as Deputy to the Electoral Registration Officer and Returning Officer
8. Local Government Act 1972 – Section 225(1) Deposit of documents
9. Proper Officer powers in relation to any reference in any enactment passed before or during the 1971/72 session of Parliament (other than the Local Government Act 1972) or in an instrument made before 26th October 1972 to the Medical Officer of Health or to the Public Health Inspector of a Council which by virtue of any provision of the Local Government Act 1972 was to be construed as a reference to the Proper Officer of the Council.
10. Local Government Act 1972 - Sche 14
11. Environmental Protection Act 1990 Section 149(1)

- |     |                                                                                                |                                                  |
|-----|------------------------------------------------------------------------------------------------|--------------------------------------------------|
| 12. | Public Health (Control of Disease) Act 1984 and Regulations made under that Act                | Control of notifiable disease and food poisoning |
| 13  | Public Health Act 1961 – section 37                                                            |                                                  |
| 14  | The Health Protection (Local Authority Powers) Regulations 2010 – Service of Notices           |                                                  |
| 15  | The Health Protection (Part 2A Orders) Regulations 2010 – make applications for Part 2A Orders |                                                  |

**NB**

**(h) The powers listed at 9 to 15 may, in the absence of the Assistant Chief Executive and Solicitor to the Council be exercised by the Environmental Health Managers**

**(ii) In relation to Statutory Notices served under the provisions of all relevant legislation for which the Assistant Chief Executive and Solicitor to the Council is the Proper Officer, the power to sign such Notices may, in his absence, be exercised by the Environmental Health Managers**

- 16 To authorize Medical Officers of the Primary Care Trust, the Health Protection Agency (or any successor bodies) to act as Proper Officers for and on behalf of the Council as identified to the Assistant Chief Executive and Solicitor to the Council from time to time in matters arising under:-

Public Health Act 1936 – Sections 84 and 85 – filthy and verminous premises

National Assistance Act 1948 – removal of persons living in insanitary conditions

Public Health (Control of Diseases) Act 1984 – certificate to enable Magistrates to order the removal of a dead body and burial

Public Health (Infectious Diseases) Regulations 1968

The Health Protections (Notification) Regulations 2010

17 Criminal Justice and Police Act 2001 – Closure Notices

**C DEPUTY CHIEF EXECUTIVE**

1. Local Government Act 1972 – Section 115(2) Receipt of money due from Officers
2. Local Government Act 1972 – Section 146(1)(a) and (b) Declarations and Certificates with regard to securities
3. Local Government Act 1972 – Section 151 Administration of the Council's financial affairs
4. Local Government Act 1972 – Section 228(3) Accounts to be open for inspection
5. Local Government Finance Act 1988 – Section 114 Requirement to make reports concerning unlawful expenditure

(The power listed under C3 and C5 will, in the absence of the Director of Resources, be exercised by the Assistant Director (Finance and Human Resources)).

**D ASSISTANT DIRECTOR (CORPORATE SERVICES)**

Local Government Act 1972 – Section 212(1) and (2) Registrar of Local Land Charges

**E CONSULTANT IN COMMUNICABLE DISEASE CONTROL OF HEALTH PROTECTION AGENCY**

- (i) Proper Officer powers in relation to the Public Health (Control of Disease) Act 1984.
- (ii) Section 47 of the National Assistance Act 1948 as amended by the National Assistance (Amendment) Act 1951.

**AUTHORISED OFFICER POWERS**

**A ASSISTANT CHIEF EXECUTIVE AND SOLICITOR TO THE COUNCIL**

1. Authorised Officer powers for the purposes of the hackney carriage provisions contained in the Town Police Clauses Act 1847; and for the purposes of the hackney carriage and private hire provisions contained in Part II of the Local Government (Miscellaneous Provisions) Act 1976.
2. Authorised Officer powers for the purposes of Sections 14-17 of the Local Government (Miscellaneous Provisions) Act 1982; the Public Health (Control of Diseases) Act 1984; Licensing Act 2003 Authorised Officer Powers.

**B ALL QUALIFIED ENVIRONMENTAL HEALTH OFFICERS, THE SENIOR POLLUTION CONTROL OFFICER, THE POLLUTION CONTROL OFFICERS WITHIN THE DIVISIONS OF THE ASSISTANT CHIEF EXECUTIVE AND SOLICITOR TO THE COUNCIL AND THE ASSISTANT DIRECTOR (HOUSING)**

Authorised Officer powers for the purposes of the regulatory functions contained in the following Acts, including all Orders and Regulations made thereunder:

The Public Health Acts 1936-68  
The Public Health (Recurring Nuisances) Act 1969  
The Housing Act 1985  
The Housing Act 1996  
The Housing Grants, Construction and Regeneration Act 1996  
The Building Act 1984  
The Food and Environment Protection Act 1985  
The Prevention of Damage by Pests Act 1949  
The Clean Air Act 1993  
The Control of Pollution Act 1974  
The Pet Animals Act 1951  
The Animal Boarding Establishments Act 1963  
The Riding Establishments Acts 1964-1970  
The Breeding of Dogs Act 1973  
The Water Act 1945  
The Slaughter of Poultry Act 1967  
The Slaughterhouses Act 1974  
The Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
The Scrap Metal Dealers Act 1964  
The Civic Amenities Act 1967  
The Refuse Disposal (Amenity) Act 1978  
The Caravan Sites Act 1968  
The Caravan Sites and Control of Development Act 1960  
The Public Health (Control of Disease) Act 1984  
The Dangerous Wild Animals Act 1976  
The Health and Safety at Work Etc Act 1974  
The Homes Insulation Act 1978  
The Animal Health Act 1981  
The Disease of Animals Acts 1950-1975  
The Environmental Protection Act 1990  
\*The Food Safety Act 1990  
The Environment Act 1985  
The Pollution Prevention and Control Act 1999  
The Licensing Act 2003 Part 3 Section 13 Responsible Authority  
The Dogs (Fouling of Land) Act, 1996



\*The Student Environmental Health Officer is also an Authorised Officer but restricted to the purposes of powers of entry, sampling and inspection only.

**C THE TECHNICIANS, TECHNICAL ASSISTANTS AND THE STUDENT ENVIRONMENTAL HEALTH OFFICER WITHIN DIVISIONS OF THE ASSISTANT CHIEF EXECUTIVE AND SOLICITOR TO THE COUNCIL AND THE ASSISTANT DIRECTOR (HOUSING)**

Authorised Officer powers, restricted to powers of entry for the purpose of inspection and investigation only, in relation to the environmental health functions contained in the Acts listed at B above, including all Orders and Regulations made thereunder.

**D ALL ENVIRONMENTAL HEALTH OFFICERS AND BUILDING INSPECTORS**

Authorised Officer powers for the purposes of the Building Act 1984

**THE ENVIRONMENTAL HEALTH MANAGERS ALL ENVIRONMENTAL HEALTH OFFICERS AND THE FOOD SAFETY OFFICERS**

Authorised Officer powers under the following:

The European Communities Act 1972 and all Regulations made under it  
Food and Environmental Protection Act 1985 and all Regulations made under it  
Food Safety Act 1990 and all Regulations made under it  
Water Industry Act 1991

The Food (Jelly Confectionary) (Emergency Control) (England) Regulations 2002

The Food (Chilli, Chilli Products, Curcuma and Palm Oil) (Emergency Control) Regulations 2005

The Food Hygiene (England) Regulations 2006

The TSE (England) Regulations 2006

The Contaminants in Food (England) Regulations 2007

The Official Feed and Food Controls (England) Regulations 2007

Private Water Supplies Regulations 2009

The Sunbeds (Regulation) Act 2010

The Trade in Animals and Related Products Regulations 2011

Only Environmental Health Officers and Food Safety Officers holding the higher certificate in food control with two years experience are authorised under the following:

Food Hygiene (England) Regulations 2006 – Regs 8, 9 and 27

Food Safety Act 1990 – Sections 9 and 12

Authorised officer powers for all of the above legislation is also granted for Technical Assistants and Student Environmental Health Officers but restricted to powers of entry for the purposes of inspection and investigation only

**F      HOLDERS OF ALL ENVIRONMENTAL HEALTH OFFICER POSTS, THE SENIOR POLLUTION CONTROL OFFICER, THE POLLUTION CONTROL OFFICER POST, THE SCIENTIFIC OFFICER AND OTHER TECHNICAL POSTS IN THE DIVISIONS OF THE ASSISTANT CHIEF EXECUTIVE AND SOLICITOR TO THE COUNCIL AND THE ASSISTANT DIRECTOR (HOUSING)**

Authorised Officers in relation to relevant parts of the Environmental Protection Act 1990, with the exception of Part I.

**NB The holder of the post of Student Environmental Health Officer is also an Authorised Officer but restricted to the purposes of powers of entry, examination and investigation only.**

**G**      Environmental Health Manager, Senior Environmental Health Officer, Environmental Health Officer, Food Safety Officers and Food Technical Assistant of the Commercial and Licensing Team, be authorised officers under the European Communities Act 1972, Regulations No's 178, 852, 853, 882 and 2073.

**H**      Food Safety Officers be authorised officers for enforcement under the Regulations and Orders made under the Food Safety Act 1990.

**I**      Food Technical Assistant be authorised officers under the Food Safety Act 1990 and European Communities Act 1972 and regulations 178, 852, 853, 882 and 2073 (but only as regards the powers of entry, sampling and investigation).

**J      ALL OFFICERS OF THE DIVISIONS OF THE ASSISTANT CHIEF EXECUTIVE AND SOLICITOR TO THE COUNCIL AND THE ASSISTANT DIRECTOR (HOUSING)**

Authorised Officers to seize dogs, under Section 5 of the Dangerous Dogs Act 1991.

**K      REFUSE COLLECTION AND RECYCLING MANAGER, TRANSPORT AND STREETScape MANAGER AND WORKSHOP FOREMAN**

Authorised Officers under the Council's Off Street Parking Places Orders to remove or reposition vehicles parking in the Market Square, Atherstone, and at other car parks covered by the Orders.

**L      LICENSING ENFORCEMENT OFFICERS**

Authorised to carry out all aspects of the Council's duties and responsibilities (including licensing access to premises) under the relevant provisions of the Local Government (Miscellaneous Provisions) Act 1972 and 1982; The Town Police Clauses Act 1847 and the Transport Act 1985, The Licensing Act 2003 and the Gambling Act 2005, including all Orders and Regulations made thereunder.

Authorised for the purposes of inspection and enforcement under the relevant provisions of the

- The Pet Animals Act 1951
- The Animal Boarding Establishments Act 1963
- The Riding Establishments Act 1964 and 1970
- The Breeding of Dogs Act 1973
- The Dangerous Wild Animals Act 1976
- House to House Collections Act 1939
- Lotteries and Amusements Act 1976

- Regulations made by the Council in respect of Street Collections under the Charitable Collections (Transitional Provisions) Order
- The Environmental Protection Act 1990
- The Clean Neighbourhoods Act 2005
- The Dogs (Fouling of Land) Act 196
- The Anti-Social Behaviour Act 2003

**M ALL ENVIRONMENTAL HEALTH OFFICERS, FOOD SAFETY OFFICERS, SENIOR POLLUTION CONTROL OFFICERS, POLLUTION CONTROL OFFICERS AND ENVIRONMENTAL HEALTH MANAGERS**

Authorised officers under the Licensing Act 2003 – Sections 59 and 63 for Responsible Authority response.

**N FOOD SAFETY OFFICERS**

Authorised for the purposes of inspection and enforcement under the relevant provisions of

- Food Safety Act 1990
- Health and Safety at Work Act 1974
- Product of Animal Origin (Third Country Imports) 2002
- The Environmental Protection Act 1990

(Powers under the Products of Animal Origin (Third Country Imports) 2002 may be exercised by the Environmental Health Manager, the Senior Environmental Health Officer or any qualified Environmental Health Officer).

**O LICENSING ENFORCEMENT OFFICERS, SENIOR ENVIRONMENTAL HEALTH OFFICERS, FOOD SAFETY OFFICERS, POLLUTION CONTROL OFFICERS, TECHNICAL ASSISTANTS AND ENVIRONMENTAL HEALTH MANAGERS**

Authority under the Health Act 2006 and associated regulations to issue Fixed Penalty Notices in respect of the Smoke Free legislation.

**P ENVIRONMENTAL HEALTH MANAGERS, SENIOR ENVIRONMENTAL HEALTH OFFICER, SENIOR POLLUTION CONTROL OFFICER, POLLUTION CONTROL OFFICERS AND ENVIRONMENTAL HEALTH OFFICERS.**

Authority to carry out all aspects of the Council's duties and responsibilities under the relevant provisions of the Environmental Damage (Prevention and Remediation) Regulations 2009.

**Q THE HEAD OF DEVELOPMENT CONTROL, THE PRINCIPAL PLANNING OFFICER AND THE SENIOR DEVELOPMENT CONTROL OFFICERS**

These postholders have authority to sign delegated decisions in respect of planning and related applications

**LICENSING COMMITTEE – SCHEME OF DELEGATION**

**APPENDIX F**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint 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 objection to a temporary event notice		All cases	

## APPENDIX G

### Scheme of Delegation as permitted under the Gambling Act 2005

Matter to be Dealt with	Full Council	Sub-Committee of the Licensing Committee	Officers
Three year Licensing policy	X		
Policy not to permit casinos	x		
Fee setting where appropriate			x
Application for premises licence		Where representations are received and not withdrawn	Where no representations are received or are withdrawn
Application to vary a premises licence		Where representations are received and not withdrawn	Where no representations are received or are withdrawn
Application to transfer a premises licence		Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for a provisional statement		Where representations are received and not withdrawn	Where no representations are received or are withdrawn
Review of a Premises licence		x	
Application for club gaming/club machine permits		Where objections have been made and not withdrawn	Where no objections have been made or have been withdrawn
Cancellation of club gaming/club machine permits		x	
Application for other permits			x
Cancellation of licensed premise gaming machine permits			x
Consideration of Temporary use Notice			x
Decision to give a counter notice to a temporary use notice		x	

X indicates the LOWEST level to which a decision can be delegated

## **PART 4**

### **RULES OF PROCEDURE**

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**RULES OF PROCEDURE**

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## **PROCEDURAL STANDING ORDERS**

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## **PROCEDURAL STANDING ORDERS**

### **COUNCIL MEETINGS**

#### **STANDING ORDER No.1 Meetings**

1. (1) At the Annual Meeting, the Council will decide the dates for its ordinary meetings during the year, unless this has been dealt with at an earlier meeting of the Council.
- (2) The Annual Meeting and Ordinary Meetings will be held at 6.30 p.m. and any Extraordinary Meetings will be held at a time to be fixed by the Chief Executive, after consultation with the Mayor.
- (3) All Council Meetings will be summoned by the Chief Executive and will be held in the Council Chamber at The Council House, South Street, Atherstone, but the Chief Executive may (if the Chamber is not available for a particular meeting) arrange an alternative venue within the Borough.

- Note: (a) The procedure for convening the Annual Meeting and Extraordinary Meetings is specified in paragraphs 1 and 3 respectively of Schedule 12 to the Local Government Act, 1972.
- (b) Please also refer to Standing Order No 13 in relation to Extraordinary Meetings of the Council.

#### **STANDING ORDER No. 2 Mayor and Deputy Mayor**

2. The Mayor and Deputy Mayor will be elected at the Annual Meeting.

#### **STANDING ORDER No.3 Chairing the Meeting**

3. (1) The Mayor (or in his/her absence, the Deputy Mayor) will chair meetings of the Council. In their absence, the Council will choose another Member to chair the meeting
- (2) Any of the Mayor's powers or duties for conducting a meeting may be exercised by the Member who chairs the meeting.

## **COUNCIL MEETINGS**

### **STANDING ORDER No.4 Quorum**

4. No business can be dealt with at a Council Meeting unless there is a quorum of 9 Members present. If there is no quorum, the meeting must be adjourned immediately and any remaining business postponed to a date and time fixed by the Mayor at the adjournment or, if no such arrangements are made, to the next ordinary meeting.

### **STANDING ORDER No.5 Order of Business**

5. (1) The order of business at ordinary meetings will be:-
  - (a) to choose a person to chair the meeting if the Mayor and Deputy Mayor are absent.
  - (b) to deal with any business required by law to be done before any other business
  - (c) to receive apologies for absence
  - (d) to receive Declarations of Interest from Members
  - (e) to approve the minutes of the last ordinary (or annual) meeting and any subsequent extraordinary meeting and sign them.
  - (f) to deal with any business specifically required by law.
  - (g) to receive the Mayor's announcements.
  - (h) to deal with any business remaining from the last meeting.
  - (i) to answer questions asked under Standing Order No. 7 (2).
  - (j) to receive and consider minutes and recommendations of Boards, Committees, Panels and other bodies.
  - (k) to consider motions in the order in which notice has been received.
  - (l) to receive the Returning Officer's return of Councillors elected at any recent bye-election or uncontested election.
  - (m) to authorise the sealing or signing of any Orders, Deeds or Documents necessary to give effect to any resolution of the Council.
  - (n) to deal with other business, if any, specified in the summons.
- (2) The order of business under paragraphs (f) to (n) above may be changed by the Mayor or by a motion passed without discussion. The motion need not be in writing.
- (3) The business to be transacted at the Annual Meeting of the Council shall be as set out in paragraph (1) above but with the addition of items for the election of Mayor and Deputy Mayor and, in a year of ordinary elections, to receive the Returning Officer's return of Councillors elected.

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### **STANDING ORDER No. 6 Approval of Council Minutes**

6. (1) The Mayor will move "That the minutes of the meeting of the Council held on \_\_\_\_\_ (date) be approved as a correct record".
- (2) THE MINUTES ARE NOT TO BE DISCUSSED, EXCEPT ON A MOTION TO QUESTION THEIR ACCURACY. IF THERE IS NO SUCH MOTION OR WHEN ONE HAS BEEN DEALT WITH, THE MAYOR WILL SIGN THE MINUTES.
- (3) Where an extraordinary meeting of the Council is held, the minutes of the last ordinary (or annual) meeting of the Council shall not be approved at that meeting, but shall be approved, together with the minutes of the extraordinary meeting, at the next ordinary (or annual) meeting.

### **STANDING ORDER No.7 Questions by Members**

7. (1) A Member may ask the Chairman of a body (**or, if appropriate, the relevant Portfolio Holder**) any question about an item in that body's minutes when that item is under consideration by the Council.
- (2) If notice is given under paragraph (3) below, a Member may ask the Mayor, the relevant Chairman **or Portfolio Holder**, a question about any matter directly affecting the borough or for which the Council has responsibilities.
- (3) Written notice of a question under paragraph (2) must be delivered in writing or sent by electronic mail or facsimile transfer to the Chief Executive by 9.30 am two working days before the day of the meeting. However, the Mayor, if satisfied that it is urgent, can allow a question to be put, if written notice is received by the Chief Executive by 10.00 a.m. on the day of the meeting through one of the delivery methods referred to above.
- (4) A question must be asked and answered without discussion. The Member questioned can decline to answer.
- (5) An answer can be:
  - (a) spoken;
  - (b) written and circulated to Members at the meeting,
  - (c) written and circulated to Members within 7 days of the meeting; or
  - (d) by reference to a Council publication or other published work that contains the information requested.
- (6) All questions asked under this Standing Order shall be questions of fact only and not of opinion.
- (7) No questions shall be put to an officer of the Council, except with the consent of the Council.
- (8) The Mayor may disallow questions:-

## **COUNCIL MEETINGS**

- (a) if in an unsuitable form or if frivolous in character; or
- (b) where an answer would not, in the Mayor's opinion, be in the interest of the public or of the Council; or
- (c) which, at an extraordinary meeting, do not relate to the particular business to be transacted

### **Questions by the Public**

#### **General**

- (9) At each ordinary meeting of the Council, and every meeting of the Policy Boards, the Special Sub Group and Safer Communities Sub-Committees, 20 minutes shall be set aside for questions from the public gallery by any resident of the Borough concerning the work of the Council or Body.

#### **Notice of Questions**

- (10) No such question shall be asked unless it shall have been delivered in writing or sent by electronic mail or facsimile transfer to the Chief Executive no later than 9.30 am two working days before the meeting.

Each question must give the name and address of the questioner.

#### **Scope of Questions**

- (11) The Chief Executive may reject a question if, in his opinion, it:
  - is not about a matter for which the Council has a responsibility or which affects the Borough;
  - is substantially the same as a question which has been put at a meeting of the Council or Body in the past six months;
  - is defamatory, frivolous, vexatious or offensive;
  - requires the disclosure of confidential or exempt information; or
  - relates to a planning application, licensing application or any matter of a personal nature, or
  - where it is a question to a Board, the Special Sub-Group or a Sub-Committee, it is not a matter within the terms of reference of that Body.
- (12) At Council Meetings, the Mayor will invite the relevant Chairman or Portfolio Holder to give the reply. At meetings of other Bodies, the Chairman of that Body shall reply. Such replies shall not exceed 5 minutes. At the discretion of the Mayor or Chairman a supplementary question may be asked if arising directly from the reply, provided that the original allocation of 5 minutes is not exceeded.

## **COUNCIL MEETINGS**

### **Number of Questions**

- (13) At any one meeting except by permission of the Mayor or Chairman of a Body no person may submit more than one question and no more than one question may be asked on behalf of any one organisation.

### **Order of Questions**

- (14) In the event of there being more than one question, the Chief Executive will draw lots to determine the order in which the questions shall be asked. At the expiry of the 20 minute period, or after the reply to the final question, whichever shall first occur, the Council or Body will proceed to the next business.

### **Record of Questions**

- (15) The question put and the answer given shall be minuted.

### **Reference of Questions to a Board**

- (16) At Council Meetings, unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the appropriate Board. Once seconded, such a motion will be voted on without discussion.

## **STANDING ORDER No. 8 Adoption of Minutes by the Council**

8. (1) The minutes of a body will be presented to the Council by the Chairman of the body concerned whether or not present at the relevant meeting (or in his/her absence at the Council meeting by the Vice-Chairman or another Member of that body) who shall move "That the minutes of the meeting of the body held on \_\_\_\_\_(date) be received and adopted". This motion, when seconded, will have the effect of moving every item in the minutes which requires confirmation. This paragraph and paragraph (3) below shall apply to the Standards Committee, even though the persons proposing and/or seconding the motion may be Independent Members of the Committee and, therefore, not Borough Councillors.
- (2) The Mayor will then call out the number of each page and any Member who wishes to speak on a minute on that page must do so immediately after the page number has been called.
- (3) When all the items in the minutes have been dealt with, the Chairman will immediately move the adoption motion under paragraph (1) without further discussion. On being passed, it will have the effect of adopting the minutes subject to any amendments already made.
- (4) Where a recommendation is made by one body to another, the adoption by the Council of the minute of the body making the recommendation is not to be regarded as approval by the Council of the substance of the recommendation.

## **COUNCIL MEETINGS**

**STANDING ORDER No.9**  
**Motions and Amendments not requiring Notice**

9. Notice is not required to move motions and amendments:-
- (1) to propose a person to chair a meeting;
  - (2) about the accuracy of the minutes,
  - (3) to change the order of business on the agenda,
  - (4) to refer a matter to an appropriate body or Senior Officer;
  - (5) to constitute bodies and to appoint Members or other persons to other bodies (including outside organisations) where relevant to an item of business mentioned in the summons to the meeting;
  - (6) to adopt minutes and recommendations of bodies and any consequential resolutions;
  - (7) to withdraw an item of business or withdraw a motion;
  - (8) to extend the time limit for speeches;
  - (9) to amend a motion;
  - (10) to go to the next business;
  - (11) to put the question to an immediate vote;
  - (12) to adjourn the debate;
  - (13) to adjourn the meeting;
  - (14) to authorise the sealing of documents;
  - (15) to suspend standing orders
  - (16) to exclude the public and press;
  - (17) not to hear a Member further or to require a Member to leave the meeting (Standing Order No. 21);
  - (18) to give the consent of the Council where required by these standing orders;
  - (19) to record the Council's appreciation or condolence.

**COUNCIL MEETINGS**

**STANDING ORDER No. 10**  
**Notice of Motion**

**Procedure**

10. (1) Notice of every motion (except those listed in Standing Order No. 9) must be given in writing, signed by the proposer giving the notice and delivered to the Chief Executive not later than noon one week before the meeting of the Council
- (2) The Chief Executive will date and number the motions in the order in which they are received and enter them in a book which is open to inspection by Members.

#### **Details to be set out in Summons**

- (3) Motions which are received before publication of the agenda will be printed in the Summons in the order in which notice was received unless the Member who gave the notice states in writing that the motion has been withdrawn or will be moved at a later meeting. Motions which are received after publication of the agenda will be circulated by email to all Members of the Council and printed copies made available at the Council meeting

#### **Motion not Moved**

- (4) If a motion is not moved and seconded at the meeting in the form set out in the summons, it will be treated as withdrawn, unless the Council vote to postpone it.

#### **Automatic Reference to a Body**

- (5) If the subject matter of a motion comes within the province of any body it will, when moved, be referred for consideration, without discussion, to the relevant body. However, the Mayor may allow the motion to be dealt with at the meeting at which it is moved. A Member who has proposed a motion which has been referred to any body as above, may be present during its consideration by that body and will be able to explain it.

#### **Scope**

- (6) Every motion must relate to something for which the Council has responsibilities or which directly affects the Borough.

### **STANDING ORDER No 11 Voting**

11. (1) Voting at Council meetings will be by a show of hands unless 3 Members, before the vote is taken, stand and request a recorded vote to show how each Member voted. In a recorded vote, the name of any Member abstaining from voting must also be recorded. Immediately after any vote is taken at a budget decision meeting (as defined in The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014) there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting
- (2) If the number of votes for and against a proposal are equal, the Mayor has a second or casting vote.

#### **COUNCIL MEETINGS**

- (3) Immediately after a vote is taken, a Member may require that there shall be recorded in the minutes of the proceedings of that meeting whether that person voted for or against the proposal or whether he/she abstained from voting.



- (4) If more than two persons are proposed for any position to be filled by the Council, and no-one receives more than half of the votes cast, the person with the least number of votes will cease to be a candidate and a fresh vote will be taken. This procedure will continue until one person obtains more than half the votes, but if at the end of this procedure, there are only two persons remaining and neither of them secures more than half of the votes cast, because of abstentions or for any other reason, the person with the greater number of votes will be appointed to the office.

**STANDING ORDER No. 12**  
**Motions on Expenditure**

12. (1) Any motion, except a motion under Standing Order 10, which, if carried, will increase the expenditure of or reduce the revenue from a service under the control of any body or will involve capital expenditure must, when proposed and seconded (unless the Council decides otherwise), stand adjourned without discussion to the next ordinary meeting of the Council and any body affected by such a motion shall consider whether it wishes to report on the matter.
- (2) This procedure shall not, however, apply to any motion which arises from any report or recommendation of a body provided that the Resources Board has considered the financial aspects of the proposal.

**STANDING ORDER No. 13**  
**Extraordinary Meetings of the Council**

13. (1) Those listed below may request the Chief Executive to call Council meetings in addition to Ordinary and Annual meetings.
- (i) the Council by resolution;
  - (ii) the Mayor;
  - (iii) the Monitoring Officer; and
  - (iv) any five Members of the Council if they have signed a requisition presented to the Mayor. If the Mayor refuses to call a meeting or fails to call a meeting within seven days of the presentation of the requisition, the five Members concerned may require the Chief Executive to call the meeting. The requisition must specify the business which it is proposed to transact at the meeting.
- (2) The summons for an Extraordinary Meeting of the Council shall set out the specified business and no other business shall be considered at that meeting.

**RULES OF DEBATE**  
**FOR COUNCIL MEETINGS**

**STANDING ORDER No. 14**  
**Motions Generally**

**\*To be Proposed and seconded**

14. (1) A motion cannot be discussed unless it has been proposed and seconded. At a Council Meeting the Mayor shall require a motion to be written down and handed to the Chief Executive before it is voted on, unless the motion is straightforward

**\*Seconder's Speech**

- (2) A Member when seconding a motion may reserve his/her speech until later in the debate.

**\*Alteration of Motion**

- (3) A Member may, with the consent of the Council, signified without discussion : -
- (a) alter a motion of which he/she has given notice, or
  - (b) with the consent also of the seconder alter a motion which he/she has moved,
- if (in either case) the alteration is one which could be made as an amendment.

**\*Withdrawal of Motion**

- (4) A motion (including an amendment) may be withdrawn by the mover with the consent of the seconder and of the Council. No discussion is allowed after such consent has been requested unless consent is refused

**Rescinding of Motion**

- (5) A motion to rescind any decision made within the last 6 months cannot be proposed unless the notice given under Standing Order No. 10 is signed by at least 9 Members of the Council. When any such motion has been dealt with no-one can propose a similar motion for a further 6 months. This paragraph does not apply to a recommendation from a body.

\* Also applies to Boards, Committees, Panels and other bodies (see Standing Order No. 32).

**RULES OF DEBATE  
FOR COUNCIL MEETINGS**

**\*STANDING ORDER No. 15  
Motions during a Debate**

15. When a motion is being discussed, no other motion can be moved except:-
- (a) an amendment to the motion,
  - (b) to proceed to the next business (Standing Order No. 19(a))
  - (c) the vote be taken (Standing Order No. 19(b))
  - (d) to adjourn the debate or the meeting (Standing Order No. 19 (c))
  - (e) a Member be not further heard or leave the meeting (Standing Order No. 21)
  - (f) to exclude the public and press under Section 100A (2) or Section 100A (4) of the 1972 Act or under the Access to Information Procedure Rules.

**\*STANDING ORDER No. 16  
Speeches**

**One Member to stand at a time**

16. (1) A Member when speaking must stand and address the Mayor. If two or more Members stand, the Mayor will ask one to speak and the others must sit. Other Members must remain seated while a Member is speaking unless they wish to make a point of order or personal explanation. The Mayor has the right to waive the requirement for a Member to stand to speak where he/she considers it appropriate to do so.

**Content of Speeches**

- (2) A Member must only speak about the matter under discussion or on a point of order or personal explanation.

**Length of Speeches**

- (3) Except with the consent of the Mayor or the Council, a Chairman of a body in his/her reply under Standing Order No 18 (1) must not speak longer than 12 minutes and other Members must not speak longer than 8 minutes.

**When a Member may Speak again**

- (4) A Member CAN ONLY SPEAK ONCE on a motion except.-
- (a) to speak once on an amendment moved by another Member,
  - (b) to move a further amendment if the motion on which he/she last spoke has been amended;

\* Also applies to Boards, Committees, Panels and other bodies (see Standing Order No. 32).

**RULES OF DEBATE**  
**FOR COUNCIL MEETINGS**

- (c) if his/her first speech was on an amendment moved by another Member, to speak on the main motion, whether or not the amendment on which he/she spoke was carried;
- (d) in exercise of a right of reply under Standing Order No 18;
- (e) on a point of order, or
- (f) on a point of personal explanation.

**\*STANDING ORDER No. 17**  
**Amendments to Motions**

17. (1) An amendment cannot be discussed until it has been proposed and seconded. At a Council meeting the Mayor shall require an amendment to be written down and handed to the Chief Executive before it is voted on, unless the amendment is straightforward.
- (2) An amendment must be relevant to the motion and must.-
- (a) refer a subject of debate to a body for consideration or reconsideration; or
  - (b) delete words;
  - (c) add words;
  - (d) delete words and insert others, BUT SUCH DELETIONS AND ADDITIONS MUST NOT SIMPLY NULLIFY THE EFFECT OF A MOTION BEFORE THE MEETING.
- (3) Only one amendment may be moved and discussed at a time and no further amendment can be moved until the amendment being discussed has been dealt with. However, the Mayor may permit two or more amendments to be discussed together if this would help business to be dealt with more efficiently. Similarly and so as also to ensure consistency of approach, the Mayor may also permit two or more amendments to be discussed and voted on together where recommendations are being made to the Council by two or more different bodies on the same or related subjects. The Mayor can decide the order for voting on such amendments and can also refuse to accept an amendment, if he/she believes it to be frivolous or the subject matter has already been substantially discussed earlier in the meeting
- (4) If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the amended motion takes the place of the original motion and becomes the motion on which any further amendment may be moved.

\* Also applies to Boards, Committees, Panels and other bodies (see Standing Order No. 32).

**RULES OF DEBATE**  
**FOR COUNCIL MEETINGS**

**\*STANDING ORDER No. 18**  
**Rights of Reply**

18. (1) The mover of a motion under Standing Order No. 8(1) has a right to reply at the end of the discussion:-
- (a) on any item in the minutes (whether there is to be a vote on that item separately from the other minutes, or not) or
  - (b) on any amendment. (But see paragraph (3) below.)
- Any vote must be taken immediately after the reply.
- (2) The mover of a Notice of Motion, dealt with at the meeting under Standing Order No. 10, has a right of reply immediately before the vote is taken on the motion or on an amendment.
- (3) The mover of an amendment will have a right of reply immediately before the mover of the motion exercises his/her right of reply under paragraph (1) and (2) above.

**\*STANDING ORDER No. 19**  
**Closure Motions**

19. At the end of any speech, any of the following motions may be moved and seconded, without comment:-
- (a) "That the Council proceeds to the next business" (The Mayor will put this to the vote after giving any right of reply under Standing Order No 18),
  - (b) "That the vote be taken" (This must be voted on immediately - without discussion or right of reply. If it is carried then, after any right of reply has been given under Standing Order No. 18, the amendment or other motion must be voted on immediately.)
  - (c) "That the debate be adjourned" or "That the meeting be adjourned". (Either motion must be voted on immediately without discussion or right of reply.)

\* Also applies to Boards, Committees, Panels and other bodies (see Standing Order No. 32).

**RULES OF DEBATE  
FOR COUNCIL MEETINGS**

**\*STANDING ORDER No. 20  
Interventions**

**Points of Order / Personal Explanations**

20. (1) A Member may rise on a point of order or in personal explanation, and is entitled to be heard immediately.
- (2) A point of order is a request to the Mayor for a ruling on any claimed irregularity in the constitution or conduct of the meeting. The Member raising the point of order must specify the Standing Order or Act of Parliament concerned and the manner in which he/she claims it has been broken.
- (3) A personal explanation allows a Member briefly to correct or explain an error in, a misunderstanding as to, or a misquotation from, an earlier speech by him/her
- (4) The ruling of the Mayor on a point of order or personal explanation is not open to discussion and shall be final.

**Respect for Chair**

- (5) WHEN THE MAYOR STANDS DURING A DEBATE, ANY MEMBER SPEAKING MUST STOP TALKING AND SIT DOWN AND THE COUNCIL MUST BE SILENT.

**\*STANDING ORDER No. 21  
Disorderly Conduct by Members**

21. (1) If any Member persistently disregards the ruling of the Mayor, or behaves irregularly, improperly or offensively, or wilfully obstructs Council business, the Mayor or any other Member may move: "That Councillor (*Name*) be not further heard". This motion, if seconded, must be voted on immediately without discussion
- (2) If the Member continues to misbehave after a motion under paragraph (1) has been carried the Mayor can either:-
- (a) move: "That Councillor (*Name*) leave the meeting" (This must be voted on immediately without being seconded or discussed), or
- (b) adjourn the meeting for as long as he/she considers necessary.
- (3) If there is a general disturbance making orderly business impossible, the Mayor has the power to adjourn the meeting for as long as he/she considers necessary.

\* Also applies to Boards, Committees, Panels and other bodies (see Standing Order No. 32).

**\*STANDING ORDER No.22  
Discussions Involving Exempt Information**

22. If the Chief Executive expresses the opinion that exempt information could be disclosed at a meeting during consideration of any item, no discussion shall take place until the Council has decided whether or not to exclude the public and press under Section 100A(4) of the 1972 Act.

\* Also applies to Boards, Committee, Panels and other bodies (see Standing Order No. 32).

**RULES OF DEBATE  
FOR COUNCIL MEETINGS**

**BOARDS, COMMITTEES, PANELS AND OTHER BODIES**

**STANDING ORDER No. 23**

**Appointment of Boards, Committees, Panels, and Portfolio Holders**

23. (1) The Council will, at its Annual Meeting, appoint such Boards, Committees, Panels, and Portfolio Holders as it is required to appoint under any statute or by virtue of its Constitution. A political group may utilise one substitute for every Member they have on the Body and for the avoidance of doubt a Member may be appointed to, or be a substitute at, a Sub-Committee even if they are only a nominated substitute for the parent Body.
- (2) The Council will, at the Annual Meeting, decide how many Members will serve on each of the above bodies it appoints for the forthcoming year and will appoint their Chairmen and Vice-Chairmen (with the exception of the Standards Committee which shall appoint its own Chairmen and Vice-Chairmen) together with other Members after considering recommendations from the Leader of the Council and the Leaders of the other political groups on the Council. The Council, on the recommendation of these Members, will also appoint the Portfolio Holders
- (3) The Council can, at any time:-
- (a) appoint other Boards, Committees, Panels, , other bodies or Portfolio Holders;  
or
- (b) dissolve or alter the Membership of any Board, Committee, Panel or body it appoints or change a Portfolio Holder appointment.
- (4) A body can appoint, Panels, Sub-Committees or Task and Finish Groups for purposes specified by the appointing body within its terms of reference. When such a Panel, Sub-Committee or Task and Finish Group is appointed, the Chairman and Vice-Chairman of the appointing body are automatically Members of the Panel, Sub-Committee or Task and Finish Group concerned and are, respectively, its Chairman and Vice-Chairman, unless they inform the Chief Executive to the contrary. The membership of the Panel, Sub-committees or task and finish group need not come from within that body.
- (5) The minutes of a Panel, Sub-Committee or Task and Finish Group must be reported to its parent body for approval or, if it has delegated powers, for information.
- (6) No Member's term of office on one of these bodies will extend beyond the date of the next Annual Meeting of the Council, with the exception of the Independent Members of the Standards Committee who may be appointed for periods of longer than one year.
- (7) A resignation of a Member from a Board, Committee, Panel, Sub-Committee or Task and Finish Group will take effect when written notice is received by the Chief Executive.
- (8) Casual vacancies on Boards, Committees, Panels or bodies caused by death, resignation or disqualification will be filled by the Council. Casual vacancies on bodies appointed under Standing Order No. 23(4) will be filled by the parent Body.
- (9) Those Members acting as Substitutes in accordance with this Standing Order may attend any meeting of the Board, Committee, Panel, Sub-Committee or Task and Finish Group in the absence of any other Member of that Board, Committee, Panel, Forum, Sub-Committee or Task and Finish Group provided that notice has been given to the Chief Executive by 1pm on the day of the meeting. That notice may be given by the Group Leader, the Member or the Substitute. Any Member acting as a Substitute shall have the same powers as, and shall in all other regards be counted

## **BOARDS, COMMITTEES, PANELS AND OTHER BODIES**

as, a Member of the Board, Committee, Panel, Forum, Sub-Committee or Task and Finish Group.

### **STANDING ORDER No. 24 Meetings**

24. (1) The Council will fix the dates for meetings of its bodies, but the Chief Executive can, in consultation with the Chairman, alter the date of a particular meeting. Notice of any alteration must immediately be given to all Members of the body concerned.
- (2) Each body will individually fix the times of its meetings, but the Chief Executive can, in consultation with the Chairman, alter the time of a particular meeting. Notice of any alteration must immediately be given to all Members of the body concerned.
- (3) The dates and times for meetings of those bodies appointed under Standing Order No. 23 (4), will be fixed by the Chief Executive, in consultation with the Chairman concerned.
- (4) All meetings will be summoned by the Chief Executive and will be held in The Council House, South Street, Atherstone, but the Chief Executive (if accommodation is not available for a particular meeting) may arrange an alternative venue within the Borough.
- (5) The Chairman of a body or the Mayor can require the Chief Executive to summon a special meeting at any time. Similarly, three Members of Board, Committee, Panel or Forum and two Members of any other body, by a written request specifying the business to be considered, can also require the Chief Executive to call a special meeting
- (6) Meetings of the Executive Board solely for peacetime or wartime emergencies can be called at any time by the Chief Executive after consultation with the Chairman, if possible. If necessary, telephone notice of the meeting will be sufficient. Lack of notice to one or more Members will not invalidate the proceedings of that meeting.

### **STANDING ORDER No. 25 Agendas and Reports**

25. (1) When the agenda is sent to the Members of a body, it shall at the same time be sent to the other Members of the Council for their information.
- (2) When the reports are sent to the Members of a body, they shall also be sent to other Members of the Council who have requested them. Such requests for reports can be made at any time and should be made through:-
- (i) the Assistant Chief Executive and Solicitor to the Council in cases where all agendas and reports of a specific body are required throughout the municipal year; or
  - (ii) the Contact Officer for the report (ie the Report Author) where a particular report is required.

(To assist Members in relation to (i) above, a questionnaire will be distributed each year at the Annual Council Meeting, so that Members can indicate which reports they would like to receive automatically throughout the municipal year, in addition to the reports of those bodies on which they will sit for that year)

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- (3) If it is not possible to send a report to Members of the Council before the relevant meeting, it must be circulated as soon as practicable after the meeting.
- (4) A Member who wishes an item to be discussed at the next meeting of the appropriate body (whether or not he/she is a Member of that body), must give a written note of the item to the Chief Executive not later than two working days before the day when the agenda and reports are normally despatched for that meeting. The Chief Executive will then, subject to the agreement of the relevant Chairman, include that item in the agenda and will so far as possible, within the time available, endeavour to obtain the advice and comments of the relevant officers on the subject.
- (5) In relation to paragraphs (2), (3) and (4) above, a report will only be included on an agenda for a meeting where it requires a formal decision to be taken by the Board, Committee, Panel or other body, unless the Chairman, Chief Executive or relevant Director requests its inclusion on the agenda or the report concerns performance monitoring, new legislation or a consultation document. With these exceptions, all other reports will be excluded from the agenda. Details of such items will instead be sent by electronic mail, in a weekly information bulletin, to Members, for their information, and will not form part of the business for consideration at meetings.
- (6) A Portfolio Holder, for the portfolio he or she holds, shall have the right to attend any meeting of a body in order to explain or present a cross-cutting issue, implication or effect in relation to the subject matter in question, but shall not be entitled to vote unless he or she is a Member of that body.

#### **STANDING ORDER No. 26**

#### **Quorum for Board, Committee, Panel and other Meetings, excluding meetings of the Standards Committee**

26. (1) With the exception of the Standards Committee, no business can be dealt with at a Board, Committee, Panel or other meeting unless there is present a quorum of 25% of its total Membership, including any co-opted Members. However, in no case can the quorum be less than two Members.
- (2) If there is no quorum, the meeting must be adjourned immediately and any remaining business postponed to a date and time fixed by the Chairman at the adjournment or, if no such arrangements are made, to the next ordinary meeting.

#### **STANDING ORDER No. 27**

#### **Quorum for the Standards Committee**

27. (1) No business can be dealt with at a Standards Committee meeting unless at least 3 Members are present.
- (2) If there is no quorum, the meeting must be adjourned immediately and any remaining business, postponed to a date and time fixed by the Chairman at the adjournment or, if no such arrangements are made, to the next ordinary meeting.

#### **STANDING ORDER No. 28**

#### **Chairing the Meeting**

28. (1) The Chairman (or in his/her absence, the Vice-Chairman) of each body will chair the meeting. In their absence, the other Members present will choose one of their number to chair the meeting.

### **BOARDS, COMMITTEES, PANELS AND OTHER BODIES**

- (2) Any of the Chairman's powers or duties for conducting a meeting may be exercised by the Member who chairs the meeting.

**STANDING ORDER No. 29**  
**Voting at Board, Committee, Panel and other Meetings**

29. (1) Voting at the above meetings must be by show of hands.
- (2) If the number of votes for and against a proposal are equal, the Chairman has a second or casting vote.
- (3) Immediately after a vote is taken, a Member may require that there shall be recorded in the minutes of the proceedings of that meeting whether that person voted for or against the proposal or whether he/she abstained from voting.

**STANDING ORDER No. 30**  
**Minority Report**  
**(Temporary Removal of Delegation)**

30. (1) Where a resolution is passed by a body, acting under delegated powers, that resolution will be reduced to a *recommendation* to the Council if:-
- (a) any Member of the relevant body provisionally notifies the Chief Executive before 4.00 p.m. on the first working day after the resolution was passed that he/she intends to seek support, in accordance with paragraph (b) below; and
- (b) not later than 5:00 p.m. on the third day after the resolution was passed, the Chief Executive receives a formal notice signed by not less than one-third of the Members of the relevant body requesting that the resolution is submitted to the Council for confirmation.
- (2) When a provisional notice is given under paragraph (1)(a) above, no action will be taken on the resolution until the appropriate procedures mentioned in this Standing Order have been dealt with.
- (3) When a valid formal notice is received in accordance with paragraph (1)(b) no action will be taken on the resolution until the Council at its next meeting has had chance to consider the matter. At that stage, the resolution will be reported to the Council for confirmation with an indication that formal notice under this Standing Order has been given
- (4) If a formal notice under paragraph (1)(b) is not received within the time allowed, the resolution must be put into effect immediately.
- (5) This Standing Order will not apply to any decision of a relevant body on:
- (a) an application which requires a decision to be made within a specified time which will expire before the date of the next ordinary Council meeting, if the delay would invalidate that decision; and
- (b) the appointment of an Officer to fill a vacancy in the service of the Council

## **BOARDS, COMMITTEES, PANELS AND OTHER BODIES**

### **STANDING ORDER No 31 Rules of Debate for Board, Committee, Panel and other Meetings**

31. The Rules of Debate at Council Meetings (Standing Orders 14 to 22) apply, with any necessary modification, to meetings of Boards, Committees, Panels and other bodies except. -
- (i) Standing Order No 14 (5) - Rescinding of Motion; and
  - (ii) the requirements concerning standing and speaking only once.

## **MEETINGS GENERALLY**

### **STANDING ORDER No.32 Notice of and Summons to Meetings**

32. The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least 5 clear days before a meeting, the Chief Executive will send a summons signed by him/her to each Member of the body to which the summons relates, and any other Member who has requested notice of the meeting in accordance with the procedure set out in Standing Order No. 25(2). 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. The summons and the reports to Members may be sent by post, electronic mail, or left at the Members usual place of residence.

### **STANDING ORDER No.33 Record of Attendances**

33. Members attending a meeting must sign their names in the attendance book provided, which will be open to inspection by other Members of the Council.

### **STANDING ORDER No.34 Attendance by Councillors at Meetings of which they are not Members**

34. (1) Any Councillor can attend a meeting of which he/she is not a Member. In addition, that Councillor, provided that he/she obtains the consent of the Chairman concerned before the meeting starts and also specifies the item(s) of business in which he/she is interested, can speak, but not vote, on the item(s) in question.
- (2) The Chairman will advise the Chief Executive of any consents given under this Standing Order before the start of each meeting.

## **MEETINGS GENERALLY**

**STANDING ORDER No. 35**  
**Admission to and Exclusion from Meetings**

35. Members of the public and press may only be excluded from meetings either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Standing Order No. 36 (Disturbance by Members of the Public).

**STANDING ORDER No. 36**  
**Disturbance by Members of the Public**

36. (1) If a Member of the public interrupts proceedings the person chairing the meeting will warn him/her. If he/she continues to interrupt, the person chairing the meeting can order his/her removal from the meeting room.
- (2) If there is a general disturbance in any part of the meeting room which is open to the public, the person chairing the meeting can order that part to be cleared.

**STANDING ORDER No.37**  
**Recordings at Meetings and other apparatus**

37. (1) Any Member of the Council, the public or the press attending Council, Board, Committee, Panel or other meetings may take written notes of the proceedings.
- (2) Any Member of the Council or member of the public may record any meeting in accordance with the Openness of Local Government Bodies Regulations 2014 and the Policy on Recording, Filming, Photographing and Broadcasting North Warwickshire Borough Council Meetings adopted on 1<sup>st</sup> October 2014.
- (3) A Member of the Council, in exceptional circumstances and with the approval of the person chairing the meeting, may be allowed to leave his/her mobile phone active for the purpose of receiving an anticipated emergency call, which shall then be answered outside the meeting room.

**STANDING ORDER No. 38**  
**Access to Information**

38. (1) Where a Member has the right to inspect or copy any document, that right must not be exercised in respect of a document about any matter in which the Member is professionally interested or in which he/she has, directly or indirectly, any pecuniary interest within the meaning of the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 or which is, or in the event of legal proceedings would be, protected by privilege arising from the relationship of solicitor and client.
- (2) Any Member wishing to inspect a document not open to the public must, where practicable, give reasonable notice to the Chief Executive in advance so that the document can be made available.
- (3) All minutes (and other documents that are open to inspection) can be seen by Members during office hours.

**MEETINGS GENERALLY**

- (4) All agenda, reports and other documents and all proceedings of meetings must be kept confidential unless and until they become public in the ordinary course of the Council's business.

**STANDING ORDER No. 39**  
**Adjournments**

39. Where a meeting or debate is adjourned under Standing Order No. 19 or 21:-
- (a) the adjournment of an ordinary meeting may not extend beyond the date of the next ordinary meeting;
  - (b) the Member who moved the adjournment will be entitled to speak first once the adjourned debate or meeting is resumed;
  - (c) the only business which may be discussed at the resumed meeting is that set out in the summons for the adjourned meeting; and
  - (d) when a meeting is adjourned for more than 24 hours, the Chief Executive must send notice of the adjourned meeting to each Member of the Council or body concerned. The notice must specify the business to be dealt with.

## **MISCELLANEOUS MATTERS**

### **STANDING ORDER No.40 Appointment of Representatives on Outside Bodies**

40. The Council will, after considering recommendations from the Leader of the Council and the Leaders of the other political groups on the Council, appoint or nominate representatives of the Council to serve on other Authorities or bodies, unless the functions of the Authority or body concerned relate to a service for which a Board, Committee, Panel or other body is solely responsible.

### **STANDING ORDER No. 41 Restrictions on Inspections and Issuing Orders**

41. (1) Unless specifically authorised by or on behalf of the Council, a Member must not claim any rights to enter or inspect property where the Council has a right to enter or inspect.
- (2) A Member must not issue any order relating to work being done by or for the Council.

### **STANDING ORDER No.42 Suspension and Alteration of Standing Orders**

#### **Suspension**

42. (1) The Council's Standing Orders (whether relating to procedural or contract matters) may be suspended for any business at the meeting where its suspension is moved, provided that such suspension complies with the principles of Article 15.01(b) of the Constitution.
- (2) At a meeting of the Council, a motion under paragraph (1) cannot be moved without notice (i.e. under Standing Order No. 9) unless at least half the Members of the Council are present.
- (3) In relation to those Standing Orders which, by virtue of Standing Order No. 32, apply to meetings of Boards, Committees, Panels and other bodies, a motion under paragraph (1) cannot be moved without notice unless at least half of the Members of the Board, Committee, Panel or Forum (as the case may be) are present.
- (4) Where a Board, Committee, Panel or other body recommends the suspension of a Standing Order in its minutes to the Council, that Standing Order will become suspended on the adoption of the recommendation.

#### **Alteration**

- (5) Any motion to add to, vary or revoke Standing Orders (whether relating to procedural or contract matters) must, when proposed and seconded, be adjourned without discussion to the next ordinary meeting of the Executive Board for consideration and report to the Council.

## **MISCELLANEOUS MATTERS**

**STANDING ORDER No.43**  
**Standing Orders to be Given**  
**to Members**

43. Each Member will be supplied with a copy of Procedural and Contract Standing Orders.

**STANDING ORDER No 44**  
**Interpretation**

44. (1) In these Procedural Standing Orders: -

"Body" means a Board, Committee, Panel or decision making body of the Council.

"Chairman" means the person who presides at a meeting of a body (he or she may also, in relevant circumstances, hold another office such as Leader of the Council, a Deputy Leader, a Portfolio Holder etc)

"Chief Executive" means the Chief Executive for the time being of the Council and, where appropriate, includes the Chief Executive's representative at a meeting.

"Deputy Leader" means the Chairman of the Resources Board, the Chairman of the Community and Environment Board and the Chairman of the Planning and Development Board

"Leader of the Council" means the Chairman of the Executive Board.

"Minutes" in relation to a Board, Committee, Panel or other body include any report made by that body to the Council.

"Policy Board" means the Executive Board, the Resources Board or the Community and Environment Board.

"Political group" means a political group constituted under Schedule 1 to the Local Government and Housing Act 1989 and regulations made under that Act.

"Portfolio Holder" means a Councillor appointed, normally at the Annual Meeting of the Council, to act as the Council's Lead Member and spokesperson on a key cross-cutting theme or for a specific function, who will also ensure that his/her designated area of responsibility (portfolio) is considered and taken into account during the decision making process at meetings of the various bodies of the Council.

"Senior Officer" means a Deputy Chief Executive, Assistant Director, Assistant Chief Executive or Officer on at least the Principal Officers' salary grade.

"The 1972 Act" means the Local Government Act, 1972

"Vice-Chairman" means the person who presides at a meeting of a body in the absence of the Chairman

- (2) The ruling of the person chairing a meeting shall not be challenged at the meeting in relation to how these Standing Orders are interpreted or applied, or on Council proceedings.

## ACCESS TO INFORMATION PROCEDURE RULES

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## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These rules apply to all meetings of the Council, the three Policy Boards (Executive; Resources; and Community and Environment), the Planning and Development Board and Licensing Committee, the Standards Committee, and any other Panels or meetings involving Members which are open to the public (collectively referred to in these Rules as “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 five clear days notice of any meeting by posting details of the meeting at The Council House, South Street, Atherstone, except where urgency requires meetings to be called at shorter notice.

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

At least five clear days before the meeting, the Council will make available for inspection at The Council House, South Street, Atherstone, copies of the agenda and those reports which are open to the public. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda and, where reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as it is completed and has been sent to Councillors.

### **6. SUPPLY OF COPIES**

The Council will supply copies of any of the following to any person on payment of a charge for postage and any other costs:-

- (a) any agenda, report or background paper which is open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) any other documents supplied to Councillors in connection with an item, if the Chief Executive thinks fit;

## **7. ACCESS TO MINUTES ETC. AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of Background Papers**

The Chief Executive will set out in every report, which under paragraph 5 above is available for public inspection, 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.

The list of background papers shall, however, exclude published works or those which disclose exempt or confidential information (as defined in Rule 10 below).

### **8.2 Public Inspection of Background Papers**

The Council will make available for public inspection, for four years after the date of the meeting, one copy of each of the documents on the list of background papers.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and be available to the public at The Council House, South Street, Atherstone. The summary will also be on the Council Website ([www.northwarks.gov.uk](http://www.northwarks.gov.uk)). A copy can be found at pages 8-11 (inclusive) of this Constitution.

## **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. (Please see Rule 10.3 below for the definition of confidential information).

### **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. (Please see Rule 10.4 below for the definition of exempt information).

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 any legislation or a Court Order.

### 10.4 **Meaning of Exempt Information**

Exempt information means information falling within the following 7 categories.

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege, could be maintained in legal proceedings.
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.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Information is only exempt if the public interest in maintaining the exemption outweighs public interest in disclosing the information.

11. **EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Chief Executive 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.

## **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

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## **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1 The Framework for Decision-making**

The Council will be responsible for the adoption of its 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 and Resources Boards to implement it.

### **2 Process for Developing the Framework**

The process by which the budget and policy framework shall be developed is:

- a Each year the Executive Board will publish a programme for establishing the Budget and Policy Framework for the following year. This will include the timetable for the formulation of the Budget Strategy and the subsequent completion of all Budgets, and the completion of new, or review of existing policies.
  
- b The Policy and Budget Framework presented to Council will be available for public consultation for a period of four weeks.
  
- c In approving the Policy and Budgetary Framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the Policy Framework which may be undertaken by the Executive and other Boards, in accordance with paragraphs 3 and 4 of these Rules (virement and in-year adjustments). Any other changes to the Policy and Budgetary Framework are reserved to the Council.

### **3 Virement**

The amount of virement will be subject to financial limits and requirements, which are contained in the Council's Financial Regulations.

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

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by Policy Boards or officers with delegated authority must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by a Policy Board or officer with delegated authority except changes:

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

5. **Interpretation**

In these rules, "Policy Board" means the Executive Board, the Resources Board or the Community and Environment Board.

PART 4

**FINANCIAL REGULATIONS**

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## 1 GENERAL

- 1.1 All references to a Senior Officer in these regulations means the Chief Executive, the Deputy Chief Executive, an Assistant Chief Executive, or Assistant Director and Principal Auditor, as necessary.

All references to spending Boards include the Resources Board, Executive Board, Community and Environment Board and Planning and Development Board.

All references to a Division also include the Internal Audit Section.

- 1.2 It is the duty of the Executive Board, subject to any guidelines that the Council may from time to time give, to arrange the finances of the Council, and that of the Resources Board to control them.

- 1.3 The Deputy Chief Executive has statutory duties in relation to the financial administration and stewardship of the Authority. This statutory responsibility cannot be over-riden. 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 1996

In his/her absence, the Assistant Director (Finance and Human Resources) is the named officer who will carry out the duties required under Section 114 (2) and (3) of the Local Government Finance Act 1988 and S 151 of the Local Government Act 1972.

- 1.4 The Deputy Chief Executive is responsible for, under Section 151:-

- a the proper administration of the Council's financial affairs
- b setting and monitoring compliance with financial management standards
- c advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- d providing financial information
- e preparing the revenue budget and capital programme
- f treasury management

- 1.5 Section 114 of the Local Government Finance Act 1988 requires the Deputy Chief Executive to report to the full Council and external auditor if the Council or one of its officers:-

- a has made, or is about to make, a decision which involves incurring unlawful expenditure

- b has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
- c is about to make an unlawful entry in the Council's accounts

The Act also requires the Council to provide the Deputy Chief Executive with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under Section 114.

- 1.6 The Deputy Chief Executive is required, under the guidance of the Executive Board (and so far as the powers of that Board are given to the Resources Board to the direction of that Board), to control and be responsible for the accounts and finances of the Council, in every respect and ensure, as far as possible, that a consistent financial system operates throughout the Divisions of the Council.
- 1.7 The statutory role of the Deputy Chief Executive does not stop at the boundaries of the Council but extends into partnerships and joint ventures.
- 1.8 Each Assistant Chief Executive and Assistant Director is responsible for making sure that Financial Regulations are followed in his/her Directorate. Financial Regulations are available on the Intranet under Finance, Document downloads.
- 1.9 Each Senior Officer shall consult with the Deputy Chief Executive with respect to any matters within his/her control which are liable materially to affect the finances of the Council before any provisional or other commitment is incurred and before any report to a Board.
- 1.10 Each Board has overall responsibility for following the Council's financial regulations in connection with all services under its control. The Deputy Chief Executive will report any breach of regulations to the Resources Board.
- 1.11 As the Council's financial and economic adviser, the Deputy Chief Executive will report to the Executive Board with respect to the level of resources intended to be used each year, and will keep the Resources Board informed of the Council's finances and financial performance and other Boards informed of the financial implications of their activities.
- 1.12 The Resources Board is responsible for making and changing from time to time such financial regulations as it considers necessary for the supervision and control of the finances, accounts, income, expenditure and assets of the Council.
- 1.13 Each Senior Officer is responsible for all accountability and control of staff and the security, custody and control of all other resources, including plant, buildings, vehicles, materials, cash and stores relating to his/her Division.
- 1.14 All acquisitions and disposals of assets whose balance sheet value is above the de minimis level should be notified to the Assistant Director (Finance and Human Resources) within a month of the acquisition or disposal (the de minimis level for land and buildings is £10,000 and for other assets is set at £5,000).
- 1.15 All financial records will be retained in accordance with arrangements decided by the Deputy Chief Executive/corporate records management policy.

- 1.16 At least every two years, the Deputy Chief Executive will review and may revise any of the figures referred to in the Financial Regulations, taking into account changes in the appropriate Index since the last review. Any such changes will be reported to the Resources Board.
- 1.17 The Deputy Chief Executive is responsible for ensuring that the Annual Financial Statements are prepared in accordance with the "Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice" (CIPFA/LASAAC). The full Council is responsible for approving the annual statement of accounts.
- 1.18 Financial regulations and instructions provide the framework for managing the Authority's financial affairs. They apply to every member and officer of the Authority and anyone acting on its behalf.

## 2 NON-COMPLIANCE WITH AND INTERPRETATION OF FINANCIAL REGULATIONS

- 2.1 Senior Officers should take adequate steps to satisfy themselves that all staff, consultants or agency placements responsible for any matter covered by financial regulations have access to the regulations, understand the contents and are following them.
- 2.2 It is the duty of the Senior Officer concerned to report to the Deputy Chief Executive where the regulations have not been followed. The Deputy Chief Executive will decide whether to investigate and report to the appropriate Board, depending upon the circumstances of each case.

## 3 INTERNAL/EXTERNAL AUDIT

- 3.1 The Deputy Chief Executive will provide an independent, continuous, adequate and effective internal audit of accounting, financial and other operations of the Council, in accordance with the CIPFA Code of Practice for Internal Audit in Local Government, the Auditing Practices Board's auditing guidelines "Guidance for Internal Auditors" and with any other statutory obligations and regulations.
- 3.2 The Deputy Chief Executive or his/her authorised representative for the purpose of internal audit shall have authority to:
  - (i) Enter at all times any property of the Council;
  - (ii) Have access to all records, documents, minutes and correspondence relating to any financial and other related dealings of the Council which are within the Council's safekeeping or control, including any Partnerships in which the Council is involved.
  - (iii) Ask for and receive such explanations as are necessary concerning any matter under examination;
  - (iv) Require any employee of the Council to produce cash, receipts, books, vouchers, stores, accounting records, plant or any other Council property under his/her control; and
  - (v) Review, assess and report to the Senior Officer of the Division being audited on the suitability and use of financial and other controls and the

protection of the Council's property and assets against loss due to fraud and wasteful practices, poor value for money or other causes. The Senior Officer will discuss and agree his/her proposals to put right any weaknesses in systems.

- 3.3 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores, or other property of the Council or any suspected irregularity in the functions of the Authority, the Senior Officer concerned will inform straightaway the Chief Executive, Deputy Chief Executive and the Monitoring Officer, who will take any necessary action to investigate and report. Officers finding grounds for suspecting irregularity, fraud or corruption will inform their Senior Officer straightaway.
- 3.4 It is the responsibility of Senior Officers to ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient manner.
- 3.5 Senior Officers will ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed and agreed by the Principal Auditor and Assistant Director (Finance & Human Resources) prior to implementation.
- 3.6 The Deputy Chief Executive will ensure that:
  - a external auditors are given access at all reasonable times to premises, personnel, documents and assets that they consider necessary for the purposes of their work; and
  - b there is effective liaison between external and internal audit

#### 4 ACCOUNTING AND FINANCIAL ADMINISTRATION

- 4.1 All accounting procedures and records will be decided by the Assistant Director (Finance and Human Resources), in consultation with the Deputy Chief Executive, and follow recommended published standards and codes of practice.
- 4.2 All accounts and accounting records of the Council will be put together by, or under the direction of, the Assistant Director (Finance and Human Resources).
- 4.3 Where such records are not kept within the Deputy Chief Executive's Directorate, the Assistant Director (Finance and Human Resources) will consult with Senior Officers before any revisions are made. On the other hand it is the duty of Senior Officers to obtain agreement of the Assistant Director (Finance and Human Resources) before introducing any revised system, books or forms relating to finances.
- 4.4 The following principles must be observed in the allocation of accounting duties:
  - (i) the duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, must be separated as much as possible from the duty of collecting or using them;

- (ii) Officers charged with the duty of examining and checking the accounts of cash transactions may not themselves perform any of those transactions.

4.5 Each Senior Officer must ensure that the principles of internal check operate in his/her Division and that accounting procedures and financial records under his/her control are kept accurately and up to date.

4.6 The Assistant Director (Finance and Human Resources) will control the day to day financial administration of the Council by issuing detailed administrative and accounting instructions, as appropriate. These instructions will have the same standing as Financial Regulations.

## 5 SUPPLEMENTARY POLICIES AND STAFF INSTRUCTIONS

5.1 In addition to (and as well as) these Regulations, Officer must have regard to other agreed policies of the Council

5.2 From time to time other staff instructions may be issued on specific matters covered by these Regulations, and should be read in conjunction with them.

## 6 CAPITAL AND REVENUE ESTIMATES

6.1 The detailed form of capital and revenue estimates will be decided by the Deputy Chief Executive and agree with general directions of the Executive Board and after consultation with each Senior Officer concerned.

6.2 Estimates of income and expenditure on General Fund revenue accounts will be prepared by Senior Officers, in consultation with the Deputy Chief Executive, for submission to the appropriate Board, and should agree with the financial plan(s) approved by the Council, taking into account all financial implications, including any impact upon Prudential Indicators set by the Council. Each individual Board will report on its budget requirement. The Deputy Chief Executive will collate the estimates approved by Boards and report to the Executive Board, which will recommend the Local Taxation to be charged for the next year. Revenue estimates prepared by Senior Officers for the Housing Revenue Account will be submitted to the Resources Board.

6.3 Before a Board recommends to the Executive Board any scheme involving capital expenditure, the Senior Officer, in consultation with the Deputy Chief Executives, will:

Prepare an estimate of the scheme, including associated revenue expenditure and income likely to be produced, for approval by the appropriate Board. The estimate will be prepared on the standard form and will include the following:

- (a) Outcomes expected
- (b) Options for delivery
- (c) Estimate of the cost of the proposed work
- (d) Estimated annual running costs
- (e) Work (if any) to be replaced

- (f) Method of financing recommended
  - (g) Any income produced by the scheme
  - (h) Any External Funding
  - (i) Chosen options and reasons
  - (j) Benefits
  - (k) Link to priorities
  - (l) Life-time costs
- 6.4 Any proposal to a Board which would involve additional expenditure during a period for which the Council has approved a budget or a programme of capital expenditure must be accompanied by a report of the Senior Officer concerned, indicating the sufficiency or otherwise of the finance provision in the budget or programme.
- 6.5 The inclusion of items in approved revenue estimates or capital programmes gives the right to incur such expenditure unless the Executive Board of the Council has placed a reservation on any such item or items. Expenditure on any such reserved items may be incurred only when that reservation has been removed.

## 7 BUDGETARY CONTROL

- 7.1 It is the duty of every spending Board to monitor and oversee/control its financial performance during each estimate period. The Assistant Director (Finance and Human Resources) will provide Boards with periodic Budgetary Monitoring reports and will provide the Resources Board with such reports for all Boards.
- 7.2 The Assistant Director (Finance and Human Resources) will provide periodic monitoring reports of capital expenditure to the Resources Board.
- 7.3 The Deputy Chief Executive has given Assistant Directors the responsibility for the effective management of their division's budget in accordance with these Regulations. Assistant Directors may manage budgets directly or may delegate to members of their staff as appropriate. Budget holders are accountable for all the financial operations of the services under their control. They will monitor expenditure and income against budgets for which they have responsibility. No expenditure or income will be charged to a budget controlled by another budget holder without that Officer's prior agreement.
- 7.4 The Assistant Director (Finance and Human Resources) will supply to all budget holders, before the beginning of each financial year, financial statements showing details of the budgets for which they are responsible and will ensure that they receive or have direct access to accurate, timely and appropriate financial information to allow them to carry out effective control.
- 7.5 Amounts provided under the various heads of the approved annual revenue estimates will not be vired to other purposes by the Board without the approval of the Resources Board, except that approval is not required below £6,000, provided such virement is consistent with approved policy and budgeting decisions and excludes any proposal which would mean additional expenditure in later years.

- 7.6 Senior Officers may vire monies or transfer monies within the heads of approved estimates in accordance with rules drawn up by the Deputy Chief Executive and approved by the Resources Board.
- 7.7 Where it appears that the amount of any head of estimate of approved expenditure may be exceeded or the amount of any head of approved income may not be reached (after allowing for any virement or transfer made in accordance with financial regulation 7.5 or 7.6 above), it is the duty of the Senior Officer concerned, after consultation with the Deputy Chief Executive, or the Assistant Director (Finance and Human Resources), as required, to inform the Board concerned.
- 7.8 Any Board of the Council must, before incurring any expenditure which cannot be met from within an approved estimate (after allowing for any virement or transfer made in accordance with financial regulation 8.5 or 8.6 above), submit to the Resources Board a supplementary estimate request with a detailed statement of the proposed expenditure. This requirement also applies to an expected reduction in income.
- 7.9 Where a Board proposes:
- a new policy
  - a variation of an existing policy
  - a variation in the means or time-scale of implementing an existing policy which affects or may affect the Council's finances.

It must submit a report to the Executive Board, which will report these to the Council.

- 7.10 Nothing in these financial regulations will prevent the Chief Executive from incurring necessary expenditure through exercise of his emergency powers under Section 101 (1)(a) of the Local Government and Finance Act 1972.
- 7.11 Nothing in these financial regulations will prevent a spending Board from incurring expenditure which is essential to meet any immediate needs created by a sudden emergency or which is referable to Section 138 of the Local Government Act 1972, subject to their action being reported to the following meeting of the Resources Board.

## 8 GROUND RULES FOR VIREMENT AND BUDGET TRANSFER

8.1 The ground rules apply where:

- (i) An expenditure budget is going to be exceeded or there will be a shortfall in income.
- (ii) There is a saving on expenditure or additional income has been produced and a Senior Officer wishes to use it. In these circumstances the saving on expenditure or additional income will need to have resulted from specific action by the budget manager and not be due to circumstances outside his/her control.

8.2 For the purpose of these ground rules the following definitions apply:-

(a) Virement

The movement of budgetary provision between services. A service is defined as a line appearing in the summary page of the overall budget of a Board, eg:

- Refuse Collection
- Public Conveniences
- Pest Control

(b) Transfer

The movement of budgetary provision between budget heads within a service. A budget head is defined as a line appearing in a service budget, eg Service - Pest Control

- Budget head - Employee costs
- Premises
  - Supplies and Services

8.3 The procedures for dealing with virement and transfer are as follows:-

(i) Virement

Up to £3,000	Senior Officer approval in consultation with the Assistant Director (Finance and Human Resources)
£3,000-£6,000	Service Board approval
Over £6,000	Resources Board approval

(ii) Transfer

Up to £6,000	Senior Officer approval
Over £6,000	Service Board approval

The figures relate to the value of total movements in any one financial year and not to the maximum value of a single transfer or virement.

8.4 Before a Senior Officer approves a transfer of budget provision, he should inform the Assistant Director (Finance and Human Resources) in writing.

8.5 All cases of virement or transfer of budget provision will be recorded by the Assistant Director (Finance and Human Resources).



- 8.6 Virement or budget transfer is only to take place when the following conditions are satisfied:-
- (i) The proposed savings or additional income to fund any overspend are achievable
  - (ii) The additional expenditure will in fact happen and the particular budget head will be overspent or income will not be achieved
  - (iii) The total budgets controlled by that Senior Officer will not be overspent
  - (vi) Extra spending in future years will not be incurred
  - (v) A change of policy is not involved
- 8.7 Savings in non-recurring expenditure or additional income should not be used to finance additional recurring expenditure. The use of savings in recurring expenditure to finance additional recurring expenditure in excess of £3,000 will require the approval of the relevant Board.
- 8.8 Virement and transfers will not be made into or out of permanent staffing budgets. This includes payment for temporary staff covering a temporary vacancy, except with prior approval by the Assistant Director (Finance and Human Resources).
- 8.9 The approval of the Resources Board will be required where sums are being vired which result in the start of a new policy or the extension or enhancement of an existing policy of the Council.
- 8.10 Expenditure on staffing, training, capital financing costs and recharges fall outside these ground rules.

## 9 RISK MANAGEMENT AND INSURANCE

- 9.1 It is the responsibility of the Deputy Chief Executive to prepare and promote the Authority's risk management policy statement and to develop risk management controls in conjunction with other Senior Officers.
- 9.2 Senior Officers will take responsibility for risk management, having regard to advice from the Director of Resources, or his representative, and other specialist officers.
- 9.3 Senior Officers will ensure that there are regular reviews of risk within their departments and are responsible for maintaining risk registers in the agreed corporate form.

- 9.4 All Senior Officers will complete an annual declaration of prioritised risks within their divisions, together with details of controls in place and action taken and any proposed measures to reduce the risk in the following year. Any new risks facing the service and details of any Partnerships in which it is involved must also be reported in the annual declaration.
- 9.5 The Assistant Director (Finance and Human Resources) will arrange all insurance cover and negotiate all claims in consultation with other Officers where necessary.
- 9.6 Senior Officers will promptly inform the Assistant Director (Finance and Human Resources) of all new risks, properties or vehicles which need to be insured and of any alterations affecting existing insurances.
- 9.7 Senior Officers will straightaway inform the Assistant Director (Finance and Human Resources) in writing of any loss, liability or damage or anything likely to lead to a claim and supply any necessary supporting records as may be needed.
- 9.8 All appropriate employees of the Council will be included in a suitable fidelity guarantee insurance and professional indemnity insurance.
- 9.9 The Assistant Director (Finance and Human Resources) will annually, or at such other period as he/she may consider necessary, review all insurances in consultation with the Deputy Chief Executive and other Senior Officers, as appropriate.
- 9.10 Senior Officers will consult the Deputy Chief Executive or Chief Executive or Assistant Chief Executive and Solicitor to the Council relating to the terms of any indemnity which the Council is requested to give.
- 9.11 Senior Officers must ensure that employees, Members, or anyone covered by the Authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

## 10 TREASURY MANAGEMENT

- 10.1 This Council adopts the key recommendations of CIPFA's "Treasury Management in the Public Services: Code of Practice 2017", as described in section 4 of that Code.
- 10.2 Accordingly, the Council will create and maintain, as the cornerstones for effective treasury management:
  - ◆ a treasury management policy statement, stating the policies and objectives of its treasury management activities.
  - ◆ suitable treasury management practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
  - ◆ Prudential indicators for treasury management, which will be considered together with the strategy and the annual report on activities.

The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key recommendations.

- 10.3 All money in the hands of the Council will be aggregated for the purpose of treasury management and will be under the control of the appropriate officer for the purposes of Section 151 of the Local Government Act 1972, referred to in the Code as the Chief Financial Officer, who in this Authority is the Deputy Chief Executive.
- 10.4 All executive decisions on borrowing, investment or financing are given to the Deputy Chief Executive or through him/her to his/her staff, who are all required to act in accordance with CIPFA's "Treasury Management in the Public Services: Code of Practice 2017".
- 10.5 The Deputy Chief Executive will report to the Resources Board not less than twice in each financial year on the activities of the treasury management operation and on the exercise of treasury management powers given to him/her. One such report will be an Annual Report which must be presented to the Board by 30 September.
- 10.6 The Deputy Chief Executive is the Council's registrar of stock, bonds and mortgages and will keep records of all borrowing of money by the Council.
- 10.7 All investments of money under its control should be made in the name of the Council.
- 10.8 All borrowings should be made in the name of the Council.
- 10.9 The Deputy Chief Executive will make arrangements for the safe keeping of all securities which are the property of or in the name of the Council or its nominees.

## 11 ESTATES

- 11.1 The Assistant Chief Executive and Solicitor to the Council will keep a record of all properties owned by the Council, identifying the purpose for which held, location, extent and plan reference, together with details of purchase, nature of interests, rents payable and details of tenancies granted.
- 11.2 The Assistant Chief Executive and Solicitor to the Council will have the custody of all title deeds, agreements, contracts, leases, easements and any other documents and items under his control, and will be responsible for their security and safekeeping.
- 11.3 The Council's Asset Registrar is the Assistant Director (Finance and Human Resources), mainly for the purpose of monitoring assets and their valuations for capital accounting requirements.

- 11.4 All acquisitions and disposals of properties (land and buildings) must be notified to the Asset Registrar within a month of acquisition or disposal.
- 11.5 The Assistant Chief Executive and Solicitor to the Council will provide details to the Asset Registrar of all lease agreements entered into or cancelled.
- 11.6 The revaluation of assets will take place at a frequency to be decided by the Assistant Director (Finance and Human Resources) and the Asset Registrar and in accordance with the Accounting Code of Practice.

## 12 INVENTORIES

- 12.1 Inventories must be maintained by all Divisions. They must show an adequate description of furniture, fittings and equipment, plant and machinery, except that the extent to which the property of the Council is recorded and the form in which the inventories are kept is to be decided by the appropriate Officer with the agreement of the Deputy Chief Executive.
- 12.2 Each Senior Officer is responsible for maintaining an annual check of all items on the inventory, for taking action in relation to surpluses or deficiencies and noting the inventory accordingly. A copy of each inventory should be made available to the Deputy Chief Executive for insurance/audit purposes.
- 12.3 The Council's property must not be removed except in the ordinary course of the Council's business or used otherwise than for the Council's purpose unless specific directions are issued by the Senior Officer concerned.
- 12.4 All property, machinery, plant and other items must be included on inventories straightaway when received, and should, as far as possible, be marked in a suitable way as the property of the Council. Valuable and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Authority.

## 13 STOCKS AND STORES

- 13.1 Each Senior Officer is responsible, in consultation with the Director of Resources, for the safekeeping of the stocks and stores of his/her Division.
- 13.2 Stocks must not be held in excess of normal requirements, and approval by a Senior Officer is required for any departure from this rule.
- 13.3 No articles or goods may be removed from any store or depot without an order signed by an authorised Officer.
- 13.4 Records of stores issued and goods received must be kept in a form to be agreed by the Deputy Chief Executive.
- 13.5 The Deputy Chief Executive is entitled to check stores and to be supplied with any information as he/she requires in relation to stores for the accountancy, costing and financial records of the Council.
- 13.6 Senior Officers must arrange for periodical test examinations of stocks and must ensure that stocks are counted at least once in every year. Any differences revealed on items of stock when a comparison is made between

physical and book-stock must be reported to the Senior Officer and to Internal Audit.

- 13.7 All surplus or obsolete materials, stores or equipment will be disposed of by competitive tender or quotation when the value for such surplus stock is estimated to be higher than £500.
- 13.8 Disposal of surplus or obsolete materials and stores, or equipment recorded on inventories, below the value of £500 must be notified to the Assistant Director (Finance and Human Resources) in writing.

## 14 INTELLECTUAL PROPERTY

- 14.1 Intellectual property is a generic term that includes inventions, writing and software development. If these are created by the employee during the course of employment, then they belong to the Authority.
- 14.2 It is the responsibility of Senior Officers to ensure that controls are in place so that staff do not carry out private work in Council time and that staff are aware of the Council's rights with regard to intellectual property.

## 15 SECURITY

- 15.1 Each Senior Officer is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under his/her control. He/she must consult the Deputy Chief Executive in any case where security is thought to be inadequate or where it is considered that special security arrangements may be needed or where arrangements agreed with the Council's insurers may be affected.
- 15.2 Maximum limits for cash holdings will be agreed with the Deputy Chief Executive and may not be exceeded without his/her express permission.
- 15.3 Officers holding keys to safes, similar containers, buildings and vehicles are responsible at all times for their safekeeping. The loss of any safe keys must be reported to the Deputy Chief Executive straightaway. A record will be maintained by each Senior Officer of all such keys under his/her control, showing the name of the holder, the date of issue and the receiving Officer's signature. The loss of any other keys should be reported to the appropriate Senior Officer, who will take the necessary action.
- 15.4 Key-holders should notify the Senior Officer of transfers of keys straightaway. Transfers of keys should be evidenced by the timed and dated signature of the receiving officer.
- 15.5 Combination lock holders are responsible for keeping such combinations, which should be changed periodically and on the termination of service of any such combination holder, or change of responsibility.
- 15.6 Each Senior Officer is responsible for maintaining proper security and privacy with regard to information held on personal computers, on word processors and in written form, and for security of other such confidential information held in

that Division and for informing the Deputy Chief Executive of any new applications so they can be assessed for notification under the Data Protection Act 1998.

- 15.7 The Assistant Director (Corporate Services) is responsible for all computer security and computer software, and the control of access to all records, in compliance with the requirements of the Data Protection Act 1998.
- 15.8 All employees are responsible for maintaining the security and privacy of computer data and shall comply with the instructions and guidance issued by Information and Procurement Services.

## 16 INCOME

- 16.1 The Deputy Chief Executive controls the collection of all money due to the Council.
- 16.2 All monies received on behalf of the Council in any Division must be paid to the Assistant Director (Revenues and Benefits) straightaway or, as he/she may direct, to the Council's bank or National Giro Account or transmitted directly to any other body or person entitled to it. No deduction may be made from such monies unless the Assistant Director (Finance and Human Resources) or Assistant Chief Executive (Community Services) specifically agrees to it. Each Officer who banks money must do so in accordance with the instructions of the Assistant Director (Finance & Human Resources).
- 16.3 Personal cheques must not be cashed out of monies held on behalf of the Council.
- 16.4 All cheques will be crossed specifically to the account of the Council when received.
- 16.5 Post-dated cheques will not be accepted in payment of debt except by special arrangement with the Deputy Chief Executive.
- 16.6 Every transfer of official money from one member of staff to another will be noted in the records of the Division concerned by the timed and dated signature of the receiving Officer.
- 16.7 The Deputy Chief Executive will satisfy himself/herself as to the arrangements for the control of all receipt forms, books, tickets and other such items including ordering and supplying them.
- 16.8 Each Officer will give the Assistant Director (Finance and Human Resources) details of work done, goods supplied or services provided and of all other amounts due as may be required by him/her to record correctly any money due to the Council and to make sure that accounts are issued promptly for collection of the income due.
- 16.9 The Deputy Chief Executive be notified promptly of all monies due to the Council and of contracts, leases and other agreements and other arrangements entered into which involve the receipt of money by the Council. The Deputy

Chief Executive has the right to inspect any documents or other evidence in this connection as he/she may decide.

- 16.10 All accounts for income due to the Council will be produced through the Assistant Director (Finance and Human Resources), unless otherwise authorised, except accounts for local taxation, rents and mortgages which will be produced through the Assistant Chief Executive (Community Services). Accounts must be in the name of North Warwickshire Borough Council.
- 16.11 Arrangements for payment of Council Tax and Non-Domestic Rates may only be made by the Assistant Director (Revenues and Benefits). Arrangements for payment of sundry invoices may only be made by the Assistant Director (Finance and Human Resources).
- 16.12 Sums due to the Council in excess of £1,000 may not be written off except with the consent of the Council on the recommendation of the appropriate Board or by the Board acting under delegated powers. Individual amounts of £1,000 or less which the Assistant Chief Executive (Community Services) or Assistant Director (Finance and Human Resources) agree to be uncollectable will be written off and a report of any such items will be made from time to time to the appropriate Board.
- 16.13 No new charges or changes in existing charges may be made unless reported to the appropriate Board unless the Board has given authority to a Council Officer.
- 16.14 Each Board will review, at least once in each year, as part of the budget process, whether the fees and charges for facilities and services under its control should be amended in any way.

## 17 ORDERS FOR WORK, GOODS AND SERVICES

- 17.1 All orders must be in the name of North Warwickshire Borough Council and must be in a form approved by the Deputy Chief Executive.
- 17.2 Each Senior Officer is responsible for all orders issued from his/her Division, and must keep a list of all persons he/she has authorised to sign orders on his/her behalf, including any consultants or agency placements who have also been given appropriate authorisation. Orders will be raised electronically through the Council's Financial Management System. Any change in authorised officers must be notified straightaway to the Assistant Director (Finance and Human Resources).
- 17.3 Official electronic orders must be issued for all work, goods or services to be supplied to the Council except for supplies of gas, electricity, water and telephone services, work carried out under written contracts, for periodical payments such as rent or rates, for petty cash purchases, payment of Officers' professional fees or other exceptions as the Assistant Director (Finance and Human Resources) approves.
- 17.4 Each order for the supply of goods will comply with the Council's approved Purchasing Strategy document.
- 17.5 Verbal orders must be confirmed by electronic order the same day and be marked "Confirmation Order."

- 17.6 Each Senior Officer is responsible for ensuring that the cost of official orders is within the overall approved estimates, represents value for money and that Contract Standing Orders have been complied with. Where expenditure is incurred in an emergency, the relevant Senior Officer is responsible for obtaining any subsequent authorisation which may be required.
- 17.7 Official orders must clearly show the nature and quantity of the materials, works or services required, and details of the agreed price (or estimated price), discounts and terms in relation to packing and delivery.
- 17.8 Senior Officers should ensure that best value is obtained from purchases by obtaining competitive prices for goods and services of the appropriate quality.

## 18 PAYMENT OF INVOICES

- 18.1 Apart from petty cash and other payments from advance accounts, the normal method of payment of money due from the Council will be by cheque or BACS or other method of payment drawn on the Council's bank accounts by the authorised officers. Any payment by the Council's debit card or purchasing card must be in accordance with instructions issued by the Assistant Director (Finance and Human Resources).
- 18.2 The Officer issuing an order has overall responsibility for examining, verifying and authorising the related invoice(s) and similarly for any other payment vouchers or accounts arising from sources in his/her Division. Where possible, the checking and authorisation procedures for payment of invoices should be carried out by Officers not ordering, incurring or receiving the goods or services, in order to ensure division of duties. The names of authorised Officers will be sent to the Assistant Director (Finance and Human Resources) by each Officer with specimen signatures and will be amended on any change. No officer is allowed to certify an invoice or claim form for the reimbursement of expenditure to himself/herself.
- 18.3 Before authorising an invoice, the certifying Officer will, unless the Assistant Director (Finance and Human Resources) determines otherwise, have satisfied himself/herself that:
  - (a) the work, goods or services to which the account relates have been received, carried out, examined and approved;
  - (b) the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
  - (c) the relevant expenditure has been properly incurred, and is within the relevant estimate provision;
  - (d) appropriate entries have been made in registers, inventories, stores records or stock books, as required; and
  - (e) the account has not been previously passed for payment and is a proper liability of the Council.
  - (f) prepayments for goods and services may only be allowed in exceptional circumstances where a significant benefit may be obtained. This should be noted on the invoice/cheque requisition



- 18.4 Authorised invoices will be passed to the Assistant Director (Finance and Human Resources) who will examine them to the extent that he/she considers necessary. He/she is entitled to make enquiries and to receive such information and explanations as he/she may require.
- 18.5 Any amendments to an invoice amount or payment date must follow the financial instructions set out.
- 18.6 Each Officer will notify the Assistant Director (Finance and Human Resources) of all outstanding expenditure relating to the previous financial year, in line with the final accounts timetable, and when such items of expenditure are subsequently certified for payment, they will be identified accordingly.
- 18.7 The Council's policy is to pay all supplier invoices within 30 days, unless the terms of trade vary. Each Officer will ensure that his/her Division's payments are made within this time, unless the invoice is disputed. In this instance the Creditor Payment section will be notified promptly.

## 19 SALARIES AND WAGES

- 19.1 The payment of all salaries, wages, gratuities, compensation and other items to all employees or former employees of the Council will be made by the Deputy Chief Executive or under arrangements approved and controlled by him/her.
- 19.2 Appointments, resignations, dismissals, suspensions, secondments and transfers of all employees to or from established posts will be made in accordance with the regulations of the Council and the approved establishments, grades and rates of pay.
- 19.3 All time sheets or other pay documents must be in a form prescribed or approved by the Assistant Director (Finance and Human Resources) and must be certified by hand by or on behalf of the Senior Officer. The names of officers authorised to sign such records on behalf of the Senior Officer should be sent to the Assistant Director (Finance and Human Resources) by each Officer, together with specimen signatures and should be amended as appropriate.
- 19.4 Each Senior Officer must notify the Assistant Director (Finance and Human Resources) in an agreed form and time of all absences from work for sickness.

## 20 TRAVELLING, SUBSISTENCE AND FINANCIAL LOSS ALLOWANCES

- 20.1 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses must be submitted, certified in a form approved by the Assistant Director (Finance and Human Resources), to him/her, within seven days of a specified day of each month. The names of Officers authorised to certify such records must be sent to the Assistant Director (Finance and Human Resources) by each such Officer, together with specimen signatures and should be amended as appropriate.
- 20.2 The certification by or on behalf of the responsible Officer means that the certifying Officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.

- 20.3 It is the responsibility of each officer using his/her car for official business to have up-to-date insurance and MOT cover. An annual check will be carried out by the Assistant Director (Finance and Human Resources) or his/her representative on officers' driving licences, insurance and MOT. Travel allowance will not be paid to any officer who does not produce the necessary documentation.
- 20.4 In any instance where a spouse or other person is authorised to drive a leased car, then it is the responsibility of the leased car holder to produce that person's driving licence as part of the annual check carried out by the Assistant Director (Finance & Human Resources).
- 20.5 Any change in the status of the driving licence, including penalty points, of the leased car holder or other person must be notified to the Assistant Director (Finance & Human Resources) promptly.
- 20.6 Officers are responsible for any parking or speeding fines, even if incurred whilst on official business.
- 20.7 Officers' claims submitted more than three months after the expenses were incurred will be paid only with the approval of the Director of Resources.
- 20.8 Payments to Members, including co-opted Members of the Council or its Boards who are entitled to claim travelling or other allowances will be made by the Assistant Director (Finance and Human Resources) upon receipt of the appropriate completed form. All claims for a financial year should be submitted within one month of 31st March.
- 20.9 Payment to approved individuals/groups who are entitled to claim travelling or other allowances will be made by the Assistant Director (Finance and Human Resources) upon receipt of the appropriate completed form.

## 21 CONTRACTS

- 21.1 The Assistant Director (Finance and Human Resources) must be informed as soon as possible of all contracts, agreements, awards or other methods involving the payment or receipt of money on behalf of the Council.
- 21.2 Where contracts provide for payment to be made by instalments, the Assistant Director (Finance and Human Resources) will keep a contract register to show the state of account on each contract between the Council and the contractor.
- 21.3 Payments on account to contractors will be authorised on a certificate which complies with all tax requirements, issued by the appropriate Officer or other authorised Officer of the Council or other person appointed by the Council, showing the total amount of the contract, the value of work done to date, retention money, amount paid to date and the amount now certified as due.
- 21.4 Every variation, addition to, omission from, or alteration in identity of the parties to a contract will be authorised in writing by the appropriate Officer or other person in control of the works. The notification will specify the estimated cost or saving involved and a copy of all such notifications will be sent to the Director of Resources.
- 21.5 Where a variation of a contract exceeds £5,000 or 10% of the contract sum, whichever is the greater, or any contract exceeds its contract sum by more than 10%, for whatever reason, details of the variation or overspend and the reason(s) for it must be reported to the appropriate Board, as soon as

practicable and to every following appropriate Board until the scheme is completed.

- 21.6 The final sum due under any contract or accepted estimate may not be certified for payment until a detailed statement of accounts, together with such documents, vouchers and information as the Deputy Chief Executive may require relating to prime costs, quantities, variations, rates, additions or omissions, has been approved by the Director of Resources or his representative.
- 21.7 The Deputy Chief Executive will, to the extent he/she considers necessary, examine final accounts for contracts and is entitled to make all such enquiries and receive such explanations as he/she may require to satisfy himself/herself as to the accuracy of the accounts. It is the responsibility of the Senior Officer concerned to ensure that the final account is correct before being sent to the Deputy Chief Executive.
- 21.8 Claims from contractors in respect of matters not clearly within the terms of an existing contract will be referred to the Assistant Chief Executive and Solicitor to the Council for consideration of the Council's legal liability, and where necessary, to the Deputy Chief Executive for financial consideration before a settlement is reached.
- 21.9 Where a contractor is unable to complete the material works of a contract, due to financial instability, bankruptcy, etc, the Senior Officer will report to the Board concerned and will secure the site immediately, arrange with the Assistant Director (Finance and Human Resources) for alternative insurance cover and assess the financial and contractual position. Arrangements will be made for alternative contractors to continue or complete the works, by following contract standing orders as to the employment of contractors.
- 21.10 Where completion of a contract over £40,000 is delayed beyond the contract period, it is the duty of the Senior Officer concerned to take appropriate action in respect of any claim for liquidated damages and to report his action to the Board concerned.
- 21.11 Senior Officers must notify the Assistant Director (Finance and Human Resources) of any leasing or rental agreements prior to entering into such a contract.
- 21.12 Where orders for goods, services, materials, or for the execution of any work are made on a continuous basis for the same type of work with the same supplier, and it is envisaged that the total amount of such purchases in any one year will exceed the amounts specified in Contract Standing Orders, then the provisions and limits within those Standing Orders will apply. Orders of this type should be subject to competition.
- 21.13 Officers must not purposely disaggregate orders/contracts to avoid the limits and processes set out in contract standing orders.

## 22 CASH FLOATS

- 22.1 The Assistant Director (Finance and Human Resources) may give cash floats to Officers for the payment of minor expenses of the Council. Each cash float will be of such amount as the Assistant Director (Finance and Human Resources) considers necessary and he/she may issue conditions in connection with spending as he/she may consider necessary.

- 22.2 An Officer responsible for a cash float will give the Assistant Director (Finance and Human Resources) a certificate stating the balance of his/her cash advance at the 31 March each year, and at any other time the Assistant Director (Finance and Human Resources) or the Deputy Chief Executive requires.
- 22.3 Payments will be limited to minor items of expenditure and to such other items as the Assistant Director (Finance and Human Resources) may approve and must be supported by a receipted voucher to the extent that the Assistant Director (Finance and Human Resources) requires. Where appropriate, Value Added Tax vouchers must accompany any taxable payment made.
- 22.4 All transactions must be recorded as they occur, and vouchers and cash balances must be available for checking at any time by the Director of Resources (or his/her representative).
- 22.5 All Officers responsible for a cash float must ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made.
- 22.6 All Officers to whom a cash float is given must make arrangements for keeping the cash balances and vouchers in a safe place. The arrangements made will be approved by the Senior Officer concerned.
- 22.7 Any new floats or increases to existing amounts must be requested by the Senior Officer of the Division, together with valid reasons for the increase, to the Assistant Director (Finance and Human Resources).
- 22.8 No income received on behalf of the Council may be paid into a cash float but must be banked or paid to the Authority.
- 22.9 On leaving the employment of the Council, or otherwise ceasing to be entitled to hold an imprest advance, an Officer must account to the Assistant Director (Finance and Human Resources) for the amount advanced to him/her.

## 23 BANKING ARRANGEMENTS AND CHEQUES

- 23.1 All arrangements with the Council's bankers concerning the Council's bank accounts and the issue of cheques will be made through the Deputy Chief Executive.
- 23.2 The Assistant Director (Finance and Human Resources) and the Assistant Chief Executive (Community Services) are authorised to open and operate such banking accounts as they think necessary. Such accounts must be in the name of North Warwickshire Borough Council.
- 23.3 All cheques will be ordered only on the authority of the Assistant Director (Finance and Human Resources), who will make arrangements for their safekeeping.

- 23.4 Cheques will be signed by the Deputy Chief Executive or his/her authorised officers, as may be approved by the Resources Board.
- 23.5 Instructions to the Council's bankers to make bank transfers will only be signed by the Deputy Chief Executive or his/her authorised officers, as may be approved by the Resources Board.
- 23.6 Money transferred by use of a computer link may only be released by the Deputy Chief Executive, or his/her authorised officers, as may be approved by the Resources Board.
- 23.7 Computer-printed cheques in excess of £20,000 will bear the personal signature of the Deputy Chief Executive or other such Officer authorised to sign cheques by the Council. All hand-written cheques will be personally signed by the Deputy Chief Executive or his/her authorised representative.

## 24 EXTERNAL ARRANGEMENTS

### PARTNERSHIPS

24.1 The main reasons for entering into a partnership are:

- to provide new and better ways of delivering services
- the ability to access new resources
- the desire to find new ways to share risk
- to forge new relationships

24.2 A partner is defined as either:

- an organisation (private or public) undertaking part funding or participating as a beneficiary in a project
- a body whose nature or status give it a right or obligation to support the project

24.3 Partners participate in projects by:

- acting as a project deliverer or sponsor, solely or jointly with others
- acting as a project funder or part-funder
- being the beneficiary group of the activity undertaken in a project

24.4 The role of the Deputy Chief Executive extends into the Council's partnerships and joint ventures. He/she will advise on effective controls that will ensure that resources are not wasted and that accounting procedures are satisfactory. Advice on the key elements of funding a project will include:

- a scheme appraisal for financial viability in both the current and future years
- ensuring that roles and responsibilities for each of the tasks in maintaining financial administration and stewardship are clearly defined, allocated and operated effectively
- risk appraisal and management
- resourcing, including taxation issues
- audit, security and control requirements
- carry-forward arrangements

- 24.5 Senior Officers will maintain a record of all contracts entered into with external bodies. They should ensure that a risk management appraisal has been carried out and that any such partnership arrangement does not impact adversely upon the services provided by the Council. The Assistant Director (Finance and Human Resources) should be promptly informed of any such contracts.
- 24.6 All such agreements and arrangements should be properly documented.

## EXTERNAL FUNDING

- 24.7 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council.
- 24.8 Key controls for external funding are:-
- to ensure that conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood
  - to ensure that funds are acquired only to meet the priorities approved in the policy framework by the full Council
  - to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements
- 4.9 The Assistant Director (Finance and Human Resources) will ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts. He/she will also ensure that the match-funding requirements and any revenue implications are considered prior to entering into the agreements, and that audit requirements are met.
- 24.10 Senior Officers are responsible for notifying the Assistant Director (Finance and Human Resources) of all applications and approvals for external funding and for ensuring that all claims for funds are made by the due date.
- 24.11 Senior Officers must ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

## WORK FOR THIRD PARTIES

- 24.12 Current legislation enables the Council to provide a range of services to other bodies. Arrangements must be in place to ensure that any risks associated with this work are minimised and that such work is intra vires.
- 24.13 The key controls for working with third parties are:
- to ensure that proposals are costed properly in accordance with guidance provided by the Deputy Chief Executive
  - to ensure that contracts are drawn up and that the formal approvals process is adhered to

24.14 Senior Officers must:

- ensure that the approval of the relevant Board is obtained before any negotiations are concluded to work for third parties
- confirm with the Assistant Director (Finance and Human Resources) that appropriate insurance arrangements are in force
- ensure that no contract is subsidised by the Council
- ensure that the Council is not put at risk from any bad debts
- ensure that all contracts are properly documented
- ensure that contracts do not impact adversely on the services provided for the Council
- ensure that the service area has the appropriate expertise to undertake the contract

North Warwickshire Borough Council

## Contract Standing Orders



North Warwickshire  
Borough Council



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## 1 PURPOSE

- 1.1 The purpose of Contract Standing Orders is to provide clear rules for Officers and Members to use when purchasing and a structure within which purchasing decisions are made. They aim to ensure that the Council:
- Purchases legally, fairly and with regard to good practice to safeguard the Council's reputation.
  - Is protected from maladministration and vulnerability to Fraud, Bribery/Corruption in the letting of contracts.
  - Protects individuals from undue criticism or allegations of wrongdoing.
  - Purchases goods, services and works that are best value for money.
  - Uses procurement to support its objectives and priorities.
- 1.2 By law (Section 135 of the Local Government Act 1972) the Council must have Standing Orders which guide the letting of contracts and which cover securing competition and regulating the Tender process.
- 1.3 Any dispute or difference in the interpretation of Contract Standing Orders and the Council's Financial Regulations or any other relevant document shall be resolved by the Solicitor to the Council.
- 1.4 Advice on the application of these Orders is available from the Procurement Team and the Assistant Director (Corporate Services).

## 2 SCOPE

- 2.1 Contract Standing Orders apply to procurements and contracts entered into by, or on behalf of, the Council for:
- the provision of goods, services and works regardless of their value,
  - concession contracts, (these are subject to the [Concession Contacts Regulations 2016](#))
  - the disposal of land, property or other assets (including surplus goods),
  - involvement by the Council in partnerships and other joint working where the money, including external funding, passes through the Council's accounts.
- 2.2 Contract Standing Orders DO NOT apply to:
- Goods, services or works purchased through an existing, valid Corporate Contract or provided by another division within the Council.
  - The purchase or hire of property.
  - Permanent staffing.
  - Engagement of legal Counsel or expert witnesses, or instructions to Solicitors to act on the Council's behalf; [provided this is done with the prior approval of the ACE & Solicitor to the Council.](#)
  - Lending or borrowing of money.
  - Grants from the Council (except where they are to buy services).

- Procurements where there is a valid and approved Exemption ([Section 6](#)).
- 2.3 The terms and phrases used in this document are explained in "[The Glossary](#)" provided as [Appendix 1](#). All figures in Contact Standing Orders are net of VAT.
- 2.4 Elements of this document provide advice on how to procure. Further help is available from the Procurement Team and on the Council's Intranet.

### **3 RESPONSIBILITIES AND CONDUCT**

- 3.1 Members and Officers shall be mindful of and **must** comply with relevant Regulation<sup>1</sup> and Directives and with Codes of Conduct, Protocols and Financial Regulations as set out in the Council's Constitution when dealing with procurement and contractual matters.
- 3.2 To minimise the risk of fraud, bribery and corruption within procurement, tendering and contracts particular attention should be made to NWBC Counter Fraud Policy and the Anti-Bribery Policy.
- 3.3 Information disclosed, obtained or stored as part of a procurement exercise must be handled in accordance with the Council's Information Security Policy and with regard to the Local Government Transparency Code, other relevant legislation and Council Policy such as that on Data Protection and Freedom of Information.
- 3.4 Senior Officers are accountable for purchasing and compliance in the Sections or Divisions for which they are responsible.
- 3.5 The appropriate Senior Officer is responsible for identifying a Procuring Officer to lead any procurement and contract award process.
- 3.6 Council employees, those engaged to act on behalf of the Council and all contracts made by the Council must comply with these Contract Standing Orders, the Council's Financial Regulations and Standing Orders and the Council's Procurement and Commissioning Strategy.
- 3.7 Officers, Members, and those acting on the Council's behalf shall maintain the highest standards of honesty, integrity, impartiality, independence and objectivity.
- 3.8 Officers, Members, and those acting on the Council's behalf must take appropriate measures to avoid, or properly declare, possible conflicts of interest (economic, financial or personal interests) which might be seen to compromise their impartiality or independence in the context of a procurement procedure.
- 3.9 The Deputy Chief Executive may revise any figures referred to in these Contract Standing Orders and report such changes to Resources Board.
- 3.10 Officers must follow the appropriate Procurement Route which is determined by the value of the goods, service or works being purchased.
- 3.11 The Procurement Team should be consulted before a procurement starts and it will advise on, and assist Procuring Officers with, all aspects of the procurement process, practices and documentation.
- 3.12 Once a Contract has been established by the Council, for use by all services (a Corporate Contract); it must be used by all services to ensure compliance with the terms of the Contract and avoid breach of Contract.
- 3.13 The Senior Officer or Procuring Officer should notify the Assistant Director (Corporate Services) of all contracts entered into or contracts being arranged to enable procurement planning and to facilitate best value for money.

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<sup>1</sup> Legislation including, but not limited to - Public Contracts Regulations 2015, Equality Act 2010, Bribery Act 2010, Public Sector (Social Value) Act 2012, Freedom of Information Act 2000, **Modern Slavery Act 2015** and Data Protection Act [1998 \(GDPR from 25<sup>th</sup> May 2018\)](#).

3.14 The Procurement Team will provide advice and guidance to suppliers on the Council's processes and systems (CSW-Jets) potential or small suppliers.

## **4 PRINCIPLES APPLYING TO ALL CONTRACTS/PROCUREMENTS**

- 4.1 Every contract entered into on behalf of the Council must comply with these Standing Orders. However, National and/or European Union (EU) Legislation and Directives take precedence.
- 4.2 These Contract Standing Orders take precedence over any supplier agreements and terms and conditions.
- 4.3 Contracts will typically be awarded on a "most economically advantageous basis" using criteria which take into consideration cost and quality.
- 4.4 All purchases made or procurements carried out must be undertaken and approved by Officers with the appropriate delegated authority regardless of the value, procurement route or method of payment.
- 4.5 An Officer may only procure, raise an order or enter into a contract where there is approved funding e.g. provision in the Revenue Budget or as part of a scheme in the agreed Capital Programme.
- 4.6 Any contract award that involves the transfer of staff from the Council to a third party needs the approval of the Council.
- 4.7 Officers are expected to manage contracts to cost, quality, time and budget. In the event of variation to any one of these Officers will follow the relevant Contract Standing Orders to resolve or report the variation.
- 4.8 The length of a contract should be appropriate for the goods, services or works being purchased. A Contract should be for no longer than 4 years unless it is tied to the completion of a specific job or the supply of a fixed quantity of goods or the nature of the procurement demands it and a longer timeframe has been approved by a Senior Officer or a Board.
- 4.9 When using a Framework Contract or an existing contract let by another body the Procuring Officer must ensure they comply with the processes laid down for its use and be aware of the Contract terms and any award conditions or restrictions.

## **5 PROCUREMENT PLANNING**

### **5.1 Future Contracts**

- 5.1.1 The Council will determine, where possible, what contracts are due to be awarded or re-tendered in the course of its financial year and issue appropriate plans and notices, which may include:
  - Prior Information Notices (PIN) where required under EU Regulations.
  - Advisory notices to current contractors.
  - A statement of intent or a Procurement Plan on the Council's website.

### **5.2 Need & Specification**

- 5.2.1 Before starting any procurement activity or making a purchase it is essential that the Procuring Officer or Senior Officer (for procurements at Tender Level); -
  - Is satisfied that the goods, service, or works are needed.
  - Has considered any alternative options for meeting the need.

- Has established if there is an existing contract or corporate contract that must or should be used.
  - Sought advice from the Procurement Manager and for procurements at Tender levels obtained a procurement reference number.
- 5.2.2 A specification of what is needed must be decided on, regardless of the value of the procurement. This may range from a simple description and an estimated price to detailed specifications for high value, complex procurements.
- 5.2.3 Specification must not include requirements that are discriminatory or which may distort competition or contain non-commercial interests.
- 5.2.4 The Procuring Officer, and for Tender exercises the Senior Officer, must be satisfied that any specification is fit for purpose.

### **5.3 Estimating the Overall Value**

- 5.3.1 An estimate of the total value of the procurement must be calculated at the outset to ensure the correct procurement route is selected and best value obtained. The [whole life cost](#) must be used to calculate the Overall Estimated Value which can be established by using one of the following: -
- the expected annual amount (purchase costs and on-going cost) multiplied by the number of years the contract is expected to operate,
  - the value of past annual expenditure multiplied by the number of years the contract is expected to operate,
  - the estimated cost of the good or service for a one off purchase,
  - or a value established through market testing e.g. indicative costs from potential suppliers.
- 5.3.2 The Council is aware of its duties under the Public Services (Social Value) Act 2012 to consider how what is to be procured might improve the economic, social or environmental well-being of the Borough. Procuring Officers and other Officers involved in procurement must therefore consider how their actions will improve the well-being of our communities.

### **5.4 Aggregation**

- 5.4.1 The Council will make the best use of its purchasing power by aggregating its potential needs. It will consider all of its requirement and the likely total spend for similar goods and services across all Divisions when working out the Overall Estimated Value for a contract.
- 5.4.2 Officers **must not** deliberately split requirements to reduce the value of a contract in order to avoid certain procurement routes or to fall below EU procurement thresholds (see Table 1)<sup>2</sup>.

## **6. EXEMPTIONS TO CONTRACT STANDING ORDERS**

- 6.1 The requirement for the Council to purchase using a competitive process can be waived in certain or exceptional circumstances and for specific types of contract. The decision to use an Exemption must take into account value for money, probity and fairness. **An Exemption cannot be used for procurements above EU thresholds or if its use would result in a breach of UK or EU legislation.**

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<sup>2</sup> See Table 1 for explanation of Tender Levels and respective values i.e. Levels 0, A, B, C, D and OJEU.

## **6.2 Exemptions and Approval to use an Exemption**

6.2.1 Where it is intended to use a Standing Order for Exemption to having to follow a competitive Procurement Route the appropriate Senior Officer, in consultation with the AD (Corporate Services) or the Procurement Manager, must:

- For all purchases at or below Level B (Quotes, see Table 1) – approve the reason for the exemption and the specific Standing Order(s) to be used and ensure this information is documented,
- and for contracts valued at, or above Level C (Tenders), seek approval from the Deputy Chief Executive (DCE), or the Solicitor to the Council or MT,
- and where the value of the contract exceeds or is likely to exceed Level D seek approval from the relevant Board or CE using emergency powers.

6.3 Exemptions include: -

- 6a Using Framework contracts or collaborative procurements made by a body, legally able to let public contracts, such as a Professional Buying Organisation. Provided that the Council is clearly identified as able to use the framework and tenders or quotations have been invited and contracts awarded in accordance with procedures which are equivalent to these Contract Standing Orders and which comply with any national or EU Public Contract Rules, regulations or legislation.
- 6b The purchase of works, goods or services required in an emergency or in exceptional circumstances or so urgently that competition would not be in the Council's best interests or possible.
- 6c Where the purchase of goods, services or works from a different firm would result in incompatibility with existing goods, services or assets or would result in disproportionate technical difficulties or financial disbenefit.
- 6d When there are justifiable technical, specialist or supply market reasons and the works, goods, materials or services can only be obtained from one firm, and no reasonably satisfactory alternative is available.
- 6e Best value for money can be achieved by the purchase of used or pre-owned vehicles, plant, equipment or materials.
- 6f The purchase or sale of property or articles at an auction sale.
- 6g In exceptional circumstances; where the work to be done or the goods to be supplied constitute a valid extension to an existing contract and it is in the Council's best interest to negotiate with the existing contractor/supplier.
- 6h Where a Contract Award has been suspended under the 2009 amendment to the Procurement Regulations, the incumbent supplier can continue offering the supply or service until the dispute has been resolved.
- 6i When the contract or co-operation is between public bodies and provided that specific conditions around control, service provision and private sector involvement are met.

6.4 The Procuring Officer must document decisions made and retain relevant documentation if an Exemption is granted.

## 7. PROCUREMENT ROUTES

- 7.1 **This section does not apply if an Exemption has been agreed (see Section 6) or a Corporate Contract is to be used.**
- 7.2 Anyone procuring on the Council's behalf must ensure that opportunities to supply goods, services and works are advertised appropriately and that the conditions for competition are met.
- 7.3 Thresholds, Advertising and Competition**
- 7.3.1 The Overall Estimated Value is used to determine the procurement method (quote or tender), the minimum number of firms to be invited, the requirements for advertising, and contract award /order process; these are summarised in Table 1.

<b>Table 1– Levels and Procurement Route</b>					
<b>Level</b>	<b>Overall Estimate d Value -</b>	<b>Method &amp; Response</b>	<b>Numbe r of Firms Invited</b>	<b>Advertising Method &amp; Timescale</b>	<b>Order and Award Process</b>



<b>Level O</b>	Up to £1,500	Quotations – may be verbal <sup>3</sup>	At Least 2 Firms	Not Required	Confirmed & ordered using Council Purchase Order or Council P-Card.
<b>Level A</b>	£1,501 to £10,000	Quotations in writing.	At Least 2 Firms	Not Required	Confirmed & ordered using Council Purchase Order or Council P-Card.
<b>Level B</b>	£10,001 to £45,000	Quotations in writing.	At Least 3 Firms	Invitation to Quote on Council Website and relevant Procurement Portal for at least 5 working days.	Confirmed & ordered using Council Purchase Order.
<b>Level C</b>	£45,001 to £110,000	Tender Procedure - Responses in writing.	At Least 3 Firms	Invitation to Tender on Council Website and relevant Procurement Portal for at least 10 working days.	Confirmed by Award Letter & ordered against Contract and/or Council Purchase Order (PO)
<b>Level D</b>	£110,001 to OJEU Levels	Tender Procedure - Responses in writing	At Least 3 Firms	Council Website & relevant Procurement Portal for at least 14 working days.	Confirmed by Award Letter & ordered against Contract and using Council PO
<b>OJEU</b>	OJEU Levels and above	EU Tendering Procedure - Consult the Procurement Team before starting EU procurements. EU Thresholds from 1st January 2016: - Services and Supplies = <b>£181,302</b> , Works = <b>£4,551,413</b>			
Tenders should only be advertised in a publication (Local or Trade) if the Senior Officer believes it essential to achieve competition and it is best value for money.					

7.4 If sufficient Quotations have not been obtained after advert or the relevant Senior Officer feels that it is inappropriate in the interests of the efficient management of the service to advertise or seek the required number of quotations, then the reasons and proposed actions must be discussed with the Procurement Manager and a record of the decision kept.

7.5 Where the Tender value is at Level C and a sufficient number of suitable firms cannot be identified to Tender or have not Tendered approval must be sought from the DCE, CE or MT and at Level D approval from the appropriate Board, before proceeding with the Tender. The reasons and proposed actions must be discussed with the AD (CS) or the Procurement Manager and a record of the decision kept.

### 7.6 Advertising Requirements

7.6.1 Any Advert or Notice of a procurement opportunity and/or any Quote or Tender must set out details of the proposed procurement and clearly:

- Describe the required goods, services or works and the scope of the Contract.

<sup>1</sup> Details of verbal quote should be documented by the Procuring Officer (see 11.1.1)

- State what Firms will have to do to quote or to tender.
- Invite Firms to complete the document(s) needed to register their interest or detail their ability to supply what is required.
- State the submission process, contact details and the Closing Date for receipt of the response.
- Summarise the criteria the Council will be using to evaluate responses and award the contract.

## **8 QUOTATIONS AND TENDERING**

### **8.1 Before Tendering or Obtaining Quotes**

8.1.1 Before seeking Quotation or Tenders the Procuring Officer and/or Senior Officer must:

- Satisfy themselves that the Council does not already have a Contract in place for supplying the required goods, services or works.
- Decide if there is a case for an Exemption from the requirements for competition (Section 6).
- Decide if the potential works or services could be carried out or supplied by, or assistance is need from, another division of the Council.
  - (a) If the Supply-side Officer decides they want to submit a quotation or tender they will be included in the list of those to be invited.
  - (b) If the Supply-side Officer decides they wish to carry out the contract, free from competition, and provided that they can demonstrate that this constitutes best value for money, then the contract will be carried out by that Officer; unless the Solicitor to the Council, in consultation with the Deputy Chief Executive (DCE) determines otherwise.
    - i. At Level C or above this arrangement must be documented and approved by the Supplying and the Procuring Senior Officer.
- Consider which legislation, guidance and Council Policy would be applicable to the requirement and with which compliance should, or must, be sought from the supplier and ensure it is referenced in the specification and subsequent contract.
  - i. This includes compliance [with the Modern Slavery Act 2015](#) and an accompanying declaration confirming the tendering organisation's compliance with the principles of the Bribery Act 2010 and their willingness to respond to any reasonable due diligence enquiries made by or on behalf of NWBC.
- Be satisfied that a specification has been prepared.

- Prepare or approve an Estimated Overall Value for the whole life of the contract, including, if appropriate, any maintenance costs.
- Ensure there is adequate approved budget.

- For Tenders (Level C and above)

(a) Have decided the preferred Procurement Route and Form of Contract or supply arrangement.

(b) Agree a Procurement/Contract Reference with Procurement

## 8.2 Determining the Evaluation Process and Selection and Award Criteria

8.2.1 The Procuring Officer must decide on the process, any relevant or mandatory exclusion criteria, the selection criteria, the award criteria and the relative weightings that will be used to shortlist firms and evaluate tender responses and ultimately select a successful tenderer(s) and award a contract an Invitation to Quote (ITQ) or Invitation to Tender (ITT).

8.2.2 Whenever possible and for procurements at or above Level C (Tenders) the selection criteria, award criteria and weighting must be documented and agreed with the appropriate Senior Officer and published at the time of the Invitation to Tender.

8.2.3 Selection criteria must focus on the company's ability to deliver the requirement. Criteria must be proportionate to the value of, and risk associated with, the procurement and should not disadvantage small firms able to meet the demand.

8.2.4 Award criteria must be designed to secure an outcome which gives best value for money for the Council. The basic award criteria are:

- "Most Economically Advantageous" Tender (M.E.A.T) where considerations in addition to price and quality apply.

- "lowest price" where a payment is to be made by the Council (Level 0 or A only).

- "highest price" where a payment is to be made to the Council

8.2.5 If the award is to be made to the Most Economically Advantageous offer then the criteria that demonstrate this, and the relative weighting to be used, will be determined based on the specific needs, features and risks associated with the individual procurement exercise. The table below gives some example criteria and their suggested maximum weighting.

<b>Table 2 – Example Criteria and Suggested Maximum Weighting</b>		
<b>Criteria</b>	<b>Maximum Weighting</b>	<b>Notes</b>
<b>Cost</b>	Up to 80%	Costs will be assessed for total Contract life based upon the lowest price received.
<b>Quality</b>	Up to 80%	Quality will be subjectively assessed in terms of performance against specification by relevant and competent Officers
<b>Delivery</b>	Up to 20%	Delivery will be assessed in terms of warranties, guarantees, and penalties against delivery to the Council's schedule.

<b>Social Considerations</b>	Up to 40%	<u>Relevant</u> Social Considerations can be included in the assessment. Consult Procurement before use.
<b>Environmental Impact</b>	Up to 10%	A subjective assessment of the possible environmental consequences of the goods and services tendered.
<b>Compliance</b>	Some may be Mandatory	Compliance in accordance with legislation and relevant Council Policy will be considered. If there are no fully compliant responses the Procuring Officer may judge relative compliance for none Mandatory criteria.

8.2.6 The differences between selection criteria and award criteria and the need to separate the two stages and not duplicate criteria can be complex. The Procurement Team should be consulted for advice.

### **8.3 Electronic Procurement**

8.3.1 Any Level B or above Quotation or Tender will normally be run by electronic means. Documents will be made available and returned via the Council's approved e-tendering solution or in exceptional circumstances by email.

8.3.2 Electronic documents will be kept securely and as specified by the Assistant Director (Corporate Services) and not opened until the deadline for receipt has passed.

8.3.3 The Council may participate in on-line Auctions or reverse auctions as part of a Procurement process. The Procuring Officer must ensure the specification and award criteria are appropriate and the Council's commitment to any Firm is dependent upon their satisfying relevant criteria and obligations under these Contract Standing Orders.

8.3.4 Procuring Officers may use on-line auctions for purchases valued at Level A or below provided they have sufficient quotes, are able to prove best value for money, can obtain a VAT invoice from the supplier and they have checked the terms and conditions of supply and return. A pre-established Council user identity must be used to make purchases and payment must be made using a Council purchase order or Council payment card.

## **9. EUROPEAN UNION TENDERING PROCEDURES**

9.1 This Contract Standing Order applies to high value contracts expected to be at or over the EU thresholds (see Table 1)

9.2 The Procurement Team must be consulted well in advance of any planned EU level procurement to ensure compliance with the most up to date Public Contracts Regulations (2015), legislation and Directives and the timescales and procedures dictated.

9.3 Contracts to which the EU rules apply will be awarded in accordance with those rules and by means of currently approved procedures:-

- **Open Procedure** – A single stage process, usually used when only a small number of Tenderers are expected to respond.
- **Restricted Procedure** – A two stage process involving qualification and tendering. Usually used when a large response is expected.

Procedures with some degree of negotiation (only to be used in specific circumstances):-

- **Competitive Procedure with Negotiation** - Usually used for complex tenders where neither of the above is suitable.
- **Competitive Dialogue Procedure** – For highly complex tenders where the other procedures are not suitable and a solution cannot be easily identified.
- **Innovative Partnerships Procedure** – For developing goods, works or service not currently available in the market.
- **Negotiated procedure without prior publication** – Where previous procedures have resulted in irregular or unacceptable tenders or in extreme urgency.

## **10 COUNCIL TENDERING PROCEDURES**

10.1 **These Contract Standing Orders apply to Tenders with an Overall Estimated Value of Level C or above, but below EU thresholds (or if Public Contract Regulations do not apply).**

10.2 The Procuring Officer will ensure that:

- Any early market engagement or discussions, with suppliers or expert bodies prior to starting the procurement, have ceased.
- Authority to Tender has been obtained and that the appropriate Tender procedure has been selected.
- That relevant Evaluation and Tender documentation has been prepared in terms of the specification of requirements, selection / award criteria and with regard to compliance with relevant Council Policy.

10.3 The Council's Tendering Procedures are based on Legislation and EU Public Procurement Rules as they are regarded as good practice. Whenever possible an Open or Restricted Tender Procure should be used.

10.4 The Procuring Officer will produce an Advert, Notice or Tender briefing Firms of the Council's requirements (see Section 7.6).

### **10.5 Open Tendering Procedure**

10.5.1 The Open Tendering Procedure operates as follows:

- (1) The Procuring Officer will advertise in accordance with Table 1 for Firms to submit an Expression of Interest or respond to an Invitation to Tender by a specified date.
- (2) The Procuring Officer can contact Firms and invite them to respond.
- (3) All Firms that express an interest will be invited to submit a response to an Invitation to Tender.

### **10.6 Restricted Tendering Procedure**

10.6.1 The Restricted Tendering Procedure operates as follows:

- (1) The Procuring Officer will advertise in accordance with Table 1 for Suppliers to submit an Expression of Interest or to respond to an Invitation to Tender (ITT) by a specified date.
- (2) The Procuring Officer can contact Firms and invite them to respond.
- (3) All firms expressing an interest will be provided with an Invitation to Tender (ITT) document. ITT's may contain specific qualifying questions, as part of a two stage ITT, prepared by the Procuring Officer. The Procuring Officer shall also prepare the selection criteria, which must focus on the financial and technical ability of the organisation to fulfil the contract.
- (4) All ITT's will be reviewed and evaluated by at least two relevantly skilled staff, one of whom should be the Procuring Officer. A shortlist which recommends at least the required number of shortlisted Firms (Table 1) will be provided to the appropriate Senior Officer for their agreement.
- (5) At least the required minimum number of Firms will be taken on to a second stage of evaluation if a two Stage ITT has been specified, otherwise all ITT's will be evaluated.

10.6.2 The Council can use a properly established and maintained Pre-Qualification service, e.g. Construction-line. The use of such services should not dis-advantage other suppliers, and where appropriate a mini-competition should be sought to maintain M.E.A.T. Any resultant approved list should only be used for that procurement project. Approved lists should not be used in any other circumstances. Procurement will offer further clarification if needed.

#### **10.7 Procedures with Some Negotiation**

10.7.1 Public Contracts Regulations 2015/EU Directives provide four additional Procurement Procedures which allow for some degree of negotiation. These procedures should only be used in specific and sometimes exceptional circumstances and must only be used in consultation with the Procurement Team.

## **11 SUBMISSION, RECEIPT AND OPENING OF TENDERS AND QUOTATIONS**

### **11.1 Submission and Receipt of Quotations.**

11.1.1 Written quotations (Level A and B) must be kept by the appropriate Procuring Officer and details of verbal quotations (Level 0) should be documented; both should be made available, on request, to the appropriate Budget Holder, Senior Officer or Member of the Procurement Team.

### **11.2 Submission of Tenders**

11.2.1 Every Invitation to Tender must tell the Tenderer how, when (date and time) and where to submit their response. Tenders must be returned to the Council in one of the following ways:

- (a) By submitting it electronically via a specified website or to an advised e-mail address.

- (b) In exceptional and agreed circumstances in the sealed envelope provided, or specified, by the Council and which does not bear a name or any mark which would identify the sender.
- 11.2.2 The contract award criteria will be summarised in the Invitation to Tender. The Council does not bind itself to accept the lowest or any tender.
- 11.2.3 The Council's Terms and Conditions form part of the Tender documentation and the Firm will be informed how they will apply to the award of the Contract.

### **11.3 Receipt, Opening and Registration of Tenders**

- 11.3.1 Tenders and quotes received via the e-tendering portal, which provides a secure and fully auditable environment, are held securely until the published closing date and time. After which:
- a) Below Level D (£110,000) they may be opened by the Procurement Manager, AD (Corporate Services) or trained member of the Procurement Team.
- b) Above Level D they will be opened by the Procurement Manager or AD (Corporate Services) and the Procuring Officer responsible for the tender.
- 11.3.2 A summary of the tender opening information as detailed below will be produced and made available to Democratic Services and the Chair of the relevant Board.
- Title of the Contract
  - Date and time of opening.
  - Name of those present.
  - Number of responses and Name of each tenderer.
  - Verification that required documents are present.
  - Detail any anomaly or problem with a return
- 11.3.3 The Procurement Team will download the tender responses and make them available to the Procuring Officer for record/audit and evaluation.

#### REPLACES:

- ~~11.3.1 Tender envelopes shall be numbered and marked with the time and date of receipt and kept unopened in the custody of the Assistant Chief Executive & Solicitor to the Council (SttC) until their scheduled opening.~~
- ~~11.3.2 Tenders not received in the manner and timescale specified by the Council will be rejected and the sender informed of the reason for rejection.~~
- ~~11.3.3 Procuring Officers must liaise with Democratic Services and the Procurement Team to arrange a date and time for opening any Tenders.~~
- ~~11.3.4 Tenders shall be opened at one time in the presence of either the Leader of the Council or one of the Deputy Leaders and the Assistant Chief Executive & SttC or his/her representative.~~
- ~~11.3.5 The Assistant Chief Executive & SttC or his/her representative must, at the time the tenders are opened, record:-~~
- ~~(1) the title of the contract or the description of works, goods or services;~~
  - ~~(2) the date of the opening of a tender;~~
  - ~~(3) record details of all persons present at the opening of tenders;~~
  - ~~(4) the name of each Firm submitting a tender;~~

- ~~(5) the date and time of receipt of each tender if available;~~
- ~~(6) the amount of each tender where appropriate;~~
- ~~(7) the reason for any disqualification of any tender;~~
- ~~(8) the name of Firms invited to tender but which did not submit a tender;~~
- ~~(9) The Assistant Chief Executive & SttC or his/her representative shall ensure that the page(s) of the Tender document which contain the ultimate prices is signed and dated by the Councillor.~~

#### **11.4 Alterations to Tenders, Abnormal Tenders and Post Tender Negotiations**

11.4.1 No alteration of any Tender will be allowed after the date and time specified for the receipt of tenders, except:

- (1) Alterations - Where typographical or arithmetical errors or discrepancies are found. The Tenderer can be given an agreed period to confirm or correct the error or to withdraw the Tender.
- (2) Abnormal Tenders - If the Procuring Officer believes a Tender to be abnormal given the requirements, the Overall Estimated Value or in comparison with other tenders. The Tenderer may be asked to explain and clarify its Tender or parts of it.
- (3) Post Tender Negotiation – This is permissible when a procurement route which allows some negotiation has been used. Otherwise, discussions with Tenderers after the submission of a Tender and before award with a view to obtaining adjustments in price, delivery or content must only take place in consultation with Legal Services and the Procurement Manager and in exceptional circumstances such as where the lowest tender received exceeds the approved budget. In circumstances such as this: -
  - (a) An exception may be authorised by a member of MT or by a Board to which the power of making contracts has been delegated.
  - (b) The appropriate Senior Officer or the Procuring Officer may contact tenderers to discuss adjustments in rates, prices or terms but only on the basis of a change to quantities or scope. Negotiations must be documented.
  - (c) There must be no disclosure as to which Tender is currently the lower or the margin(s) involved.
  - (d) The tenderers taking part in this process are required to submit their revised prices or terms to the Council in the manner set out in paragraph 11.2 and revised offers will be opened in accordance with paragraph 11.3.
- (4) Qualified Tenders – When all tenderers are unable to meet the specification the Procuring Officer can discuss submissions with all Tenderers with a view to obtaining acceptably qualified tenders.



This must only take place in consultation with Legal Services and the Procurement Manager.

- 11.4.2 Should these measures not deliver a Tender within the cost limits or where they result in a fundamental change to the specification or contract terms the procedure will be terminated and no contract awarded.

## 12. SELECTION AND CONTRACT AWARD

### 12.1 Accepting Quotations

- 12.1.1 The assessment of Quotations should be carried out by the appropriate Officer or Procuring Officer. Purchases and Contracts will be made via the Council's Purchase Order system using its Purchase Order Terms and Conditions.

- 12.1.2 Decisions on the acceptance of quotations will be taken as follows:-

<b>Table 3 – Quotations (£0 - £45,000)</b>	
<b>Circumstance</b>	<b>Acceptance by:-</b>
(a) Level 0 (£0 - £1,500) - Lowest or most economically advantageous quotation provided that it represents best value for money.	Officer & Order approved by the Appropriate Budget Holder or Authoriser.
(b) Level A (£1,501 -£10,000) and Level B (£10,001 - £45,000) - Lowest or most economically advantageous quotation provided that it represents best value for money.	Procuring Officer & Order approved by the Appropriate Budget Holder or Authoriser and at Level B agreed by the Senior Officer.
(c) A quotation other than the lowest or most economically advantageous received or in any other circumstances	Appropriate Senior Officer in consultation with the Deputy Chief Executive.

### 12.2 Evaluating and Accepting Tenders

- 12.2.1 Where the Contract value is at Level (C) or above; the assessment of Tenders should be led by the Procuring Officer and must involve at least 1 other person with the appropriate skills and knowledge.
- 12.2.2 The Tenders must be evaluated and scored using the process, criteria and weighting set prior to Tender.
- 12.2.3 Before a Tender can be accepted the Procuring Officer must ensure that the Deputy Chief Executive has approved the financial standing of the Firm to which it is proposed to award the contract, in accordance with Financial Regulations.
- 12.2.4 Decisions on the acceptance of Tenders for works, goods or services will be taken as follows:

<b>Table 4 – Tenders (£45,001 &amp; over)</b>	
<b>Circumstance</b>	<b>Acceptance by</b>
(a) Lowest or most economically advantageous tender, provided that it represents best value for money and does not exceed the Overall Estimated Value or Approved Budget.	Level C - Procuring Officer and approved by the Budget Holder and/or Appropriate Senior Officer. Level D (£110,001 and Above – Senior Officer and approved by the Chief Executive (CE) or DCE who will consult with the Leader of the Council or a Deputy Leader. * The CE or DCE may refer any decision on

	acceptance of a Tender to a Board.
(b) A tender other than the lowest or most economically advantageous tender received, provided that it represents best value for money or in any other circumstances.	Appropriate Board * A written report must be submitted to the appropriate Board detailing the decision and the supporting data (e.g. Evaluation Criteria and scoring).

### **12.3 Tenderer Notification and Standstill Period**

- 12.3.1 Once the decision to award a contract is made each Tenderer must be notified in writing of the outcome of the tender process including details of the award criteria, their performance against the criteria and the name of the successful tenderer.
- 12.3.2 For Tenders over EU Thresholds there must be a “standstill” period between the notification and signing the contract and/or raising of an order. This is ten days but can be extended, if a challenge is lodged by a Tenderer, in which case the Procurement Manager will advise on the relevant standstill period and process.
- 12.3.3 For Tenders below EU Thresholds a “voluntary standstill” period is good practice and can help prevent future challenge. The Council uses a 10 day period between notification and contract signing.

### **12.4 Nominated or Named Sub-Contractors and Nominated Suppliers**

- 12.4.1 This Contract Standing Order applies where a sub-contractor or a supplier is to be nominated to an existing main contractor or contract.
- (1) Where it is not reasonably practicable to obtain competitive tenders, the appropriate Senior Officer may nominate or agree the nomination of a Sub-Contractor or supplier.
  - (2) Where competitive quotes or tenders are available, then dependent on the estimated value of the sub-contract or the estimated value of goods or materials to be supplied by a nominated supplier, tenders or quotations must be invited.
  - (3) The terms of any invitation for nominated sub-contractors or suppliers must require that, if selected, the Firms would be willing to enter into: -
    - (a) A contract with the main contractor on terms which indemnify the main contractor against the main contractor's own obligations under the main contract in relation to the work and goods or materials included in the subcontract; and
    - (b) An agreement to indemnify the Council in such terms as may be prescribed.
  - (4) The provisions of Contract Standing Orders relating to the submission of quotes or tenders; their opening and registration; late tenders; alterations to tenders; and tender acceptance apply to this Contract Standing Order.

### **13. CONTRACTS AND TERMS**

13.1 Before entering into a contract with any Firm, the appropriate Senior Officer must: -

- (1) Be satisfied about the selection, capability, legitimacy and financial standing of the Firm.
- (2) Ensure that these Contract Standing Orders have been complied with and that the proposed contract represents best value for money.
- (3) Ensure the successful Firm has been made aware of and has confirmed compliance with the legislation, regulation and Council Policies applicable to the Contract.
- (4) Be satisfied that reasonable and proportionate due diligence enquiries have been carried out to ensure Bribery Act compliance.
- (5) Be satisfied that successful and unsuccessful tenderers have been informed of the decision and that any standstill period has been properly observed.

#### **13.2 Orders and Contracts**

13.2.1 Where the Contract Price of a procurement is valued at Level A or less, the works, goods or services to be supplied will be purchased using a Council Purchase Order or a procurement card payment and must be approved by the Budget Holder.

13.2.2 Where the Contract Price is at Level B the works, goods or services to be supplied will be purchased on the basis of a duly signed Contract and/or a Council Purchase Order approved by the appropriate Budget Holder and/or Senior Officer.

13.2.3 Unless the Solicitor to the Council decides otherwise, every contract must be in writing and every contract with a value of Level C or above must be in a form prepared or approved by the Solicitor to the Council.

13.2.4 Contracts at Level D and above must be under seal. The appropriate Senior Officer must liaise with the Solicitor to the Council and decide if it is appropriate to Seal a contract priced at below Level D if:

- The Council may wish to enforce the Contract more than 6 years after its end.
- The price paid or received is a nominal one and does not reflect the true value of the goods or service.

13.2.5 The Council's Purchase Order Terms and Standard Contract Terms and Conditions are available on the Internet. If these are not used the Procuring Officer or Senior Officer must ensure that the contract used covers those sections and topics detailed in the Standard Contract and that it is approved by Legal Services before signing or sealing.

13.2.6 At the Senior Officers discretion and for all Tenders over Level D the Procuring Officer must consult with the Deputy Chief Executive to determine if the Contract is to include Parent Company Guarantees, Bonds or Liquidated Damages.

### **13.3 Using other Organisations Contracts**

- 13.3.1 The Council may choose to use Contracts and Contract terms other than its own, if the Senior Officer determines the needs of the Council can be met. This can be efficient, reducing contracting activity, and may include the following types of Contracts:
- (1) ICE (Institute of Civil Engineers) and JCT (Joint Contracts Tribunal) Contracts and Agreements and NEC Contracts.
  - (2) Contracts established by organisations with the legal remit to award public contracts such as Professional Buying Organisations e.g. ESPO.
  - (3) Contracts tendered and awarded by Government or public sector organisation, which are open to Local Government or this Council, provided they have been let compliantly, legally and under their CSOs.
- 13.3.2 It is the responsibility of the Procuring Officer or Senior Officer to ensure that such Contract terms are appropriate and that the Solicitor to the Council has had the opportunity to review any Contract and decide if such a Contract is applicable and acceptable to the Council.
- 13.3.3 If necessary, it is the responsibility of the Senior Officer to negotiate modifications to the Contract to properly represent the requirements of the Council. Any substantive change must be agreed with the Solicitor to the Council.

### **13.4 Variances to Terms and Conditions**

- 13.4.1 Any variations to the Council's Standard Contract Terms and Conditions submitted by Firms shall not be accepted without advice from the Solicitor to the Council.
- 13.4.2 Payment arrangements other than the Council's normal payment terms e.g. "payment on delivery" must be discussed with and agreed by the DCE.

### **13.5 Contract Disputes**

- 13.5.1 The Council will, in its Contracts, identify a Dispute Resolution Process. The principles of such will be to establish mutually acceptable resolution of any dispute; to maintain good working relations and avoid lengthy and costly delays for all parties.

## **14 USING CONTRACTS**

### **14.1 Placing Orders**

- 14.1.1 Where there is a need and within approved budgets Officers may raise Orders, for approval, against Contracts which have been entered into by the Council.
- 14.1.2 To purchase goods, services or works Orders must be raised, at the time of committing expenditure, using the Council's Procurement System (TOTAL) and approved by the Budget Holder, unless;
- (1) Financial Regulations state that Orders do not need to be raised for a specific type of spend e.g. Utility payment, Rent.
  - (2) A Council approved payment card is used for a low value purchase.

## **14.2 Authorising Payment**

- 14.2.1 In accordance with Financial Regulations, and within approved budgets and where relevant Contract Price, Authorised Officers or Budget Holders may authorise payments of invoices raised by a Supplier against a Council Order or Contract, on the following conditions:
- (1) That the Council has a duly authorised Goods Receipt Note to match against the order and invoice; or
  - (2) That the Procuring Officer has authorised payment against the satisfactory delivery of a service or schedule of services; or
  - (3) That it represents an agreed stage payment, provided that the Procuring Officer can determine and demonstrate that the stage has been reached; or
  - (4) That it is a retained payment, now due; or
  - (5) That a Senior Officer authorises payment.

## **14.3 Variations within Contracts**

- 14.3.1 All Variations must be in the form of written instruction to the contractor. The validity and likely cost effect of each variation should be assessed before the issue of the instruction to proceed.
- 14.3.2 If the variation is valid and its cost can be contained within the Contract Price and Approved Budget the instruction may be approved by the Contract Officer or Procuring Officer at Level B and below and by the relevant Senior Office at Level C and above.
- 14.3.3 Any variation, which will result in the Approved Budget being exceeded by £5,000 or 10% of the contract sum (whichever is the greater) must be reported to the appropriate Board by the Senior Officer in accordance with Financial Regulations.
- 14.3.4 If the variation would cause the Contract Price to be exceeded, but is within the tolerance defined in Financial Regulations (£5,000 or 10% of the contract sum), the Senior Officer should liaise with the AD (Finance and HR) to establish how any overspend could be contained within Approved Budgets. If alternative funding cannot be found, the appropriate Board will need to submit a supplementary estimate request to Executive Board.
- 14.3.5 In cases when a variation is urgent and requires immediate action the instruction may be issued by the appropriate Senior Officer without prior written costing. If there is any expectation that the variation could result in the Contract Price being exceeded by £5,000 or 10% of the contract sum the appropriate Officer must consult the Chief Executive with regard to use of his emergency powers. Details of the cost of the variation or overspend and the reason(s) for it, must be reported to Board as soon as practicable in accordance with Financial Regulations.

## **14.4 Adjustments and Extensions to Contracts**

- 14.4.1 Where the timing of any Contract changes for reasons beyond the control of the Procuring or Contracting Officer, a Contract may be lengthened or adjusted with the approval of the appropriate Senior Officer. Such discretion is to recognise the efficiency in procurement in situations where issues pull forward or delay a particular programme of expenditure.

14.4.2 Where the scope of any Contract changes the Procuring Officer must carry out an assessment to determine if the change would have impacted on the Tender and its outcome. Such discretion is to recognise adjustments to account for minor changes to scope and efficiency in procurement where identical or equivalent goods or services are required, but these must not result in material changes.

#### **14.5 Emergency Orders**

14.5.1 Where an emergency demands a response outside the practical timescales of these Contract Standing Orders, the Procuring Officer, in liaison with a Senior Officer, is authorised to set aside requirements for tendering and competition; working if at all possible within an existing Contract or with an existing Supplier. Action under this Contract Standing Order will be made compliant with Exemption to Contract Standing Order (Section 6) soon as possible.

### **15 DISPOSAL OF ASSETS**

15.1 Assets including property, vehicles, equipment, furniture, stocks or stores which are no longer required or needed for re-use should be disposed of in accordance with the law, Financial Regulations and any Council Protocol for Disposal of Assets.

15.2 Low value items Level A or less may be disposed of by written bid/quotation, auction or by electronic auction. Where an electronic auction site is used the placement and sale must be through a Council, not a personal, account. The Assistant Director (Finance and HR) should be informed of disposals.

15.3 Where assets for disposal are valued at Level A and above (see Table 1) the relevant Senior Officer must give approval for the disposal; at Level C and above approval must also be given by the Deputy Chief Executive.

15.4 The method of disposal for assets valued at Level B or above should be by written tender or quotation following the processes laid out in sections 10 -13. The Assistant Director (Finance and HR) must be informed of these disposals to ensure the Council's Asset Register is maintained.

15.5 Tenders or Quotations received for the disposal of assets will be awarded on the basis of the "Highest" or most economically advantageous offer.

### **16 LAND TRANSACTIONS**

16.1 This Contract Standing Order applies where there is a land transaction. With the exception of Sections 1, 2, 3 and 4 none of the Council's other Contract Standing Orders apply to land transactions, unless otherwise stated in this section.

#### **16.2 Approval of Major Disposals**

16.2.1 The method of each major disposal must be approved by the Solicitor to the Council or the Resources Board as appropriate. When determining such matters the Solicitor or Board shall:

- (1) specify the land to be disposed of;
- (2) confirm that the land has been declared surplus to Council's requirements;
- (3) advise upon the proposed method of disposal and set out the reasons for selecting that method;

- (4) in matters where the Council must achieve best consideration, confirm that the proposed method of disposal which has been selected, is most likely to achieve this; and
  - (5) in matters where it is proposed that the disposal should be for less than best consideration, give reasons for and against seeking best consideration and, specify the relevant legal powers of the Council to accept less than best consideration.
- 16.2.2 The principal terms of major disposals (except where the approved method of disposal is by auction) must be approved by the Council on the recommendation of the Resources Board. When determining such matters, the Board shall ensure, after considering advice from the Council's Valuer, either that the consideration agreed represents best consideration, or following advice from the Solicitor to the Council that the Council has the relevant legal powers to accept less than best consideration.
- 16.2.3 In major disposals where the approved method of disposal is the inviting of formal tenders or informal offers, the disposal must be advertised on the Council's Website and in at least one local, national or specialist newspaper or publication, as determined by the Solicitor to the Council, after consultation with the Council's Valuer. Tenders shall be submitted in accordance with the Council's Tender Procedures.
- 16.3 Dealing with formal tenders and informal offers**
- 16.3.1 Tenders and offers shall be opened at one time in the presence of either the Leader of the Council or one of the Deputy Leaders and the Solicitor to the Council or his/her representative. The names of tenderers and/or offerors, and the amounts of tenders/offers shall be recorded in a register kept by the Assistant Chief Executive & Solicitor to the Council. Persons present at the opening of tenders/offers shall record their presence by signing the register against the specified details. Alterations/errors in tenders/offers and late or otherwise invalid tenders/offers shall be dealt with in consultation with the Solicitor to the Council.
- 16.4 Disposals by Auction**
- 16.4.1 In disposals where the approved method of disposal is by auction, the auction shall be conducted by the Council's Valuer, if he/she is a practising Auctioneer. Where this is not the case, at least two practising auctioneers must be invited to provide a written quotation as to commission and additional costs, and the lowest quote must be selected by the Solicitor to the Council.
- 16.4.2 A "reserve price" must be set by the Solicitor to the Council, in consultation with the Council's Valuer or selected auctioneer. The reserve price must be disclosed only to the auctioneer and the Council's legal officer attending the auction.
- 16.5 Approval of Land Transactions other than major disposals**
- 16.5.1 The principal terms of land transactions other than major disposals (except where the method of disposal is by way of auction) must be approved by the Solicitor to the Council or the Resources Board, as appropriate. When determining such matters, the Solicitor or Board shall consider the proposals in an agreed format confirming either that the consideration agreed represents best consideration, or following consultation with the Solicitor to the Council that the Council has the relevant powers to accept less than best consideration.

**16.6 Application of the Property Procedures**

16.6.1 All land transactions must be conducted in accordance with the property procedures.

**16.7 Formalities**

16.7.1 All contracts and other documentation entered into pursuant to all land transactions shall be in writing, and shall be signed or sealed, as appropriate.

**16.8 Accepting Tenders for the Disposal of Land, Property and other Marketable Assets.**

16.8.1 Decisions on the acceptance of tenders for the disposal of land, property and other marketable assets will be taken as follows: -

<b>Table 5 – Disposal of Land, Property and Assets</b>	
<b>Circumstance</b>	<b>Acceptance by</b>
(a) The highest tender, provided that it is considered to be in the Council's interests, after taking professional advice.	The Chief Executive, (or in his absence the Solicitor to the Council) after consultation with the Leader of the Council or one of the Deputy Leaders
(b) A tender other than the highest received, provided that it is considered to be in the Council's interests; is in accordance with statutory requirements; and a written report has been submitted to the appropriate Board by the relevant Senior Officer.	Appropriate Board
Any other circumstances	Appropriate Board



## APPENDIX 1 - GLOSSARY

Authorised Officer	An Officer of the Council with authority to raise a purchase order or purchase within an existing Contract and their delegated authority.
Authority to Tender	Means there is approved budget and a need has been established in an agreed Service or Strategy Plan or approval has been sought and given by Management Team (MT) or if required a Board.
Best consideration	Legal obligation upon the Council to achieve a consideration which is the best that can reasonably be obtained.
Bribery	Giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.
Contract	Agreement between the Council and a Firm for the carrying out of work, or for the supply of goods or services. Such agreement may be made by Contract, Purchase Order, Procurement Card or other approved method.
Contractor	A firm with which the Council enters into a Contract.
Contract Officer	An Officer who has been given specific responsibility by a Senior Officer or Budget Holder to manage a Contract once established.
Contract Price	The price at which the successful Tenderer has agreed to provide the goods, works or services.
Corruption	Offences defined by the Bribery Act 2010 which makes offering or accepting a bribe a criminal offence.
Corporate Contract	A contract which has been set up as the means of purchasing specific goods, services or works by all Officers.
Council	Any of the following acting under delegated powers: A Board, Committee, Panel, Area Forum, Joint Committee or Senior Officer.
Deputy Leader	The Chairman of the Resources Board, of the Community and Environment Board or of the Planning and Development Board.
Firm	A sole trader, partnership or company or any duly incorporated trade, professional, commercial or voluntary body.
Land transaction	The acquisition or disposal of, or other dealing with land whether or not buildings, plant and equipment, fixtures and fittings, or other assets are included in that transaction.
Leader of the Council	The Chairman of the Council's Executive Board.
Major disposal	A land transaction (not under Right to Buy provisions) which consists of a disposal of the freehold where the consideration exceeds £52,000 or the grant of a lease where the rent exceeds £21,000 per annum or where the premium exceeds £52,000.
M.E.A.T	Most Economically Advantageous Tender. A combination of price and quality criteria against which tenders are

	evaluated.
Officer	An employee of the Council.
Order	Order placed by the Council usually to its own terms and conditions.
Overall Estimated Value.	The estimated total of all the cost associated with the goods, services or works being procured over the number of years the contract is expected to operate.
Partnership	A form of Contract between the Council and any Firm that includes some form of arrangement for sharing risk and/or reward in addition to the usual considerations for payment
Procuring Officer	An Officer who has been given responsibility by a Senior Officer or Budget Holder to run procurement exercises (Quote or Tender) and who may be required to establish and manage Contracts.
Professional Buying Organisation	An organisation which is legally able to procure and establishes contracts on behalf of the public sector.
Quotation	A formal verbal or written offer to supply or purchase goods or services or to carry out work where the Overall Estimated Value is expected to be low.
Senior Officer	The Chief Executive, the Deputy Chief Executive, an Assistant Chief Executive or an Assistant Director or equivalent post.
Social Considerations	The additional benefits to the community over and above the direct benefits of purchasing the goods or services.
Supplier	A Firm with whom the Council has entered into a Contract for the supply of goods and services.
Tender	An offer from a Firm to provide goods, services or works required at a specific cost or rate following a Tendering Process.
The property procedures	The procedures adopted by the Solicitor to the Council from time to time, in consultation with the Deputy Chief Executive.
Written or "in writing"	Includes paper and electronically transmitted documents in a format defined or approved by the Council.
Whole life cost	All the costs associate with buying a good, service or work and can include, planning, design, construction and acquisition, operations, maintenance and finance, purchase and disposal cost.

# **Statutory Officer Disciplinary and Dismissal Procedure**

**September 2015**



**North Warwickshire  
Borough Council**

## **1 Purpose and Scope**

- 1.1 The following procedure will be applied fairly in all instances where disciplinary action is regarded as necessary in respect of the Head of Paid Service, Monitoring Officer or the Chief Finance Officer (thereafter referred to as the “Statutory Officer”).
- 1.2 Dismissal will not usually be considered for a first breach of discipline except in the case of gross misconduct, when the penalty could be dismissal without notice or payment in lieu of notice.
- 1.3 This document should be read alongside the report to Executive Board on 21 September 2015 and the decision of the Full Council at its meeting on 30 September 2015.

## **2 Principles**

- 2.1 No disciplinary action will be taken until the case has been fully investigated.
- 2.2 For formal actions the Statutory Officer concerned will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.
- 2.3 At all stages of the procedure the Statutory Officer will have the right to be accompanied by a trade union representative or a work colleague.
- 2.4 There will be a right to appeal against any disciplinary action.
- 2.5 Where time limits are referred to in the course of the procedure they may be varied by agreement between the Statutory Officer and the Council.

## **3 Governance**

- 3.1 Disciplinary and dismissal matters for the Statutory Officers of the Council are the overall responsibility of the Special Sub Group. When a formal complaint is received a meeting of the Special Sub Group will be convened with the purpose of establishing two panels; the Investigation and Disciplinary Panel, and the Appeals panel.
- 3.2 Each panel will comprise of three members of Special Sub Group, with individual members only able to sit on one of the panels. The allocation to the panels, and the appointment of substitutes where required, should be in accordance with political balance.

## **4 Investigation Process**

- 4.1 Where a question of discipline is raised in connection with a Statutory Officer, the Investigation and Disciplinary Panel (IDP) will consider those allegations.
- 4.2 Depending upon the nature of the allegations the IDP may decide to undertake a preliminary investigation to determine whether there are grounds to the allegation before advising the Statutory Officer of the allegations
- 4.3 The Chair of the IDP will advise the Statutory Officer in writing of the allegations as soon as is reasonably practicable.

- 4.4 The Statutory Officer will be given the opportunity to make representations on them and to comment on any evidence before the IDP decides whether any or all of the allegations are to be investigated fully.

## **5 Suspension**

- 5.1 The IDP has the right to authorise suspension of the Statutory Officer with pay.
- 5.2 This will be necessary where there are reasonable grounds for concern that evidence may be tampered with, destroyed or witnesses pressurized before the disciplinary hearing, or there is a potential risk to the business or other employees or third parties in allowing the Statutory Officer to remain at work.

## **6 Independent Investigation**

- 6.1 If having considered the allegations and any representations made by the Statutory Officer, the IDP decides that there may be a case to answer in respect of misconduct, or in respect of capability that could result in dismissal, then it will be responsible for appointing an Independent Investigating Officer. The IDP will also agree the identity of the Investigating Officer with the Statutory Officer concerned.
- 6.2 The IDP may seek other professional advice and assistance on any matters during the course of the investigation or when considering the Investigation Officer's report, as it considers necessary.
- 6.3 There is no right for employees to be accompanied at a formal investigatory interview, but the Council will allow a trade union representative or colleague if requested.

## **7 Investigation and Disciplinary Panel– Post Investigation Meeting**

- 7.1 Once the investigation is complete, the IDP will convene to consider the resulting report and what, if any disciplinary action is appropriate. The Statutory Officer will be provided with a copy of the report prior to the meeting. The procedure for the meeting is set out in the Appendix to this document.
- 7.2 The Statutory Officer is entitled to attend this meeting to make their own representations and also to be accompanied by a trade union representative or a colleague. After the hearing the IDP will produce a written report, including its recommendations relating to disciplinary action as may be appropriate.
- 7.3 If the IDP concludes that there is a question of substance as to the Statutory Officer's capability, it should advise the Statutory Officer of the issues and the manner in which performance should improve and set a period of time after which the performance level will be reviewed. The period of time should be sufficient to allow the Statutory Officer a reasonable opportunity to show improved performance.
- 7.4 The exception to this would be where a previous warning had been issued, or where there is a serious incapability which is not likely to be remedied within a reasonable timeframe. In the event that dismissal is required, the dismissal process in this policy needs to be followed.
- 7.5 Where the IDP decides that a sanction up to and including action short of dismissal is the most appropriate sanction, or that no disciplinary action at all is appropriate, it is authorised to implement this decision. In this situation please refer to section 8 of this procedure.

- 7.6 Where the IDP recommends dismissal it must refer the matter to an Independent Panel and Full Council. In this situation please refer to section 9 of this procedure.

## **8 Action Short of Dismissal or No Disciplinary Action**

- 8.1 Where the IDP decides that there is no case to answer and therefore no disciplinary action will be taken, it is authorised to make this decision, which must be communicated in writing to the Statutory Officer.
- 8.2 Where the IDP decides that a disciplinary sanction other than dismissal is appropriate then it is authorised to make this decision. The decision must be communicated in writing to the Statutory Officer.

## **9 Recommendation to Dismiss**

- 9.1 Where the IDP makes a recommendation to dismiss, this will be considered in the first instance by an Independent Panel. The Independent Panel will be made up of at least two Independent Persons appointed under the provisions of section 28 of the Localism Act 2011 and at least five additional local authority elected members.
- 9.2 If an insufficient number of North Warwickshire Borough Council Independent Persons accept the invitation to join an Independent Panel, an Independent Person appointed by another authority can sit on the Independent Panel. The Panel must be appointed at least 20 working days prior to the meeting of the Full Council which will consider the recommendation of the IDP, and will provide independent advice to the Full Council on the dismissal proposal.
- 9.3 The Independent Panel will consider the report of the Investigating Officer. It will also consider the recommendations from the IDP and any submissions made by the Statutory Officer.
- 9.4 The Independent Panel will provide their written comments on the IDP recommendations and this will go forward to Full Council for a final decision. The Statutory officer will be supplied with a copy of the written comments produced by the Independent Panel.

## **10 Final Dismissal Decision**

- 10.1 In the event that the IDP recommendation is to dismiss the Statutory Officer, the matter must go forward to Full Council, who will vote on whether to approve the proposal to dismiss. This decision must take account of the advice of the Independent Panel, the report of the Investigating Officer and any representations from the Statutory Officer.
- 10.2 Due to the importance of the meeting, the Statutory Officer must be provided with the appropriate paperwork in advance of the meeting. Any further representations which the Statutory Officer wishes to be considered must be submitted in writing to the Democratic Services Manager at least 7 clear days prior to the Council meeting.
- 10.3 The Statutory Officer is entitled to attend the meeting of the Full Council to make oral representations in person and also to be accompanied by a trade union representative or a work colleague.

- 10.4 If Full Council approves the proposal to dismiss, then the Chairman of the IDP will issue the dismissal notice in accordance with the Full Council's instructions, and with the assistance of the HR Manager and/or HR Officer.

## **11 Appeals**

- 11.1 The IDP hearing is considered to be stage 1 of the Disciplinary Process. The Statutory Officer has the right to make representations to the IDP, and will have the statutory right to representation in the form of a trade union representative or a work colleague.
- 11.2 Where the IDP decides to apply a disciplinary sanction other than dismissal, as stated in paragraphs section 8, an appeal against a disciplinary sanction other than dismissal will be heard by the Appeal Panel.
- 11.3 If the IDP decides to recommend dismissal, consideration of the proposal by Full Council is considered to be the 'appeal', in that it is the second opportunity for the Statutory Officer to state their case and make representations.
- 11.4 There is no further opportunity to appeal against the decision of the Full Council.

## **12 Appeal Process**

*(For disciplinary sanctions other than dismissal)*

- 12.1 The Statutory Officer must provide written notice of the appeal within 7 days of being informed in writing of the disciplinary sanction being applied against them.
- 12.2 When lodging an appeal, the Statutory Officer should state:
- The grounds of appeal; and
  - Whether they are appealing against the finding that they have committed the alleged act or acts of misconduct, or against the level of disciplinary sanction imposed or both.
- 12.3 Appeal hearings will normally take place within 14 days of receipt of the Statutory Officer's written notice of appeal.
- 12.4 The Appeal Panel must decide on the basis of all sets of representations, together with any subsequent facts that may have come to light, whether or not to uphold the disciplinary sanction.
- 12.5 In the event that the Appeal Panel finds for the Statutory Officer, they must allow the appeal and shall either remove all records of the disciplinary sanction from the Statutory Officer's record or apply an alternative lesser sanction. In the event that they do not accept the representations made by or on behalf of the Statutory Officer they must uphold the disciplinary sanction.
- 12.6 Upon completion of the appeal, the Appeal Panel will convey their decision to the Statutory Officer. The decision will be confirmed in writing within one week. There is no further right of appeal against the Appeal Panel's decision.

## **13 Role of the Companion**

- 13.1 The Statutory Officer has a right to be accompanied at various stages of the procedure by a trade union representative or a work colleague.

- 13.2 The Statutory Officer's chosen companion has the right to address the hearing and to put forward the case, sum up the case and respond on the Statutory Officer's behalf to any view expressed at the hearing. The companion may also confer with the Statutory Officer during the hearing. However, there is no requirement for the Council to permit the companion to answer questions directly addressed to the Statutory Officer, or to address the hearing where the Statutory Officer indicates that they do not wish this.

## **14 Grievance**

- 14.1 The effect of any grievance raised by a Statutory Officer subject to this procedure, and during the course of its application, must be considered. Depending upon the circumstances it may be appropriate to suspend the disciplinary procedure for a short period or to hear the two concurrently. In every case HR advice should be sought.

## **15 Disciplinary Action**

- 15.1 Where it has been established that the Statutory Officer has committed a disciplinary offence, the following disciplinary action may be taken, subject to following the procedure detailed in this document:-

a) Stage 1 – First written warning

A first warning for misconduct will be issued if conduct does not meet acceptable standards and will remain for 12 months. The warning will be in writing and set out the nature of the misconduct, the change in behavior required and any timescales. The Statutory Officer will also be informed that a final warning may be considered if there is no sustained satisfactory improvement or change.

b) Stage 2 – Final written warning

If the offence is sufficiently serious, if there is further misconduct or a failure to improve performance during the period of the prior warning, a final warning may be given to the Statutory Officer and will remain live for 18 months. The warning will give details of the complaint, the improvement required and any timescales.

c) Stage 3 – Dismissal or other sanction

If there is still further misconduct the final step in the procedure may be dismissal or some other action short of dismissal such as demotion. Where it is established that the Statutory Officer has committed an act of gross misconduct, they may be summarily dismissed by Full Council



## Disciplinary Hearing - Order of Proceedings

### 1. Opening

The Chairperson should begin by explaining how the hearing will be conducted.

### 2. Complaint

At the hearing the Chairperson will explain the allegations against the Statutory Officer. The investigator will present their report and the chairperson will go through the evidence that has been gathered.

### 3. Statutory Officer right to reply

The Statutory Officer will be allowed to set out their case and answer any allegations that have been made. The Statutory Officer should also be given a reasonable opportunity to ask questions and present evidence.

### 4. Witnesses

The Statutory Officer is allowed to bring witnesses or witness statements. They will be allowed to question witnesses brought by the Council unless it is decided that this is unreasonable.

### 5. At any point, the Panel may ask questions of either party for clarification.

### 6. Summing up

After questioning is completed, the Chairperson will summarise the main points of the discussion and will ask the Statutory Officer if they have anything further to say.

### 7. Adjournment

The Chairperson will then adjourn the hearing before a decision is taken about whether a disciplinary penalty is appropriate. This allows time for reflection and proper consideration.

### 8. More matters come to light

If new matters come to light in the course of the hearing, not being matters which could have been previously raised the Statutory Officer, the hearing shall be adjourned to investigate the new facts and the hearing will be reconvened when this has been done.

## **PART 5**

### **CODES AND PROTOCOLS**

**PART 5 : CONTENTS**

**CODES AND PROTOCOLS**

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# North Warwickshire Borough Council

## Code of Conduct for Members

### **1 Application**

This Code of Conduct applies to you whenever you are acting in your capacity as a member of North Warwickshire Borough Council, including –

- 1.1 at formal meetings of the Council, its Boards, Committees, Sub-Committees, Task and Finish Groups and other meetings.
- 1.2 when acting as a representative of the authority
- 1.3 in taking any formal decision
- 1.4 in discharging your functions as a ward Councillor
- 1.5 at briefing meetings with officers and
- 1.6 at site visits
- 1.7 when corresponding with the authority other than in a private capacity

### **2 General Conduct**

You must –

- 2.1 provide leadership to the authority and communities within its area, by personal example and
- 2.2 respect others and not bully any person
- 2.3 recognise that officers (other than political assistants) are employed by and serve the whole authority
- 2.4 respect the confidentiality of information which you receive as a member –
  - 2.4.1 not disclosing confidential information to third parties unless required by law to do so or where there is a clear and overriding public interest in doing so; and
  - 2.4.2 not obstructing third parties' legal rights of access to information
- 2.5 not misconduct yourself in a manner which is likely to bring the authority into disrepute
- 2.6 use your position as a member in the public interest and not for personal advantage
- 2.7 accord with the authority's reasonable rules on the use of public resources for private and political purposes
- 2.8 exercise your own independent judgement, taking decisions for good and substantial reasons –
  - 2.8.1 attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups
  - 2.8.2 paying due regard to the advice of officers, and in particular to the advice of the statutory officers, namely the Head of

- 2.8.3 Paid Service, the Monitoring Officer and the Chief Finance Officer and stating the reasons for your decisions where those reasons are not otherwise apparent
- 2.9 account for your actions, particularly by supporting the authority's scrutiny function
- 2.10 ensure that the authority acts within the law.

### **3 Disclosable Pecuniary Interests**

You must -

- 3.1 comply with the statutory requirements to register, disclose and withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest
- 3.2 ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your disclosable pecuniary interests
- 3.3 make verbal declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent
- 3.4 "Meeting" means any meeting organised by or on behalf of the authority, including –
  - 3.4.1 any meeting of the Council, Board, Committee Sub-Committee or Task and Finish Group
  - 3.4.2 in taking a decision as a Ward Councillor or otherwise as a Member
  - 3.4.3 at any briefing by officers; and
  - 3.4.4 at any site visit to do with business of the authority

### **4 Other Interests**

- 4.1 In addition to the requirements of Paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a "non-disclosable pecuniary interest or non-pecuniary interest" in that item, you must make a verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent
- 4.2 You have a "non-disclosable pecuniary interest or non-pecuniary interest" in an item of business of your authority where –
  - 4.2.1 a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or

- 4.2.2 it relates to or is likely to affect any of the interests listed in the Table in the Appendix to this Code, but in respect of a member of your family (other than a “relevant person”) or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.

## **5 Gifts and Hospitality**

- 5.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority.
- 5.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 5.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

## Appendix

### Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 as follows –

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and  
(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose –

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

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



## **NORTH WARWICKSHIRE BOROUGH COUNCIL**

### **Protocol for Councillor/Employee Relations**

#### **Commentary**

There is no statutory or other formal requirement for a protocol to regulate the working relationships between employees (and principally chief executives, but importantly too other chief officers and senior managers). Nevertheless, many Councils have found that establishing local ground rules is helpful. They minimise the potential for arguments about process at the heart of the political interface, and the consequent lack of trust, professional dilemmas and general distraction from the proper business of conducting the Council's business democratically in response to the sizes of political groups provided by the electorate.

That is why numerous examples are available from political parties, other Councils and professional organisations. Each Council's circumstances and political representation vary, however, and any protocol needs to command wide support, otherwise it will be less a consensus than just another majority decision. In addition, two other considerations need to be borne in mind. First, group membership is not always wholly determined directly by the electorate, even though it will normally strongly reflect the outcome of the last elections. Secondly, any protocol must obviously comply with the law and also must reflect the political realities of the Council concerned. The positions of groups, Chief Executives, Monitoring Officers and other politically restricted employees are principally set out in the Local Government and Housing Act 1989, and the wider requirements for Council Constitutions and executive arrangements are in the Local Government Act 2000. Both have been elaborated since with amendments and extensive subordinate legislation.

The following draft is offered as a starting point for a possible protocol for North Warwickshire Borough Council, which has 35 Members. At present that group membership comprises 20 Conservative and 15 Labour Councillors. The Council operates "fourth option" alternative arrangements, ie there is a Committee and not a Cabinet system. The Protocol is drafted on a gender-neutral basis, to be applicable to anyone in future in an acting role as well as to current postholders.

## **Protocol**

This Protocol, prepared following discussions between the Council's political groups, the Chief Executive and Directors, has been endorsed and approved by North Warwickshire Borough Council at its meeting on 15<sup>th</sup> December 2010. No such Protocol can be comprehensive: the intention is to provide a framework within which Councillor-employee relationships can be conducted in a manner which respects the different roles of the participants as well as recognising legal requirements and the Constitution and Standing Orders of the Council.

The Chief Executive will advise on any matters arising in relation to this Protocol.

### **The Chief Executive**

- 1 The Chief Executive is the employee of the Council as a whole, and has overriding responsibility to the Council and not to any party political group.
- 2 The Chief Executive is nevertheless expected to work closely with the Administration for the time being and to give them information, assistance and advice. Subject to maintaining a politically neutral position, the Chief Executive may develop a special relationship with the Administration leadership, and will not without consent disclose elsewhere any matters discussed with that leadership.
- 3 The political neutrality of the Chief Executive should be respected by everyone. The Chief Executive should not be asked to play any role or undertake any task which is likely to prejudice that neutrality, or to make it difficult in future to serve a different majority political group.
- 4 All Councillors have a right of access to the Chief Executive. Where a Councillor requires information, it will be provided if it is readily available – for example, in Committee papers or material published by the Council. The Chief Executive is free to give advice on a confidential basis about procedural matters to any Councillor. In doubtful cases, the Chief Executive is entitled to seek the instructions of the Mayor, a Committee Chair or a Committee or Sub-Committee before responding to a

Councillor's request.

5 The following principles govern the relationship between the Chief Executive and any political group(s) not comprised within the current Administration:-

- (a) It is proper for the Chief Executive to develop a working relationship with any such group(s).
- (b) The Chief Executive is free to provide information and assistance with drafting to, and answer procedural enquiries from, any such group(s) but will not advise as to the policies which any such group(s) should pursue.
- (c) The Chief Executive will be under no duty to ensure that the Administration leadership are aware of information provided by the Chief Executive to any such groups or their representatives, unless it is either of a routine or trivial nature or to do so would be a breach of other confidence or another requirement of statute, law or this Protocol.
- (d) As the employee of the Council as a whole, the Chief Executive will draw to the attention of the Administration leadership any case where it is thought that consideration should be given to affording information, consultation or representation to any such group(s).
- (e) References to political groups are to groups formally constituted under section 15 of the Local Government and Housing Act 1989, and include references to representatives, or fewer than the entire membership, of any group.

In applying these principles to any situation, the Chief Executive will have regard to the perceived customs and practices of the Council, to any established traditions, and to any statutory or accepted procedural rules governing the rights of any such group(s) to information, consultation, assistance or representation. In addition the Chief Executive may hold joint meetings with the Leaders of all/any political groups, formally or on an unattributable basis.

6 If the Chief Executive attends a meeting of any formally constituted political group, the leadership(s) of other political groups need not be informed. The part played in

the proceedings by the Chief Executive must be consistent with the political neutrality of the post, and the Chief Executive will not be required to attend political group meetings at which people who are neither Councillors nor Council employees are present.

### **Other Members of the Council's Management Team**

The principles of this Protocol apply similarly to all the other members of the Council's Management Team (currently the Deputy Chief Executive, the Assistant Chief Executive and Solicitor to the Council and the Assistant Chief Executive (Community Services), who shall act in relation to its scope under the general direction, and after seeking the advice, of the Chief Executive as statutory head of paid service.

### **Other Employees**

- 1 Although the consideration applicable to the Chief Executive and the other members of the Council's Management Team affect other employees differently, the Council recognises that the most senior employees, and also those closely associated with the political processes, are statutorily politically restricted under section 2 of the Local Government and Housing Act 1989.
- 2 It is the duty of the Chief Executive and the other members of the Council's Management Team to ensure that the work and responses of employees are conducive to, and not undermining of, the principles of this Protocol. Employees are entitled to expect that political restrictions, and their other duties and limitations, will be respected by Councillors.
- 3 It is also the duty of the Chief Executive and the other members of the Council's Management Team to arrange matters so that employees properly understand the roles of both Councillors and employees, and the Council's approaches to the relations between them. Employees are also entitled to expect Councillors to respect the degree of seniority of employees with whom they may have dealings, and the fact that, while those employees owe duties to the Council as a whole as their employer, such duties are first expressed to the Chief Executive or another member of the Council's Management Team and not to any individual Councillor.

## **Planning Protocol for Members and Officers dealing with Planning Matters**

### **1. Introduction**

This Protocol applies to all Members and officers who become involved with the Planning system. It is not therefore restricted to Planning and Development Board Members and planning officers. The successful operation of the planning system relies on mutual trust between Members and officers, and an understanding of each others' roles. It also relies on each acting in a way which is not only fair and impartial, but also clearly seen to be so.

### **2. The Need for Guidance**

- 2.1 Planning is not an exact science. Rather, it relies on informed judgement within a firm policy context. It is also highly contentious because its decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (it actively invites public opinion before taking decisions), and the legal nature of development plans and decision notices. It is important, therefore, that the process is characterised by open and transparent decision making.
- 2.2 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings, and the quality of their settings. It is important, therefore, that the Council, as a local planning authority, should make planning decisions which affect those interests, openly, impartially, with sound judgement, and for justifiable reasons. The process should leave no grounds for suggesting with any justification that a decision has been partial, biased or not well-founded in any way.

### **3 Status of the Planning Protocol**

- 3.1 This Planning Protocol takes account of the Council's Members Code of Conduct ("the Code of Conduct"), the Council's Protocol on Member/Officer Relations, the Royal Town Planning Institute's Code of Professional Conduct, the findings of the inquiries into the conduct of other Local Planning Authorities, advice issued by the Audit Commission, the Commissions for Local Administration in England and Wales (commonly known as the Ombudsmen), and the National Development Control Forum (now the National Planning Forum). In particular, it is based on the guidance issued in 2002 by the Local Government Association on a local code for dealing with planning matters.
- 3.2 The Code of Conduct is a general document and does not provide any detailed and specific guidance on what matters a Member is entitled to take into account when dealing with planning matters, what is proper behaviour with an applicant, nor about being lobbied (by applicants or objectors) or

lobbying others. This Planning Protocol provides more specific guidance and is concerned with the integrity of the planning system. It is designed to give the public greater confidence that the Council is keen to operate, and to be seen to operate, fairly and openly. It is complementary to the Code of Conduct and the Protocol on Member/Officer Relations.

#### **4. The General Role and Conduct of Members and Officers**

- 4.1 Members and officers have different, but complementary, roles. Both serve the public, but Members are responsible to the electorate, while officers are responsible to the Council as a whole. Officers advise Members and the Council, and carry out the Council's work. They are employed by the Council, not by individual Members, no matter what position those Members hold, and it follows that instructions may only be given to officers through a Council or Board decision. A successful relationship between Members and officers can only be based on mutual trust and understanding of each others' positions supported by good communication. This relationship, and the trust which underpins it, must never be abused or compromised.
- 4.2 The Code of Conduct provides guidance and standards for Members. Breaches of this code may be reported to the Council's Monitoring Officer. The Code of Conduct for Officers forms part of each officer's terms and conditions of employment, and is detailed in Part 5 of the Constitution. Breaches of the code will be dealt with under the Council's Disciplinary Procedures and Officers are also governed by the rules of their professional organisations. Thus Planning Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct, and Solicitors are governed by the Law Society's Professional Conduct Rules. Breaches of these rules may be the subject of disciplinary action by the relevant professional body.
- 4.3 The Code of Conduct covers issues central to the preservation of an ethical approach to council business, including the need to register and declare interests, but also appropriate relationships with other Members, staff and the public, which will impact on the way in which Members participate in the planning process. Some of these issues are expanded upon in the Protocol on Member/Officer Relations. Of particular relevance to Members serving on the Planning and Development Board or who become involved in making a planning decision (e.g. where full Council deals with a planning matter) is the requirement that a Member:

“use your position as a member in the public interest and not for personal advantage” (Paragraph 2.6 of Code of Conduct)

The basis of the planning system is the consideration of private proposals against wider public interests. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Members should take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. **Members who do not feel that they can act in this way**

**should consider whether they are best suited to serve on the Planning and Development Board.**

- 4.4 Members should also be very cautious about accepting gifts and hospitality. The Code of Conduct requires any Members who receive any gift or hospitality (in their capacity as a Member) over the value of £100, to provide written notification to the Monitoring Officer within 28 days. Details of the gift or hospitality are placed in a register, which is open to inspection by the public.
- 4.5 Officers must always act impartially. In order to ensure that senior officers do so, the Local Government and Housing Act 1989 enables restrictions to be set on their outside activities, such as Membership of political parties and serving on another Council. The Council carefully considers which of its officers are subject to such restrictions and reviews this regularly. During the course of carrying out their duties, officers may be offered hospitality from people with an interest in a planning proposal. If possible, such offers should be declined politely. If receipt of hospitality is unavoidable, officers should ensure it is of minimum level and declare its receipt as soon as possible. A register for the declaration by officers of gifts and hospitality is maintained by the Monitoring Officer, and regularly reviewed by him.

**5. Registration and Declaration of Interests**

- 5.1 The Local Government Act 2000, the Localism Act 2011 and the Code of Conduct place requirements on Members on the registration and declaration of their interests, and the consequences for the Member's participation in consideration of an issue, in the light of those interests. These requirements must be followed scrupulously, and Members should review their situation regularly. Advice may be sought from the Council's Monitoring Officer, however, ultimate responsibility for fulfilling the requirements rests individually with each Member.
- 5.2 A register of Members' interests is maintained by the Monitoring Officer, and is available for public inspection. A Member must provide the Monitoring Officer with written details of relevant interests within 28 days of his election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Member becoming aware of such changes.
- 5.3 The Code of Conduct refers to pecuniary interests, and also non-disclosable pecuniary interests or non-pecuniary interests. Under the Code of Conduct, a Member will have a pecuniary interest in any matter under discussion if the matter relates to an interest in respect of which the Member has given notice in the statutory register of Members' interests. This includes interests of the Member's spouse/partner.
- 5.4 Non disclosable pecuniary interests or non-pecuniary interests are defined in the Code of Conduct:

a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater

extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area; or

it relates to or is likely to affect any of the interests listed that have to be declared, but in respect of a member of your family or a person with whom you have a close association.

- 5.5 Where a Member considers that he has such a pecuniary interest in a matter, he must always declare the existence and nature of the interest and is debarred from being involved in any way with that decision including informal meetings or discussions with Officers or other Members.
- 5.6 If a Member has a non disclosable pecuniary interests or non-pecuniary interests then they are not automatically debarred from the decision. The test would then be if the interest is one which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest
- 5.7 It can be seen that these provisions of the Code of Conduct are an attempt to separate out interests arising from the personal and private interests of the Member, and those arising from his wider public life. The emphasis is on a consideration of the status of the interest in each case by the Member personally, and included in that judgement is a consideration of the perception of the public, acting reasonably and with knowledge of the facts.
- 5.8 One exception made in the Code of Conduct relates to Membership of outside bodies. It appears that too often in the past, Members have been prevented from participation in discussion in such circumstances, on the basis that mere Membership of another body constituted an interest that required such a prohibition, even in cases where the Member was only on that body as a representative of the Council.
- 5.9 When considered in the context of planning matters, this approach will require the exercise of particular judgement on the part of the Member. The use of the term "prejudicial" to describe the interest is helpful here. If the planning matter under consideration relates to another body on which the Member serves, the exemption in the Code of Conduct would suggest that the Member could participate in a decision on that matter – i.e. Membership of that body could not be considered per se a prejudicial interest, which would bar the Member from participating.
- 5.10 However, if a Member, in advance of the decision-making meeting had taken a firm view on the planning matter, either in meetings of the other body or otherwise, he would not be able to demonstrate that, in participating in the decision, all the relevant facts and arguments had been taken into account – he would have fettered his discretion. Were he to participate in the decision-making in those circumstances, he might place the authority in danger of judicial review. So the exemption in the Code of Conduct would only operate in the planning context if the Member had scrupulously avoided forming a fixed view on the issue in advance. This is the general approach taken by this



guidance on appropriate conduct in relation to Membership of other bodies and the effects of such Membership on participation in the planning decision-making process. It is expanded in section 7 on lobbying.

## **6. Development Proposals Submitted by Members and Officers, and Development by the Council.**

- 6.1 All applications by serving Members and officers or by the Council itself will be determined by the Planning and Development Board (i.e. they will not be determined by the Assistant Chief Executive and Solicitor to the Council under his delegated powers).
- 6.2 All Members or officers who submit a planning application or who have a planning application submitted on their behalf shall ensure that they notify the Assistant Chief Executive and Solicitor to the Council of that submission in writing.
- 6.3 The consideration of an application from a Member in such circumstances will be a pecuniary interest under the Code of Conduct, and as such, the Member will be required to withdraw from any consideration of the matter. The Member should not seek improperly to influence a decision about the matter. This does not imply that a Member should have any less rights than a Member of the public in seeking to explain and justify his application to a planning officer in advance of consideration by the Planning and Development Board.
- 6.4 All applications by a Member or an officer which are reported to Planning and Development Board will be designated as a Member or an officer application on the face of the agenda.
- 6.5 Serving Members who act as agents for people pursuing planning matters with the Council should play no part in the processing or determination of those applications

## **7. Lobbying of and by Members**

- 7.1 Lobbying is a normal and perfectly proper part of the political process. Those who may be affected by a planning decision will often seek to influence it through an approach to their elected Ward Member or a Member of the Planning and Development Board. As the Nolan Committee's Third Report states: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is via the local elected representatives, the Councillors themselves" (paragraph 288).
- 7.2 However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a Member being called into question. When being lobbied, Members, particularly those who sit on the Planning and Development Board, should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the

evidence and arguments. In such situations, they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying, that they should speak or write to the relevant planning officer, in order that their opinions can be included in the officer's report to the Board. If they do express an opinion, they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at the Board meeting. That evidence and argument will relate to planning considerations and not the personal circumstances of individuals.

- 7.3 Members generally, and in particular those who sit on the Planning and Development Board, need to take account of the general public's (and the Ombudsman's) expectation that a planning application will be processed and determined in an open and fair manner, in which Members taking the decision will take account of all the evidence presented before arriving at a decision, and that to commit themselves one way or another before hearing all the arguments makes them vulnerable to an accusation of partiality. Determination of a planning application is a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. There is an added possibility that an aggrieved party may seek judicial review of the way in which a decision has been arrived at; or complain to the Local Government Ombudsman on grounds of maladministration; or to the Monitoring Officer that a Member has breached the Code of Conduct.
- 7.4 In reality, of course, Members will often form a judgement about an application early on in its passage through the system, whether or not they have been lobbied. The difficulty created by the nature of the Planning and Development Board's proceedings as set out in paragraph 7.3, is that Members of the Board should not openly declare which way they intend to vote in advance of the Board meeting, and of hearing evidence and arguments on both sides.
- 7.5 Political reality suggests that it is often important to distinguish between the role of a Planning and Development Board Member who is a Ward Member for the area affected by a particular planning application, and one who is not. A Planning and Development Board Member who does not represent the Ward affected is in an easier position to adopt an impartial stance, however strong his or her feelings about the application may be, and to wait until the Board meeting before declaring one way or another.
- 7.6 A Planning and Development Board Member who represents a Ward affected by an application is in a difficult position if it is a controversial matter around which a lot of lobbying takes place. If the Member responds to lobbying by deciding to go public in support of a particular outcome – or even campaigning actively for it – it will be difficult for that Member to argue convincingly, when the Board comes to take a decision on the application, that he or she has carefully weighed the arguments presented – perhaps in some respects for the first time – at the meeting. Whilst in most circumstances this would not amount to an interest in terms of the Code of Conduct, the proper course of action for such a Member would be to make a declaration of his or her position and not vote. Provided that the Member does not have an interest, this course

of action would not prevent him or her speaking on the application at the Planning and Development Board meeting.

- 7.7 Where there are two or three Members representing a Ward or area, and only one is a Member of the Planning and Development Board, it may be more appropriate for the Members who are not Members of the Board to represent local opinion on controversial issues. This will prevent the Board Member being put in the position outlined in paragraph 7.6.
- 7.8 There may also be occasions when a Member is asked to present the case for an applicant or objector to the Planning and Development Board. This is a perfectly proper part of the role of representing a constituent. To do so does not necessarily mean that the Member agrees with the case he is being asked to present; nor does it mean that the Member necessarily has to vote in accordance with the wishes or views of the person whose case he has presented.
- 7.9 It should be evident from the previous paragraphs that it is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is ultimately the responsibility of the individual Member. The following points are, however, offered as guidance:
- Given that the point at which a decision on a planning application is made cannot occur before the Planning and Development Board meeting, when all available information is to hand, and has been duly considered, any political group meeting prior to the Board meeting should not be used to decide how Members should vote. The view of the Ombudsman in relation to the former national code was that the use of political whips to seek to influence the outcome of a planning application could amount to maladministration. There is nothing in the Code of Conduct which would serve to change this advice.
  - With the exception in some circumstances of Ward Members, whose position has been covered in the preceding paragraphs, Members should in general avoid organising support for or against a planning application, and avoid lobbying other Members. Such actions can easily be misunderstood by parties to the application and by the general public.
  - Members should not put improper pressure on officers for a particular recommendation, and, as required by the Code of Conduct, should not do anything which compromises, or is likely to compromise, their impartiality.
- 7.10 Members who are unsure as to whether an interest should be declared should seek the advice of the Assistant Chief Executive and Solicitor to the Council , although, as indicated above, the decision rests with the Member.

- 7.11 Members who do not sit on the Planning and Development Board will have greater freedom than Board Members. They are still, however, bound by the Code of Conduct as explained in paragraphs 4.2 to 4.4 of this Protocol. Should they be called upon to determine an application at full Council then the guidance set out in this section will apply to that determination.

## **8. Pre-Application Discussions**

- 8.1 Discussions between a potential applicant (or an agent on behalf of the applicant) and the Council prior to the submission of an application can be of considerable benefit to both parties. This is encouraged by the Audit Commission (“Building in Quality” paragraph 56), the Local Government Association and the National Planning Forum. However, it would be easy for such discussions to become, or be seen (especially by objectors) to become, part of a lobbying process.

- 8.2 In order to avoid such problems, pre-application discussions should take place within the guidelines set out in the following paragraphs. Although the term ‘pre-application’ has been used, the same considerations should apply to any discussions with applicants which take place before a decision is taken, or where following a decision there are discussions about amendments or changes to a proposal.

### **8.3 Officers.**

- 8.3.1 Processing applications (including any discussions or advice before submission of an application) is normally the responsibility of officers, which ensures that the proper level of professionalism and expertise is available. The process includes advice and guidance on the Council’s policies, discussions and negotiations about the proposal and the merits of the application, and gathering information either to prepare the report to Planning and Development Board, or for the Assistant Chief Executive and Solicitor to the Council to take the decision under delegated powers. The following guidelines should apply:

- Officers will advise the applicant whether the decision is one which falls within the Assistant Chief Executive and Solicitor to the Council’s delegated powers or whether the decision will be taken by the Planning and Development Board;
- It should always be made clear at the outset of any pre-application meeting that the discussions will not bind the Council to making a particular decision, and that any views expressed are personal and provisional. By the very nature of such meetings, not all relevant information will be to hand, nor will consultation with interested parties have taken place;
- Advice should be consistent, especially where more than one officer is involved, and should be based on the Development Plan and other material considerations.

- A written note should be made of all meetings (if possible, immediately after the meeting), and this should be placed on the application file as soon as possible. A written note should also be made of similar telephone discussions.

8.3.2 Where an application of particular significance for determination by the Planning and Development Board is likely to be made, the Chairman of the Board, Ward Members and lead Members from each political group shall be informed of the nature of the proposal as soon as possible.

#### 8.4 Members

8.4.1 For their own benefit and protection, Members should generally seek to avoid pre-application meetings. Such meetings with potential applicants bring Members into an environment where the merits of proposals are discussed, and this may compromise a Member in taking an impartial stance when the application comes before the Planning and Development Board for decision.

8.4.2 If an applicant requests such a meeting with a Member, the Member should explain the difficulties of such a meeting, and offer to arrange a meeting between the applicant and the relevant Planning Officer.

8.4.3 In exceptional circumstances, the Planning and Development Board may authorise particular Members to attend a presentation by an applicant or his agent. Officers will normally arrange such presentation, and attend with Members. At the start of such presentation, officers will explain that it is taking place at the request of the applicant and that the merits of the case will not be discussed. Members and officers will, of course, be free to ask questions about the proposal as part of the presentation. If the applicant requests the views of the authority, these will be communicated subsequently and in writing. In such communication, officers will make it clear that any views expressed prior to formal determination of an application are preliminary.

### 9. **Decisions delegated to Officers**

9.1 The Council has adopted, and keeps under review, a formal “Scheme of Delegation to the Assistant Chief Executive and Solicitor to the Council in respect of determination of Planning Applications”. This is set out in Appendix B to Part 3 of the Constitution. It states clearly which applications will be reported to the Planning and Development Board for determination. All other applications will be determined by the Assistant Chief Executive and Solicitor to the Council under her delegated powers.

9.2 In particular, the Board will determine “any application where a request based on material planning considerations is made in writing to the Assistant Chief Executive and Solicitor to the Council by any Borough Councillor for referral of that application to the Board” [para 4.1(g) of the Scheme]. Any Member who is unsure whether his/her concerns about an application constitute a material planning consideration is invited to contact the relevant officer to discuss the

issue. Where possible, the officer will assist the Member in framing his/her concerns where there is a material planning consideration.

- 9.3 Where a delegated decision can be made and where a consultation response runs contrary to the likely officer decision Ward Members are contacted and given the opportunity to request that the case be referred for Board to make the decision. The test in the preceding paragraph is used to ensure there are planning reasons for such a request.
- 9.4 All Members are circulated applications and decisions on a weekly basis and can use this information to track the progress of particular applications and the method of decision.

## **10. Officers' reports to Planning and Development Board**

- 10.1 It is important for the Council to be able to demonstrate in its decision making that there has been adequate consideration of all the relevant issues; consistency; and clear reasoning leading to the decision. Officers' reports to the Board will therefore:
- Be in writing;
  - Be accurate, and cover, amongst other things, the substance of any objections, and the views of those consulted;
  - Contain clear references to the Development Plan; site or related history; and other material considerations;
  - Have a clear recommendation – for approval with conditions, or for refusal with reasons;
  - If any recommendation is contrary to the provisions of the Development Plan, the material considerations which justify the departure will be clearly stated.

## **11. Decisions contrary to Officer's Recommendation**

- 11.1 Whilst in strict legal terms the Planning and Development Board is under no obligation to follow the advice of officers, s.38 (6) of the Planning and Compulsory Purchase Act 2004 provides that any planning determination shall be in accordance with the development plan unless material considerations indicate otherwise. Thus, there must always be clear and convincing planning reasons for the Board's decision. If decisions are taken for non-planning reasons, or for reason which are not sustainable at an appeal, there is the potential for an award of costs to be made against the Council. Therefore if the Board makes a decision contrary to the officer's recommendation (whether for approval or refusal), a detailed minute of the Board's reasons should be made and a copy placed on the application file. Officers should also be given the opportunity to explain the implications of the contrary decision before it is taken.
- 11.2 Any Member who is contemplating proposing a motion to refuse an application contrary to the officer's recommendation should contact the relevant officer to discuss his/her intention. The officer will advise the Member whether the

Member's concerns would constitute a valid planning reason for refusing permission; and if so, assist the Member in drafting reason[s] for refusal. The Board will be advised as to the strength of the suggested reason for refusal and any possible financial implications for the Authority.

## **12. Planning and Development Board Site Visits**

- 12.1 The purpose of a visit to an application site is for Members to gain information on relevant planning issues relating to the site which is not available from officers' reports (including in response to Members' questions at the Board meeting) in order to assist Members in reaching their decision. It is not to provide a forum for debate and discussion on the merits of the application. Site visits can cause delay and additional costs for an applicant, and should only be requested where the expected benefit from such a visit is substantial. Agendas are published well ahead of meetings and Members have the chance to visit sites before debate at Board.
- 12.2 A request from the Ward Member for a site visit is a proper part of the representative role of the Ward Member, and should normally be acceded to, although the 'substantial benefit' test should still apply.
- 12.3 All site visits will be conducted subject to the following criteria:
- A site visit will only take place once authorised by the Board
  - Authorised attendance at a site visit shall be limited to Members of the Planning and Development Board, local Ward Members, relevant officers, the applicant together with his or her representative, and any objector (or a representative of a group of objectors) whom the Board considers should be invited to be present (e.g. where it is claimed that a proposed development will have a significant impact on a neighbouring property)
  - At a site visit, all communication between parties (the applicant or his agent, objectors, and Members and officers) should be led by and conducted through the Assistant Chief Executive and Solicitor to the Council or his representative,
  - There shall be no discussion of the merits of the application during the site visit. Such discussion shall only take place at a meeting of the Planning and Development Board
  - Applicants, objectors, or their representatives shall not be permitted to make representations to Members of the Board during a site visit. They may, however, give purely factual information which is requested by Members and which cannot be ascertained by viewing alone.
  - At the Planning and Development Board at which the application is considered, the Assistant Chief Executive and Solicitor to the Council will draw Members attention to any material considerations which arise as a result of the site visit
  - The written notification of the site visit will set out these criteria so that all those attending are aware of them

### **13. Regular Review of Decisions**

- 13.1 Members shall on an annual basis undertake a review and visit a sample of implemented planning permissions to assess the quality of the decisions. The aim of this will be to monitor and improve the quality and consistency of decision-making, thereby strengthening public confidence, and helping with reviews of planning policy.
- 13.2 Each review should include examples of a broad range of categories, e.g. major and minor development, permitted departures, upheld appeals, listed building works and enforcement cases. The Planning and Development Board shall formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

### **14. Breaches of this Protocol**

- 14.1 Any alleged breaches of this Protocol by a Member will be referred to the Council's Monitoring Officer. The Council will consider whether the Protocol has been breached and will issue advice and guidance and, if appropriate, recommend action to be taken to the Council and/or Party Groups.
- 14.2 Any alleged breaches of this protocol by an officer will be dealt with under the Council's disciplinary procedures.

### **15. Review**

- 15.1 This Protocol will be reviewed not later than 31 December 2015.



## **NORTH WARWICKSHIRE BOROUGH COUNCIL**

### **EMPLOYEE CODE OF CONDUCT**

#### **1. Introduction**

This Code of Conduct applies to all those individuals who are employed by North Warwickshire Borough Council (“the Council”). It will also be a requirement of any contract for the provision of services to the Council, or on behalf of the Council to members of the public, that those engaged on the provision of the service shall be bound by this Code. Throughout this document the term “employee” shall be construed accordingly.

#### **2. General Principles**

The public is entitled to expect the highest standards of conduct from all employees of the Council. The role of such employees is to serve the Council in providing advice, implementing its policies and delivering services to the people of North Warwickshire. In performing their duties, employees must act with integrity, honesty, impartiality and objectivity.

#### **3. Accountability**

Employees work for the Council and serve the whole of the Council. They are accountable to, and owe a duty to, the Council. They must act in accordance with the principles set out in this Code, recognising the duties of all public sector employees to discharge public functions reasonably and according to law.

#### **4. Political Neutrality**

Employees, whether or not politically restricted, must follow every lawfully expressed policy of the Council, and must not allow their own personal or political opinions to interfere with their work or the wider work of the Council. Where employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities

#### **5. Relations with Members, the Public and other Employees**

Mutual respect between employees and members is essential to good local government, and working relations should be kept on a professional basis. This area is covered more fully in the Council’s “Protocol for Member/Officer Relations”.

Employees should deal with the public, members, other employees and contractors, sympathetically, efficiently and without bias.

#### **6. Equality**

Employees must comply with all the Council’s policies relating to equality issues, in addition to the requirements of the law.

## **7. Stewardship**

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so. Employees must follow the requirements of the Council's Financial Regulations at all times.

## **8. Personal Interests**

Whilst employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:

- (1) the rules of the Council on the registration and declaration by employees of financial and non-financial interests, which form Appendix A to this Code
- (2) the rule requiring employees to declare any gift or hospitality which is received in the course their employment save for small items of stationary, meals that are ancillary to bona fide meetings or training courses and genuine training courses that are run at a loss. Advice on whether a matter needs declaring can be obtained from the Monitoring Officer.

## **9. Corruption/Bribery**

With regard to paragraphs 7 and 8, particular attention should be made to the Bribery Act 2010 which makes offering or accepting a bribe an offence. Bribery is defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.

Employees should be aware that bribery is not acceptable at NWBC. An act of bribery (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 in their official capacity) is a criminal offence and is very likely to be considered an act of gross misconduct

## **10. Whistleblowing**

In the event that an employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the Council's Confidential Reporting Policy, or any other procedure designed for this purpose.

## **11. Treatment of Information**

The Council regards openness in the dissemination of information and decision making as the norm. However, certain information may be confidential or sensitive and therefore not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a person who is entitled to receive it, or who needs to have access to it for the proper discharge of their functions. Nothing in

this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

## **12. Appointment of Staff**

Employees involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit, and in accordance with the Council's Recruitment Policy. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.

## **13. Breaches of this Code**

Any breach of this Code by an individual employed by the Council will be dealt with under the Council's Disciplinary Procedure. Any breach by an individual employed by a contractor providing services to, or on behalf of, the Council will result in that individual being removed from the contract, unless agreed otherwise between the Council and the contractor. In addition, where breaches may constitute criminal offences, consideration will be given to further investigation and informing the Police.

## **14. Review**

This Code will be reviewed no later than 30 September 2015.

Steven Maxey  
Monitoring Officer

## **Appendix A**

### **DECLARATION OF FINANCIAL AND NON-FINANCIAL INTERESTS**

1. An employee must declare any financial or non-financial interest of which he is aware that in any way affects or is connected with any business which the Council is conducting. This will include any interest which the employee, a relative or a person with whom the employee has a close association has in matters such as (the following list is illustrative only and should not be regarded as exhaustive):
  - Any application to purchase or lease land from the Council, or to procure any service from the Council on any terms different from those on which such services are available to the residents of the Borough generally;
  - Shares in, or ownership of, any company which is tendering for, or has, a contract with the Council;
  - Interest in any land which is affected (either beneficially or adversely) by any application for planning permission;
  - Membership of any club, society, or other organisation which is applying to the Council for any grant, licence, or permission, or requesting the Council to waive or refrain from enforcing any charge or penalty or otherwise taking action against the organisation;

- Any relative applying for employment with the Council.

2. It is the responsibility of the employee to make any such declaration, in writing, to the Monitoring Officer either at the commencement of employment or as soon as the employee becomes aware of such interest. The Monitoring Officer shall maintain a register of all such declarations, which shall be available for inspection by Members and Chief Officers. He shall also inform any other member or officer whom he considers needs to know of the interest for the proper performance of their duties to the Council.

3. In this appendix, the term “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of these people; and “partner” means a member of a couple who live together.

4. In this appendix a person with whom you have a close association is someone that you are in either regular or irregular contact with, over a period of time, who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. It may be a friend, a colleague, a business associate or someone whom you know through general social contacts.

## **PART 6**

### **MEMBERS' ALLOWANCES SCHEME**

## **PART 6 : CONTENTS**

### **MEMBERS' ALLOWANCES SCHEME**

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## **MEMBERS' ALLOWANCES SCHEME FROM 1 APRIL 2006**

North Warwickshire Borough Council, in exercise of the powers conferred by the Local Authorities' (Members' Allowances) Regulations, 2003, has made the following Scheme, after consideration of the advice and recommendations from the Independent Remuneration Panel.

The Scheme is based on the rates recommended by the Panel and is to be implemented from 1 April 2005, and is linked to the pay rates agreed by the National Joint Council for Local Government Services.

In this Scheme:

"Councillor" means a Member of the North Warwickshire Borough Council who is a Councillor;

"Year" means the 12 months ending with the 31 March;

"Panel" means the Independent Remuneration Panel.

### **1 Basic Allowance**

Subject to paragraph 6, for each year, a Basic Allowance is to be paid to each Councillor as set out in Schedule 1 to the Scheme. This is intended to cover a notional £134 per year for telephone calls related to Council activity on the part of elected Members. Basic Allowance will be paid in the month it is due.

### **2 Special Responsibility Allowances (SRA)**

Subject to paragraph 6, for each year, an SRA shall be paid to those Councillors who hold the special responsibilities in relation to the Authority that are set out in Schedule 1 to this Scheme. SRA will be paid in the month it is due.

### **3 Travel and Subsistence Allowances**

These payments will be made in the following month and upon receipt of a claim form. Members are able to claim Travel and Subsistence Allowances in respect of their travel to and from:-

- i Meetings of the Council, together with any additional meetings of Boards and Committees called by the Chief Executive of which the Councillor is an appointed Member;
- ii All Authority-authorized working parties, presentations, training courses and site visits to which Members are formally invited, together with attendance required under standing orders for the opening of tender documents;
- iii Formal meetings of approved Outside Bodies by appointed representatives of the Council;

- iv A meeting of or on behalf of the West Midlands LGA or the national LGA as an official representative of those bodies;
- v Meetings arranged between Officers and the Chairman and/or Vice Chairman of any Board or Committee with a view to discussing the business of that Board or Committee; and any visit by a Member at the invitation of an Officer to the office for any purpose in connection with the conduct of the Council's affairs;
- vi Mileage allowance will not be payable where travel is to a surgery;
- vii Travel should be by standard class (or at an equivalent cost) and should be organised in advance by the Council wherever possible;
- viii meals and accommodation should be organised in advance by the Council wherever possible;
- ix Travel and subsistence for Co-optees will be paid at the same rate as Members.

Details of the rates for Travel and Subsistence Allowance are set out in Schedule 3.

#### 4 **Dependant and Child Care Allowances**

This Allowance is divided into two parts: namely child care and elderly/disabled care. In respect of child care, this Allowance is available to Members who are eligible at a rate of up to £4.88 per hour, up to a maximum of 15 hours per week. To claim this, a Member will need to:

- ◆ register that they have a dependant child living with them under the age of 14
- ◆ sign a statement which declares that the child care has been provided by a childminder and not paid to a member of the immediate family or household. This statement will be lodged with the Standards Committee and Director of Resources

With regard to the elderly and/or disabled care element of the Allowance, this is to be paid at a similar rate chargeable by Warwickshire County Council Social Services Department (at an agreed maximum set by the Council and/or its Officers) for provision of a Home Care Assistant.

To claim this a Member will need to:-

- ◆ register that they have an elderly/disabled person living with them
- ◆ sign a statement which declares that the care has been provided by a carer and not paid to a Member of the immediate family or household. This statement will be lodged with the Standards Committee and Director of Resources

NB: In respect of these allowances, a Member cannot claim for the employment of multiple carers for multiple dependants.

Payments will be made in the following month and upon receipt of a claim form.



## 5 Renunciation

A Member may forego any part of his/her entitlement under this Scheme by giving notice in writing to the Assistant Director (Finance and Human Resources).

## 6 Part-Year Entitlements

The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to Basic and Special Responsibility Allowances where, in the course of a year, this Scheme is amended or that Councillor becomes or ceases to be a Councillor, or accepts or relinquishes a special responsibility in respect of which a Special Responsibility Allowance is payable.

If an amendment to this Scheme changes the amount to which a Councillor is entitled by way of a Basic Allowance or a Special Responsibility Allowance, then in relation to each of the periods:

- a beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
- b beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the end of the year

The entitlement to such an Allowance shall be to the payment of such part of the amount of the Allowance under this Scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a Basic Allowance shall be to the payment of such part of the Basic Allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.

Where this Scheme is amended as mentioned in the second paragraph of this Section and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph (a), the entitlement of any such Councillor to a Basic Allowance shall be to the payment of such part of the Basic Allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as a Councillor subsists bears to the number of days in that period.

Where a Councillor has during part of but not throughout a year such special responsibilities as entitle him or her to a Special Responsibility Allowance, that Councillor's entitlement shall be to payment of such part of that Allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.

Where this Scheme is amended, as mentioned in the second paragraph of this section, and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (a) of that paragraph any such special responsibilities as entitle him or her to a Special Responsibility Allowance, that Councillor's entitlement shall be to payment of such part of the Allowance referable to

each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

## **7 Claims and Payments**

Claims for Allowances under this Scheme shall be made in writing within two months of the date of the meeting in respect of which the entitlement to the Allowance arises.

Claims for Travel and Subsistence shall include, or be accompanied by, a statement signed by the Councillor that the claims are in respect of the performance of approved duties and are in accordance with the Members' Allowances Scheme.

## **8 Payments shall be made**

a in respect of Basic and Special Responsibility Allowance, subject to the following paragraph, in instalments of one-twelfth of the amount specified in this Scheme on the 15<sup>th</sup> day of each month;

b in respect of travel and subsistence, dependant and child care allowances on the 15<sup>th</sup> day of each month in respect of claims received up to the 7<sup>th</sup> day of that month.

Where a payment of one-twelfth of the amount specified in this Scheme in respect of a Basic Allowance or a Special Responsibility Allowance would result in the Councillor receiving more than the amount to which, by virtue of paragraph 5, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

## **9 Suspension of Allowances**

Where a Member is found to be in breach of the Code of Conduct, then the Standards Committee may suspend, in whole or part, the allowances made to that Member, including travel and subsistence.

## **10 Indexation**

Basic Allowance, Special Responsibility Allowance and Dependant and Child Care Allowance are indexed to the Local Government pay percentage as agreed in April each year, or other such time, and linked to spinal column point 49 of the NJC scheme. This will be reviewed in 2008, unless a review is carried out by the Independent Remuneration Panel earlier.

## **11 Local Government Pension Scheme**

Members, aged under 70, are eligible to join the Local Government Pension Scheme. This applies to both Basic Allowances and Special Responsibility Allowances

## SCHEDULE 1

Set out below are details of the amounts of Basic and Special Responsibility Allowances payable under the Scheme with effect from 1 April 2004

<b>Allowance:</b>	<b>Amount £</b>
Basic	4,647
Leader of the Council and Chairman of the Executive Board	9,381
Deputy Leader and Chairman of the Planning and Development Board	4,686
Deputy Leader and Chairman of the Resources Board	4,686
Deputy Leader and Chairman of Community and Environment Board	4,686
Chairman of Standards Committee	276
Chairmen of Overview and Scrutiny Boards	3,753
Leader of the Opposition- standard element - per group Member	1,092 219
Portfolio Holders	1,641
Chairmen of Area Forums	1,641
Deputy Leader of the Second Largest Party	1,641
Leader of the Minority Group- standard element - per group Member	1,092 219

Note: No one Councillor should be entitled to receive more than one SRA

## SCHEDULE 2

### Body

Age Concern – Warwickshire  
Alliance for Regional Aid  
Alvecote Pools Management Committee  
Atherstone Forum  
Atherstone School Youth Club House Committee  
Baddesley Ensor Youth Centre House Committee  
Beeline Community Car Service  
Best Kept Village Committee (Warwickshire Rural Community Council)  
Birmingham Airport Consultative Committee  
Coalfields Community Campaign  
Coleshill Grammar School Endowment Foundation  
Coleshill Youth Wing House Committee  
Court of the University of Warwick and Court of the University of Birmingham  
Coventry, Solihull, Warwickshire Sub-Regional Forum  
Credit Union  
Former Baddesley Colliery, Baxterley Liaison Group  
Groundwork Coventry  
Hams Hall Landscape and Environmental Trust  
Hartshill Hayes Country Park Advisory Committee  
Health Improvement Steering Group  
Joint Action Group for Atherstone and Polesworth Market Towns  
Kingsbury Liaison Group  
Kingsbury Youth Centre and Sports Hall Management Committee  
Local Government Association  
Local Government Association – Fourth Option Special Interest Group  
Local Government Association Rural Commission  
Local Government Information Unit  
Market Towns Initiative Atherstone  
Market Towns Initiative Coleshill  
Market Towns Initiative Polesworth  
Middleton Hall Trust  
North Warwickshire Area Community Education Council  
North Warwickshire Arts Council  
North Warwickshire Community Partnership  
North Warwickshire Community Plan Theme Groups: Safer Communities, Health & Wellbeing, The Local Economy  
North Warwickshire Citizens Advice Bureau – Management Committee  
Piccadilly Community Association  
Polesworth Youth Wing Committee  
Rowan Organisation  
SPARSE (Sparsity Partnership for Authorities Delivery Rural Services)  
Stanyer's Charity  
Supporting People  
Superannuation Fund Consultative Board  
Warwickshire County Council – Health Overview & Scrutiny Committee  
Warwickshire Rural Community Council – Executive Committee  
Warwickshire Rural Community Council – Project Committee  
Warwickshire Waste Management Forum  
West Coast Rail 250 Campaign  
West Midlands Local Government Association Council / West Midlands Regional Assembly  
West Midlands Local Government Association – Provincial Council  
West Midlands Local Government Association – Regional Planning Partnership  
West Midlands Local Government Association – Regional Housing Partnership  
Wood End Community Centre

### SCHEDULE 3

#### Travel and Subsistence Allowances

- 1 The current mileage rates are:-
  - (i) 500 cc to 999 cc vehicle **38.7p** per mile
  - (ii) 1000 cc to 1199 cc vehicle **42.0p** per mile
  - (iii) 1200 cc and above vehicle **52.7p** per mile
  
- 2 The current subsistence rates are:-
  - (a) The rates of day subsistence, which are indexed to Officers' Allowances are as follows:

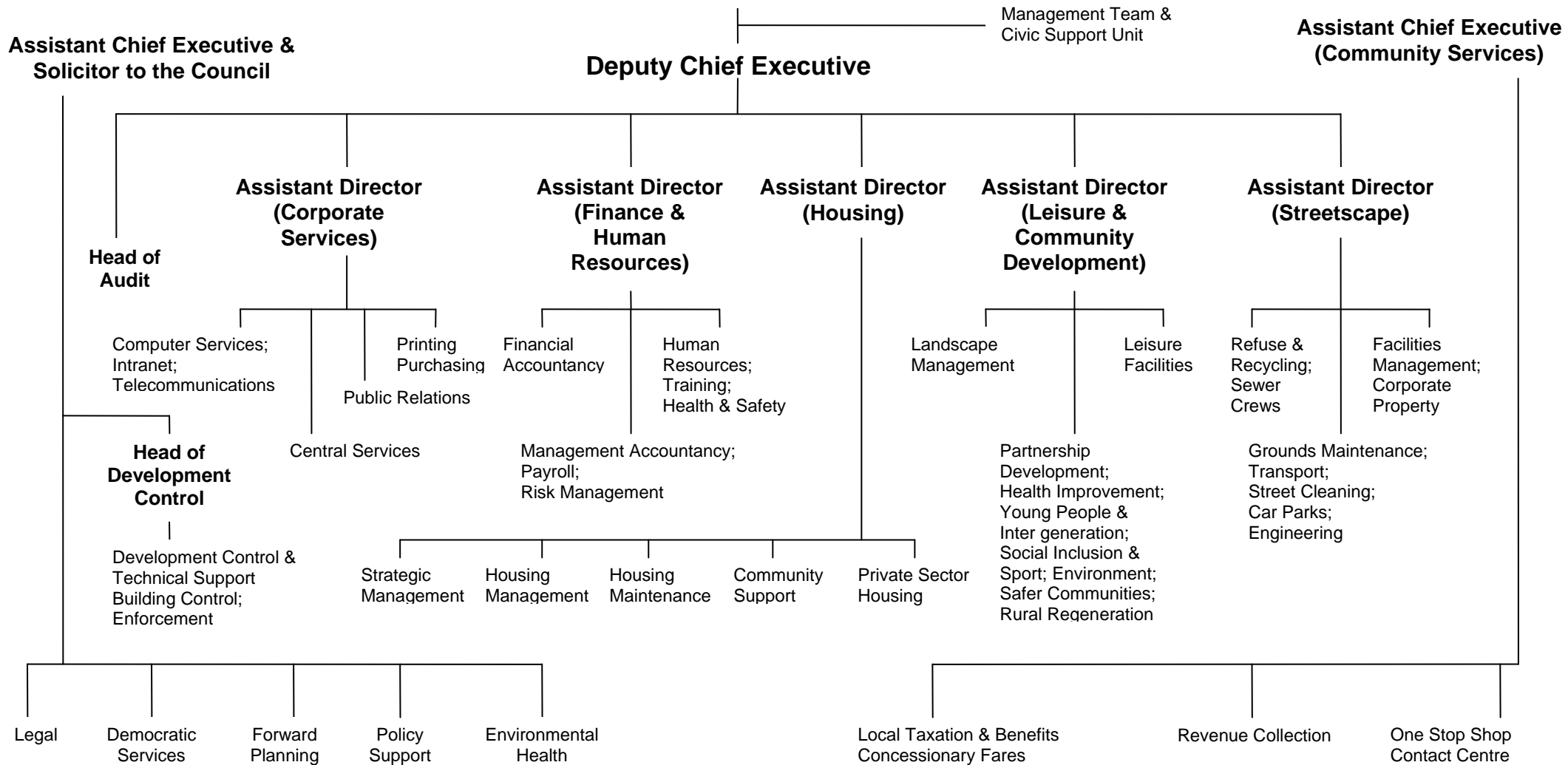
Breakfast allowance (more than 4 hours away from normal place of residence or where the Authority permits, a lesser period, before 11.00 am)	<b>£5.49</b>
Lunch allowance (more than 4 hours away from normal place of residence or where the Authority permits, a lesser period, including the lunchtime between 12 noon and 2.00 pm)	<b>£7.56</b>
Tea allowance (more than 4 hours away from normal place of residence or where the Authority permits, a lesser period, including the period 3.00 pm to 6.00 pm)	<b>£2.98</b>
Evening meal allowance (more than 4 hours away from normal place of residence or where the Authority permits, a lesser period, ending after 7.00 pm)	<b>£9.35</b>
  - (b) In the case of an absence overnight from the usual place of residence, **£89.58**. For absence overnight in London or for the purposes of attendance at the LGA Annual Conference, an allowance of **£102.17**
  
- 3 Mileage and other travel allowances and subsistence payments will be paid for the purpose of an approved duty.
  
- 4 In addition, following Council approval, for the purposes of travelling and subsistence expenses, the following are to be included in the Council's Scheme of Approved Duties:
  - (i) Meetings arranged between Officers and the Chairman and/or Vice Chairman of any Committee or Sub-Committee, with a view to discussing the business of that Committee or Sub-Committee; and
  - (ii) Any visit by a Member at the invitation of an Officer to the office for any purpose in connection with the conduct of the Council's affairs.
  
- 5 Mileage allowances will not be payable where travel is to a surgery.
  
- 6 Mileage rates are indexed to the Officer casual user rate.

7 Subsistence Allowance shall be paid at the same rate as Officers.

## **PART 7**

### **MANAGEMENT STRUCTURE**

# Chief Executive





**PART 8**

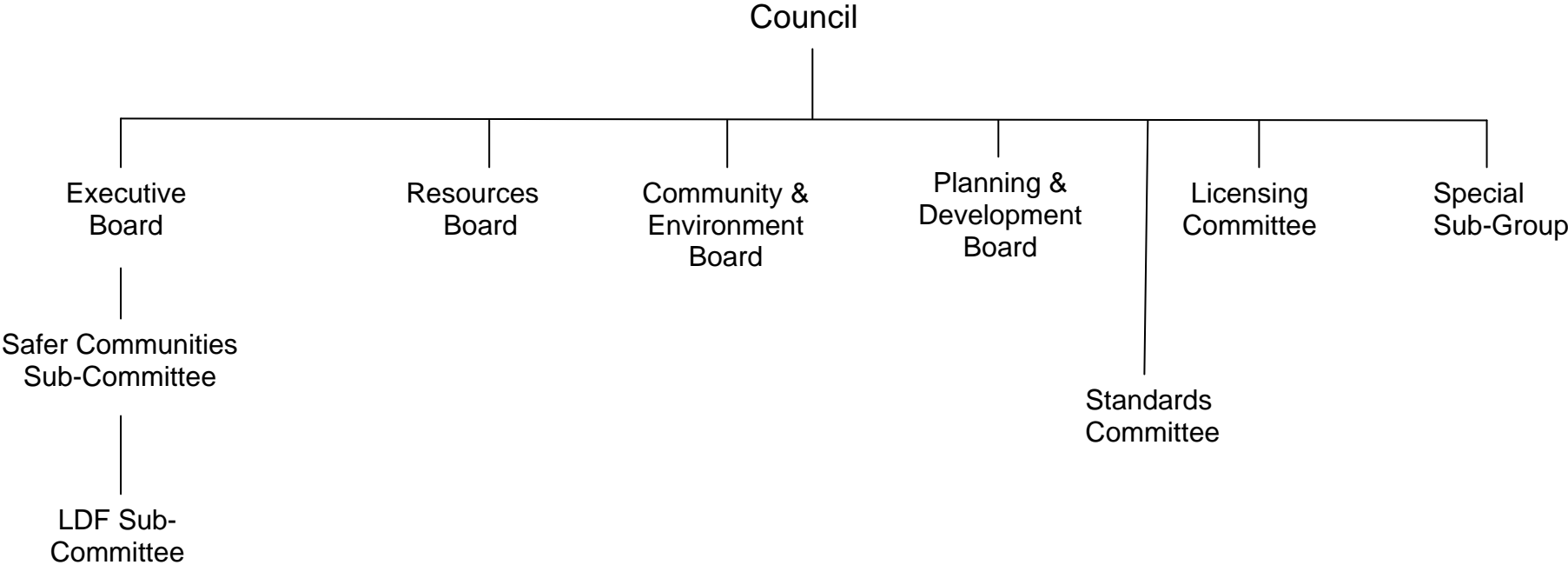
**DEMOCRATIC STRUCTURE AND  
MEMBER JOB DESCRIPTIONS**

## **PART 8: CONTENTS**

### **DEMOCRATIC STRUCTURE AND MEMBER JOB SPECIFICATIONS**

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# Democratic Structure



## NORTH WARWICKSHIRE BOROUGH COUNCIL

**JOB DESCRIPTION FOR**  
**LEADER OF THE COUNCIL**

**General Principles and Role**

- 1 The Leader of the Council represents the whole Council, outside of its civic and ceremonial roles and functions, in its relations and dealings with the voluntary and business sectors; local, regional and central government; and European bodies.
- 2 The Leader of the Council shares a special responsibility with the Chief Executive for leading and guiding the Authority according to its approved vision and values and towards its key corporate objectives and priorities. The Leader will be accountable to Council for ensuring their delivery.
- 3 The Leader of the Council cannot act alone or have the power of decision except in consultation with a properly authorised Officer or together with other Members as a properly appointed Board or other body.
- 4 The Leader of the Council will be the link between the Corporate Management Team and the elected Members of the Council in the formulation and development of new policies and objectives and will report regularly to Council and Boards in order to engender corporate ownership and awareness.

**Duties and Responsibilities**

- 5 The Leader of the Council will chair meetings of the Executive Board and will have a second or casting vote in determining any issues in those meetings. Subject, where relevant, to Council approval and consultation with other Boards, the Leader will lead the Executive Board in such areas as developing the Authority's overall policy framework; developing service plans and strategies; preparing revenue and capital budgets; recommending the level of Council Tax; and other strategic, policy and performance issues.
- 6 The Leader of the Council will lead in the performance appraisal procedures for the Chief Executive and, through the Executive Board, will agree the method of appraisal, its frequency and Member participation.
- .
- 7 The Leader of the Council with the Chief Executive, the Deputy Chief Executive and leading Members, will meet with the District Auditor to discuss the annual District Audit Management Letter and will report, as necessary, from there to Council or the relevant Board.
- 8 The Leader of the Council will meet regularly with the Chief Executive to monitor and review the progress of the Council towards its achieving approved objectives and priorities.

9 The Leader of the Council, in conjunction with the Chief Executive, will agree the business to be included in the Agenda for each meeting of the Executive Board and will attend pre-agenda and any pre-meeting briefings. The Leader has authority to agree the inclusion of late items of business on the agenda but only for reasons of urgency, which must be stipulated in the minutes.

10 The Leader of the Council will attend and participate in meetings of Full Council.

11 The Leader of the Council may be a Member of a Steering Group, Working Party, or a Best Value Review Team or a representative on an outside body.

12 In addition to the above duties, the Leader of the Council will undertake:

A The "Representative Role" described at item 16 of Job Description at Appendix D, namely:-

a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-

i) meet or visit them

ii) attend site meetings or inspections

iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters

iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion

b) conduct Ward business by correspondence, telephone, meetings and email.

B The "Consultation" work described at items 9 and 10 of the Job Description at Appendix D, namely:

Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:

- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
- attending Parish/Town Council meetings;
- direct canvassing of Ward residents on particular issues

Through these methods Councillors will play a significant part in the consultations on:

- the development of local performance plans;
- fundamental reviews of best value;
- local initiatives, for example on community safety;
- the community planning process, generally.

**NORTH WARWICKSHIRE BOROUGH COUNCIL****JOB DESCRIPTION FOR****DEPUTY LEADER AND BOARD CHAIRMAN (RESOURCES:  
COMMUNITY AND ENVIRONMENT; AND PLANNING AND DEVELOPMENT BOARDS)****General Principles**

- 1 A Deputy Leader and Board Chairman shares a special responsibility with the Leader of the Council, the Chief Executive and Management Team in leading and guiding the Authority according to its approved vision and values and towards its main objectives and priorities.
- 2 A Deputy Leader and Board Chairman will be held responsible and accountable to Council and the Board for the delivery of relevant objectives and priorities through the Chief Executive, Management Team and Extended Management Team,
- 3 A Deputy Leader and Board Chairman cannot act alone or have the power of decision except in consultation with a properly authorised officer or together with other Members as a properly appointed Board or other body.
- 4 He or she will deputise, when requested, for the Leader of the Council and will generally assist the Leader, as and when required.

**Role, Function and Duties**

- 5 The Deputy Leader and Board Chairman will preside over meetings of his/her Board, regulating and controlling proceedings and ensuring that the sense of the meeting, with regard to any question before the meeting, is properly ascertained.
- 6 He or she has a second or casting vote in the determination of any question before the meeting.
- 7 The Deputy Leader and Board Chairman will act as spokesperson for the Board at Council – presenting Board Minutes and Reports, answering questions and replying to amendments.
- 8 The Deputy Leader and Board Chairman will attend pre-agenda briefing meetings with Officers and will be consulted upon and will assist and advise in the preparation and finalisation of business to be included on the Agenda for each meeting of the Board. He or she has authority to agree the inclusion of late items of business on an agenda for the Board meeting but only for reasons of urgency, which must be stipulated in the Minutes. He/she will also attend any pre-meeting briefings.
- 9 The Deputy Leader and Board Chairman will monitor and review, through regular meetings with the Chief Executive, Management Team and Assistant Directors, as appropriate, the progress of actions to implement the approved objectives, priorities and specific decisions of the Board.

- 10 He or she may be involved in the performance appraisal procedures for the Chief Executive.
- 11 The Deputy Leader and Board Chairman will be required to attend the opening of tenders for the supply of goods or services or for the execution of works.
- 12 He or she will attend and participate in meetings of full Council.
- 13 He or she may be a Member of the Standards Committee.
- 14 In addition to the above duties, the Deputy Leader and Board Chairman will undertake:
- A The “Representative Role” described at item 16 of the Job Description at Appendix D, namely:-
- a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
- i) meet or visit them
- ii) attend site meetings or inspections
- iii) seek advice from officers of the Council on legal, administrative, financial technical or procedural matters
- iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion
- b) conduct Ward business by correspondence, telephone, meetings and email.
- B The “Consultation” work described at items 9 and 10 of the Job Description at Appendix D, namely:
- Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:
- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
  - attending Parish/Town Council meetings;
  - direct canvassing of Ward residents on particular issues
- Through these methods Councillors will play a significant part in the consultations on:
- the development of local performance plans;
  - fundamental reviews of best value;
  - local initiatives, for example on community safety;
  - the community planning process, generally.

## NORTH WARWICKSHIRE BOROUGH COUNCIL

**JOB DESCRIPTION FOR**  
**THE MAYOR, AS CIVIC HEAD**

**Main Role of the Mayor**

- 1 The primary duty of the Mayor is to preside over meetings of the full Council, to preserve order in meetings and to take care to ensure that the proceedings are conducted impartially and in a proper manner.
- 2 The Mayor is elected to be the First Citizen of the Borough, its Civic Head, and will represent the Borough Council at Ceremonial, Civic and other functions inside and outside the Borough, will receive civic guests, delegations and visitors; host civic occasions and provide civic hospitality.
- 3 The Mayor cannot act alone or have the power of decision except in consultation with a properly authorised Officer or together with other Members as a properly appointed Board or other body.

**Duties and Responsibilities**

- 4 If present, the Mayor must preside at meetings of the full Council and, specifically, it is the Mayor's responsibility, with the assistance of the Chief Executive:
  - (a) to determine that the meeting is properly constituted and that a quorum is present;
  - (b) to inform himself/herself as to the business and objectives of the meeting;
  - (c) to preserve order in the conduct of those present;
  - (d) to confine discussion within the scope of the meeting and within the time limits provided in the Standing Orders;
  - (e) to decide whether proposed motions and amendments are in order;
  - (f) to formulate for discussion and decision questions which have been moved for the consideration of the meeting;
  - (g) to decide points of order and other incidental questions which require decision at the time;
  - (h) to ascertain the sense of the meeting by:
    - i putting relevant questions to the meeting and taking a vote thereon;
    - ii causing a named vote or ballot to be taken if duly demanded;
    - iii if necessary and if so minded giving a second or casting vote;
    - iv declaring the result
  - (i) with the consent of Council, to adjourn the meeting when circumstances justify or require that course;



- (j) To declare the meeting closed when its business has been completed.
- 5 The Mayor has authority to agree the inclusion of late items of business on an agenda for full Council but only for reasons of urgency, which must be stipulated in the Minutes.
- 6 The Mayor will be expected to take the lead in all matters that concern the civic life of the Borough.
- 7 The Mayor will at all times remain impartial in party political matters.
- 8 The Mayor will be available to represent the Borough, at all times within reason, at events and functions both inside and outside the Borough.
- 9 The Mayor will host civic events within the Borough, including, in particular, an Annual Civic Service and an Annual Civic Reception.
- 10 The Mayor will conduct him/herself in a proper and dignified manner at all times as befits the Office of Mayor.
- 11 In addition to the above duties, the Mayor will undertake:
  - A The “Representative Role” described at item 16 of the Job Description at Appendix D, namely:-
    - a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
      - i) meet or visit them
      - ii) attend site meetings or inspections
      - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
      - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion
    - b) Conduct Ward business by correspondence, telephone, meetings and email.
  - B The “Consultation” work described at items 9 and 10 of the Job Description at Appendix D, namely:
 

Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:

- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
- attending Parish/Town Council meetings;
- direct canvassing of Ward residents on particular issues

Through these methods Councillors will play a significant part in the consultations on:

- the development of local performance plans;
- fundamental reviews of best value;
- local initiatives, for example on community safety;
- the community planning process, generally.

**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**JOB DESCRIPTION FOR A WARD COUNCILLOR, WHO IS NOT**

**THE LEADER OF THE COUNCIL; A DEPUTY LEADER AND BOARD CHAIRMAN;**

**; OR THE MAYOR**

**General Purpose**

- 1 To represent the community and the individual and be a channel through which their needs are considered, addressed or met, by contributing to the development and formation of proposals and policies for services and service delivery.
- 2 To scrutinise, keep under review, monitor and hold to account the performance of Boards and other bodies, in the light of agreed policies, targets and standards.
- 3 To be a party to the process of developing and setting Council policy.

**The Corporate Role**

These general purposes will be achieved by individual Councillors through their Membership of and input into:

- 4 **Full Council** which will
  - be the principal forum for debate for matters of community and public interest;
  - determine the overall policies and finances which will guide and direct the delivery of services;
  - appoint and hold to account its Boards, the Leader of the Council and Chief Executive and Directors for the effective and efficient delivery of services in accordance with the agreed policies.
- 5 **Planning and Development Board and Licensing Committees and Sub-committees**, which will be the decision-making bodies in respect of such areas as:
  - planning applications, development control and building control.
  - licensing and appeals
- 6 **Standards Committee Member (See Appendix E)**
- 7 **Consultation**

In addition to their Membership of and input into the above bodies, Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on

policy development and formulation and the decision-taking process. Such methods include:

- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
- attending Parish/Town Council meetings;
- direct canvassing of Ward residents on particular issues

8 Through these methods Councillors will play a significant part in the consultations on:

- the development of local performance plans;
- fundamental reviews of best value;
- local initiatives, for example on community safety;
- the community planning process, generally.

### **Functional Role**

9 Each Councillor will be a full voting Member of the Council, which includes the Leader and the Mayor and Deputy Mayor of the Borough.

10 Councillors may be appointed to the Planning and Development Board and to the Standards Committee.

11 Any Councillor may be appointed to represent the Council on outside bodies.

### Representative Role

12 In addition to the above duties, Members will:-

- a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
  - i) meet or visit them
  - ii) attend site meetings or inspections
  - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
  - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion
- b) conduct Ward business by correspondence, telephone, meetings and email.

**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**JOB DESCRIPTION FOR**

**A PORTFOLIO HOLDER**

**General Principles**

- 1 A Portfolio Holder's main role is to ensure that his/her designated areas of responsibility (whether for a key cross-cutting theme or for a specific function) are properly dealt with by all parts of the Council's democratic process and at all levels of the organisation.
- 2 A Portfolio Holder cannot act alone or have the power of decision except in consultation with a properly authorised officer or together with other Members as a properly appointed Board or other body.

**Role, Function and Duties**

- 3 A Portfolio Holder will be the Council's Lead Member and spokesperson on the areas of responsibility assigned to him/her and will promote, defend and explain policies and actions associated with them.
- 4 In undertaking such duties, a Portfolio Holder will liaise as necessary with the Leader of the Council, the relevant Board Chairman, the Chief Executive, Management Team and Extended Management Team.
- 5 A Portfolio Holder will attend and participate in meetings of full Council. He or she will also have an automatic right to attend any meeting in order to explain or present a cross-cutting issue, implication or any effect in relation to the subject matter under discussion.
- 6 A Portfolio Holder may be a Member of the Standards Committee; and the Planning and Development Board.
- 7 A Portfolio Holder will chair the relevant Portfolio Group and may be the Council's representative on any relevant Outside Body.
- 8 In addition to the above duties, the Portfolio Holder will undertake:
  - A The "Representative Role" described at item 17 of the Job Description at Appendix D, namely:-
    - a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
      - i) meet or visit them
      - ii) attend site meetings or inspections
      - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
      - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion

b) conduct Ward business by correspondence, telephone, meetings and email.

B The “Consultation” work described at items 9 and 10 of the Job Description at Appendix D, namely:

Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:

- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
- attending Parish/Town Council meetings;
- direct canvassing of Ward residents on particular issues

Through these methods Councillors will play a significant part in the consultations on:

- the development of local performance plans;
- fundamental reviews of best value;
- local initiatives, for example on community safety;
- the community planning process, generally.

**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**JOB DESCRIPTION FOR A**

**STANDARDS COMMITTEE MEMBER**

**Main Role**

- 1 The main role of a Standards Committee Member is to promote and maintain high standards of conduct and to see that the Authority's Codes of Conduct are observed, having regard to the provisions of the Localism Act 2011

**Duties and Responsibilities**

- 2 A Standards Committee Member will be responsible for:-
  - a) promoting and maintaining high standards of conduct by Members and co-opted Members of the Authority;
  - b) assisting Members and co-opted Members to observe the Authority's Code of Conduct;
  - c) advising the Authority on the adoption or revision of a Code of Conduct;
  - d) monitoring the operation of the Authority's Code of Conduct;
  - e) advising, training or arranging to train Members and co-opted Members on matters relating to the Authority's Code of Conduct;
  - f) considering reports or matters referred to it by the Council's Monitoring Officer, or in his/her absence, the Deputy Monitoring Officer.;
  - g) supervising the Code of Conduct for Council Employees, the Members/Officers Protocol, the Complaints and Compliments Procedure, the Whistle-Blowing Policy and Ombudsman Complaints;
  - h) acting as a part of the Standards arrangements as required by the Localism Act 2011 and as adopted by the Council;
  - i) such other functions that the Borough Council may delegate to the Committee (such as involvement in outside companies and bodies, Member allowances, review of complaints procedures and Ombudsman's determinations etc).



**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**JOB DESCRIPTION FOR**

**VICE-CHAIRMAN OF A BOARD**

**General Principles**

- 1 A Board Vice-Chairman's main role is to deputise for the Chairman of the Board and to preside at meetings at which the Chairman is unable to attend.
- 2 He/she will also stand in for the Chairman, as required, at other meetings and events and will assist the Chairman with such of the duties of that post as he/she may require.
- 3 A Vice-Chairman cannot act alone, or have the power of decision except in consultation with a properly authorised officer or together with other Members as a properly appointed Board or other body.

**Role, Function and Duties**

- 4 The Vice-Chairman will attend pre-agenda meetings and any pre-meeting briefings with the Chairman and Officers.
- 5 Whilst deputising or standing in for the Board Chairman (see items 1 and 2 above), the Vice-Chairman will undertake the relevant duties of the Chairman, as set out in items 5 to 15 of Appendix B.
- 6 In addition to the above duties, the Vice-Chairman will undertake:
  - A The "Representative Role" described at item 16 of Job Description at Appendix D, namely:-
    - a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
      - i) meet or visit them
      - ii) attend site meetings or inspections
      - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
      - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion
    - b) conduct Ward business by correspondence, telephone, meetings and email.
  - B The "Consultation" work described at items 9 and 10 of the Job Description at Appendix D, namely:

Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:

- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
- attending Parish/Town Council meetings;
- direct canvassing of Ward residents on particular issues

Through these methods Councillors will play a significant part in the consultations on:

- the development of local performance plans;
- fundamental reviews of best value;
- local initiatives, for example on community safety;
- the community planning process, generally.

**NORTH WARWICKSHIRE BOROUGH COUNCIL**  
**JOB DESCRIPTION FOR**  
**THE LEADER OF THE SECOND LARGEST GROUP**  
**OR LARGEST OPPOSITION GROUP**

**General Principles and Role**

- 1 The Leader of the Second Largest Group or Largest Opposition Group will act as leader and spokesperson for his/her group on the Council and, when necessary, will challenge the policies, performance and activities of the controlling group on the Council.
- 2 He/she cannot act alone or have the power of decision except in consultation with other Members as a properly appointed Board or other body.

**Duties and Responsibilities**

- 3 He/she may be involved in the performance appraisal procedures for the Chief Executive.
- 4 He/she with the Leader of the Council, leading Members and the Chief Executive and the Deputy Chief Executive will meet with the District Auditor to discuss the annual District Audit Management Letter.
- 5 He/she will attend and participate in meetings of Full Council.
- 6 He/she may be a Member of the Standards Committee; ; and the Planning and Development Board.
- 7 He/she may be a Member of a Steering Group, Working Party or a Best Value Review Team or a representative on an outside body.
- 7 In addition to the above duties, he/she will undertake:
  - A The "Representative Role" described at item 16 of Job Description at Appendix D, namely:-
    - a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
      - i) meet or visit them
      - ii) attend site meetings or inspections
      - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
      - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion
    - b) conduct Ward business by correspondence, telephone, meetings and email.

B The “Consultation” work described at items 9 and 10 of the Job Description at Appendix D, namely:

Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:

- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
- attending Parish/Town Council meetings;
- direct canvassing of Ward residents on particular issues

Through these methods Councillors will play a significant part in the consultations on:

- the development of local performance plans;
- fundamental reviews of best value;
- local initiatives, for example on community safety;
- the community planning process, generally.

**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**JOB DESCRIPTION FOR**

**THE DEPUTY LEADER OF THE SECOND LARGEST GROUP  
OR LARGEST OPPOSITION GROUP**

**General Principles and Role**

- 1 The main role of the Deputy Leader of the Second Largest Group or Largest Opposition Group on the Council is to deputise for his/her Group Leader, as and when necessary, and assist him/her with such of the duties of that post as the Group Leader may require (The Group Leader's full duties are set out at Appendix H).
- 2 He/she will also stand in for his/her Group Leader at other meetings and events.
- 3 He/she cannot act alone, or have the power of decision except in consultation with other Members as a properly appointed Board or other body.

**Duties and Responsibilities**

- 4 He/she may be involved in the performance appraisal procedures for the Chief Executive.
- 5 He/she will attend and participate in meetings of Full Council.
- 6 He/she may be a Member of the Standards Committee; ; and the Planning and Development Board.
- 7 In addition to the above duties, he/she will undertake:
  - A The "Representative Role" described at item 16 of Job Description at Appendix D, namely:-
    - a) be available to hear complaints, concerns and representations from local residents and, if appropriate, research, investigate and deal with them by one or more of the following:-
      - i) meet or visit them
      - ii) attend site meetings or inspections
      - iii) seek advice from officers of the Council on legal, administrative, financial, technical or procedural matters
      - iv) obtain facts and discuss or refer cases and issues to Officers of the Council, the Member of Parliament, Government Departments and Agencies, other public authorities, individuals and bodies in the private, commercial and voluntary sectors and pursue them to a conclusion
    - b) conduct Ward business by correspondence, telephone, meetings and email.

- B The “Consultation” work described at items 9 and 10 of the Job Description at Appendix D, namely:

Councillors will develop their own methods and arrangements to keep in touch with their local communities and neighbourhoods so that local views come to have a bearing on policy development and formulation and the decision-taking process. Such methods include:

- conducting regular Ward surgeries/or being available, either by appointment or generally, to see constituents;
- attending Parish/Town Council meetings;
- direct canvassing of Ward residents on particular issues

Through these methods Councillors will play a significant part in the consultations on:

- the development of local performance plans;
- fundamental reviews of best value;
- local initiatives, for example on community safety;
- the community planning process, generally.