

LEICESTER CITY COUNCIL

CONSTITUTION

(May 2022)

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Part 1: Introduction

This section was approved by Council on 19/09/13.

Part One - Introduction to the Council Constitution

1) What is the Constitution

The purpose of the Constitution is to set out how the Council operates, how decisions are made and the procedures that are followed to ensure that decisions are taken efficiently and transparently, and that those who make the decisions are accountable to local people. Some of these procedures are legal requirements while others are how the Council has chosen to conduct its business.

This part of the Constitution is a guide to the basic principles of how the Council works and what decisions can be made and by whom. It is a summary and does not seek to be comprehensive. You will need to look at separate parts of the Constitution for full details of decision-making procedures.

The City Mayor, all elected members and officers of Leicester City Council are governed by this Constitution.

2) How the Council works

The Council is led by a City Mayor elected directly by the people of Leicester for a fixed four year term.

The City Mayor, Mayoral Team and the Executive

The City Mayor appoints a Statutory Deputy City Mayor and between one and eight Deputy/Assistant City Mayors from the 54 Councillors, to work with him. Together they are described in this Constitution as the Executive. Individual job descriptions set out the roles and responsibilities of the City Mayor, Deputy City Mayors and Assistant City Mayors. These job descriptions are published on the City Mayor's Internet pages.

Full Council

Full Council comprises all 54 Councillors elected every 4 years who represent the 22 wards of the City. The overriding duty of Councillors is to the whole community, but they have a special responsibility to the constituents of their ward.

All Councillors and the City Mayor meet together as the Full Council. These meetings are open to the public and the press and are also broadcast live on the Council's webcast facility at this link <https://leicester.public-i.tv/core/portal/home> . Sometimes the Council considers personal or confidential matters and it can choose to do so in private if appropriate.

The Full Council sets the broad Policy and Budget Framework within which the Council including the City Mayor and his Executive operates. The Full Council is chaired by the Right Worshipful the Lord Mayor of Leicester. This role is a ceremonial and civic one. The Lord Mayor is a Councillor and is chosen and appointed for a one year term by the Full Council at its annual Council meeting in May.

Conduct and Behaviour

The City Mayor and the 54 Councillors have agreed to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Council has a Standards Committee which advises and oversees compliance with the Code of Conduct and enforces it where necessary. This code of conduct is included in Part 5 of this constitution.

3) How decisions are made

Decisions are taken either by Full Council, the City Mayor, members of the Executive (either individually or collectively with the City Mayor), committees, or officers, according to rules set out in this Constitution.

The City Mayor is personally responsible for taking major decisions about many aspects of what the Council does. He can either take these decisions himself, delegate these to other Councillors on the Executive or to officers or take them collectively with Executive colleagues.

Certain business considered by the Executive is defined as a 'Key Decision'. These key decisions are included on the Forward Plan [\[link\]](#) which is a document that is published every month with details of the decisions to be taken over the next four months. The Constitution sets out a specific definition of what are key decisions. In summary these are decisions where the Council will incur significant expenditure/savings, or which have a significant impact on communities in two or more wards in the City.

Some decisions, due to legislation, or as a matter of local choice, can only be taken by Full Council. In some cases, Full Council can delegate these decisions to committees of Councillors or specified officers. Examples of specific areas which by law cannot be the responsibility of the City Mayor and Executive include:

- Adopting and changing this Constitution.
- Adopting an allowance scheme for Councillors.
- Setting the Council's budget including the level of Council Tax.
- Decisions relating to individual planning applications and enforcement of planning rules.
- Decisions relating to licensing and individual licensing applications.
- Decisions relating to the management and conduct of Elections.
- Specific plans and strategies within the Council's Policy Framework including the Local Transport Plan and the Local Development Plan.
- Decisions relating to the appointment and terms and conditions of Council staff.

Parts 2 and 3 of this Constitution provide further details on specific roles and responsibilities.

4) How the Council is scrutinised

Councillors who are not on the Executive are responsible for keeping an overview of Council business including scrutinising areas of particular interest or concern, holding the Executive to account for the decisions that are made, and assisting in the development and review of Council policy. This role is undertaken by Scrutiny Committees/Commissions. The Council has appointed one Overview Select Committee and seven Scrutiny Commissions to carry out the scrutiny function.

The Scrutiny Committee/Commissions have the right to scrutinise decisions as they are being formulated, after they have been taken and can ask for decisions to be reconsidered. This is known as “Call-In” and requires the Executive to consider further comments raised by a scrutiny committee or full Council before they are implemented. There is a Scrutiny Handbook that sets out in more detail the work of the scrutiny function [[link](#)].

5) Council Staff

The Council employs officers to give professional advice to the Executive and Councillors, to implement decisions taken and to manage the day to delivery of services. The Head of Paid Service (Chief Operating Officer) is a statutory role that every Council must have. This person has responsibility for managing all Council staff and decides how the City Mayor, Executive and Councillors should be supported by staff. There are other statutory posts including, the Chief Officer responsible for Children’s Services (Director of Children’s Services), an officer responsible for the Council’s Adult Social Services functions (Director of Adult Social Care), an officer to ensure the Council makes financially proper decisions (Chief Finance Officer) and an officer who ensures the Council acts within the law (Monitoring Officer).

6) Citizens’ Rights

Citizens of Leicester have a number of rights in dealings with the City Mayor, Executive and the Council.

In the first instance the City Mayor is accountable to the people of Leicester by whom he is directly elected . The City Mayor has a website which details the different ways in which citizens can contact her/him

A list of some of the other rights that citizens have is set out below which is in addition to any rights for example as a parent of a school or a tenant of the Council which are beyond the scope of this Constitution.

Citizens have the right to:

- Register and vote at elections
- Contact their local Councillor about issues of concern within their ward
- View the Constitution which is available on the Council website
- Attend Council, Scrutiny or other public meetings
- Attend Ward Community Meetings within their area to hear from and speak to their local Councillors and to seek local funding
- View the Forward Plan to see future decisions
- View the agenda and papers for forthcoming meetings on the Council's website
- Use the Council's complaints procedure if they are dissatisfied with a service after which if still dissatisfied, they can complain to the Local Government and Social Care Ombudsman
- Contact the Monitoring Officer if they have a concern about the conduct of a Councillor under the Code of Conduct
- Inspect the Council's Accounts and make their views known to the External Auditor

7) Structure of the Constitution

The Constitution is split into 'Parts' to help readers find relevant information. This introduction is Part 1.

Part 2 of the Constitution sets out Articles 1 – 16 which describe the basic rules governing the Council's business.

Part 3 describes how functions and responsibilities are allocating between the Full Council, City Mayor and Executive.

Parts 1 to 3 form the Core Constitution of Leicester City Council.

The Core Constitution is supported by further procedural guidance, Codes of Conduct and other supporting information as set out in parts 4 to 7:

Part 4 - Procedure Rules

Part 5 - Political Conventions and Codes of Conduct

Part 6 - Members' Allowances Scheme

Part 7 - Management Structure which can be accessed on the Council's Website.

LEICESTER CITY COUNCIL

CONSTITUTION

Part 2

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This section was approved by Council on 19/09/13

Part Two – Articles of the Constitution

Introduction

This document is part two of Leicester City Council's core Constitution. This part of the Constitution is divided into 16 Articles and sets set out the basic rules governing the Council's business including the roles and responsibilities of people and bodies within the Council.

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

The Constitution, including all its various parts, is the Constitution of Leicester City Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

- Provide a means of improving the delivery of services to the community.
- Enable the Council to provide clear, democratic leadership to the community in partnership with citizens, businesses, voluntary and other organisations.
- Support the active involvement of citizens in the process of local authority decision making.
- Help Councillors represent their constituents more effectively.
- Enable decisions to be taken efficiently, effectively and transparently.
- Create a powerful and effective means of holding decision makers to public account.
- Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- Ensure that no-one will review or scrutinise a decision in which they were directly involved.

1.04 Interpretation and review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution, as set out in Article 16.

Article 2 – Members of the Council

2.01. Composition and Eligibility

(a) Composition

The Council will comprise a directly elected City Mayor and 54 Councillors. The City Mayor will be elected by the voters of the whole City and the Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission. Two or three Councillors will be elected for each ward. The City Mayor is classed as a Member of the Council as explained in Article 5.02. The term “Members of the Council” includes the City Mayor and all Councillors.

(b) Eligibility

Eligibility is determined by legislation and only registered voters of the city of Leicester or those living and working there will be eligible to be elected to the office of City Mayor or Councillor.

2.02. Election and Terms of Councillors

Election arrangements and terms of office are determined by legislation and the Electoral Commission. Currently, the regular election of the City Mayor and Councillors will be held on the first Thursday in May every four years beginning in 2011. The terms of office of the City Mayor and 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 the City Mayor and all Councillors

(a) Key Roles

City Mayor:-

- (i) is responsible for all decisions except where these are reserved to Full Council as a result of legislative requirements or local choice; and
- (ii) represents the whole City and all communities who live and work in the City, and will bring their views into the decision-making process by encouraging active citizen engagement and involvement;

The City Mayor and All Councillors:-

- (i) are collectively the ultimate policy-makers and carry out a number of strategic and corporate functions;
- (ii) contribute to the good governance of the City, by representing their communities and bringing their views into the Council’s decision-

making process and encouraging community participation and citizen involvement;

- (iii) represent the whole community, with a special responsibility for Councillors to represent the interests of their ward and its individual constituents, whether or not they voted for them.
- (iv) participate in the governance and management of the Council;
- (v) are available to represent the Council on other bodies; and,
- (vi) will maintain the highest standards of conduct and ethics.

(b) Rights and Duties

- (i) The City Mayor and Councillors will have such rights of access to such documents, information, land and buildings of the Council as are reasonably necessary for the proper discharge of their functions and in accordance with the law.
- (ii) The City Mayor and Councillors will not make public any information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it. (For these purposes “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.)

2.04 Conduct

- a) The City Mayor and Councillors will at all times observe the Members Code of Conduct and the Political Conventions on Member/Officer Relations as set out in Part 5 of this Constitution
- b) Members and co-opted members who have a Disclosable Pecuniary Interest (DPI) or a ‘prejudicial’ Other Disclosable Interest (ODI) must declare that interest (unless it already appears in that Member’s the Register of Interests) and withdraw from the meeting room, including from the public gallery, during the whole of the consideration of any item of business (including the voting) in which he/she has a DPI or prejudicial ODI, except where permitted to remain as a result of the grant of a valid dispensation.
- c) Where a Member or Co-opted member is involved in matters which can be determined by a single member without a meeting (for example where an Individual Executive Decision can be made, or where a member has delegated powers to decide a Ward matter) they too must adhere to the rules requiring disclosure, registration and cessation from further involvement in that matter where they have a DPI or “prejudicial ODI. They must not take any steps, or any further steps, in relation to that matter except for the purpose of enabling the matter to be dealt with otherwise than by themselves. Equally, they must not attend any meeting at which that matter falls to be further discussed.

2.05 Allowances

The City Mayor and Councillors will be entitled to receive allowances in accordance with the Members' Allowance Scheme set out in Part 6 of this Constitution.

Article 3 – Citizens and the Council

3.01 Citizens' Rights

Leicester citizens have a number of rights. The following list is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints. The Access to Information Rules in Part 4 of this Constitution explain in more detail about rights to information and to participate.

- (a) **Voting.** Citizens on the electoral register for the area have a right to vote and they also have a right to petition to request a referendum on the form of governance arrangements.
- (b) **Information.** Citizens have the right to:-
 - (i) attend meetings of the Full Council and its committees, and public meetings, except when confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) find out from the Forward Plan what key decisions will be taken, who they will be taken by and when;
 - (iii) see reports, background papers, and records of decisions made by the Council, the City Mayor, the Executive and Committees except where they contain confidential or exempt information.
 - (iv) inspect the Council's accounts during a period each year specified by law, and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to submit petitions to the Council or a Scrutiny Committee/Commission and to participate in the question time at both Full Council and in the work of Scrutiny Committees/Commissions. In addition, there are opportunities for citizens to ask questions at public meetings and through other less formal mechanisms.
- (d) **Complaints.** Citizens have the right to complain to: -
 - (i) the Council itself under its complaints/compliments scheme;
 - (ii) the Ombudsman preferably after giving the Council the opportunity to deal with the matter;
 - (iii) the Council's Monitoring Officer about a breach of the Elected Member Code of Conduct.

3.02 Citizens' Responsibilities

In return for their rights, the Council expects that citizens will conduct themselves in a reasonable way when dealing with Council officers, the City Mayor and Councillors, and when using Council facilities. They are asked to:

- i. Have regard to the rules and procedures which Council staff must follow.
- ii. Recognise that the Council has obligations to all its citizens and has to strike a balance between them.
- ii. Behave with due courtesy, tolerance and respect.

Article 4 – The Full Council

4.01 Introduction

The Full Council is a formal meeting of all Councillors and the City Mayor. The Full Council is required by law to take certain important decisions including setting the Council's budget and Council Tax, and approving a number of key plans and strategies, which together form the Policy Framework. The Full Council must also by law take decisions on a number of other specific matters.

The Full Council provides a central forum for debate. There are three types of Full Council meetings:

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

and they will be called and conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.02 Functions of the Full Council

The following functions are the responsibility of Full Council:

- (a) adopting and changing the Constitution, and any corporate rules, Protocols and the Council's Political Conventions which form part of the Constitution;
- (b) approving or adopting the Policy Framework, the Budget, referrals to the Secretary of State for Housing Land Transfer and any other matter as prescribed specifically by law ;
- (c) where the Executive is proposing to make a decision, which would be contrary to the policy framework or not in accordance with the budget, subject to the urgency procedure, that matter is reserved to Council;
- (d) agreeing and/or amending the Terms of Reference for Committees, deciding on their composition and making appointments to them;
- (e) adopting a Member allowance scheme under Article 2;
- (f) changing the name of the area, conferring the title of Honorary Alderman or Freedom of the City;
- (g) confirming the appointment of the Head of Paid Service;
- (h) making, amending, revoking, re-enacting or adopting bye-laws and promoting or opposing the making of local legislation or personal Bills;

- (i) agreeing to accept delegation of any function from another local authority;
- (j) establishment of formal twinning links;
- (k) all local choice functions, as set out in Part 3 of the Constitution: which the Council decides should be undertaken by itself rather than the City Mayor; Full Council will be able to delegate such functions to a Committee or officer. Delegations are shown in Part 3 of this Constitution;
- (l) appointing representatives to outside bodies, unless the appointment is an executive function, or has been delegated by Full Council as shown in Part 3 of this Constitution;
- (m) substantial Council decisions relating to the preparation and maintenance of the electoral register and the conduct of local elections; and
- (n) all other matters, in addition to the above, which, by law, or as a matter of local choice, must be reserved to Full Council.

And such other Council functions as the Council decides to reserve to itself, either to comply to the law or as a matter of local choice.

4.03 Definitions

(a) Policy Framework

The Policy Framework means those plans and strategies which are reserved to Full Council by law or which the Council decides from time to time to reserve to itself as a matter of local choice. Currently these are:

- (i) reserved to Full Council as required by law (Schedule 3 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000):

Annual Library Plan	Section 1(2) of the Public Libraries and Museums Act 1964
Best Value Performance Plan	Section 6(1) of the Local Government Act 1999
[Children and Young People's Plan]	Children and Young People's Plan (England) Regulations 2005
Crime and Disorder Reduction Strategy	Sections 5 and 6 of the Crime and Disorder Act 1998
[Development plan documents (Local Development Plan)]	Section 15 Planning & Compulsory Purchase Act 2004
[Licensing Authority Policy Statement]	section 349 Gambling Act 2005
[Local Transport Plan]	Section 108(3) of the Transport Act 2000
Plans and alterations which together comprise the Development Plan	(a) for Greater London and the metropolitan counties, section 27 of the Town and Country Planning Act 1990

	(b) for districts outside Greater London and the metropolitan counties, section 54 of that Act.
[Sustainable Community Strategy	Section 4 of the 2000 Act
Youth Justice Plan	Section 40 of the Crime and Disorder Act 1998

Note: Terms in brackets above refer to the name of the plan/strategy in legislation

- (ii) Any other matters required by law, or by this Constitution, to be approved by Full Council
- (iii) reserved to Full Council as a matter of local choice:
 - Health Inequalities Improvement Plan
 - Corporate Equalities Strategy
 - Food Law Enforcement Service Plan
 - Climate Emergency Strategy
 - Housing Strategy (including Council housing rents, establishment of renewal areas, housing investment plan, Housing Improvement Programme).
 - Waste Management Strategy

Council can, from time to time, add or change the above list of plans and strategies reserved to Full Council so as to comply with the law or as a matter of local choice where discretion is available.

- (iv) Any other matter which the City Mayor determines should be considered by Full Council
- (b) **Budget.**
Budget means any of the Council's General Fund Revenue Budget, the Housing Revenue Account Budget, or the Capital Programme. There may be one or more reports seeking approval to the Capital Programme.
- (c) **Housing Land Transfer**
Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 and 43 of the Housing Act 1985.

Article 5 – The City Mayor and the Executive

5.01 The roles and responsibilities of the City Mayor

The City Mayor is responsible for all of the Council's executive functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. The City Mayor will also:

- i. Recommend to Full Council the Policy Framework and Council Budget for approval and any subsequent amendments;
- ii. Make all executive decisions within and in furtherance of the agreed Policy Framework and Budget;
- iii. Recommend to Full Council the making of bye-laws; and

In exercising this role, the City Mayor will:

- i. In accordance with the Local Government Act 2000, appoint between two and nine serving Councillors, one of whom must be designated as the Statutory Deputy City Mayor with the others known as Deputy and Assistant City Mayors, to the Executive including:
 - o Appointing to and removing from the Statutory Deputy City Mayor position; and
 - o Appointing to and removing from Deputy / Assistant City Mayor positions.
- ii. Inform Full Council and the Monitoring Officer of appointments to Deputy City Mayor and Assistant City Mayor posts
- iii. Indicate the areas of responsibility undertaken by the Deputy and Assistant City Mayors and make this information publicly available via job descriptions which are published on the City Mayor's Internet pages. These areas of responsibility may be varied by the City Mayor from time to time.
- iv. Determine the scheme of delegation for the functions of the Deputy and Assistant City Mayors, known as the 'City Mayor's Scheme of Delegation' and maintain a written record of delegations to be publicly available. All delegations are contained on the decision pages of the Council website.
- v. Inform the Monitoring Officer of changes to the City Mayor's Scheme of Delegations.
- vi. Create and publish the Plan of Key Decisions.

5.02 Election of a City Mayor

The City Mayor will be a person elected to that position by the electors of the City in the Mayoral Election. In the event that a serving Councillor of the Council is elected as City Mayor, a vacancy shall be declared in that person's council seat and a by-election shall be held (if required) in accordance with the relevant legislation.

The term of office of the City Mayor will normally be four years. S/he will take office on the fourth day after his/her election and will continue in office until the fourth day after his/her successor is elected, unless s/he dies, is disqualified or resigns.

The City Mayor is a Member of the Council and is to be treated as a Member of the Council or a Councillor for the purposes of such laws as are specified by the Secretary of State in regulations and orders. Currently the principal provisions that relate are:

- i. Schemes for basic, attendance and special responsibility allowances for local authority members
- ii. the Local Authorities (Members' Interests) Regulations
- iii. Local Authorities (Indemnities for Members and Officers) Regulations
- iv. Code of Conduct

5.03 Appointment of Deputy and Assistant City Mayors

[Local Government Act 2000, Schedule A1]

The Deputy and Assistant City Mayors will be Councillors appointed to that position by the City Mayor.

The City Mayor may replace Deputy / Assistant City Mayors and the Statutory Deputy City Mayor at any time but otherwise the Statutory Deputy City Mayor shall remain in post for the duration of the City Mayor's term of office unless:

- a) s/he resigns from office;
- or
- b) s/he is no longer a Councillor.

The Statutory Deputy City Mayor shall have authority to exercise the City Mayor's powers only in the event that the City Mayor is unable to act at any time. If at any time the City Mayor is unable to act or if the office of City Mayor is vacant, the Deputy City Mayor shall act in his or her place.

5.04 Casual vacancies in the City Mayor and Executive roles

The City Mayor may appoint a Councillor to fill any position or vacancy which may arise in the Executive.

The provisions of Paragraph 1(8) of Schedule 1 of the Local Government Act 2000 shall apply if for any reason the City Mayor is unable to act in the office of City Mayor, or the office of City Mayor is vacant, AND the Statutory Deputy City Mayor

is unable to act or of the office of the Deputy City Mayor is vacant. In this event the Executive collectively must act in the City Mayor's place or must arrange for a member of the Executive to act in his/her place.

The provisions of Article 47 of **The Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001** apply where the City Mayor, Statutory Deputy City Mayor or Deputy / Assistant City Mayors is to be considered unable to act if he/she is either suspended from office or is unfit to act on health grounds.

Regulations 7 to 9 of **The Local Authorities (Elected Mayors)(Elections, Terms of Office and Casual Vacancies)(England) Regulations 2012** make provision for the holding of elections pursuant to the filling of a casual vacancy in the office of City Mayor.

5.05 Responsibility for functions

As described above the City Mayor will maintain and publish job descriptions on his/her internet page which describe, the portfolio of key responsibilities for the Deputy / Assistant City Mayors. In addition, the City Mayor will publish on the council's website his/her Scheme of Delegations in relation to the Deputy and Assistant City Mayor positions. The City Mayor may provide for discharge of executive functions by:

- (i) the City Mayor
- (ii) Deputy City Mayors
- (iii) Assistant City Mayors
- (iv) through collective meetings of the Executive including Sub Committees
- (v) an officer of the Council
- (vi) an Area Committee
- (vii) Joint Arrangements; or
- (viii) another Authority.

Matters not reserved (i.e. as defined in the City Mayor's Scheme of delegation) are delegated to the appropriate Director.

Unless the City Mayor decides otherwise, the Deputy and Assistant City Mayors, when exercising delegated functions, may arrange for the discharge of any of those functions under (iv), (v), (vi) and (vii) above.

The City Mayor may place limitations on delegations under (ii), (iii), (v) and (vi).

Where executive functions have been delegated, this does not prevent them from being discharged by the person or body who delegated them.

Any decision which is a responsibility of the City Mayor can be taken as an individual decision taking into account the following:

- i. There are additional requirements in relation to notice for 'Key decisions' (a definition of 'Key Decisions' can be found in Article 6, and the relevant procedure can be found in Rule 13 of Part 4B of this Constitution).
- ii. Regulations and guidance from Government require that decisions should be taken on the basis of due consultation and professional advice from officers. The accepted approach is via a written report.
- iii. If the issue is not a 'Key decision' the decision notice and report should be published as soon as practicable after the decision is made.
- iv. If the decision is a 'Key decision' the report must be published 5 clear days before the decision is made and the decision notice as soon as practicable after the decision is made.
- v. All decisions are subject to call-in in accordance with Rule 11 of Part 4D of this Constitution. .

5.06 Proceedings of the Executive

Proceedings of the Executive will take place in accordance with the City Mayor & Executive Procedure Rules set out in Part 4D of this constitution.

Article 6 – Key Decisions

Key Decisions are those which meet criteria laid down in legislation and the Council's criteria. Key Decisions will be recorded on the Plan of Key Decisions. Details regarding the procedure for Key Decisions are given in the Access to Information Procedure Rules in the supporting documents to this Constitution.

The Council's definition of Key Decision is an Executive decision which is likely:

- to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- to be significant in terms of its effects on communities living or working in two or more wards in the city.

Expenditure or savings will be regarded as significant if:

- (a) In the case of additional recurrent revenue expenditure, it is not included in the approved revenue budget, and would cost in excess of £0.5m p.a.;
- (b) In the case of reductions in recurrent revenue expenditure, the provision is not included in the approved revenue budget, and savings of over £0.5m p.a. would be achieved;
- (c) In the case of one off revenue spending or capital expenditure, a sum over £1m is to be committed on a scheme except where:
 - (i) The scheme has been specifically approved by Council; or
 - (ii) The scheme is not a City Council sponsored scheme, is not to take place within the city boundary (unless sponsored wholly by another public body) and constitutes City Council expenditure solely by virtue of the Council receiving and disbursing external grant (including accountable body arrangements).

In deciding whether a decision is significant account will be taken of: -

- Whether the decision may incur a significant social, economic or environmental risk
- The likely extent of the impact of the decision both within and outside of the city
- The extent to which the decision is likely to result in substantial public interest
- The existence of significant communities of interest that cannot be defined spatially in determining whether a decision is key.

A decision taken as part of a response to a declared emergency shall not be a key decision.

Article 7 – The Lord Mayor and other Civic/Ceremonial roles

7.01 Role and Function of the Lord Mayor

The Lord Mayor and, in his/her absence, the Deputy Lord Mayor or High Bailiff performs the following key roles:

Ceremonial Role

The Lord Mayor has the civic and ceremonial role of being Leicester's 'First Citizen', and acts as a symbol of authority, a symbol of an open society and provides an expression of social cohesion. The Lord Mayor's responsibilities are:

- To uphold and promote the purposes of the Constitution, and to interpret, with the advice of the Monitoring Officer, the Constitution when necessary.
- To chair meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community.
- To ensure that the Council Meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Executive are able to hold the Executive to account.
- To promote public involvement in the Council's activities.
- To attend civic and ceremonial functions for the Council.

Chairing the Council Meeting

Meetings of the Council will be chaired by the Lord Mayor, or in her/his absence, the Deputy Lord Mayor (or in the absence of the Deputy Lord Mayor as well, the High Bailiff). Should all three be absent the Council will elect a chair for the Meeting.

7.02 Appointment of the Lord Mayor

The Lord Mayor, Deputy Lord Mayor and High Bailiff will be elected at each Annual Meeting of the Council for a term of office expiring with the election of the next office holder. Casual vacancies arising during any year may be filled by election at a Council meeting.

7.03 Honorary Aldermen

The City Council may confer the title of Honorary Alderman on persons who have, in the opinion of the Council, rendered eminent services to the Council as past members of that Council but who are not then Councillors of the Council.

Such a decision must be made by a resolution passed by not less than two thirds of the members voting thereon at a special meeting of the Council. The title can only be

conferred upon past members of the Council who are not councillors at the date of that meeting.

An Honorary Alderman may attend and take part in such civil ceremonies as the Council may from time to time decide, but shall not, as such, have the right:

- To attend meetings of the Council or a Committee of the Council other than in the manner of a citizen of Leicester, or
- To receive any allowance or other payment under the Members Allowances Scheme.

Those appointed as Honorary Aldermen are invited to major civic events and other events where the Honorary Aldermen's personal knowledge and interests would add value to the occasion.

The following criteria were approved by Full Council at its meeting on 24 November 2011, with a further amendment at its meeting on 19 February 2020 in relation to the appointment of Honorary Aldermen:

- The title of Honorary Alderman should be awarded to a Councillor at the end of their front-line political career (i.e. they should not seek public office after being awarded the title if they should do so they should forgo the title).
- It should be awarded after significant service (for the avoidance of doubt this should be a period of more than one full term as a Councillor); and

The Councillor should not have previously held the position of Lord Mayor as former holders of this office are already recognised by the Council.

7.04 Honorary Freemen

- The City Council may admit to be Honorary Freemen of the place or area for which it has authority: persons of distinction, and
- persons who have, in the opinion of the authority, rendered eminent services to that place or area.

Such a decision must be made by resolution passed by not less than two thirds of the members voting thereon at a special meeting of the Council.

Article 8 – Scrutiny Committees

8.01 Appointment of Scrutiny Committees

The Council will appoint Overview and Scrutiny Committees (Scrutiny Committees) in accordance with the requirements of legislation, currently Section 21 of the Local Government Act 2000.

In Leicester the current arrangements are that Council has appointed 8 Scrutiny Committees. These are referred to as:

- Overview Select Committee (OSC)
- Scrutiny Commissions (currently 7) which concentrate on key areas of the Council's work.

At each Annual Meeting the Council will review and determine the number, membership and Terms of Reference of its Scrutiny Committees. The Council may decide to vary these from time to time.

The City Mayor, Deputy City Mayors and Assistant City Mayors may not be members of Scrutiny Committees, their Sub-Committees or task and finish groups.

The full current terms of reference of the Council's Scrutiny Committees are detailed in Part 3 of the Constitution.

8.02 Role

Scrutiny Committees hold the Executive and Partners to account by reviewing and scrutinising policy and practices. In particular Scrutiny Committees may: -

- i. review and scrutinise the decisions made by, and performance of, the City Mayor, Executive, Committees and Council officers.
- ii. develop policy, generate ideas, review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- iii. question the City Mayor, members of the Executive, committees and Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to initiatives or projects.
- iv. make recommendations to the City Mayor, the Executive, committees and the Council arising from the outcome of the scrutiny process.
- v. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance; and

- vi. question and gather evidence from any person (with their consent).
- (a) **Finance.** Scrutiny Committees may exercise overall responsibility for finances made available to them.
- (b) **Annual report.** Scrutiny Committees may report annually to Full Council on their work and make recommendations for future work programmes and amended working methods if appropriate.
- (c) **Work programme.** Scrutiny Committees shall design and be responsible for their annual work programme, subject to endorsement thereof by Overview Select Committee (OSC).

8.03 Proceedings of Scrutiny Committees

- (a) Scrutiny Committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of the Constitution.
- (b) Any Scrutiny Committee Member is able to place a matter relevant to the Scrutiny Committee's functions on its agenda for discussion, in accordance with the Scrutiny Rules.
- (c) A Scrutiny Committee does not have Executive powers and may not discharge any functions of the Council other than its Overview and Scrutiny role set out above.

Article 9 – Regulatory and other committees

9.01 Regulatory and other committees

The Council will, at its Annual Meeting, review and determine the Regulatory and Other Committees it considers necessary, together with their Terms of Reference. The Council may amend these from time to time. The current Terms of Reference of these committees are detailed in Part 3 of the Constitution. These Regulatory and other committees are not Scrutiny Committees within the terms of the law. They undertake various decision-making and other functions on behalf of Council, rather than undertaking scrutiny of the Executive.

Article 10 – The Standards Committee

10.01 Standards Committee

The Council will establish a Standards Committee. Sub-Committees (the Standards Advisory Board and the Hearing subcommittee) are to be created as and when required.

10.02 Role and Function

The Standards Committee will be responsible for promoting and maintaining high standards of conduct by Councillors and co-opted members and officers. It will have roles and functions as set out in Part 3 of this Constitution.

10.03 Composition

Membership

Membership will be determined by the Council each year at the Annual Meeting.

This may be varied by the Council from time to time. It will be composed of:

- Four Councillors; and,
- Five persons who are not Councillors or officers of the Council (Independent Members), who shall be appointed for any period as decided on by the Council.

Quorum

The quorum of the Standards Committee, and its associated Standards Advisory Board, shall be in accordance with the detailed provisions set out in Part 3 of the Constitution

10.04 Independent Members

Independent Members will be co-opted non-voting members of the Standards Committee and will have full voting rights when they sit on the Standards Advisory Board and Hearing subcommittee.

10.05 Chairing the Committee.

The Standards Committee will be chaired by an Elected Member. The Standards Advisory Board and Hearing subcommittee will be chaired by an Independent Member

Article 11 – Ward Community Meetings

The Council may appoint area committees as it sees fit.

11.01 Ward Community Meetings

Ward Community Meetings will not have decision making powers. Guidance on Ward Community Meeting objectives will be shown in Part 3 of this Constitution.

11.02 Access to information

Ward Community Meetings will comply with the access to information rules in Part 4 of this Constitution.

11.03 Executive members

A member of the Executive may serve on a Ward Community Meeting if otherwise eligible to do so as a Councillor.

11.04 Rules of Procedure

Rules of Procedure may be set by the Council for Ward Community Meetings.

Article 12 – Joint Arrangements

12.01 Arrangements to promote well being

The Council or the City Mayor, in order to promote the economic, social or environmental wellbeing of its area, may subject to any legislative constraints:

- 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.

12.02 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. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- b. The City Mayor may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- c. Except as set out below, the City Mayor may only appoint Executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- d. The City Mayor may appoint non-Executive members to a joint committee where the joint committee has functions for only part of the area of the Council, and that area is smaller than two fifths of the authority by area of population. In such cases the City Mayor may appoint to the joint committee any Councillor who is a member of a Ward which is wholly or partly contained within the area. Political balance requirements do not apply to such appointments.
- e. The City Mayor may also appoint non-Executive members to a joint committee discharging executive functions in relation to five or more local authorities, or in circumstances where the Executive function is required by statute to be discharged by a joint committee.
- f. Details of any joint arrangements including any delegations to joint committees will be listed on the Council's Internet page.

12.03 Access to information

- a. The Access to Information Rules in Part 4 of this Constitution apply to joint committees.

- b. If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.
- c. 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.

12.04 Delegation to and from other local authorities

- a. The Council may delegate non-executive functions to another local authority or, within legal constraints, the executive of another local authority.
- b. The City Mayor may delegate executive functions to another local authority or the Executive of another local authority where the law permits.
- c. The decision whether or not to accept such delegation from another local authority shall be reserved to the Council.

12.05 Contracting out

The Council and City Mayor 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, subsequent enabling legislation or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

Article 13 – Officers

13.01 Management structure

- a. **Officers:** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. The current respective functions and areas of responsibility of its most senior officers are shown in Parts 7 of this Constitution.
- b. **Head of Paid Service, Monitoring Officer and Director of Finance.** These roles are currently:-

STATUTORY ROLE	POST
Head of the Paid Service (Section 4(1) of the Local Government and Housing Act, 1989)	Chief Operating Officer
Monitoring Officer (Section 5(1) of the Local Government and Housing Act, 1989)	City Barrister and Head of Standards
Section 151 Officer (Section 151 of the Local Government Act, 1972)	Director of Finance

Such posts will have the functions described in Article 13.02-13.04 below.

The Council may, subject to legal constraints, designate other officers to perform the above statutory roles.

As required by law, Full Council must approve the designation of the Head of Paid Service, in accordance with the Council's Officer Employment Procedure Rules and all other legal requirements.

Further to Section 101 of the Local Government Act, 1972, Council has delegated to its Employees Committee the function of designating the Monitoring Officer and appointing a Director of Finance, in accordance with the Council's Officer Employment Procedure Rules and all other legal requirements.

- c. **Structure.** The Head of the Paid Service will determine and publicise a description of the overall management structure of the Council and deployment of officers. This is set out on the Council's website.

13.02 Functions of the Head of Paid Service

- a. **Discharge of functions by the Council.** The Head of Paid Service will report to Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions; the organisation of officers and the appointment and proper management of the authority's staff (Section 4(3) Local Government & Housing Act 1989) .

- b. **Restrictions on functions.** The Head of the Paid service may not be the Monitoring Officer, but may hold the post of Director of Finance if a qualified accountant.

13.03 Functions of the Monitoring Officer

- a. **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Director of Finance, the Monitoring Officer will report to the Full Council or to the City Mayor in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has 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. The Monitoring Officer will also give a ruling in cases where a Councillor queries their 'need to know' in relation to a request for information.
- b. **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 Council's Standards Committee.
- c. **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of any case tribunals.
- d. **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- e. **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions are in accordance with the budget and policy framework.
- f. **Providing advice.** The Monitoring Officer will provide advice on the scope and powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues to all councillors.
- g. **Maintaining 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 Councillors, staff and the public.
- h. **Restrictions on functions.** The Monitoring Officer cannot be the Director of Finance (when fulfilling the role of s151 Officer) or the Head of the Paid Service.

13.04 Functions of the Director of Finance

- a. Fulfilling to statutory function of the "Section 151 Officer"
- b. **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Director of Finance will report to the Full Council or to the City Mayor in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful

expenditure, or is unlawful and is likely to cause a loss or deficiency of if the Council is about to enter an item of account unlawfully.

- c. **Administration of financial affairs.** The Director of Finance will have responsibility for the administration of the financial affairs of the Council.
- d. **Contributing to corporate management.** The Director of Finance will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- e. **Providing advice.** The Director of Finance will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- f. **Give financial information.** The Director of Finance will provide financial information to the media, members of the public and the community.

13.05 Duty to provide sufficient resources to the Monitoring Officer and Director of Finance

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

13.06 Functions of the Director of Delivery, Communications and Political Governance

- a. **Proper Officer for access to information.** The Director of Delivery, Communications and Political Governance will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

13.07 Proper Officer appointments

Section 270(3), Local Government Act, 1972.

The Council is required by law to designate an officer as the Proper Officer to carry out other duties in addition to the above statutory roles. It may vary these from time to time within legal constraints. Its current designations are:

- (i) **The Director of Finance** is the Proper Officer for the acceptance of payment of all money due from an officer under Section 115(2) of the Local Government Act 1972.
- (ii) **The Director of Regulatory Services, North Northamptonshire Council** is the Proper Officer for the purposes of the "Chief Inspector of Weights and Measures" under the Weights and Measures Act 1985.
- (iii) **Monitoring Officer:**

In addition to being the Council's Monitoring Officer in accord with Section 5 of the Local Government and Housing Act, 1989, the City Barrister and Head of Standards shall perform the following Proper Officer functions:

<u>Statute</u>	<u>Function</u>
Local Government Act 1972	
S83(1) to (3)	The taking and acceptance of declaration of acceptance of office from Councillors.
S84	The acceptance of registration of office of Councillors.
S96(1) and (2)	The acceptance of general notice of prejudicial interest of Councillor.
100B(2)	Circulation of reports and agendas.
S100B(7)(c)	Supply of papers to the press
S100D(5)(a)	Identification of background papers.
S100F(2)	Identification of exempt information not available for members.
Schedule 12, para 4(2)(b)	The issue of the summons to the Council meetings.
The Local Election (Principal Areas) Rules 1986, rules 46-48	Receipt of documents from Returning Officer after election and safe custody of same.
Representation of the people Act 1983, Part II	Receipt and publication of names and addresses of election agents; receipt and custody of returns and declarations of election expenses from candidates and their agents.
S225(1)	The receipt of documents for deposit.
Registration Service Act 1953	Appointed for the purpose of the Act within powers detailed in the Leicestershire Registration Scheme 1997.
Local Government Act 1972	
S229(5)	Giving a certificate in relation to a photographic copy of a document.

S234(1)

The authentication of documents.

S238

The giving of a certificate in relation to evidence of bye-laws.

And be the Authority's Proper Officer for all other statutory functions not specified above.

In the absence of the Monitoring Officer, the Deputy Monitoring Officer shall deputise and perform the Monitoring Officer's functions.

13.08 Conduct

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

13.09 Employment

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

Article 14 – Decision-making

14.01 Responsibility for decision making

Council functions:

- i) The Council will determine and keep a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas of functions.

Executive functions:

- i) The City Mayor will determine and maintain a Scheme of Delegation for his executive powers and publish that on the council's website.

14.02 Principles of decision making

All decisions of the Council and the City Mayor (or where delegated) will be made in accordance with the following principles:

- a. proportionality (i.e. the action must be proportionate to the desired outcome).
- b. reasonableness (i.e. decisions must be properly reasoned to take into account all relevant matters and ignore all irrelevant factors).
- c. due consultation and the taking of professional advice from officers.
- d. respect for human rights.
- e. a presumption in favour of openness
- f. clarity of aims and desired outcomes
- g. clarity of options considered and the reasons for a decision.

14.03 Types of decisions

- a. **Council:** Full Council has reserved certain matters to itself for decision making either because of legal requirements or as a matter of local choice. Decision making on matters other than those reserved to Council as a matter of law or choice, are for the Executive .
- b. **City Mayor:** The City Mayor is responsible for all executive decisions as described in the City Mayor's Scheme of Delegation. Matters not reserved expressly to the City Mayor may be delegated either to the Deputy City Mayors, Assistant City Mayors, Committee or Officers.
- c. **Officers:** In practice, day to day decisions, whether they are Council or Executive matters are made by officers under delegated powers. In practice the Head of Paid Service and Directors can make arrangements for the discharge of responsibilities delegated to them.
- d. **Key decisions:** A Decision maker, whether it is the City Mayor, Deputy City Mayors, Assistant City Mayors, the Executive, a committee or an officer, may only make a Key Decision in accordance with the requirements of the City Mayor & Executive Procedure Rules set out in Part 4D of this Constitution.

The definition of a Key Decision will be as determined by the Council from time to time, having regard to the law and relevant guidance. The current definition of a Key Decision is set out at Article 6

Key Decisions will normally feature in the Plan of Key Decisions which is described in the Access to Information Procedure Rules in Part 4B of this Constitution.

14.04 Decision making procedure rules

The Council, City Mayor, the Executive and other committees must follow the relevant set of procedure rules as set out in Part 4 of this Constitution when considering any matter. Scrutiny Committees cannot make executive decisions.

14.05 Decision making by Council bodies acting as tribunals

If the Council, a Committee or an officer is 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, they will follow a proper procedure which accords with the requirements of natural justice and the rights to a fair trial contained in Article 6 of the European Convention on Human Rights.

14.06 Record of decisions

All decisions of the Council and its committees and sub-committees, the City Mayor and Executive Councillors exercising delegated powers, and any officers exercising delegated powers will be recorded in accordance with Part 4B – Access to Information Procedure Rules.

Article 15 – Finance, Contracts and Legal Matters

15.01 Financial management

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

15.02 Contracts

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

15.03 Legal proceedings

The Monitoring Officer the Heads of Law within the Legal Division and other such persons as Council or the Monitoring Officer may nominate, are authorised to institute, prosecute, defend, participate in or settle any proceedings in any case where such action is necessary to give effect to decisions of the Council, or in any case where the authorised officers consider that such action is necessary to protect the Council's interests.

The Monitoring Officer can authorise any officer to appear on behalf of the Council in legal proceedings in accordance with Section 223 of the Local Government Act 1972.

15.04 Authentication of documents in legal proceedings

Where a document is necessary in any legal procedure and proceedings on behalf of the Council, it will be signed by the Monitoring Officer or a Head of Law, unless any enactment otherwise authorises, or requires, or the Council has given the requisite authority to some other person.

15.05 Authority to sign contracts and other documents

The Head of Paid Service, the Monitoring Officer, a Head of Law and such other persons as the Council, City Mayor or the Monitoring Officer may nominate, are authorised to sign the following on behalf of the Council:

- a. any contract/ agreement under seal; and
- b. any contract/ agreement not under seal;
- c. any document necessary to give effect to a decision of the Council or any part of it.

Strategic or Divisional Directors or such other officers as Directors may nominate, are authorised to sign Small contracts/ agreements as defined in the Contract Procedure Rules where the contract/ agreement is on a Council Order Form or is in a standard form which has been endorsed as approved by the City Barrister and Head of Standards or other authorised officer for use in such circumstances.

The Common Seal of the Council may be applied in hard copy form or electronically to any document requiring the Common Seal of the Council.

15.06 Execution of contracts and legal agreements

All contracts and agreements may be executed on behalf of the Council in subject to and accordance with these rules by either:

- i. A single authorised signatory in wet ink or through such electronic signature solution as in place from time to time;
- ii. Two authorised signatories in wet ink or through such electronic signature solution as in place from time to time;
- iii. An authorised signatory with the affixing of the common seal (such seal may be either hard copy or electronically imposed through such electronic signature solutions as in place from time to time)

Where a contract or agreement has a value in excess of the lower limit for a Large Contract (as defined in the Contract Procedure Rules) it must be executed using either ii. Or iii. above only.

The Authorised signatories are as follows:

<p>Small Contracts and Agreement (excluding land transactions)</p>	<p>Strategic Directors (or such other officers they may nominate)</p> <p>Divisional Directors (or such other officers they may nominate)</p> <p>The Head of Paid Service</p> <p>The Monitoring Officer</p> <p>The Head of Law (Social Care & Safeguarding)</p> <p>The Head of Law (Commercial, Property & Regulatory)</p> <p>The Head of Law (Employment, Education & Litigation)</p> <p>or such other persons as the Council, City Mayor or the Monitoring Officer may nominate.</p>
<p>Medium Contracts, Large Contracts, PCR (OJEU threshold) Contracts and Agreements (including those with no monetary value)</p>	<p>The Head of Paid Service</p> <p>The Monitoring Officer</p> <p>The Head of Law (Social Care & Safeguarding)</p>

	<p>The Head of Law (Commercial, Property & Regulatory)</p> <p>The Head of Law (Employment, Education & Litigation)</p> <p>or such other persons as the Council, City Mayor or the Monitoring Officer may nominate.</p>
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15.07 Changes to arrangements

The Council can change the authorisations in this article to meet future organisational need.

Article 16 – Review and revision of the Constitution

16.01 Duty to monitor and review the Constitution

The Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Council will perform this role with support of such officers and Councillor working parties as the Council considers necessary.

16.02 Changes to the Constitution

- a. **Approval.** Changes to the Constitution will only be approved by the Full Council, save that the Monitoring Officer shall be empowered to make minor or consequential amendments (as demanded or compelled by law) to it from time to time, after consultation with the Elected Mayor, for the purposes of ensuring its lawfulness and consistency. The Monitoring Officer will report appropriately to Council where changes are made.
- b. **Changing the form of the Executive.** Before drawing up a proposal for a different form of the Executive, the Council must follow any process defined in Statute and take reasonable steps to consult with local electors and other interested parties in Leicester.

Article 17 – Suspension, Interpretation and Publication

17.01 Suspension of the Constitution

- a. **Limit to suspension.** The Articles of this Constitution may not be suspended. Any of the Rules of Procedure set out in Part 4 of this Constitution may be suspended, where the law permits, by the Full Council or by the body to which they apply, to the extent permitted within those Rules.
- b. **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors on the Council or other body as the case may be are present. The extent and duration of the suspension must be specified and will be proportionate to the *result* to be achieved, taking account of the purposes of the Constitution set out in Article 1.

17.02 Interpretation

The ruling of the Lord Mayor or chair of the meeting, as to any proceedings of the Council or other body to which it applies, shall not be challenged at any meeting of the Council, the Executive or Committee. Such ruling will have regard to the purposes of this Constitution contained in Article 1.

17.03 Publication

- a. The Monitoring Officer will ensure that a copy of this Constitution is made available to the City Mayor and each Councillor upon receipt of that individual's declaration of acceptance of office on first being elected to the Council.
- b. The Monitoring Officer will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- c. The Monitoring Officer will ensure that a summary of the Constitution is made widely available within the area and is updated as necessary.

LEICESTER CITY COUNCIL

CONSTITUTION

Part 3

Part 3 – Responsibility for Functions

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This section was approved by Council on 19/09/13.

PART 3 - RESPONSIBILITY FOR FUNCTIONS

INTRODUCTION

This document forms Part 3 of Leicester City Council's Core Constitution and describes how the functions and responsibilities are allocated between the Full Council and gives details of the Terms of Reference of bodies which hold key responsibilities.

FULL COUNCIL FUNCTIONS

Some matters are specifically reserved to Council and cannot be undertaken by the Executive.

This includes the Policy Framework and Budget which is defined in Article 4.02 of the Constitution and the matters detailed in Article 4.03 which the Council has reserved to itself:

LOCAL CHOICE FUNCTIONS

The Law (**The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Schedule 2**) provides that the Council has discretion whether to allocate certain functions and responsibilities to the City Mayor or to the Council. These functions are referred to as "Local Choice" Functions. Below is a Schedule showing how the Council has currently decided to allocate these functions between the Council and the City Mayor.

ALLOCATION OF "LOCAL CHOICE" FUNCTIONS BETWEEN COUNCIL AND THE CITY MAYOR

FUNCTION	RESPONSIBLE BODY
1. Leicestershire Act 1985: Section 10 (control of floodlighting) Section 16 (consent to projections) Section 18 (pedal cycles) (DC and RC) Section 48 (buildings used for storage of flammable substances)	Planning & Development Control Committee
2. Leicestershire Act 1985: Section 4 (interference with traffic signals etc) Section 5 (statutory undertakers' apparatus etc) Section 9 (recovery of expenses of fencing etc) Section 11 (vesting of former highway land) Section 12 (damage to footways etc) Section 13 (plans etc of new streets) Section 14 (temporary prohibition of traffic etc) Section 17 (provision of trees and shrubs) Section 41 (defacing of streets) Section 59 (provision of parking places in parks etc)	City Mayor

FUNCTION	RESPONSIBLE BODY
Section 60 (contribution towards provision of recreational facilities) Section 80 (insurance of visiting pupils) Section 83 (power to provide information) Section 84 (publication of bulletins etc) Section 85 (certain particulars to be furnished in writing) Section 86 (evidence of confirmation of committee decisions etc) Section 87 (training arrangements) Section 88 (recording of documents) Section 89 (microfilming of documents) Section 90 (restriction on use of armorial bearings)	
3. Leicestershire Act 1985: Making of byelaws Any other matter under the Leicestershire Act not covered above.	Full Council
4. Making arrangements for appeals against exclusion of pupils – section 67 of the School Standards and Framework Act 1998 (<i>“the 1998 Act”</i>).	City Mayor
5. Appointment of review panels established under regulations made under Sub-Section 4 of Section 34 (determination of claims and reviews) of the Social Services Act 1998	City Mayor
6. Making arrangements for admission appeals – section 94 of the 1998 Act	City Mayor
7. Making arrangements for appeals by governing bodies – section 95 of the 1998 Act.	City Mayor
8. Making of arrangements for questions on police matters at meetings of the Council	Council
9. Appointments to the Police Authority (the Council makes nominations to a Joint Appointing Committee)	City Mayor
10. Any function relating to contaminated land, other than policy matters reserved for Full Council.	City Mayor
11. Control of pollution and the management of air quality	City Mayor
12. Control, inspection and investigation in relation to noise and other statutory nuisances.	City Mayor
13. Obtaining information under section 330 of the Town and Country Planning Act 1990 as to interests in land;	

FUNCTION	RESPONSIBLE BODY
<p>Obtaining information under section 16 of the Local Government (miscellaneous Provisions) Act 1976 as to persons interested in land.</p> <p>a. in connection with functions which are the responsibility of the City Mayor.</p> <p>b. in connection with functions which are not the responsibility of the City Mayor.</p>	<p>a. City Mayor</p> <p>b. Planning & Development Control Committee</p>
<p>14. Making agreements for execution of highways works.</p>	<p>City Mayor</p>
<p>15. Making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.</p>	<p>City Mayor</p>
<p>16. The appointment of any individual in which they represent the Authority—</p> <p>(a) to any office other than an office in which he is employed by the authority;</p> <p>(b) to any body other than—</p> <p>(i) the authority;</p> <p>(ii) a joint committee of two or more authorities; or</p> <p>(iii) to any committee or sub-committee of such a body,</p> <p>and the revocation of any such appointment under a or b shall be undertaken by the same responsible body.</p>	<p>a. City Mayor</p> <p>b. Council has delegated this function to the Director of Delivery, Communications and Political Governance in consultation with relevant Group Member</p>

OTHER COUNCIL FUNCTIONS

1. Council functions which are not reserved to Full Council can be delegated to committees and/or officers.
2. The Council has established the following Regulatory Committees: - a Planning & Development Control Committee, an Employees Committee, a Standards Committee, an Audit and Risk Committee, a Licensing and Public Safety Committee together with Sub-Committees and a Health & Wellbeing Board. These are standing committees which the Council can vary from time to time.
3. Committees can delegate to Officers. Where matters are not specifically reserved to Council or a Committee, they are delegated to the Head of Paid Service (HoPS) or *Director who has responsibility for the relevant function.

4. All Council functions which have not been placed within the remit of one of its committees, and which have not been reserved to Full Council are delegated to the Head of Paid Service (HoPS) or Director who has responsibility for the relevant function.

Even where the Head of Paid Service or a Director has delegated authority, they should consider if it is appropriate to consult relevant lead members; that is where the circumstances are particularly sensitive or if the decision in question involves significant changes to policy or strategy. Following consultation, it may be considered appropriate to report the matter to Council or an appropriate committee.

PLANNING AND DEVELOPMENT CONTROL COMMITTEE

All matters within the Terms of Reference of the Planning and Development Control Committee are delegated to the Director of Planning, Development and Transportation under the Scheme of Delegation approved by the Committee.

Functions of the Committee

To exercise the powers and duties of the Council with regard to development control and to exercise all Non-Executive powers and duties as the Local Planning Authority and those Non-Executive Highways functions of the Council which are not within the remit of the Licensing and Public Safety Committee.

MATTERS RESERVED TO THE PLANNING AND DEVELOPMENT CONTROL COMMITTEE: -

1. Matters of strategic significance relating to the Committee's Terms of Reference.
2. To keep under review, comment and advise on policies proposed or made through executive powers
3. To recommend to Council the making of byelaws within the Committee's Terms of Reference.
4. Making opposed regulations, orders, plans and schemes within the Committee's terms of reference.
5. Such other matters as the Committee may from time to time reserve to itself for decision.

LICENSING AND PUBLIC SAFETY COMMITTEE

TERMS OF REFERENCE

1. To secure the health and comfort of the persons living or working in or visiting the City by requiring the observance of proper standards by persons owning or occupying property in or using the streets or other public places in the City.
2. All licensing and registration functions of the Council with regard to the following:-

Animal welfare, including:

- Sale of pet animals
- Animal boarding establishments
- Riding establishments
- Dog Breeding establishments
- Dangerous Wild Animals
- Zoos

Distribution of free printed matter

Exposure of goods for sale in streets (Street Trading)

Gambling Act 2005

Hackney carriages, private hire vehicles, private hire operators, hackney/private hire drivers

House to house collections

Licensing Act 2003

Scrap metal dealers

Sex establishment licensing

Skips, scaffolding and deposits on the highway

Street Cafes

Street collections

Caravan Sites

Tattooing, Body Piercing, Ear Piercing, Acupuncture, Electrolysis and Micro-pigmentation registration

Hairdressing registration

Supply of adult fireworks licence

Storage of explosives licence

3. To determine the issue of all statutory licences, approvals, certificates and consents and the maintenance of all statutory registers except in any case where a specific matter falls within the Terms of Reference of another Committee or Sub-Committee of Council.
4. All matters within the Terms of Reference of the Licensing and Public Safety Committee which are not reserved to Full Council, or this Committee as stated below, or to a Licensing Sub-Committee are delegated to the Director Neighbourhoods & Environmental Services.

5. To enforce through its sub-committees/officers any other non-executive licensing legislation which the Council is required or empowered to enforce.
6. To exercise through its sub-committees/officers the Council's power to take legal proceedings in the public interest in relation to matters within the Committee's Terms of Reference.
7. To keep under review, comment on and provide advice to the City Mayor on policies relating to licensing and registration functions of the Council.

MATTERS RESERVED TO THE LICENSING AND PUBLIC SAFETY COMMITTEE:-

1. Non-executive policy developments of strategic significance relating to the above Terms of Reference.
2. Such other matters as the Committee may from time to time reserve to itself for decision.

LICENSING SUB-COMMITTEES

TERMS OF REFERENCE

The Terms of Reference of a Licensing Sub-Committee shall include the functions of the Licensing and Public Safety Committee with the exception of the consideration of policy issues, which the Licensing and Public Safety Committee has reserved to itself.

MATTERS RESERVED TO THE LICENSING ENFORCEMENT SUB COMMITTEE

1. Applications for a licence, consent or permit where a representation has been received from a ward councillor, a member of the public or an external organisation, (excluding the Licensing Act 2003 and Gambling Act 2005).
2. Applications for a licence, consent or permit where the Director Neighbourhoods & Environmental Services considers that the existing policy does not provide sufficient clarity on determining the application and/or where it would be more appropriate for the application to be determined by the Sub-Committee.
3. Applications for a licence, consent or permit which the law determines cannot be taken by an officer.

MATTERS RESERVED TO THE LICENSING HEARINGS SUB-COMMITTEE

1. Decisions required under the Licensing Act 2003 or the Gambling Act 2005, which the law determines cannot be taken by an officer.
2. Decisions required under the Licensing Act 2003 or the Gambling Act 2005 where the Director Neighbourhoods & Environmental Services considers that the existing policy does not provide sufficient clarity on determining the application and/or where it would be more appropriate for the application to be determined by the Sub-Committee.

All matters within the Terms of Reference of a Licensing Sub-Committee which are not reserved to Full Council, the Licensing and Public Safety Committee or a Sub-Committee as stated above, are delegated to the Director Neighbourhoods & Environmental Services.

N.B. The City Council's Constitution Council Procedure Rule Part 4A rule 44 (i) (iv) states that decisions which, in the opinion of the Monitoring Officer, are of a quasi-judicial nature, which includes the decisions of a Licensing Sub-Committee may not be the subject of an "Objection".

EMPLOYEES COMMITTEE

TERMS OF REFERENCE (to be read in conjunction with Part 4I)

1. To determine formal disciplinary, capability and sickness procedure appeals.
2. To act as the Council's Remuneration Committee
3. To undertake the recruitment of and oversee the appointment, training, transfer between departments, promotion, relegation and dismissal (all subject to legislative constraints regarding statutory officers) in respect of:
 - i. The Head of Paid Service
 - ii. Strategic Directors
 - iii. Divisional Directors
 - iv. And any officer who reports directly to a Strategic Director, or Head of Paid Service for all or most of their duties (excluding anyone whose duties are solely secretarial or clerical or otherwise in the nature of support services)
4. To designate one of the Council's officers as the Monitoring Officer as required by section 5(1) of the Local Government and Housing Act, 1989, in accord with the Council's Officer Employment Procedure Rules and all other legal requirements.
5. To appoint one of the Council's officers as Director of Finance, being an officer responsible for the proper administration of the Council's financial affairs as required by section 151 of the Local Government Act, 1972, the appointment to be made in accord with the Council's Officer Employment Procedure Rules and all other legal requirements.
6. To appoint Proper Officers on behalf of the Council for all statutory purposes further to Section 270(3), Local Government Act, 1972.

Membership

1. Employees Committee shall be a panel of five members convened by the Monitoring Officer in consultation with the City Mayor or political group whips, as appropriate.
2. The Committee shall be subject to the rules on political balance.
3. The Committee's quorum shall be three.
4. Upon appointment the City Mayor or political group whips as appropriate shall determine, in consultation with the Monitoring Officer, who shall be appointed as Chair of the meeting.

5. The Monitoring Officer, (or in her or his absence or ability to act her/his Deputy), will call all meetings of the Committee and determine the venue and time of the meeting.
6. The Chair of the meeting shall be consulted by the Monitoring Officer as to the business to be transacted at the meeting.

AUDIT & RISK COMMITTEE

Terms of Reference

(Includes changes agreed at Annual Council 19 May 2022)

1. Constitution & Purpose

The Audit & Risk Committee is a key component of the Council's corporate governance framework. The Committee reports to the Council and its purpose is to provide those charged with governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and governance processes.

It fulfils the role of 'the Board' for the purposes of the Public Sector Internal Audit Standards.

The Terms of Reference of the Committee will comply with Part 4a of the Constitution unless explicitly detailed below.

2. Membership

The Committee shall comprise nine Members, made up of eight Non-Executive Elected Councillors and one Independent Person. A quorum of at least three Councillors will be required at all meetings. The Independent member shall be a non-voting co-optee of the Committee.

The Committee must remain apolitical, displaying unbiased attitudes, treating auditors, officers, the executive and management equally.

3. Attendance by officers

The Director of Finance (S151) or their nominated officer(s) and the designated Head of Internal Audit Service shall normally attend meetings. There is a standing invitation to the Council's appointed External Auditor to attend all meetings.

Other officers who will attend as required, including at the request of the Chair.

4. Frequency of meetings and agendas

Meetings shall be held not less than four times a year.

5. Duties

The duties of the Committee shall be as set out in the annexed schedule to these Terms of Reference.

To support and assist Committee members undertaking their duties and extending their knowledge, regular briefings or training will be provided by officers.

6. Authority

The Committee has the responsibilities detailed in Annex 1. The Committee is authorised by the Council to investigate any activity within its terms of reference.

It is authorised to seek any information it requires from any officer and all officers are directed to co-operate with any request made by the Committee. The Chair will advise the Chief Operating Officer as the Head of Paid Service if it has exercised this authority to seek information (other than routine information) from any officer, setting out the information required and the circumstances underlying the request.

The Committee is authorised by the Council, if considered necessary, to secure the attendance of third parties with relevant experience and expertise provided that the Chair notify the Chief Operating Officer as the Head of Paid Service before any fees for such attendance are agreed.

7. Accountability

The Committee will undertake an annual review of its effectiveness (including where it has added value and supported improvement).

The outcome of this annual review and the Committee's activity will be reported to the Council each year.

Duties of the Audit & Risk Committee

1. Audit Framework

1.1 Internal Audit

- To fulfil the role of 'the Board' for the purposes of the Public Sector Internal Audit Standards (the PSIAS).
- To review and approve: -
 - The Internal Audit Charter which defines the purpose of the internal audit function.
 - The risk-based internal audit plan, including resource requirements.
 - The Head of Internal Audit Service's annual report containing an opinion on the overall adequacy and effectiveness of the Council's control environment, and conformance to the PSIAS.
- To receive regular reports on progress against the internal audit plan, containing activity undertaken, summaries of key findings, issues of concern and action in hand.
- To review conformance to the principles of the CIPFA Statement on the Role of the Head of Internal Audit in Public Service Organisations, and to support any improvements required.
- To contribute to and support an external quality assessment of the internal audit function which is a requirement of PSIAS to take place at least once every five years.
- To review any proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.

1.2 External Audit

- To consider, comment upon and note the arrangements chosen by the Council to select and appoint its statutory external auditor.
- To review the External Auditor's disclosure of independence and objectivity. To satisfy itself that no issues with compliance with ethical standards or problems with audit quality have been raised.
- To consider and note the annual audit fees letter and the assumptions supporting the fees.
- To consider the scope and depth of all external audit plans, reports and audit risk assessments.
- To consider the External Auditor's ISA 260 Report to 'Those Charged with Governance'. This contains: -
 - key findings arising from the audit of the Council's financial statements;

- the Auditor's assessment of the Council's arrangements to secure value for money (VFM) in its use of resources; and
 - the requirement for members of the Committee to authorise the Director of Finance to sign the letter of representation to the External Auditor from the Council in connection with the audit of the Council's financial statements.
- To note the External Auditor's annual report on the claims and returns certified for the Council.
 - To ensure that non-audit work by the External Auditor is in accordance with the Council's *Policy for Engagement of External Auditors for Non-Audit Work* and report any such instances to the Council.

2. Counter Fraud and Investigations

- To review and approve, on a triennial basis (unless significant changes in legislation or circumstances dictate otherwise), the Council's policy and procedures for: -
 - i. Anti-Fraud (including Bribery and Corruption)
 - ii. Disclosure (whistleblowing)
- To note the outcomes of any review of the Council's conformance to the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption.
- To receive and note reports on the performance of the counter fraud function and outcomes from the Council's participation in the National Fraud Initiative (NFI).
- To consider regular reports on the Council's application of the Regulation of Investigatory Powers Act (RIPA) and the outcomes of any inspections and approve the adoption of any related policies.

3. Statutory Financial Reporting

- To review and approve the annual statutory statement of accounts and the annual Letter of Representation on behalf of the Council.
- To bring to the attention of the Council any concerns arising from the financial statements or from the audit.
- To receive periodic reports providing updates on accounting and financial developments.

4. Risk Management and Insurance

- To review and challenge the adequacy and effectiveness of the Council's overall risk management framework, specifically to: -
 - i. Consider and approve, on an annual basis, the Council's Corporate Risk Management Policy Statement & Strategy.

- ii. Consider and approve, on an annual basis, the Council's Corporate Business Continuity Management Policy Statement and Strategy, ensuring it is compliant with the statutory duties required by the Civil Contingencies Act 2004 and continues to align to international and national standards and good practice guidelines.
- iii. Review reports in respect of the status of key current and emerging risks and internal controls relating to those risks, including the Operational and Strategic Risk Registers) and partnerships with other organisations.
- iv. Receive and note the annual report on the Council's insurance arrangements and its claims performance.

5. Governance and Assurance Frameworks

- To satisfy itself that the Council's assurance statement including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it, and demonstrate how governance supports the achievement of the Council's objectives. The Committee's responsibilities are to:
 - i. Review the adequacy of the Council's assurance framework through the annual review of its system of internal control.
 - ii. Review and approve the Council's Local Code of Corporate Governance prepared in accordance with the CIPFA/SOLACE Good Governance Framework and the statutory requirement for producing an Annual Governance Statement.
 - iii. Note any reports providing updates on assurance, risk or governance related developments

6. Complaints

- To consider an annual report on complaints, including the Local Government and Social Care Ombudsman's annual review letter and recommendation.
- To consider and decide on appropriate actions relating to the Council's compliance with its own and other published or regulatory policies, Acts, standards and controls.
- To consider ad-hoc LGSCO reports.

7. Procurement

- To receive and note the annual report setting out the Council's performance against the Procurement Plan and compliance with the Contract Procedure Rules (including data on waivers).
- To consider any proposals for changes to the Rules to be made to Full Council and to review any changes to the Rules made by the City Barrister or any changes to thresholds.

- To seek assurance that the Council has appropriate arrangements to identify and manage risks, ensure good governance and obtain assurance on compliance in its procurement activity.

8. Other Matters

- To consider, approve or make recommendations in respect of any other matters referred to it by the City Mayor, Chief Operating Officer (as the Head of Paid Service) or a Director or any Council body.
- To consider any relevant matters reserved for Member-level decision as detailed in Rules of Procedure.

STANDARDS COMMITTEE & SUB-COMMITTEES

TERMS OF REFERENCE

1. To oversee and promote the Council's arrangements to ensure and maintain probity and the highest standards of governance in the conduct of business by members (including co-opted members) and officers.
2. To oversee and advise Full Council and the City Mayor on matters relating to the Council's corporate governance and ethical framework.
3. To receive the Council's annual Corporate Governance Review Statement.
4. To oversee, promote, monitor observance and recommend necessary change to Members' and officers' Codes of Conduct and Political Conventions.
5. To oversee and ensure the provision of appropriate training to Members and officers to enable them to adhere at all times to the provisions of the Council's Political Conventions and governance arrangements.
6. To appoint a subcommittee (the Standards Advisory Board or where appropriate, a Hearing Panel) to scrutinise, hear and determine appropriate allegations (as set out in the Authority's "*Arrangements for dealing with Standards Complaints*") that a Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct.
7. Save in exceptional circumstances, to accept the recommendations of the subcommittee who have determined that an Elected or Co-opted Member of the Council has failed to comply with the City Council's Code of Conduct for Members, including its recommendations as to the appropriate remedy or sanction for such breach.
8. To consider under Sections 1 and 2 of the Local Government and Housing Act 1989:-
 - (a) any application received from any officer of the Council for exemption from political restriction in respect of the post held by that officer and may direct the Council that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Council under Section 2(2) of that Act; and,
 - (b) upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Council under Section 2(2) of the 1989 Act, and may direct the Council to include a post in that list.
9. Temporary appointments of Independent Members may be made in accordance with the law and upon appropriate advice from the Monitoring Officer
10. The Standards Committee:

- Composition - The Standards Committee shall comprise nine Members, made up of four Elected Councillors and five Independent Members. The Independent Members shall be co-opted non-voting members of the Standards Committee, and it shall be chaired by an Elected Councillor. The Councillor make-up of the Committee will, wherever possible, reflect the political balance of the Council
 - Quorum – The quorum for a meeting of the Standards Committee shall be three Councillor Members
 - Frequency of Meetings –The Standards Committee will meet as and when required.
11. The subcommittee (Standards Advisory Board and Hearing Panel):
- Composition – The subcommittee shall comprise nine Members, made up of four Elected Councillors and five Independent Members. The Independent Members shall be co-opted voting members of the Board, and it shall be chaired by an Independent Member.
 - Quorum – The quorum for a meeting of the subcommittee shall be three, with a majority or equal number of Independent Members (with the Independent Chair having the casting vote)
 - Frequency of Meetings –The relevant subcommittee will meet as and when required.
12. The role of the Independent Person (IP) – the Independent Person is not a member of either the Standards Committee or its subcommittees. He/she remains completely neutral to the political and scrutiny process and works closely with the Monitoring Officer on individual complaints at the initial decision and review phases. He/she does remain a standing invitee to meetings of the relevant subcommittee and, will attend subcommittee meetings to offer advice on the progression of individual complaints, which may or may not be adopted by the subcommittee.

Matters Reserved to the Committee:

1. All matters of significance in respect of policy, governance or training are reserved to the Committee.
2. All matters within the Terms of Reference of the Standards Committee which are not reserved to Full Council or this Committee, either by legislation, regulation or local determination, are delegated to the City Barrister and Head of Standards.

LEICESTER CITY HEALTH AND WELLBEING BOARD

Terms of Reference

(As amended at the Leicester City Council meeting on 16 May 2019)

Introduction

In line with the Health and Social Care Act 2012, the Health & Wellbeing Board is established as a Committee of Leicester City Council.

The Health & Wellbeing Board operated in shadow form since August 2011. In April 2013, the Board became a formally constituted Committee of the Council with statutory functions and met for the first time on 11 April 2013.

1 Aim

To achieve better health, wellbeing and social care outcomes for Leicester City's population and a better quality of care for patients and other people using health and social services.

2 Objectives

- 2.1 To provide strong local leadership for the improvement of the health and wellbeing of Leicester's population and in work to reduce health inequalities.
- 2.2 To lead on improving the strategic coordination of commissioning across NHS, adult social care, children's services and public health services.
- 2.3 To maximise opportunities for joint working and integration of services using existing opportunities and processes and prevent duplication or omission.
- 2.4 To provide a key forum for public accountability of NHS, public health, social care for adults and children and other commissioned services that the Health & Wellbeing Board agrees are directly related to health and wellbeing.

3 Responsibilities

- 3.1 Working jointly, to identify current and future health and wellbeing needs across Leicester City through revising the Joint Strategic Needs Assessment (JSNA) as and when required. Preparing the JSNA is a statutory duty of Leicester City Council and Leicester City Clinical Commissioning Group.
- 3.2 Develop and agree the priorities for improving the health and wellbeing of the people of Leicester and tackling health inequalities.

- 3.3 Prepare and publish a Joint Health and Wellbeing Strategy (JHWS) that is evidence based through the work of the Joint Strategic Needs Assessment (JSNA) and supported by all stakeholders. This will set out strategic objectives, ambitions for achievement and how we will be jointly held to account for delivery. Preparing the JHWS is a statutory duty of Leicester City Council and Leicester City Clinical Commissioning Group.
- 3.4 Save in relation to agreeing the JSNA, JHWS and any other function delegated to it from time to time, the Board will discharge its responsibilities by means of recommendation to the relevant partner organisations, who will act in accordance with their respective powers and duties
- 3.5 Ensure that all commissioners of services relevant to health and wellbeing take appropriate account of the findings of the Joint Strategic Needs Assessment and demonstrate strategic alignment between the JHWS and each organisation's commissioning plans.
- 3.6 Ensure that all commissioners of services relevant to health and wellbeing demonstrate how the JHWS has been implemented in their commissioning decisions.
- 3.7 To monitor, evaluate and annually report on the Leicester City Clinical Commissioning Group performance as part of the Clinical Commissioning Groups annual assessment by the national Commissioning Board.
- 3.8 Review performance against key outcome indicators and be collectively accountable for outcomes and targets specific to performance frameworks within the NHS, Local Authority and Public Health.
- 3.9 Ensure that the work of the Board is aligned with policy developments both locally and nationally.
- 3.10 Provide an annual report from the Health and Wellbeing Board to the Leicester City Council Executive and to the Board of Leicester City Clinical Commissioning Group to ensure that the Board is publicly accountable for delivery.
- 3.11 Oversee progress against the Health and Wellbeing Strategy and other supporting plans and ensure action is taken to improve outcomes
- 3.12 The Board will not exercise scrutiny duties around health and adult social care directly. This will remain the role of the relevant Scrutiny Commissions of Leicester City Council. Decisions taken and work progressed by the Health & Wellbeing Board will be subject to scrutiny by relevant Scrutiny Commissions of Leicester City Council.
- 3.13 The Board will need to be satisfied that all commissioning plans demonstrate compliance with the Equality Act 2010, improving health and social care

services for groups within the population with protected characteristics and reducing health inequalities.

3.14 The Board will agree Better Care Fund submissions and have strategic oversight of the delivery of agreed programmes.

4 Membership

Members:

Up to five Elected Members of Leicester City Council (5)

- The Executive Lead Member for Health (1)
- Four Elected Members nominated by the City Mayor (4)

Up to six representatives of the NHS (6)

- The Co -Chair of the Leicester City Clinical Commissioning Group (1)
- A further GP representative of the Leicester City Clinical Commissioning Group (1)
- The Managing Director of the Leicester City Clinical Commissioning Group (1)
- The Locality Director Central NHS England – Midlands and East (1)
- The Chief Executive of University Hospitals NHS Trust (1)
- The Chief Executive of Leicestershire Partnership NHS Trust (1)

Up to four Officers of Leicester City Council (4)

- The Strategic Director of Social Care and Education (Leicester City Council) (1)
- The Director of Public Health (Leicester City Council) (1)
- Two officers nominated by the Chief Operating Officer (2)

Up to eight further representatives including Healthwatch Leicester/Other Representatives (8)

- One representative of the Local Healthwatch organisation for Leicester City (1)
- Leicester City Local Policing Directorate, Leicestershire Police (1)
- The Leicester Leicestershire and Rutland Police and Crime Commissioner (1)
- Chief Fire and Rescue Officer, Leicestershire Fire & Rescue Service (1)
- Two other people that the local authority thinks appropriate, after consultation with the Health and Wellbeing Board (2)
- A representative of the city's sports community (1)
- A representative of the private sector/business/employers (1)

5 Quorum & Chair

5.1 For a meeting to take place there must be at least six members of the Board present and at least one representative from each of the membership sections:

- Leicester City Council (Elected member)
- Leicester City Clinical Commissioning Group or NHS England
- One senior officer member from Leicester City Council
- Local Healthwatch/Other Representatives

5.2 Where a meeting is inquorate those members in attendance may meet informally but any decisions shall require appropriate ratification at the next quorate meeting of the Board.

5.3 Where any member of the Board proposes to send a substitute to a meeting, that substitute's name shall be properly nominated by the relevant 'parent' person/body and submitted to the Chair in advance of the meeting. The substitute shall abide by the Code of Conduct.

5.4 The City Council has nominated the Executive Lead for Health to Chair the Board. Where the Executive Lead for Health & Wellbeing is unable to chair the meeting, then one of the other Elected Members shall chair (noting that at least one Elected Member must be present in order for the meeting to be declared quorate)

6 Voting

6.1 The City Council at its meeting on 29 May 2014 resolved to disapply Section 13(1A) of the Local Government and Housing Act 1989 such that the four local authority officers on the Board will not exercise voting rights.

6.2 Any representatives of bodies asked to attend meetings of the Board as 'Standing Invitees' by the Board shall not have a vote.

6.3 All other members will have an equal vote.

6.4 Decision-making will be achieved through consensus reached amongst those members present. Where a vote is required decisions will be reached through a majority vote of voting members; where votes are equal the chair will have a second and casting vote.

7 Code of conduct and member responsibilities

All voting members are required to comply with Leicester City Council's Code of Conduct, including submitting a Register of Interests.

In addition, all members of the Board will commit to the following roles, responsibilities and expectations:

7.1 Commit to attending the majority of meetings

7.2 Uphold and support Board decisions and be prepared to follow through actions and decisions obtaining the necessary financial approval from their organisation for the Board proposals and declaring any conflict of interest

- 7.3 Be prepared to represent the Board at stakeholder events and support the agreed consensus view of the Board when speaking on behalf of the Board to other parties. Champion the work of the Board in their wider networks and in community engagement activities.
- 7.4 To participate in Board discussion to reflect views of their partner organisations, being sufficiently briefed to be able to make recommendations about future policy developments and service delivery
- 7.5 To ensure that communication mechanisms are in place within the partner organisations to enable information about the priorities and recommendation of the Board to be effectively disseminated.

8 Agenda and Meetings

- 8.1 Administration support will be provided by Leicester City Council.
- 8.2 There will be standing items on each agenda to include:
- Declarations of Interest
 - Minutes of the Previous Meeting
 - Matters Arising
 - Updates from each of the working subgroups of the Health & Wellbeing Board.
- 8.3 Meetings will be held a minimum of four times a year and the Board will meet in public and comply with the Access to Information procedures as outlined in Part 4b of the Council's Constitution.

Version 9.5

As amended at Council on 16 May 2019

THE CITY MAYOR

The City Mayor is responsible for the allocation and discharge of all executive functions and may decide how executive functions are to be exercised. These are the functions of the City Mayor set out in Article 5 and those allocated to the City Mayor as local choice functions to the City Mayor as in Part 3. Unless reserved the City Mayor may delegate any matters.

Unless the City Mayor decides otherwise, the City Mayor & Executive, where exercising functions, may arrange for the discharge of any of those functions by a committee of the Executive, or an officer of the Council.

Unless the City Mayor decides otherwise, an individual Deputy City Mayor or Assistant City Mayor, when exercising delegated functions, may arrange for the discharge of any of those functions by an officer of the Council.

Unless the City Mayor decides otherwise, a committee of the Executive, where exercising functions, may arrange for the discharge of any of those functions by an officer of the Council.

In the case of a declared emergency, Finance Procedure Rules may provide for different arrangements for the discharge of Executive functions.

CITY MAYOR & EXECUTIVE

Article 5 of the Constitution sets out the composition and arrangements for appointments to the Executive.

Current areas of responsibility for Executive Members are recorded in the form of job descriptions on the City Mayor's Internet pages. Any delegation to the Deputy and Assistant City Mayors will be detailed in the City Mayor's Scheme of Delegation which is available on the council's website.

Any Committees established by the Executive will have clear Terms of Reference and be incorporated into the City Mayor's Scheme of Delegation.

Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

Decisions falling across more than one area of Deputy and Assistant City Mayor responsibility will be subject to consultation with all relevant Executive Members.

WARD COMMUNITY MEETINGS

TERMS OF REFERENCE

1.1 The Purpose of a Ward Community Meetings is:

To bring people together to take action to improve the quality of life for people living in the Ward. However, Ward Community Meetings are not the only mechanism for achieving effective engagement at Ward level, and Members may use other means as are appropriate to fulfil their objectives at Ward level.

1.2 Objectives of the Ward Community Meeting

- a) Involve residents in local decision-making.
- b) Work with residents to find solutions to local issues.
- c) Work with local partners.
- d) Express views when consulted by the council and partners.
- e) Develop, monitor and review plans affecting the neighbourhood.
- f) Monitor quality and performance of services in the neighbourhood provided by the Council and its partners.
- g) Assist the Council's scrutiny committees with the development of policy and scrutiny of executive decisions.
- h) Refer issues to the Council
- i) Exercise functions, powers and duties delegated to the Ward Community Meeting by the Council or the City Mayor.

2. How the Ward Community Meetings Operate

I.1 Number of Meetings

- a. There will only be one Ward Community Meeting established in each ward.
- b. Ward Community Meetings may agree to form joint committees or hold joint community meetings with other wards as appropriate.
- c. The City Mayor and Executive members may attend Ward Community Meetings without invitation.

2.2 Membership

Ward Community Meeting members will be the Councillors for the ward.

2.3 Invitees

Individuals and groups will be encouraged to attend and participate in the meetings, including:

- a) Local people who should work or live in the Ward.

- b) Housing Associations
- c) Health Trusts
- d) Police
- e) Fire and Rescue Services
- f) Tenant and Residents groups
- g) Community Groups
- h) Others as decided by the Ward Community Meeting.

2.4 Ward Community Budget

- a) Each Ward will have a budget aligned to it by the City Mayor.
- b) The principle for allocating resources should be to implement priorities within the Ward.
- c) Budget expenditure decisions must be in accordance with Council's Budget and Policy Framework, Contract and Finance Procedure rules. Legal and financial implications must be considered and taken into account, where necessary.
- d) Recommendations for expenditure will be referred to the appropriate Director who will consult the Executive Member as appropriate. No action or expenditure should be incurred contrary to officer advice without referral to the City Mayor.

2.5 Meetings

- a) Where they take place, there will be up to 3 meetings per year at appropriate intervals or as considered appropriate by Ward Councillors; and
- b) Where the Ward Community Meeting needs to meet to conduct formal business, the Council's committee procedure rules will apply including those relating to information, notice of meetings etc.

2.6 Agendas

- a) The Ward Community Meeting must set an agenda for each meeting by agreement between the Ward councillors where possible, otherwise at the discretion of the person chairing the meeting.
- b) The meeting may be in 2 parts.
- c) An informal first part to encourage the engagement of local people and partner organisations on local issues.
- d) A formal part that will operate in a more structured way in accordance with the Council's committee procedure rules and deal with business items set out in the agenda.

2.7 Chairing

Each meeting will appoint a Chair from the Ward Members present.

SCRUTINY COMMITTEES: TERMS OF REFERENCE

(Includes amendments made May 2017)

INTRODUCTION

Scrutiny Committees hold the Executive and partners to account by reviewing and scrutinising policy and practices. Scrutiny Committees will have regard to the Political Conventions and the Scrutiny Operating Protocols and Handbook in fulfilling their work.

The Overview Select Committee and each Scrutiny Commission will perform the role as set out in Article 8 of the Constitution in relation to the functions set out in its Terms of Reference.

Scrutiny Committees may: -

- i. review and scrutinise the decisions made by and performance of the City Mayor, Executive, Committees and Council officers both in relation to individual decisions and over time.
 - ii. develop policy, generate ideas, review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
 - iii. question the City Mayor, members of the Executive, committees and Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to their initiatives or projects.
 - iv. make recommendations to the City Mayor, Executive, committees and the Council arising from the outcome of the scrutiny process.
 - v. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance; and
 - vi. question and gather evidence from any person (with their consent).
- **Annual report:** The Overview Select Committee will report annually to Full Council on its work and make recommendations for future work programmes and amended working methods if appropriate. Scrutiny Commissions / committees will report from time to time as appropriate to Council.

The Scrutiny Committees which have currently been established by the Council in accordance with Article 8 of the Constitution are:

- Overview Select Committee (OSC)

- Adult Social Care Scrutiny Commission
- Children, Young People and Education Scrutiny Commission (which also sits as the statutory Education Committee)
- Economic Development, Transport and Climate Emergency Scrutiny Commission
- Health and Wellbeing Scrutiny Commission
- Heritage, Culture, Leisure and Tourism Scrutiny Commission
- Housing Scrutiny Commission
- Neighbourhood Services Scrutiny Commission (which also sits as the statutory Crime and Disorder Committee).

The key work areas covered by each Scrutiny Commission are to be found here <https://www.leicester.gov.uk/your-council/decisions-meetings-and-minutes/overview-and-scrutiny/>

SCRUTINY COMMITTEE: OVERVIEW SELECT COMMITTEE

The Overview Select Committee **will**:

- Scrutinise the work of the City Mayor and Deputy City Mayors and areas of the Council's work overseen by them.
- Consider cross cutting issues such as monitoring of petitions
- Consider cross-cutting issues which span across Executive portfolios.
- Manage the work of Scrutiny Commissions where the proposed work is considered to have impact on more than one portfolio.
- Consider work which would normally be considered by a Scrutiny Commission but cannot be considered in time due to scheduling issues.
- Report annually to Council.
- Be responsible for organising and agreeing the work of scrutiny and the Commissions including agreeing annual work programmes and approving reports produced by the Commissions

SCRUTINY COMMISSIONS

Scrutiny Commissions **will**:

- Normally undertake overview of Executive work, reviewing items for Executive decision where it chooses.
- Engage in policy development within its remit.
- Normally be attended by the relevant Executive Member(s), who will be a standing invitee.
- Have their own work programme and may make recommendations to the Executive on work areas where appropriate.
- Consider requests by the Executive to carry forward items of work and report to the Executive as appropriate.
- Report on their work to Council from time to time as required.

- Be classed as specific Scrutiny Committees in terms of legislation but will refer cross cutting work to the OSC.

LEICESTER CITY COUNCIL

CONSTITUTION

Part 4

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PART 4A – COUNCIL PROCEDURE RULES

This section includes changes approved by Council on 18 September 2014

For the purposes of the Council Procedure rules, all rights and obligations of Councillors will also apply to the City Mayor.

1. ANNUAL MEETING

- (a) The Annual Meeting of the Council shall be held on the third Thursday in May in any year when there are no City Council Elections.
- (b) In a year where there are City Council Elections, the Annual Meeting shall be held on the first Thursday after the tenth day after the election.
- (c) The City Mayor may change these provisions within the limits of legislation.

(The above expectations are made in the context of the absolute statutory limits on the holding of the annual council meeting set out below:

- (i) In election years, on the eighth day after the retirement of Councillors or on any other day within the 21 days immediately following the retirement of Councillors as the Council may fix.
- (ii) In other years within the month of March, April or May.)

2. ORDINARY MEETINGS

- (a) Ordinary meetings of the Council shall be held on dates fixed by the Council at its Annual Meeting.
- (b) Any dates agreed can be varied by the Monitoring Officer in consultation with the Lord Mayor, City Mayor and Leaders of each of the Council's political groups.

3. SPECIAL MEETINGS

- (a) Special meetings can be called as follows:-
 - (i) By the Lord Mayor.
 - (ii) Five Councillors may sign a requisition to the Lord Mayor requesting the calling of a special meeting of the Council.
- (b) If, following receipt of a requisition, the Lord Mayor does not issue a meeting summons within seven days of receipt of the requisition or actually refuses before the seven days, any five Councillors, on that refusal or on the expiration of seven days, may call a special meeting.

- (c) Where the Lord Mayor agrees to call a meeting, this meeting must be held within 21 days of receipt of the requisition unless the Councillors who requisitioned the meeting agree on a later date.

4. PLACE AND TIME OF MEETING

- (a) Ordinary meetings of the Council shall be held at 5.00pm at the Town Hall.
- (b) The place and time of Council meetings can be varied by the Monitoring Officer in consultation with the Lord Mayor, the City Mayor and Leaders of each of the Council's political groups.

5. CHAIR OF MEETING

- (a) The Chair of the Council shall be the Lord Mayor or in his/her absence, the Deputy Lord Mayor. If the Deputy Lord Mayor is also absent, the High Bailiff will perform this role. In the absence of all three, the Council shall choose a Councillor who is not a Member of the Executive to Chair the meeting.
- (b) Any power or duty of the Lord Mayor contained in these Council Procedure Rules may or shall be exercised by any other Councillor chairing the meeting in place of the Lord Mayor.

6. PUBLIC NOTICE OF MEETINGS

- (a) Notice of the time and place of a Council meeting shall be published at the Council's Offices, at least five clear days before the meeting, unless a special meeting is called within five days. In the case of a special meeting called within five days, the required notice must be given as soon as the special meeting is called. (Five clear days excludes the day of notice, the day of the meeting, Bank Holidays, Saturdays and Sundays).
- (b) Where the meeting is a special one called by Councillors, the notice must be signed by those Councillors and specify the business to be transacted.

7. SUMMONS TO MEETING

A summons to attend a Council meeting must be delivered to each Councillor, giving at least five clear days' notice (unless the meeting is called within five days), specifying the business to be transacted and signed by the Monitoring Officer. In the case of a special meeting called within five days, the notice must be delivered as soon as is practically possible. (Five clear days excludes the day of notice, the day of the meeting, Bank Holidays, Saturdays and Sundays).

8. AGENDA FOR ANNUAL MEETING

- (a) The agenda for the Annual Meeting shall include the following:-
 - (i) Lord Mayor's announcements.

- (ii) Election of Lord Mayor.
 - (iii) Election of High Bailiff.
 - (iv) Election of Deputy Lord Mayor.
 - (v) Appointment of Lord Mayor's Spiritual Adviser.
 - (vi) Other Speeches.
 - (vii) Establishment of Scrutiny Committees and Regulatory Committees.
 - (viii) The City Mayor to inform Council of the appointments of the Deputy City Mayors and Assistant City Mayors.
 - (ix) Annual calendar of meetings of Executive, Scrutiny Committees and Regulatory Committees.
 - (x) Dates of Council meetings.
- (b) No other business shall be transacted except that the City Mayor can authorise the consideration of an Executive report if s/he considers it necessary. Where such business is to be conducted there shall also be an item on the agenda for declarations of interest.

9. AGENDA FOR ORDINARY MEETINGS

- (a) Declarations of Interest must be declared at the outset of the business of the meeting.
- (b) Subject to the provisions of Rule 11, (Variation of Order of Business), the usual order of business at ordinary meetings of the Council shall be as follows:-
 - (i) Lord Mayor's announcements.
 - (ii) Declarations of interests and declarations under Section 106 of the Local Government Finance Act.
 - (iii) Minutes of the last meeting for approval of accuracy.
 - (iv) Statement by the City Mayor or Executive if identified
 - (v)
 - (a) Petitions presented by members of the public
 - (b) Petitions presented by Councillors.
 - (vi) Questions of which notice has been given

- (a) From Members of the Public.
- (b) From Councillors.
- (vii) Business (if any) remaining from the last meeting.
- (viii) Matters reserved to Full Council
- (ix) Other Reports of The City Mayor or Executive.
- (x) Reports of Working Parties.
- (xi) Reports of Scrutiny Committees
- (xii) Reports of Regulatory and Standards Committees
- (xiii) Authority to seal documents other than referred to in reports of Committees.
- (xiv) Reports of the Monitoring Officer and/or Head of Paid Service, if any.
- (xv) Appointment of Councillors to Scrutiny and Regulatory Committees and notification of changes to Executive Membership.
- (xvi) Notices of Motion.
- (xvii) Any other business items as determined by the City Mayor.
- (xviii) Any Other Urgent Business.

Items (i), (ii), (iii) and (xiii) above must not be displaced.

Subject to any requirements or duties within the Constitution the City Mayor will approve the agenda for the meeting.

10. AGENDA FOR SPECIAL MEETINGS

The agenda for special meetings of the Council shall include items (i) and (ii) of Rule 9 plus the item(s) for which the special meeting has been called. Matters of Other Urgent Business may be transacted at the discretion of the Lord Mayor.

11. VARIATION OF ORDER OF BUSINESS

At meetings of the Council, the order of business may be varied by the Lord Mayor or by resolution of the Council at that meeting, in which case a motion to vary the order of business shall be moved, seconded and put to the vote without discussion.

12. MINUTES

- (a) The Minutes of each meeting of the Council shall be made available for public inspection in the offices of the Monitoring Officer, shall be sent to each Member of the Council together with or before the issue of the summons to attend the meeting at which the Minutes are to be submitted for approval and shall be published within two working days of such approval on the Council's Internet site.
- (b) The Lord Mayor will sign the minutes of the proceedings at the next suitable meeting. The Lord Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.
- (c) Where, in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(i)(ii) of schedule 12 relating to signing of minutes.

13. PETITIONS

- (a) The Council shall only receive petitions which comply with this Rule and which comply with the Council's Petitions Scheme.
- (b) Petitions to be presented by members of the public shall be received by the Monitoring Officer no later than 12 noon five clear days before the meeting. (Clear days exclude the day of receipt, the day of the meeting, Bank Holidays, Saturdays and Sundays).
- (c) Petitions to be presented by Councillors must be received by the Monitoring Officer not later than 12 noon three clear days before the meeting.
- (d) A petition to be presented by a member of the public shall indicate which one of the signatories is to present the petition.
- (e) Petitions shall be presented to the Council in the order in which they have been received, except that petitions presented by members of the public shall take precedence.
- (f) The reading of the subject matter shall not be of excessive length and speeches or additional remarks shall not be permitted.

- (g) Petitions shall be referred without debate to the Monitoring Officer who shall arrange for the petition to be dealt with in accordance with the Council's Petitions Scheme.
- (h) If the petition is presented at the same Council meeting at which there is a report on the agenda on the same subject, the Lord Mayor may exercise her / his discretion and may decide that the petition be considered with the report.

14. QUESTIONS AT COUNCIL

(a) Questions from Councillors

- (i) Only questions which comply with this Rule shall be asked.
- (ii) A Member of the Council may, at any ordinary meeting of the Council, ask the Lord Mayor or the City Mayor or the relevant Executive Member any question relating to the business of the Council or of the Executive or relating to any matter which affects the City.
- (iii) Notice of the question(s), in writing, must be received by the Monitoring Officer not later than 10 am two days before the meeting.
- (iv) No question from a Councillor shall be accepted
 - (a) which contains abusive, defamatory or offensive language;
 - (b) which relates to a specific and identifiable person;
 - (c) at the Annual Meeting of the Council, or at any meeting of the Council summoned for the purposes of considering the budget;
- (v) Questions shall be asked in the order in which they have been received, subject to, at the Lord Mayor's discretion, questions on the same or related subject being taken consecutively and / or answered by way of one consolidated reply.
- (vi) At the meeting, after a question has been given a reply (including by way of a consolidated reply), the person who asked the question may ask one supplementary question for the purposes of clarifying the reply and, in the following paragraphs of this part of this Rule the word 'question' shall include such a supplementary question.
- (vii) Every question shall be asked and answered without discussion.
- (viii) No discussion shall be permitted, nor any resolution moved with reference to any question or reply to a question.

- (ix) The Lord Mayor or the City Mayor (as may be appropriate) may authorise a Deputy City Mayor or Assistant City Mayor or any other Councillor to answer any question.
- (x) The name of the Councillor asking the question, the text of the question and a cross reference to the response shall be recorded in the Minutes.

(b) Questions from Members of the Public

- (i) Only questions which comply with this Rule shall be asked.
- (ii) A question shall be one main question about a particular topic and not include a series of sub-questions.
- (iii) A resident of the City of Leicester may ask the Lord Mayor or the City Mayor or the relevant Executive Member any question relating to the business of the Council or of the Executive or relating to any matter which affects the City.
- (iv) No question from a member of the public shall be accepted:-
 - (a) which relates wholly to party political business;
 - (b) from a staff group on staffing related matters, which instead should use the proper procedures, such as through management and trades union representatives;
 - (c) which relates to a specific and identifiable person or which relates to an individual's particular circumstances;
 - (d) about any matter where there is a right of appeal to the courts, a tribunal or to a government minister or on any matter which, in the opinion of the Monitoring Officer, is of a quasi-judicial nature;
 - (e) about any matter which has been the subject of a petition or question or of a decision of Council, the Executive or any Committee or Sub-Committee within the previous six months;
 - (f) at the Annual Meeting of the Council, or at any meeting of the Council summoned for the purposes of considering the budget;
 - (g) which contains abusive, defamatory or offensive language.
- (v) Notice of the question(s), in writing, must be received by the Monitoring Officer not later than 12 noon five clear days before the meeting. (Five clear days excludes the day of receipt, the day of the meeting, Bank Holidays, Saturdays and Sundays). The notice shall be signed and shall include the questioner's address.

- (vi) Questions shall be asked in the order in which they have been received, except that where a member of the public wishes to ask more than one question (not including a supplementary question), s/he may only ask a second question when the first questions of all the other questioners have been disposed of, and so on for any subsequent questions.
- (vii) In the event of more than one question being asked on the same or a related subject by one or more members of the public, subject to the discretion of the Lord Mayor, these questions may be taken consecutively and / or answered by way of one consolidated reply.
- (viii) Where the person who gave notice of the question does not wish personally to ask the question s/he may have a friend ask the question on /her/his behalf, provided that the Monitoring Officer shall be notified of such an arrangement at the time notice of the question is given. A Councillor may not act as an individual's friend in these circumstances.
- (ix) Otherwise than in accordance with viii above, where the person who is to ask the question is not present at the meeting when the question is reached on the agenda, the question shall not be asked,.
- (x) At the meeting, after a question has been given a reply, the person who gave notice of the question may ask one supplementary question for the purposes of clarifying the reply and, in the following paragraphs of this part of this Rule, the word 'question' shall include such a supplementary question. Where a friend has asked the first question, s/he may also ask a supplementary question on behalf of the person who gave notice.
- (xi) Every question shall be put and answered without discussion.
- (xii) No discussion shall be permitted, nor any resolution moved with reference to any question or reply to a question.
- (xiii) The Lord Mayor or the City Mayor (as may be appropriate) may authorise a Deputy City Mayor or Assistant City Mayor or any other Councillor to answer any question.
- (xiv) The name of the person who gave notice of the question, the text of the question and a cross reference to the response shall be recorded in the Minutes.
- (xv) The time taken in asking and answering all questions from members of the public shall not exceed twenty minutes, subject to that time being extended at the discretion of the Lord Mayor. Any questions not disposed of at the expiry of the allotted period shall be answered in writing. The time taken in asking and answering one question shall not exceed three minutes.

(xvi) No member of the public may ask more than -six main questions in any one municipal year.

15. REPORTS TO COUNCIL

- (a) The City Mayor, the Executive, Scrutiny or other Committees **may** report to the Council on any issue which they have considered and **must** report on matters reserved to Council as detailed in Article 4.03 of the Constitution. The Monitoring Officer can apply this provision to Council working parties where appropriate. There may also be circumstances where the Monitoring Officer and/or Head of Paid Service consider it appropriate to report direct to Council under the provisions of the Local Government and Housing Act 1989.
- (b) All reports to be considered at a Council Meeting shall be sent to every Councillor five clear days before the meeting. (Five clear days excludes the day of despatch, the day of the meeting, Bank Holidays, Saturdays and Sundays).
- (c) Where the Monitoring Officer deems it appropriate and necessary any plan referred to in a report to be considered at Council shall be available for inspection by any Member of the Council for at least five clear days before the Council meeting at which the report is to be considered and shall be displayed in the Council's Tea Room during the afternoon of the day of the Council Meeting.
- (d) Any reports and their associated appendices/plans shall be available for public inspection five clear days before the meeting at which they are to be discussed, unless it is proposed that they are to be considered on the private agenda.
- (e) The Member of Council whose name in which a report is submitted shall propose any necessary motion to either:
- obtain approval by the Council of the recommendations as contained within the report, or
 - any other proposal relevant to the content of the report, or
 - the withdrawal of the report (unless a decision is legally required), or
 - the referral back to the City Mayor, the Executive or Committee for further consideration of the report.
- (A proposal to withdraw a report or refer a report back to the Executive or a Committee shall be voted on without debate).
- (f) The Councillor who would otherwise move a motion to secure approval of the report may authorise another Councillor to move the motion, subject to notice of the authorisation being given to the Monitoring Officer before 12 noon on the day of the Council meeting.

- (g) A motion to secure approval of the report shall, in the absence of the Member of Council who would otherwise move it, be proposed by some other Member of the Council designated by the Lord Mayor.
- (h) Two or more Scrutiny Committees may submit a joint report. In such cases the relevant Committee Chairs shall agree by 12 noon on the day of the meeting and notify to the Monitoring Officer by that time which Councillor will propose the appropriate motion. In the event of a failure to agree by the Scrutiny Chairs who should propose the associated motion, the decision shall be left to the discretion of the Lord Mayor.
- (i) Reports other than the City Mayor or Executive report and associated Scrutiny comments on the budget shall not be considered at any meeting designated as summoned for the purposes of considering the budget. However, the City Mayor or Executive may authorise the submission of any report at either of these meetings if exceptional circumstances make this desirable in its opinion.

NOTE:

Flow charts showing the operation of rules regarding Motions and amendments are included for information at the end of the Council Procedure Rules.

16. NOTICES OF MOTION

- (a) Apart from the exceptions outlined in Rule 17, notice must be given of every motion.
- (b) Every notice shall be in writing, signed by the Councillor giving the notice and delivered at the office of the Monitoring Officer by 12 noon at least six clear days before the next meeting of the Council, (six clear days excludes the day of notice, the day of the meeting, Bank Holidays, Saturdays and Sundays) or by an email from an Elected Member's Leicester City Council email address. The Monitoring Officer shall keep records of the motions received and in the order of receipt.
- (c) The Monitoring Officer shall insert in the summons and notice for every meeting of the Council all notices of motion given as outlined above, in the order in which they have been received, unless the Councillor giving such a notice has indicated in writing that s/he proposes to move it at some later meeting or wishes to withdraw it.
- (d) If a motion of which notice has been given and not withdrawn is not moved by the Councillor who gave the notice, it may be moved by another Councillor. If it is not moved, it shall, unless postponed by consent of the Council, such determination being without debate, be treated as abandoned and shall not be moved again without new notice being given.
- (e) Notice of any motion which would have the effect of materially increasing the expenditure or reducing the revenue of the Council may not be

submitted except in the form of referring such a proposal to the Executive and, if appropriate, to a Scrutiny Committee for consideration and report.

17. MOTIONS WHICH MAY BE MOVED WITHOUT NOTICE

- (a) The following motions may be moved without notice:-
- (i) Appointment of a Chair for the meeting.
 - (ii) Motions relating to the approval of accuracy of the Minutes of the Council.
 - (iii) Variation of order of business.
 - (iv) Motions for resolutions to be reconsidered within six months and inserted in the summons for the next ordinary meeting.
 - (v) Giving the consent of the Council where consent of the Council is required by the Constitution's Rules.
 - (vi) To withdraw or alter a report.
 - (vii) That a Councillor be not further heard or leave the meeting.
 - (viii) Adoption of reports and recommendations of the City Mayor, the Executive, Scrutiny Committees and Regulatory Committees.
 - (ix) Where necessary confirmation of City Mayor, the Executive and Regulatory Committee decisions.
 - (x) Any motions arising out of consideration of a report at Council or of a decision of the Executive or a Regulatory Committee submitted for separate confirmation.
 - (xi) Authorising the sealing of documents.
 - (xii) Any other motions listed in Rule 19 (amendments) whether or not moved whilst another motion is under debate.
 - (xiii) Business required by or under statute to be transacted at the Annual Meeting.
 - (xiv) Appointment of Members on a Scrutiny Committee or on Regulatory Committees and Sub-Committees and their Chairs and Vice-Chairs.
- (b) The Lord Mayor **may** require motions of which notice is not given to be put in writing and given to the Monitoring Officer immediately upon being seconded.

18. MOTIONS GENERALLY

- (a) All motions and amendments must be proposed and seconded before any discussion is allowed.
- (b) A Councillor may not propose or second a motion or an amendment on an issue on which s/he is disqualified from voting.
- (c) As long as s/he has the consent of the seconder, a proposer of a motion or an amendment may alter the motion/amendment, if the alteration is such that it could be achieved by an amendment. The Lord Mayor may require that the altered motion or amendment be written down and handed to the Monitoring Officer before the consent of the Council is sought.
- (d) The proposer of a motion or an amendment may, with the consent of the Council, withdraw the motion or amendment and no other Councillor may speak on the motion or amendment, unless permission for its withdrawal has been refused.
- (e) The giving or refusal of the approval of the Council to the withdrawal of a motion or amendment shall be done without discussion.
- (f) When a motion is under debate no other motion shall be moved except the following: -
 - (i) To amend the motion.
 - (ii) To adjourn the meeting.
 - (iii) To go to the next business.
 - (iv) To adjourn the debate.
 - (v) That the question under consideration be put to the vote immediately (known as 'the closure motion').
 - (vi) That a Councillor not be heard further.
 - (vii) That a Councillor leave the meeting.
 - (viii) That the subject of debate be referred to a Committee.
 - (ix) To extend the time limit for speeches.
 - (x) That a Councillor be invited to remain in the meeting.
 - (xi) To exclude the public and press.
 - (xii) That a Procurement Rule be suspended.
 - (xiii) That consent be given to withdraw a motion or amendment.

19. AMENDMENTS

- a. The Lord Mayor may request that amendments be written down and handed to the Monitoring Officer before being discussed or put to the vote. However, amendments which merely refer an issue back to the City Mayor or Executive, a Scrutiny Committee or a Regulatory Committee need not be written down.
- b. An amendment shall be directly relevant to the motion to which it is moved and shall be either to leave out words or insert or add others or a combination of both. It must not be a direct negative of the motion.
- c. Each amendment to a motion shall be dealt with in turn and a further amendment shall not be moved until the Council has disposed of every amendment previously moved and seconded.
- d. If an amendment is rejected, other amendments may be moved on the original motion, but a further amendment must not have the same effect as an earlier rejected amendment.
- e. If an amendment is carried, the motion as amended will take the place of the original motion and shall become the substantive motion upon which any further amendment may be moved.

20. WHEN A COUNCILLOR MAY SPEAK

- (a) A Councillor may only speak once on any motion and shall not speak again while it is the subject of debate except:-
 - (i) On a point of order.
 - (ii) To give a personal explanation.
 - (iii) To propose or second any of the motions referred to in paragraphs (ii)-(xiii) of paragraph (f) of Rule 18.
 - (iv) To second or speak once on an amendment moved by another Councillor.
 - (v) If the motion has been amended since s/he last spoke, to move a further amendment.
 - (vi) If her/his first speech was on an amendment, to speak on the main issue after the amendment has been disposed of.
 - (vii) To exercise, as the proposer of a motion, the right of reply.

- (b) A Councillor, when seconding a motion or an amendment, may reserve her/his right to speak until later in the debate, as long as s/he indicates that this is her/his intention.

21. SPEECHES BY COUNCILLORS

- (a) Any Councillor when speaking to the Council Meeting in a debate shall stand in her/his place and address the Lord Mayor. This may be waived where it is a reasonable adjustment.
- (b) No speech shall exceed five minutes in length except where a motion for extension of time has been carried under the provisions of Rule 22.
- (c) A Councillor shall confine her/his speech to the matter under discussion, to a point of order or to a personal explanation.
- (d) Where a Councillor moves an amendment part way through her/his speech, the amendment shall be taken to be part of the same speech for the purposes of calculating the length of time for which a Councillor is permitted to speak.

22. EXTENSION OF TIME

- (a) A motion for an extension of time shall be moved, seconded and put to the vote without discussion, subject to rule (d) below.
- (b) The motion shall specify the length of the extension, but no extension shall exceed ten further minutes and in the absence of any lesser period being specified, any extension shall be presumed to be for five further minutes.
- (c) No more than two extensions of time may be moved in relation to a single speech.
- (d) Where the City Mayor is addressing the Chamber (i) to explain the annual Budget or (ii) to explain a matter of Executive policy he/she shall not be required to move a motion but shall be permitted to indicate to the Lord Mayor, before the expiry of 5 minutes, that he wishes to address the Chamber for up to 10 further minutes.

23. POINT OF ORDER

- (a) A point of order is a request by a Councillor to the Lord Mayor to rule on an alleged irregularity in the constitution or conduct of the meeting
- (b) A Councillor, whether s/he has spoken on the matter under discussion or not, and even if another Councillor is speaking, may stand, to raise a point of order, and with the consent of the Lord Mayor, be entitled to be heard immediately. The need to stand may be waived where it is a reasonable adjustment.

- (c) The Councillor must make the point immediately s/he notices it and state the rule or procedural rule in question and how s/he alleges it has been broken.
- (d) A ruling on the point must be given by the Lord Mayor before the debate continues. The Lord Mayor may seek the advice of the Monitoring Officer. No discussion shall be allowed on the Lord Mayor's ruling.

24. PERSONAL EXPLANATION

- a. A Councillor may rise on a point of personal explanation or point of information for the Council and shall be heard forthwith.
- b. A point of personal explanation shall be confined to some material part of the former speech by him or her which may have been misunderstood in the present debate.
- c. A point of information for the meeting shall be confined to correcting another speaker on incorrect facts or figures so as to avoid misleading the meeting.
- d. The ruling of the Lord Mayor on a point of personal explanation or point of information for the Council shall not be open to discussion.

25. RIGHT OF REPLY

- (a) A proposer of an original motion shall have the right to reply to the debate at the following times:-
 - (i) At the close of the debate on the motion.
 - (ii) At the close of the debate on an amendment to the motion.
 - (iii) Before a motion to proceed to the next business is put to the vote.
 - (iv) Before a motion to adjourn the debate or refer the item to a Committee is put to the vote.
 - (v) After a closure motion is carried.
- (b) The proposer of an amendment to a motion shall not have the right of reply to either the debate on the amendment or to the debate on a substantive motion formed by the carrying of the amendment, but may exercise an ordinary right to speak on the substantive motion.
- (c) A Councillor exercising the right of reply shall confine her/himself to answering previous speakers to whom s/he has not already had the opportunity of replying and shall not introduce any new matter.
- (d) After every reply to which this Rule applies a decision shall be taken immediately on the motion or amendment under discussion.

26. NEXT BUSINESS

- (a) A Councillor who wishes to avoid a decision on the matter under debate, or to adjourn or close the debate may, at the conclusion of a speech of another Councillor, move either:
 - (i) That the Council proceed to the next business (which would have the effect of dropping the original motion); or
 - (ii) That the debate be adjourned to a specified hour or occasion (or to the next ordinary meeting of the Council if no other occasion is specified) and treated as continuous; or
 - (iii) That the question now be put (which would cause the question under discussion to be voted on immediately).
- (b) Such motions shall be proposed and seconded without speeches.
- (c) The Lord Mayor may consider that the matter under debate requires further discussion, or may without further discussion, put to the vote the motion to proceed to the next business, adjourn or to put the question.
- (d) If a motion that the question now be put is carried, the mover of the original motion shall have the right of reply. The motion or amendment under debate shall then be put to the vote.

27. RECONSIDERATION OF COUNCIL RESOLUTIONS

- (a) The proposal of a motion to reconsider any resolution of the Council passed within the preceding six months or to the same effect as one which has been rejected within that period shall not be allowed unless it is part of a Committee report to Council or, at a meeting of the Council, a Councillor moves for such a motion to be included in the agenda for the next ordinary meeting of the Council and the motion is seconded and carried.
- (b) When any motion to reconsider an issue is disposed of, no Councillor shall move for leave to propose a similar motion, that is, with reference to the same subject, within a further six months.

28. VOTING

- (a) Every proposition shall, unless otherwise required by law, be determined by votes recorded by electronic means, or a show of hands, or at the discretion of the Lord Mayor, by voices, (for, against and abstentions)
- (b) In taking the votes on any proposition, only those Members who are not disqualified from voting, and are present, to cast their vote shall be entitled to vote.
- (c) In the case of equality of votes, the person presiding at the meeting shall have a second or casting vote.

29. RECORDING OF VOTES

- (a) After a proposition is put from the Chair but before the vote is taken, any three Councillors present at the meeting may request that the names of Councillors voting for or against the proposition be recorded by the Monitoring Officer in the minutes of the meeting and any such record shall, on request, be supplied to Councillors or to the press.
- (b) Immediately after a vote is taken any Councillor may require that the Minutes record how s/he voted if at all on the proposal.
- (c) That as required by The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 immediately after any vote on any decision relating to the making of the calculation or the issuing of the precept is taken at a budget decision meeting there must be recorded in the minutes the names of the persons who cast votes for the decision or against the decision or who abstained from voting.

30. MISCONDUCT BY COUNCILLORS

- (a) If a Councillor, in the opinion of the Lord Mayor, misconducts her/himself by persistently disregarding the ruling of the Chair, or behaving irregularly, improperly or offensively, or wilfully obstructing the business of the Council, or by excessive repetition or unbecoming language in her/his speech, Any Councillor or the Lord Mayor may move that the Councillor not be heard further. Such a motion, if seconded, shall be put to the vote without discussion.
- (b) If the Councillor named continues her/his misconduct after a motion outlined above has been carried, the Lord Mayor may either:-
 - (i) Move that the Councillor named leave the meeting and such motion shall be put to the vote without seconding or discussion; or
 - (ii) If, in the opinion of the Lord Mayor, misconduct or obstruction renders the due and orderly dispatch of business impossible, s/he may, without taking a vote, suspend the sitting of the Council for a period not exceeding 30 minutes, to be specified by the Lord Mayor.
- (c) Whenever the Lord Mayor stands during a debate, a Councillor who is standing shall sit down and the Council shall be silent.

31. DISTURBANCE BY MEMBERS OF THE PUBLIC

- (a) If a member or members of the public interrupt the proceedings at a Council meeting, the Lord Mayor may warn them. If they continue the interruption, the Lord Mayor may order their removal from the Council Chamber.

- (b) In cases of general disturbance in any part of the Chamber open to the public, the Lord Mayor may order that part to be cleared.
- (c) The Lord Mayor shall in the case of misconduct or obstruction by a member or members of the public have the same power of suspending the sitting of the Council as outlined under Rule 30.

32. URGENT BUSINESS

The Lord Mayor / Chair can decide to accept an urgent item on to the agenda where, in his/her opinion, the item should be considered as a matter of urgency because of special circumstances which shall be specified in the minutes.

33. QUORUM

- (a) It is not permissible to transact any business at a Council meeting unless at least one quarter of the whole number of Councillors are present. In the event of more than one third of the Members of the Council becoming disqualified at the same time, the quorum shall be determined by reference to the number of Councillors remaining qualified - Local Government Act 1972, Schedule 12, Paragraphs 6 and 45. The quorum of Leicester City Council while it has a membership of 55 is, therefore, 14.)
- (b) If during any meeting of the Council the Lord Mayor, after counting the number of Councillors present, declares that there is not a quorum present the meeting shall be adjourned.
- (c) The consideration of any business not transacted shall be adjourned to a time fixed by the Lord Mayor at the time the meeting is adjourned, or if no time is fixed, to the next ordinary meeting of the Council.

34. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

(a) Suspension

All of these Council Procedure Rules, except those required by law, may be suspended by motion on notice or without notice if at least one half of the total number of Councillors are present. Suspension can only be for the duration of the meeting.

(b) Amendment

Any motion to add to, vary or revoke these Council rules of procedure will, when proposed and seconded, stand adjourned without discussion to take effect at the next ordinary meeting of the Council.

35. COUNCIL COMMITTEES

(a) Appointment of Committees and Sub-Committees

(i) At the Annual Meeting, the Council shall appoint such Committees and may appoint such Sub-Committees as are necessary to carry out the non-executive functions allocated to Council, and Scrutiny Committees to perform the Council's Scrutiny role. The Council shall, subject to Rules 36 to 38 in this Constitution, determine the following in each case of each Committee or Sub-Committee appointed:-

- (a) The number of Members.
- (b) The Chair and Vice-Chair(s).
- (c) The Terms of Reference.
- (d) The date and time of the first meeting in the municipal year.

- (ii) The majority of the members of a Committee shall be Councillors.
- (iii) The parent Committee may appoint Sub-Committees to undertake its work
- (iv) The parent Committee may appoint, and remove, the Chairs and Vice-Chairs of any Sub-Committees it appoints
- (v) The Council shall at its Annual Meeting or from time to time, appoint and remove, the Chairs and Vice-Chairs of Council Committees and Scrutiny Committees.

Chairs and Vice-Chairs may resign by giving notice in writing to the Monitoring Officer. Such notice shall take effect from the time of its receipt by the Monitoring Officer unless the resignation states that it is to take effect at a later date. In that event, the resignation shall be effective from the date stated in the resignation letter

(b) Political Balance of Committees and Sub-Committees

At its Annual Meeting, the Council shall determine the allocation of Committee and Sub-Committee places to political groups to ensure so far as is practicable the rules relating to political balance are met.

(c) Appointment of Councillors to Committees and Sub-committees

Outside of the Annual Meeting appointment of Councillors to fill places on Committees or Sub-Committees, or any vacancies which may arise, shall be by the Monitoring Officer in consultation with the political group whips, and with the consent of any Councillor being appointed.

(d) Substitutions

Should a Councillor be unable to attend a meeting of a Committee or Sub-Committee a substitute may be appointed by the relevant group whip after notifying the Monitoring Officer.

Substitutions shall not be permitted for part of a meeting and may not subsist beyond that meeting for which they are substituted.

(e) The Council may vary these arrangements from time to time.

36. CHAIRS AND VICE-CHAIRS OF COUNCIL COMMITTEES

(a) Committees

(i) Unless otherwise stated in the Constitution, the Chair and Vice-Chair of a Committee shall be a Councillor.

(b) **Sub-Committees**

- (i) Where the parent Committee does not appoint a Chair or Vice Chair then the Chair or Vice Chair may be appointed from amongst the members of the Sub-Committee when convened.
- (ii) Chairs and Vice-Chairs may resign by giving notice in writing to the Monitoring Officer, in accordance with the procedure for the resignation of Chairs and Vice-Chairs of Committees (Paragraph(a)(ii) of this rule refers).
- (iii) Unless otherwise stated in the Constitution, the Chair and Vice-Chair of a Sub-Committee shall be a Councillor.

(c) **Duration of Appointment**

Appointments under this Rule shall be for a period ending with the point in the next annual meeting of the Council when such appointments are made.

37. QUORUM OF COUNCIL COMMITTEES

(a) **Committees**

The quorum of every established Committee shall be three unless otherwise specified.

(b) **Sub-Committees**

Unless otherwise stated the quorum of all sub-committees shall be three unless the total membership is three, then the quorum shall be two.

38. DATES OF COUNCIL COMMITTEE MEETINGS

(a) **Cycle of Meetings**

At its Annual Meeting, the Council shall confirm the cycle of Committee and Sub-Committee meetings for the next municipal year.

(b) **Committees or Sub-Committees**

The dates of Committees and Sub-Committees shall be set by the Monitoring Officer and a programme of dates shall be presented to Annual Council.

(c) **Variation of Dates**

The date and/or time of any ordinary meeting of a Committee or Sub-Committee may be varied or cancelled by the Monitoring Officer in

consultation with the Chair of the Committee/Sub-Committee, provided that any variation shall be reasonable and compatible, so far as is practicable, with the cycle of meetings as agreed by the Council.

39. SPECIAL MEETINGS

- (a) Any Committee or Sub-Committee may be summoned especially if so required by either:-
 - (i) The Chair, after consultation with the Vice Chair; or
 - (ii) A written request to the Monitoring Officer signed by three members of the Committee.

(b) A special meeting shall consider such business as detailed on the agenda.

40. NOTICE OF MEETINGS

Notice of the time and place of a Committee meeting shall be published at the Council's offices at least five clear days before the meeting unless a special meeting is called within five days in which case the required notice must be given as soon as the special meeting is called. (Five clear days excludes the day of notice, the day of the meeting, Bank Holidays, Saturdays and Sundays.)

41. ABSENCE OF CHAIR FROM MEETING

- (a) Where the Chair is absent from a meeting the Vice-Chair shall take the Chair's place.
- (b) Should the Chair arrive at a meeting which is in progress with the Vice-Chair in the Chair, the Chair shall from a convenient point preside over the meeting.
- (c) Where there is no Chair or Vice-Chair present, the Committee shall elect one of their number to preside over the meeting. If at such a meeting, the Chair (or the Vice-Chair, if the Chair is absent) arrives after the meeting in progress s/he shall from a convenient point preside over the meeting.
- (d) For the purposes of this Rule, where there are two Vice-Chairs, the Committee shall elect one of the Vice-Chairs to preside over the meeting. .

42. ATTENDANCE AT MEETINGS BY COUNCILLORS WHO ARE NOT MEMBERS OF THAT COMMITTEE

- (a) A Councillor may attend a meeting of a Committee of which s/he is not a Member, and s/he may be invited to speak by the Chair but not vote on any item on the agenda, subject to the following:-
 - (i) Where a Councillor has an interest in any item of business, s/he shall declare his/her interest, s/he may not speak on that item, and may be

permitted to remain, or required to withdraw, under the same procedures as if s/he were a member of the Committee.

(ii) The right to attend shall not apply to any part of a meeting during which a report is considered which contains exempt or confidential information of a description which does not require the report to be open to inspection in accordance with the Access to Information Procedure Rules, unless the Councillor requires access to the meeting during consideration of such an item in order to properly carry out his/her duties as a Councillor, in accordance with this Constitution.

(iii) Any provision which controls or restricts the right to speak and/or vote.

43. PROCEDURE AT COUNCIL COMMITTEE AND SUB-COMMITTEE MEETINGS

(a) The procedure to be followed at Council Committee or Sub-Committee meetings which are responsible for decision making shall be in accordance with these Council Procedure Rules, but where a point of procedure arises which is not covered, the matter shall be determined by the person presiding at the meeting. Such rulings shall not be challenged at any meeting.

*The procedure to be followed at Scrutiny Committee meetings is found at Part 4E.

44. OBJECTIONS TO DECISIONS

(a) Subject to the exceptions and other provisions in this Rule, any five Councillors may object to decisions taken by a Committee or Sub-Committee by giving notice in writing to the Monitoring Officer. The deadline for receipt of such notice is 5.00pm on the fifth working day after the decision (or third day after publication of the decision, if later).

(b) A notice under this Rule requesting call-in of a decision must:

- i. Be in writing
- ii. Specify a sponsor and a seconder
- iii. Specify reasons for the call-in

(c) Where the decision in question is that of a Sub-Committee, the matter shall be reconsidered at the next ordinary meeting of its Committee.

(d) Where the decision in question is that of a Committee, the matter shall be reconsidered at the next ordinary meeting of the Council.

(e) Where a decision of a Sub-Committee has been objected to and referred to its Committee, there shall be no right of objection to the decision of the appointing Committee on the matter.

- (f) Where the decision of a Committee has been objected to and the Council has referred the matter back to the Committee for reconsideration there shall be no right of objection to the subsequent decision of the Committee on the matter.
- (g) Where a decision has been called-in in accordance with this Rule, no further legally binding action shall be taken on it until it has been reconsidered by a Committee or Council, as appropriate or unless the objection has been withdrawn by the sponsor and seconder via the Monitoring Officer in the meantime.
- (h) When considering a matter called -in, the Committee or Council may either:
- Support the decision, in which case it shall be confirmed with immediate effect; or
 - Recommend a different decision to the decision maker.
- Following consideration of a “call-in” by the Committee or Council under this Rule the original decision will be deemed to be revived in its entirety.
- (i) A Committee or Sub-Committee may decide that any matter is of such urgency that no objection may be made.
- (j) No objection shall be made in respect of the following decisions:
- (i) Procedural decisions to include:
 - (a) election of Chair / Vice-chair;
 - (b) exclusion of the press and public;
 - (c) dates and/or times of meetings;
 - (d) approval of minutes for accuracy and the confirmation of Sub-Committee decisions, but not the confirmation of Working Party minutes;
 - (e) matters relating to the membership, functions and terms of reference of Committees and Sub-Committees;
 - (f) a decision that no objection may be made on grounds of urgency.
 - (ii) Items submitted for information only.
 - (iii) Decisions of the Employees Committee.
 - (iv) Decisions which, in the opinion of the Monitoring Officer, are of a quasi-judicial nature, which includes the decisions of the Licensing Sub-Committee and the Planning and Development Control Committee.
 - (v) Determinations of the Standards Committee on Member conduct complaints.

45. URGENT ACTION BETWEEN MEETINGS

The Head of Paid Service, a Strategic Director or a Divisional Director may, after consultation with the Chair and Vice-Chair of the appropriate Committee(s) or Sub-Committee(s), take any urgent action which s/he considers it necessary to take prior to the next meeting of the Committee or Sub-Committee. Any such action shall be reported for information to the Committee or Sub-Committee at

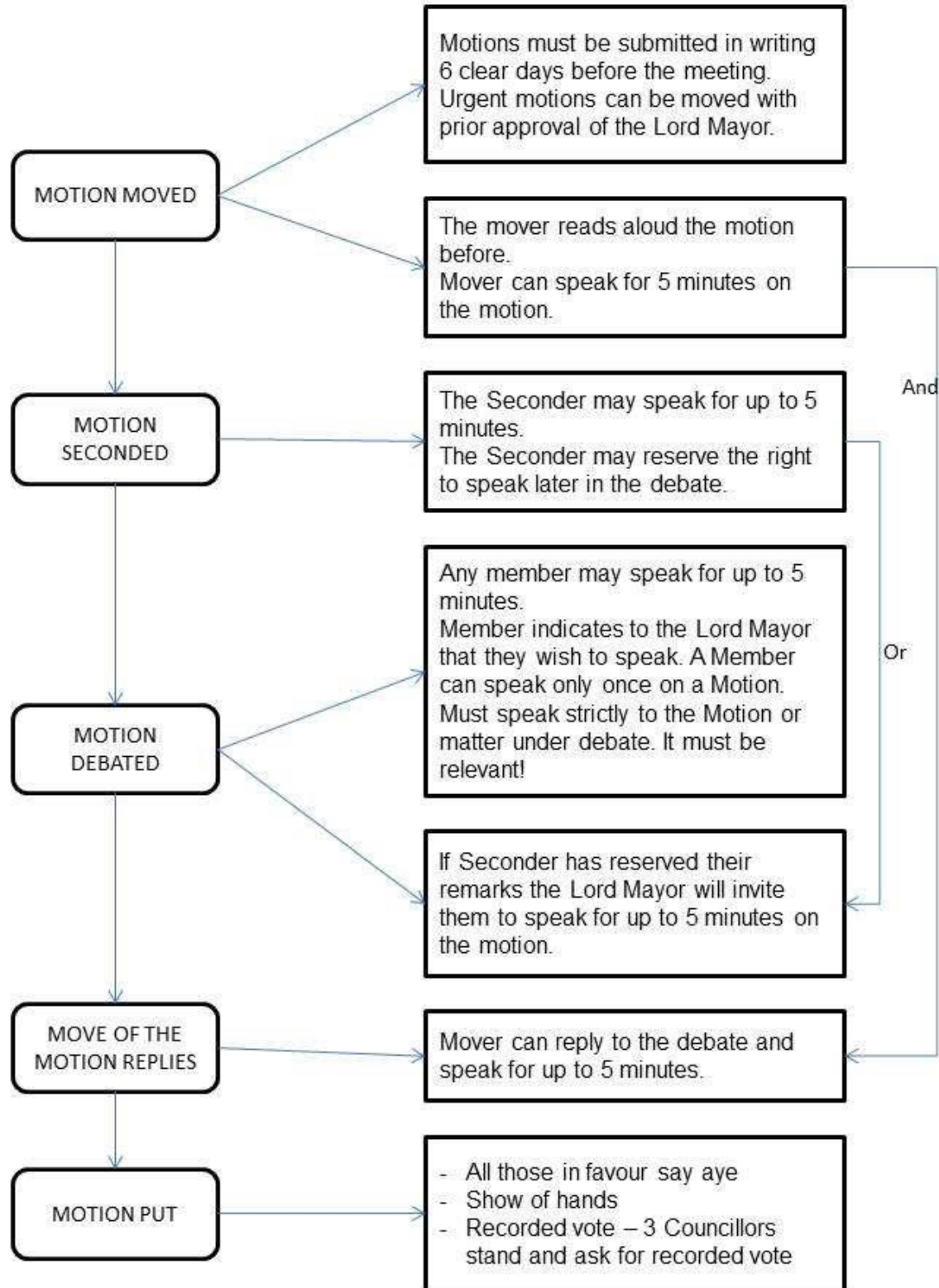
its next meeting specifying the grounds for urgency, and if there has been an avoidable delay, indicating steps to avoid recurrence.

46. RECORDING OF PROCEEDINGS

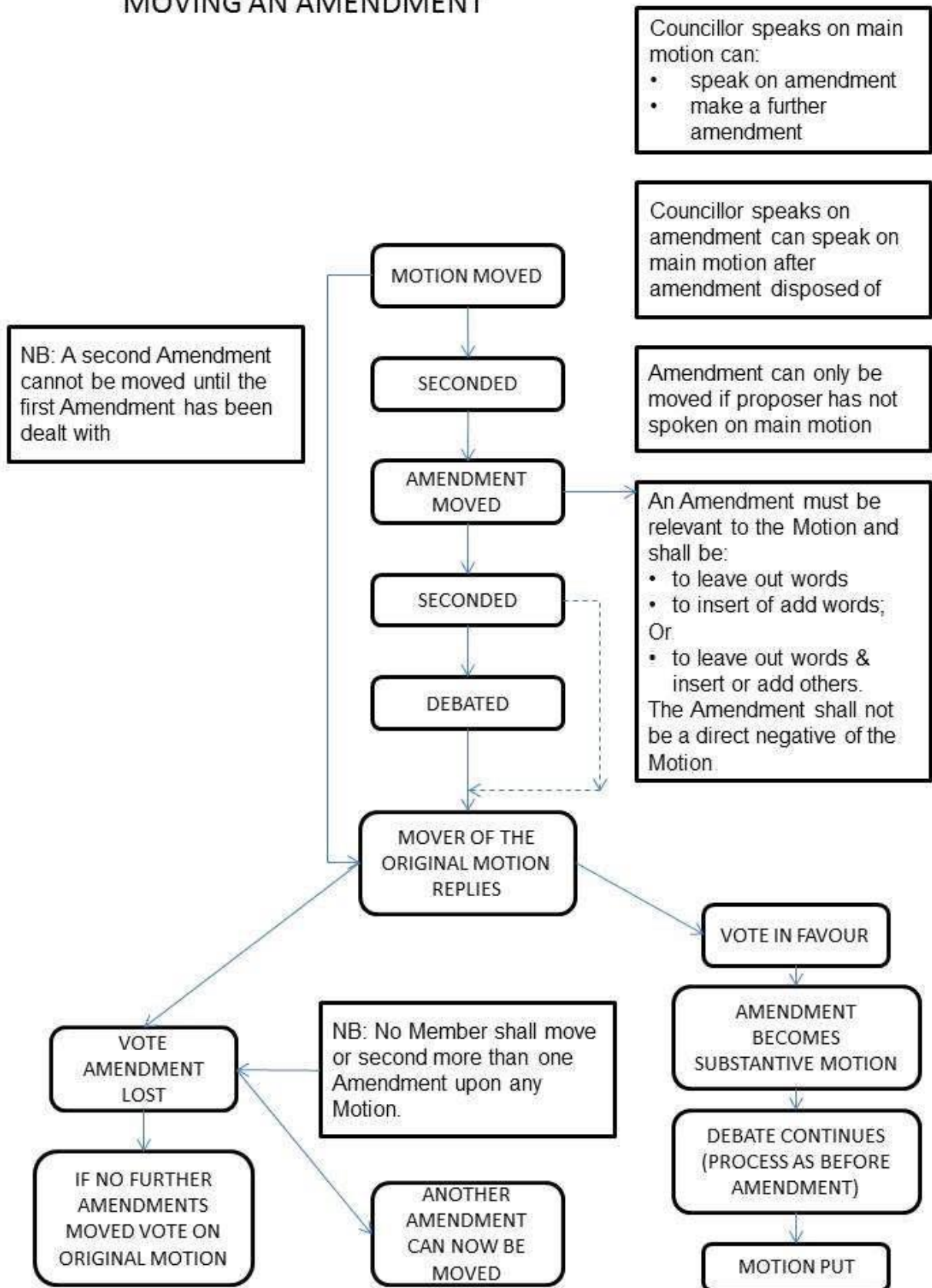
All requests to record / capture the proceedings of any Council meeting will be considered in accordance with the Council's policy attached as Appendix 8 to Part 5 of the Council's Constitution.

FULL COUNCIL GUIDE TO RULES OF DEBATE

MOTION MOVED WITHOUT AMENDMENT



MOVING AN AMENDMENT



PART 4B

ACCESS TO INFORMATION

PROCEDURE RULES

PART 4B – ACCESS TO INFORMATION - PROCEDURE RULES

CONTENTS

This section includes changes approved by Council on. 18/06/15.

Future variations:

- a) These Rules may be changed by the Council to meet future legal requirements.
- b) The Council may designate alternative officer(s) to perform the duties and responsibilities referred to in these rules.

RULE 1 - Scope

These rules apply to all meetings of the Council, Executive, Area Committees (if any), the Standards Committee, Regulatory and other Committee and Sub-Committees of the Council, Scrutiny Committees and their sub-committees, ("meetings.")

They also apply, where indicated, to decision-making by Members/Officers where they act with individual authority

For these purposes "briefings" are not "meetings"

For these purposes references to "reports" and "documents" does not include those in draft form.

RULE 2 – Additional rights to Information

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

RULE 3 – Rights to attend meetings

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

RULE 4 – The Forum for Executive decision-making

- a) "Meetings" of the Executive and its committees may be in the form of public meetings or private meetings. A public meeting will be open to members of the public, subject to Rule 11. Executive decision-making can be undertaken on an "individual" basis by an Executive Member or by an Officer outside of a public or private meeting.
- b) The City Mayor will determine what matters will be considered at public meetings or private meetings, or individually by Executive decision-makers outside of meetings
- c) This rule does not apply where officers meet with Members to provide a briefing on matters of Executive business. For the purpose of this rule such a briefing is not a 'meeting' (see Note to Rule 4).
- d) As soon as is reasonably practicable after an Executive decision is made (at a public meeting, a private meeting or individually by Members or Officers) it shall be communicated to the proper officer, unless the proper officer is already present, who will be responsible for recording and publishing it in accordance with Rule 18.
- e) The Head of Paid Service, the -Section 151 Officer and the Monitoring officer and their nominees are entitled to attend any meeting of the Executive and its

Committees. The Head of Paid service will be given reasonable notice that a private or public Executive meeting is to take place.

Note to Rule 4:

A 'meeting' under this rule does not include 'briefings' which are convened by Members of the Executive for the sole purpose for being briefed on a particular issue by an officer. Thus, for example, where one or more Members for the Executive meet with an officer merely to seek clarification of a particular matter, that briefing need not be in public.

RULE 5 – Notice of public and private meetings

(1) The Council will give at least five clear days' notice of any meeting the public are entitled to attend by posting details of the meeting on the Council's Internet site and at the Council's Offices. See Rule 11 where it is proposed to take decisions at private meetings

(2) Where the Council intends to take an Executive decision at a private meeting, it shall publish its intention to do so at least 28 clear days beforehand and comply with the provisions set out in Regulation 5 Local Authorities (Executive Arrangements)(Meetings & Access to Information)(England) Regulations 2012.

RULE 6 – Access to Agenda and Reports before public meetings

The Council will make copies of the agenda and reports (subject to Rule 12) available on the Council's Internet site and at the Council's Offices at least five clear days before the meeting. 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. Where reports are prepared after the summons has been sent out the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to the City Mayor and Councillors.

RULE 7 – Supply of copies

The Council will, on payment of a charge for postage and any other costs, supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda: and
- (c) if the Monitoring Officer thinks fit, any other documents supplied to the City Mayor or Councillors in connection with an item to any person;

RULE 8 – Access to minutes and reports etc after the meeting

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the City Mayor and Executive, 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.

RULE 9 – Background papers

- (1) The officer writing the report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in her/his 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; and
 - (c) do not include published works or those which disclose exempt or confidential information (as defined in Rule 11) and in respect of Executive reports, the advice of a political adviser (if any has been appointed).
- (2) The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

RULE 10 – Summary of the public’s rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at Council's Internet site and at the Council's City Hall Office. This Constitution constitutes the written summary.

RULE 11 - Exclusion of access by the public to meetings

For Executive Meetings:

Where it is intended to take an Executive decision at a private meeting, the Council shall publish its intention to do so at least 28 clear days beforehand and comply with the provisions set out in Regulation 5 Local Authorities (Executive Arrangements)(Meetings & Access to Information)(England) Regulations 2012.

For all meetings:

- (1) The public **must** be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.
- (2) 'Confidential information' means given to the Council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.
- (3) The public **may** be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of the European Convention on Human Rights.
- (4) 'Exempt information' means information falling within the statutory categories (subject to any condition) described in the Schedule to these Rules. Information is not exempt by virtue of falling within any of the statutory categories if the information relates to proposed developments for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
- (5) Guidance has been produced: see Appendix 1 to these Rules.

RULE 12 - Exclusion of access by the public to reports

- (1) The Council may exclude access by the public to reports which in the opinion of the Monitoring Officer relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public.
- (2) Such reports or parts thereof will be marked 'Not for Publication' together with the category of information likely to be disclosed.
- (3) There may be occasions where a public meeting of the Council or its committees/commissions considers a report, or part thereof, which is 'Not for Publication' as part of a discussion but does not specifically refer to that report, or part thereof during the discussion. In these circumstances it will not be necessary to exclude the public from part or all of the discussion/meeting. In relation to public meetings of the Executive this provision applies subject to Regulation 4 Local Authorities (Executive Arrangements)(Meetings & Access to Information)(England) Regulations 2012] which may compel removal of the public for all/part of the meeting, where confidential information might be disclosed.

RULE 13 - Procedure before taking Key Decisions

The definition of a 'Key Decision' is defined in Article 6 of this Constitution:

- 1) Subject to Rule 15 (general exception) and Rule 16 (special urgency), a Key Decision may not be taken unless:
 - (a) Rule 14 has been complied with; and
 - (b) Where the City Mayor, a Deputy City Mayor or an Assistant City Mayor or an officer receives a report upon which s/he intends to take a Key Decision, then s/he will not make the decision until at least five clear days after receipt of that report.; and
 - (c) On giving of such a report to an individual decision maker, the person who prepared the report will make available a copy of it to the Chair and Vice-Chair of every relevant Scrutiny Committee as soon as reasonably practicable, and
 - (d) the individual decision maker shall ensure that the Monitoring Officer makes the report available for inspection by the public as soon as is practicable after that individual decision maker receives it provided that nothing in this Rule shall require the disclosure of confidential or exempt information or the advice of a political advisor or assistant; and
 - (e) where the decision is to be taken at a meeting of the Executive or its committees (if any), notice of the meeting has been given in accordance with Rule 5 (notice of meetings).
- 2) Where compliance with Rule 13 (1)(b) to (e) is not possible due to exceptional urgency [but Rule 13(1) (a) has been complied with] the Key Decision may still be made if the decision-maker has obtained the consent of the Chair of the relevant Scrutiny Commission, or in his/her absence, the Lord Mayor or Deputy Lord Mayor. The reason for exceptional urgency will be detailed in the decision notice.

RULE 14 - The Plan of Key Decisions

- (1) A Plan of Key Decisions will be prepared by the City Mayor on a rolling basis.
- (2) The Plan of Key Decisions will contain matters which the City Mayor has reason to believe will be subject of a Key Decision to be taken by the City Mayor, the Executive, a Committee of the Executive, individual Members of the Executive, Officers, Area Committees or under Joint Arrangements in the course of the discharge of an Executive function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
 - (a) the matter in respect of which the decision is to be made;
 - (b) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
 - (c) the date on which, or the period within which, the decision is to be made;

- (d) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
 - (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
 - (f) that other documents relevant to those matters may be submitted to the decision maker; and
 - (g) the procedure for requesting details of those documents (if any) as they become available.
- (3) The Plan of Key Decisions must be published at least 28 days before any proposed Key Decision contained within it is taken, subject to Rules 15 and 16.
 - (4) Exempt information need not be included in a Plan of Key Decisions and confidential information cannot be included.
 - (5) Where a decision maker takes a decision relating to an item on the current Plan of Key decisions, but is of the opinion that upon having received final officer advice, it isn't a key decision, reasons shall be specified in the record of the decision for this re-classification.

RULE 15 - General Exception

- (1) If a matter which is likely to be a Key Decision has not been included in the Plan of Key Decisions, then subject to Rule 16 (special urgency), the decision may still be taken if:
 - (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been published on a Plan of Key Decisions for 28 days;
 - (b) the Monitoring Officer has informed the Chair of a relevant Scrutiny Committee, or if there is no such person, each member of that committee by notice in writing of the matter on which the decision is to be made;
 - (c) The Monitoring Officer has made copies of that notice available to the public at the relevant Council offices and on its website; and
 - (d) at least five clear days have elapsed since the Monitoring Officer complied with (b) and (c).
- (2) Where such a decision is taken collectively, it must be taken in public.

RULE 16 - Special Urgency

- (1) If, by virtue of the date by which a decision must be taken Rule 15 (General Exception) cannot be followed, then the decision can only be taken if the Chair of the relevant Scrutiny Committee(s) agree(s) that the taking of a decision cannot be reasonably deferred.

- (2) If there is no Chair of the relevant Scrutiny Committee(s), or if the Chair of each relevant Scrutiny Committee is unable to act, then the agreement of the Lord Mayor, or in her/his absence the Deputy Lord Mayor.
- (3) As soon as the decision-maker has obtained agreement in line with Rule 16 (1) and (2) above, they shall make available at the relevant Council offices and its website a notice setting out the reasons for applying Rule 16.

RULE 17 - Report to Council

- (1) If it is believed that an Executive decision has been taken which was :
 - (a) not treated as a Key Decision when it should so have been treated
 - (b) a Key Decision which was not included in the Plan of Key Decisions under Rule 14; or
 - (c) a Key Decision which was not properly the subject of the general exception procedure under Rule 15; or
 - (d) a Key Decision which was not properly the subject of the special urgency procedure under Rule 16;
 - (e) a Key Decision which was not properly the subject of the exception under Rule 13(2),

a Scrutiny Committee may require the City Mayor or Executive to submit a report to the Council within such reasonable time as specified in the request [**Regulation 18 Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012**]. This is in addition to the right of call-in for any Executive decision provided for by Rule 12 of Part 4D (City Mayor & Executive Procedure Rules)

- (2) Any request under Rule 17 to challenge a City Mayor & Executive decision must:
 - (a) be in writing (a majority of Members of the Scrutiny Committee signing such a notice should sign and print their name on the notice in the interests of clarity).
 - (b) specify reasons for the challenge
 - (c) specify a reasonable deadline for reporting to Council, and
 - (d) be submitted to the Monitoring Officer within five working days of the decision, the deadline for receipt being 5pm on the fifth working day after the date of the publication of the Executive decision.
- (3) Pending Council consideration of the report in accordance with this Rule, a challenge of a decision can be withdrawn by:
 - (a) resolution of the relevant Scrutiny Committee, or
 - (b) unanimous agreement of the Scrutiny Committee's Chair and Vice Chair.

- (4) The City Mayor & Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the City Mayor is of the opinion that it was not a Key Decision the reasons for that opinion.
- (5) In any event the City Mayor will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

RULE 18 - Record of decisions

- (1) The record of an Executive decision produced by the proper officer under Rule 4(e) shall comprise:
 - i. a record of the decision including the date on which it was made
 - ii. a record of the reasons for the decision
 - iii. details of any alternative options considered and rejected by the decision-maker
 - iv. a record of any conflict of interest declared by the decision-makers and
 - v. a note of any relevant dispensation granted.
- (2) All officer decision-making which falls within Regulation 7 of the Openness of Local Government Bodies Regulations 2014 shall be published in line with those statutory requirements.

RULE 19 - Attendance by Councillors who are not members of the Executive or relevant Committee of Council

A Councillor may attend a public meeting of the City Mayor and Executive (or any of its committees/subcommittees), in accordance with this Rule.

For attendance at council committee/subcommittee see Part 4A Rule 42.

The right to attend for an “exempt” item requires a ‘need to know’ (as defined in the Political Conventions) and 24 hours’ notice to the Monitoring Officer, with reasons, and a declaration of any interest.

The City Mayor must decide whether to allow attendance, taking into account the nature of the ‘need to know’, any interest declared and the nature and sensitivity of the confidential business.

The Councillor must declare any interest in an item of business and follow the relevant procedure as if a member of the Executive

The Councillor may not vote on any item.

The City Mayor, or Executive Member chairing the meeting, may, at their discretion, invite the Councillor to speak.

RULE 20 - Additional rights of access for Councillors

(1) Material relating to previous decisions

In addition to Rule 8, all Councillors will be entitled to inspect any document which is in the possession, or under the control of the Executive and contains material relevant to any business previously transacted at a private meeting or any decision made by an officer or Member discharging Executive decision-making functions, unless;

- a) it contains exempt information falling within the categories of exempt information as defined in Appendix 1; or
- b) it contains the advice of a political adviser.

Any such document shall be made available for inspection within 24 hours of the making of the decision.

*Please also see the Note to Procedure Rule 4 for the definition of 'meeting'.

(2) Material relating to future decisions

In addition to Rule 6, all Councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive which relates to any business to be transacted at a public meeting.

Any such document shall be made available for inspection at least 5 clear days before the meeting, or as soon as is reasonably practicable (where the meeting is convened at short notice) unless:

- a) it contains exempt information falling within the categories of exempt information as defined in Appendix 1; or
- b) it contains the advice of a political adviser.

(3) Political Conventions

Practical application of Councillors' rights set out in this Rules is supported by the Council's Political Conventions which are included in Part 5 of this Constitution.

RULE 21 - Access to documents by Members of Scrutiny Committees

(1) In addition to Rule 20 above, a member of a Scrutiny Committee will be entitled to copies of any documents which are in the possession or control of the Executive and which contains material relating to:

- a) any previous business transacted at a decision-making meeting of the City Mayor and Executive or its Committees; or
- b) any individual Executive decision taken by the City Mayor, a Deputy City Mayor or an Assistant City Mayor
- c) any Executive decision that has been made by an officer of the Council under Executive arrangements.

(2) Limit on rights.

A Scrutiny Committee will not be entitled to:

- a) any document that is in draft form;
- b) any part of a document that contains exempt or confidential information unless that information is relevant to an action or decision they are reviewing or scrutinising or is to be reviewed in accordance with its Work Programme; or
- c) advice of a political adviser.

(3) The Executive shall provide the document(s) as soon as is reasonably practicable and in any case no later than 10 days after receipt of the request.

(4) Political Conventions

Practical application of these and members' other rights to access information are supported by the Council's Political Conventions for the time being which are included in Part 5 of this Constitution.

APPENDIX 1

GUIDANCE: ACCESS TO INFORMATION

Rules contained in Schedule 12A of the Local Government Act, 1972 describe the categories of information which may be considered exempt from the requirement to provide the public with papers relating to local authority meetings and access to those meetings.

Schedule 12A has been amended to rationalise and simplify categories of exempt information and to harmonise the rules with data protection law and the Freedom of Information Act, 2000. Fourteen categories of exempt information have been reduced to seven.

PUBLIC INTEREST TEST

The most significant change is that in all cases information can be treated as exempt information if, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The term 'public interest' is not defined but, put simply, the test is whether it "serves the interests of the public better to maintain the exemption or to disclose the information".

There is a presumption running through the Freedom of Information legislation; that openness is in itself to be regarded as something which is in the public interest. The Information Commissioner has identified a number of public interest factors which encourage the disclosure of information, including the following:

- Furthering the understanding of and participation in the public debate of current issues
- Promoting accountability and transparency by public authorities for decisions taken by them.
- Promoting accountability and transparency in the spending of public money.

There may be other factors to be taken into account when considering whether it is in the public interest for an exemption to be maintained.

Report authors must first identify if information falls within an exempt category and then apply the Public Interest Test. Democratic Support must be notified so as to ensure that an appropriate exempt category has been identified and applied.

The Public Interest Test must also be applied by the Council Committee / Sub-Committee / Executive when considering whether or not to move into closed session. The decision making body must be satisfied that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information and the resolution should include words to reflect this. This

Authority has already adopted the convention that as much information as possible should be disclosed unless there is a good public interest reason for not doing so.

EXEMPT INFORMATION

(NB: Paragraph numbers of the categories mirror those contained in Schedule 12A of the Local Government Act 1972)

NOTE: all categories are subject to the application of a Public Interest Test
- see note at the end of this Schedule

CATEGORY	QUALIFICATIONS/DEFINITIONS
1 Information relating to any individual.	
2 Information which is likely to reveal the identity of an individual.	
3 Information relating to <u>the financial or business affairs</u> of any particular person (<u>including the authority</u> holding that information).	<p>Information is not exempt information if it is required to be registered under –</p> <ul style="list-style-type: none"> (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 2011 <p>'financial or business affairs' includes contemplated, as well as past or current, activities</p> <p>'registered' in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any building society (within the meaning of that Act)</p>

<p>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.</p>	<p>'employee' means a person employed under a contract of service</p> <p>'labour relations matter' means –</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above;</p>
<p>CATEGORY</p>	<p>QUALIFICATIONS/DEFINITIONS</p>
	<p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;</p> <p>'office-holder', in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;</p>
<p>5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	
<p>6 Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	
<p>7 Information relating to any action taken or to be taken in connection with the</p>	

prevention, investigation or prosecution of crime.	
7A Information which is subject to any obligation of confidentiality.	Applies to Standards Committee only
7B Information which relates in any way to matters concerning national security.	Applies to Standards Committee only
7C The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.	Applies to Standards Committee only
Generally.	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.

Public Interest test

In respect of all the above categories, information is only 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.

PART 4C – BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

In this Rule

‘Budget’ and ‘Policy Framework’ shall have the meanings given in Article 4.

‘Section 151 Officer’ means the officer responsible for the proper administration of the Council’s financial affairs appointed under section 151 of the Local Government Act 1972 (and is currently the Director of Finance)

RULE 1 – PROCESS FOR APPROVING THE BUDGET AND POLICY FRAMEWORK

- (1) The Council will be responsible for the adoption of plans and strategies comprising the policy framework, and budget (as defined in Article 4)
- (2) The City Mayor will be responsible for the preparation of proposed plans, strategies and budgets for Council consideration.
- (3) In respect of the adoption of plans and strategies comprising the policy framework, and budget the City Mayor must:-
 - a) prepare draft proposals in advance of making firm proposals and provide a consultation period within which a Scrutiny Committee(s) can consider the draft proposals.
- (4) In making proposals to the Council, the City Mayor will take into account any responses from Scrutiny Committees.
- (5) When considering the City Mayor’s proposals, the Council may:
 - a) adopt or approve the draft budget, plan or strategy;
 - b) ask the City Mayor to reconsider or
 - c) amend the budget, plan or strategy itself
- (6) If the Council asks the City Mayor to reconsider, s/he must resubmit her/his proposals or make fresh proposals.
- (7) If the Council amends the proposals, the City Mayor may resubmit her/his proposals or make fresh proposals and submit these to the Council. S/he may exercise this right by writing to the Monitoring Officer within five days of the Council decision. S/he may also waive this right by writing to the Monitoring Officer. If the City Mayor does not exercise this right or waives it, the amended proposals shall be adopted.
- (8) If the City Mayor submits or resubmits proposals under rule 1.6 or 1.7 the Council shall consider these proposals. It shall make its final decision on the matter in that it may approve the proposals of the City Mayor by a simple majority of votes cast at the meeting; or approve a different decision which does not accord with the recommendations of the City Mayor by a two-thirds majority.

- (9) Once proposals are approved, the City Mayor shall implement them.

RULE 2 – SUBSEQUENT CHANGES

- (1) In approving a plan, strategy or budget, the Council shall determine the extent to which the City Mayor may make subsequent changes without Council approval.
- (2) Finance Procedure Rules provide for delegated authority for officers to make changes to the budget, up to specified limits.

RULE 3 – DECISIONS MADE OUTSIDE THE BUDGET AND POLICY FRAMEWORK

- (1) Subject to Rule 4, the City Mayor and anyone else discharging executive functions may only take decisions which are in line with the Budget and Policy Framework.
- (2) A decision taker should where appropriate take advice from the Monitoring Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice given is that the decision would not be, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 4 shall apply.

RULE 4 – URGENT DECISIONS OUTSIDE THE BUDGET AND POLICY FRAMEWORK

- (1) The City Mayor, or anyone discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget, if the decision is a matter of urgency and is taken in accordance with this Rule.
- (2) Except where the reason for urgency is an emergency, the decision may not be taken unless:
- i. it is not practical to convene a quorate meeting of the full Council; and
 - ii. the chair of a relevant Scrutiny Committee agrees that the decision is a matter of urgency. In the absence of the Chair of a relevant Scrutiny Committee, the consent of the Lord Mayor, or in their absence the Deputy Lord Mayor or High Bailiff will be sufficient.
- (3) The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the relevant Scrutiny Committee's or other Member's consent to the decision being taken as a matter of urgency must be noted on the record of the decision.
- (4) Except where the reason for urgency is an emergency, the decision taker will provide a full report to a subsequent Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.
- (5) Where a decision is taken as part of a response to an emergency, the decision need not comply with the Budget and Policy Framework but must be made

within the decision making framework of the Emergency Plan or Section 1.6 of the Finance Procedure Rules.

RULE 5 – CALL-IN OF DECISIONS OUTSIDE THE BUDGET AND POLICY FRAMEWORK

- (1) Call-in rights under this Rule can be exercised by:
 - a. A Scrutiny Committee, or
 - b. Any five Councillorswho shall be termed an “Objector” for the purpose of this Rule.
- (2) Where an Objector is of the opinion that an executive decision is, or if made, would be, contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, then the Objector shall seek advice from the Monitoring Officer (who will consult the Section 151 Officer where appropriate).
- (3) An Objector can give notice requesting that an executive decision be called-in on the grounds that it is contrary to the Budget and Policy Framework by giving notice in writing to the Monitoring Officer, the deadline for receipt of such objection being 5pm on the fifth working day after the decision (or the third day after the publication of the decision, if later).
- (4) Any notice made under this rule for call-in of an executive decision must:
 - a. be in writing
 - b. where the call-in is by five councillors, specify a sponsor and a seconder, and
 - c. specify reasons for the call-in
- (5) In addition to providing advice to the Objector, the Monitoring Officer will facilitate discussions between the Objector and the decision taker with a view to reaching agreement, and the decision may be taken if either:
 - a. the objector accepts that the executive decision is within the Budget and Policy Framework; or
 - b. the decision receives the support of the Objector.Agreement by an Objector under this provision must be by:
 - a. the sponsor and seconder if the objection has been made by five Councillors, or
 - b. the Chair and Vice Chair, if the objection has been made by a Scrutiny Committee.
- (6) If the objector remains of the view that an executive decision is contrary to the Budget and Policy Framework, and agreement cannot be reached, then the matter will be referred to the Council as Stated in (7) and (8).
- (7) If the decision has yet to be made or has been made but not yet implemented, no further action will be taken in respect of the decision or its implementation until the Council has considered the matter. The Council shall meet as soon as

practical. At the meeting the Council will receive a report on the decision or proposals which will include the views of the decision taker and the Objector, if any, and the advice of the Monitoring Officer (and the Section 151 Officer) if appropriate).

(8) The Council may either:

- i. determine that the decision falls within the Budget and Policy Framework. In this case the decision may be taken by the decision taker and implemented; or
- ii. determine that the decision or proposal is contrary to the Policy Framework or contrary or not wholly in accordance with the Budget. It may then either:
 - require the decision taker to take the decision in accordance with the Budget and Policy Framework; or
 - take the decision itself.

PART 4D – CITY MAYOR & EXECUTIVE PROCEDURE RULES

This section includes changes approved by Council on 18 September 2014.

RULE 1 – The discharge of Executive Functions

- a. The arrangements for the discharge of executive functions are set under Article 5 (the City Mayor and Executive) and as decided by the City Mayor under Part 3 of this Constitution (City Mayor). The City Mayor may decide how executive functions are to be exercised, and may provide for their discharge by:
 - i. the City Mayor
 - ii. the City Mayor & Executive as a whole;
 - iii. a Committee of the Executive;
 - iv. a Deputy City Mayor or an Assistant City Mayor;
 - v. an officer;
 - vi. an area committee;
 - vii. joint arrangements or
 - viii. another authority
- b. A delegate (an individual or a body) may delegate further in accordance with Part 3 of the Constitution.
- c. Where an executive function has been delegated, that does not prevent the discharge of the function by the person or body who delegates.
- d. Where an executive function has been delegated to a Deputy City Mayor or an Assistant City Mayor s/he shall seek advice from relevant officers before taking a decision within her/his delegated authority. Where appropriate this should include taking legal advice, financial advice and professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about the legality.
- e. The City Mayor may amend the scheme of delegation as defined in Article 5 by amending the City Mayor's Scheme of Delegation shown on The City Mayor's Internet site and serving notice of the change to the Monitoring Officer

RULE 2 – The delegation of Executive Functions

The City Mayor will maintain a written record of any delegations made from time to time and will maintain it on the City Mayor's Internet site. The record will contain the following information about executive functions:

- a. The names addresses, and wards of the people appointed to Deputy City Mayor and Assistant City Mayor roles by the City Mayor.
- b. The extent of any authority delegated to Executive members individually, including details of the limitation on their authority;

- c. The terms of reference and constitution of such Executive Committees as the City Mayor or Executive appoints and the names of the Deputy City Mayors or Assistant City Mayors appointed to them;
- d. The nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of the Deputy City Mayors or Assistant City Mayors appointed to any joint committee;
- e. The nature and extent of any delegation to any specific officer with details of any limitation on that delegation and the title of the officer to whom delegation is made.

RULE 3 – Conflicts of Interest

If the exercise of an executive function has been delegated to a Committee of the Executive, a Deputy City Mayor, an Assistant City Mayor or an officer, and should a conflict of interest prevent the exercise of the function, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in of this Constitution.

RULE 4 – Executive meetings

The meetings of the City Mayor & Executive and any of its Committees will be conducted in accordance with these Rules, but where any point of procedure is not covered, the matter shall be determined by the person presiding at the meeting. Such rulings shall not be challenged at any meeting.

RULE 5 – Defining a meeting

A “meeting” under this rule does not include “briefings” which are convened by Members of the Executive for the sole purpose of being briefed on a particular issue by an officer. Thus, for example where one or more Members for the Executive meet with an officer merely to seek clarification of a particular matter, that briefing need not be in public.

RULE 6 – Consultation

All reports to the City Mayor & Executive from any member of the Executive or an officer on proposals relating to the Budget, must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

RULE 7 – Agenda for Meetings of the Executive

- a. The City Mayor will decide upon the schedule for the meetings of the City Mayor & Executive. S/he may put on the agenda of any City Mayor & Executive meeting any matter which s/he wishes, whether or not authority has been

delegated to the Executive, Committee of it or any member of officer in respect of that matter. The Monitoring Officer will comply with the City Mayor's request in this respect.

- b. Any member of the Executive may, with support from the City Mayor, require the Monitoring Officer to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration.
- c. The Monitoring Officer and/or Director of Finance may include an item for consideration on the agenda of an Executive meeting, for the consideration of a report from an officer.
- d. Urgent business –the Chair of a meeting can decide to accept an urgent item onto the agenda where, in their opinion, the item should be considered as a matter of urgency because of special circumstances which shall be specified in the minutes.

RULE 8 – Dates for Meetings of the Executive

a. Cycle of Meetings

At its Annual Meeting, the City Mayor shall inform Council of the schedule of meetings of the City Mayor & Executive for the Municipal year. Any variation will be published as soon as is practicable.

b. Variation of Dates

The date and/or time of any ordinary meeting of the City Mayor & Executive may be varied by the City Mayor.

c. Cancellation

The City Mayor may cancel any ordinary meeting of the City Mayor & Executive as s/he thinks fit.

RULE 9– Special meetings

In addition to the dates of meetings agreed by the Executive at its first ordinary meeting in the municipal year, the Executive may be summoned specially if so required by either: -

- (i) The City Mayor; or
- (ii) A written request to the Monitoring Officer signed by three members of the Executive, or
- (iii) The Monitoring Officer or Director of Finance in performance of their statutory duties; or

- (iv) Any two of the Head of the Paid Service, the Monitoring Officer or the Director of Finance, if of the opinion that a meeting needs to be called to consider a matter that requires a decision.

RULE 10 – Notice of meetings

Notice of the time and place of a public City Mayor & Executive meeting shall be published by the Monitoring Officer at the Council's offices at least five clear days before the meeting unless a special meeting is called within five days in which case the required notice must be given as soon as the special meeting is called. (Five clear days excludes the day of notice, the day of the meeting, Bank Holidays, Saturdays and Sundays.)

RULE 11 – Absence of Chair from meetings

- a. Where the City Mayor is absent from a meeting the statutory Deputy City Mayor shall take the Chair's place.
- b. Should the City Mayor arrive at a meeting which is in progress with the statutory Deputy City Mayor in the Chair, the City Mayor shall from a convenient point preside over the meeting.
- c. Where neither the City Mayor or statutory Deputy City Mayor are present, the Executive shall elect one of their number to preside over the meeting. If at such a meeting, the City Mayor (or the statutory Deputy City Mayor, if the City Mayor is absent) which is in progress s/he shall from a convenient point preside over the meeting.

RULE 12 – Call-in of Executive Decisions

- a. This Rule applies to Executive decisions by the City Mayor or Executive, any Committee of the Executive, a Deputy City Mayor, Assistant City Mayor or Officer. This Rule does not override Rule 17 of the Access to Information Procedure Rules.
- b. After such an Executive decision has been taken by the City Mayor or Executive, subject to the exceptions within this Rule, a Scrutiny Committee or any five Councillors may request formally that the decision be called-in for a further review by giving notice in writing to the Monitoring Officer within five working days of the decision, the deadline for receipt being 5pm on the fifth working day after the date of the publication of the Executive decision.
- c. A request under this Rule for call-in of an Executive decision must:
 - i. be in writing
 - a. 5 Members signing such a written notice and print their name on the notice in the interests of clarity or as a scanned electronic copy;

b, where call in is submitted by electronic means the proposer shall send a lead email to committees@leicester.gov.uk or specifying a reason; a seconder and three other members supportive of the call in, the seconder and three other members shall then email/electronically notify their support of the call in)

- ii. specify a sponsor and a seconder
 - iii. specify reasons for the call-in
 - iv. Call in will not be effective until either the signed written notice with 5 signatories is received or 5 emails/electronic notifications are received in accordance with (i) above
- d. No call-in may be made if the decision maker decides when making a decision that the matter is urgent for specified reasons. Where a decision is made as part of a response to a “emergency”, the decision will be deemed urgent and no call in may be made.
- e. No call-in shall be made in respect of the following decisions: -
- (i) Matters of procedure, to include: -
 - (a) election of Chair/Vice-Chair;
 - (b) exclusion of the press and public;
 - (c) dates and/or times of meetings;
 - (d) matters relating to the membership, functions and terms of reference of the Executive or the delegation of executive decisions.
 - (e) a decision that no objection may be made on grounds of urgency.
 - (f) a recommendation to Council in respect of proposals under Rule 1.2 of the Budget and Policy Framework Procedure Rules
 - (ii) Items submitted for information only.
- f. Where a decision has been called-in, no further *legally binding* action shall be taken on it and it shall stand referred to a meeting of the Full Council, unless either:
- The Decision Maker and the relevant Scrutiny Committee (or, via the Monitoring Officer, the Scrutiny Committee Chair and Vice Chair unanimously) come to an agreement; or
 - The call-in is withdrawn.

A decision called-in under this Procedure Rule must be referred to a scheduled or special meeting of the Full Council, but shall prior to this be referred to the relevant Scrutiny Committee(s) if programmed, or Special Scrutiny Committee(s) if summoned in accordance with Scrutiny Procedure Rule 4.

g. Withdrawal of a call-in under this Rule can be:

For a Five Member call-in:

- i. The sponsor and seconder, via the Monitoring Officer, or
- ii. By a resolution of the relevant Scrutiny Committee

For a Scrutiny Committee call-in:

- ii. By a resolution of the relevant Scrutiny Committee, or
- iii. By unanimous agreement of the Scrutiny Committee's Chair and Vice Chair, via the Monitoring Officer who shall have delegated authority for this purpose.

h. When considering a matter called-in, the Council may either:

- Support the Executive's decision, in which case it shall be confirmed with immediate effect; or
- Recommend a different decision to the decision maker.
-

ii. Regardless of (h) above following consideration of a 'call-in' by Council under this Rule the original decision will be deemed to be revived in its entirety. Any willingness by an Executive Decision maker to change the original decision will require a further formal Executive Decision.

j. Where the original decision is changed in accordance with (i) above that amended decision may not be subject of a further call-in.

RULE 13 – Quorum

A quorum for a meeting of the City Mayor & Executive or an Executive Committee shall be three.

RULE 14 – Procedure at meetings

- a. The procedure to be followed at meetings of Executive shall be in accordance with these Rules, but where a point of procedure arises which is not covered, the matter shall be determined by the City Mayor or other person presiding at the meeting. Such rulings shall not be challenged at any meeting.
- b. In determining procedure, the person presiding at the meeting shall have regard to the Council Procedure Rules for the conduct of meetings and debate.

- c. The City Mayor may adopt from time to time a protocol for members of the public to ask questions at public City Mayor & Executive before decisions are taken, to promote an inclusive and open approach to decision making.

RULE 15 – RECORDING OF PROCEEDINGS

All requests to record / capture the proceedings of any Council meeting will be considered in accordance with the Council's policy attached as Appendix 8 to Part 5 of the Council's Constitution.

Minor amendments for the purpose of clarification under Article 16a made to Part 4D May 2017

PART 4E – SCRUTINY PROCEDURE RULES

This section includes changes approved by Council on 18 September 2014

RULE 1 – The number and arrangements for Scrutiny Committees

The Council will have Scrutiny Committees as set out in Article 8 appointed in accordance with this Constitution.

RULE 2 – Quorum

The quorum of every Scrutiny Committee shall be three elected members.

RULE 3 – Dates of meetings

a. Scrutiny Committees

The dates of Committees and Sub-Committees shall be set by the Monitoring Officer and an agreed programme of dates shall be presented to Annual Council for confirmation.

b. Variation of dates

The date and/or time of any ordinary meeting of a Scrutiny Committee may be varied or cancelled by the Monitoring Officer in consultation with the Chair of the Committee, provided that any variation shall be reasonable and compatible, so far as is practicable, with the cycle of meetings as agreed by the Council.

RULE 4 – Special meetings

(1) Any Scrutiny Committee may be summoned specially if so required by either:-

- (i) The Chair after consultation with the Vice-Chair and with the agreement of the Monitoring Officer or
- (ii) A written request to the Monitoring Officer signed by three members of the Committee.

(2) The agenda of a special meeting shall include declaration of interests, plus the item(s) for which the special meeting has been called. Matters of other urgent business may be transacted at the discretion of the Chair and Vice-Chair.

RULE 5 – Notice of meetings

Notice of the time and place of a Scrutiny Committee meeting shall be published by the Monitoring Officer at the Council's offices at least five clear days before the meeting unless a special meeting is called within five days in which case the required notice must be given as soon as the special meeting is called. (Five clear days

excludes the day of notice, the day of the meeting, Bank Holidays, Saturdays and Sundays.)

RULE 6 – Absence of Chair from a meeting

- a. Where the Chair is absent from a meeting the Vice-Chair shall take the Chair's place.
- b. Should the Chair arrive at a meeting which is in progress with the Vice-Chair presiding over the meeting, the Chair shall, from a convenient point, preside over the meeting.
- c. Where there is no Chair or Vice-Chair present, the Committee shall elect one of their number to preside over the meeting. If at such a meeting, the Chair or Vice-Chair arrives after the meeting has started s/he shall, from a convenient point, preside over the meeting.

RULE 7 – Attendance and participation at meetings by Councillors who are not members of that Committee

- a. A Councillor may attend a meeting of a Scrutiny Committee of which s/he is not a Member, and with the prior approval of the Chair s/he may be invited to sit at the meeting table and address the Committee on a specific item(s) but may not vote on any item on the agenda, subject to the following:-
 - (i) Where a Councillor has an interest in any item of business, s/he shall declare the interest and will be bound by the same rules of procedure as if a member of the Committee.
 - (ii) The right to attend shall not apply to any part of a meeting during which a report is considered which contains exempt or confidential information of a description which does not require the report to be open to inspection, in accordance with the Access to Information Procedure Rules unless the Councillor requires access to the meeting during consideration of such an item in order to properly carry out his/her duties as a Councillor, in accordance with this Constitution.
 - (iii) Any provision that controls or restricts the right to speak and/or vote.

RULE 8 – Attendance and participation at meetings by members of the public

- (1) Members of the public are welcome to attend Scrutiny meetings and meetings will be conducted in an open manner.
- (2) A resident of the City may make a request to the Chair to be allowed to speak, in advance of the meeting, which shall be determined by the Chair at their discretion.

- (3) If a formal response is requested at the meeting the question or representation should be submitted in advance of the meeting under the process identified in Rule 10.
- (4) The Committee Chair may invite members of the public or interested parties to attend or speak at a Scrutiny meeting to provide information, opinion or expert advice where the Committee considers that to do so will assist in performance of the Committee's functions.
- (5) The Chair shall at all times make clear to the member of the public and the meeting the extent to which they may participate in the meeting.
- (6) No matter raised by a member of the public shall be accepted:-
 - (a) which relates wholly to party political business;
 - (b) from a staff group on staffing related matters, which instead should use the proper procedures, such as through management and trades union representatives;
 - (c) which relates to a specific and identifiable person or which relates to an individual's particular circumstances;
 - (d) about any matter where there is a right of appeal to the courts, a tribunal or to a government minister or on any matter which, in the opinion of the Monitoring Officer, is of a quasi-judicial nature;
 - (e) which contains abusive, defamatory or offensive language;

RULE 9 – Petitions at Scrutiny Committee Meetings

(a) PETITIONS

(i) Petitions Presented to Committee

- (a) The Committee shall only receive petitions which comply with the Council's Scheme for Petitions,
- (b) Petitions to be presented by members of the public shall be received by the Monitoring Officer no later than 12 noon five clear days before the meeting. (Clear days exclude the day of receipt, the day of the meeting, Bank Holidays, Saturdays and Sundays).
- (c) Petitions shall be presented to the Committee in the order in which they have been received with petitions presented by members of the public taking precedence.
- (d) The reading of the subject matter shall not be of excessive length.

- (e) If the petition is presented at the same Committee meeting at which there is a report on the agenda on the same subject, a Councillor may propose to the Chair that the petition be considered with the report.

(ii) Petitions that calls an officer to account

See part 5 Appendix 8 Petition Scheme

(iii) Referred from Council

Where a petition which has been debated at Council has been referred by the Council to a Scrutiny Committee, that Committee shall consider a report on the action taken as soon as practicable and in any case not later than at the second ordinary meeting after the Council meeting at which the petition was presented.

RULE 10 – Questions and representations

This rule shall apply where a detailed response is required at the meeting.

(1) Questions and representations:

- (a) Questions and representations shall be submitted by a resident of the City
- (b) The person submitting a question or representation need not be a resident of the City if the Scrutiny body is expressly dealing with a cross-boundary issue, or where the Scrutiny body itself is a cross-boundary entity (e.g. LLR Joint Scrutiny). In these circumstances the questioner must be a resident of the broader area.
- (c) Notice of the question or representation shall be received by the Monitoring Officer no later than 12 noon five clear days before the meeting. (Five clear days excludes the day of receipt, the day of the meeting, Bank Holidays, Saturdays and Sundays). The notice shall include the questioner's / representor's address. The Monitoring Officer shall decide at which Committee an issue shall be addressed.
- (d) At the meeting, matters will normally be discussed in the order in which they have been received
- (e) Where the person who gave notice of the matter does not wish personally to address the Committee s/he may have a friend do so on her/his behalf, provided that the Monitoring Officer is notified prior to the meeting.
- (f) Where the person presenting is not in attendance at the meeting when the appropriate point is reached on the agenda a written response will be sent to the person who submitted the request.
- (g) At the meeting, the Chair shall notify the member of the public the extent to which they may participate in the meeting.

(h) . The Chair of the meeting will manage the process in order to balance the principles of openness with the need to ensure the efficient operation of the meeting.

(i) The name of the person who gave notice of the , the text of the question and a summary of the representation, or response shall be recorded in the Minutes.

(2) No topic raised by a member of the public shall be accepted:-

(a) which relates wholly to party political business;

(b) from a staff group on staffing related matters, which instead should use the proper procedures, such as through management and trades union representatives;

(c) which relates to a specific and identifiable person or which relates to an individual's particular circumstances;

(d) about any matter where there is a right of appeal to the courts, a tribunal or to a government minister or on any matter which, in the opinion of the Monitoring Officer, is of a quasi-judicial nature;

(e) which contains abusive, defamatory or offensive language

RULE 11 – Procedure at meetings

When a point of procedure arises at meetings of the Scrutiny Committee which is not covered by Part 4E, Scrutiny Procedure Rules, or Part 4A Council Procedure Rules.

Where a point of procedure arises, which is not covered by either Part 4E or Part 4A, the matter shall be determined by the person presiding at the meeting. Such rulings shall not be challenged at any meeting.

RULE 12 – Education representatives and Standing Invitees

RULE 12a – Education representatives

(1) The Children, Young People and Schools Scrutiny Committee (or relevant Scrutiny Committee dealing with education matters) shall include in its membership such co-opted voting members as are required by statute. The Council shall determine such membership from time to time and review this at its annual meeting.

(2) A relevant Scrutiny Committee in this paragraph is a Scrutiny Committee of the Council where the Committee's functions relate wholly or in part to any education functions which are the responsibility of the Council's executive. If

the Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, although they may stay in a meeting and speak.

RULE 12b Standing Invitees

- (1) Each scrutiny committee shall from time to time consider its Standing Invitees subject to approval of Council, such standing invitees shall be entitled to participate in the meeting but will not have voting rights.

RULE 13 – Agenda items

- (1) Any member of a Scrutiny Committee may place an item within its terms of reference on its next agenda by giving at least three weeks' notice to the Monitoring Officer of the item and why the Committee is being asked to consider it.
- (2) This right does not apply when the matter has been considered and determined by the Council or a Scrutiny Committee has decided not to further pursue the matter, within the preceding six months.
- (3) The item shall be considered in accordance with the Political Conventions in Part 5 of the Constitution.

RULE 14 – Urgent business

The Chair of a meeting can decide to accept an urgent item on to the agenda where, in their opinion, the item should be considered as a matter of urgency because of special circumstances which shall be specified in the minutes.

RULE 15 – Recording/Filming meetings

All requests by members of the public to record / capture the proceedings of any Council meeting will be considered in accordance with the Council's policy attached as Appendix 8 to Part 5 of the Council's Constitution.

**PART 4F:
FINANCE PROCEDURE RULES**

Part 4F - Finance Procedure Rules

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1. Introduction

- 1.1 Finance procedure rules specify Leicester City Council's financial management requirements and must be followed by all employees and contractors engaged by the Council. This includes school-based employees, except where the Scheme for Financing Schools provides that different arrangements apply.
- 1.2 Within these rules, the term "director" includes strategic and divisional directors, and the Chief Operating Officer. It may or may not include the Director of Finance, but this is obvious from the context of individual rules.
- 1.3 These rules specify responsibilities falling upon the Director of Finance and on directors more generally. In practice, the Director of Finance and directors may (and often will) delegate responsibilities assigned to them but remain accountable for the way they are performed. The Director of Finance for the purposes of these rules is the Council's statutory finance officer appointed under section 151 of the Local Government Act, 1972, but he/she may nominate a director in the finance function to undertake the role (either in its entirety or for specific sections).
- 1.4 Many rules are supplemented by more detailed Financial Instructions issued by the Director of Finance. Such Financial Instructions shall be stated as issued pursuant to these rules and must also be followed. A complete record will be maintained, and staff can find this on InterFace.
- 1.5 Financial Instructions may be waived by the Director of Finance. Waivers will not be granted retrospectively.
- 1.6 In the case of an emergency, the Director of Finance may determine that alternative arrangements to those in Finance Procedure Rules shall apply, consulting the City Mayor if possible. This may include:
 - (a) making alternative arrangements for financial administration to those in section 2 and associated Financial Instructions, to the extent necessary to meet the requirements of the emergency;
 - (b) establishing a budget for the emergency, over and above the approved budget;
 - (c) determining which officers may commit the emergency budget, and any rules to be applied in spending the money;
 - (d) authorising any capital expenditure required as a consequence of the emergency, whether or not included in an approved capital programme.
- 1.7 Use of the above emergency powers shall be reported retrospectively to an appropriate scrutiny committee.

- 1.8 Breach of Finance Procedure Rules or Financial Instructions must be reported to the Director of Finance when discovered and may be grounds for disciplinary action.

2. Financial Administration

The Council's Financial Management System

- 2.1 The Director of Finance is responsible for the provision of a financial management system for ordering and paying for works, goods and services; raising invoices for services provided; recording all financial transactions; and preparing budget monitoring information and accounts.
- 2.2 The Director of Finance may permit specified service areas to operate some of the functions of the Financial Management System by other means. If he/she does so, he/she shall issue Financial Instructions specifying how such systems must be operated and controlled.
- 2.3 Schools may use systems other than the Financial Management System, to the extent permitted by the Scheme for Financing Schools. To the extent that the Financial Management System is used, schools' employees are bound by these Finance Procedure Rules.
- 2.4 The Director of Finance shall arrange for appropriate training of those with responsibilities for using the Financial Management System.

Ordering and Paying for Works Goods and Services

- 2.5 Works, goods and services may only be ordered for the purposes of delivering Council services, and may only be ordered by means of:
- (a) the Financial Management System (except where provided in 2.2 or 2.3 above); or
 - (b) a procurement card issued to an officer by the Director of Finance;
 - (c) other cases permitted by Financial Instructions.
- 2.6 The Director of Finance shall issue Financial Instructions specifying detailed operational arrangements for ordering works, goods and services by means of the Financial Management System. These shall, in particular:
- (a) Ensure there are effective arrangements for division of responsibilities between those requesting orders, placing orders, and confirming receipt of works, goods or services;

- (b) Make stipulations about the seniority and qualifications of officers who may be authorised to carry out specified tasks;
 - (c) Include procedures for ensuring orders properly record all information necessary for payment and financial reporting, and to account for VAT and contractors' tax deductions under the Construction Industry Scheme.
- 2.7 The Director of Finance shall issue Financial Instructions specifying detailed operational arrangements for the use of procurement cards, and responsibilities of those to whom they are issued.
- 2.8 Officers receiving procurement cards must sign to confirm receipt, and to confirm that they have read and understood the Financial Instructions.
- 2.9 The Director of Finance shall pay all invoices for works, goods and services which have been correctly ordered by means of the Financial Management System and which have been received. Payments for works, goods and services may only be made outside of this process in respect of:
- (a) Regular payments for utilities or other services for which orders are not appropriate;
 - (b) VAT only invoices;
 - (c) Payments consequent to land transactions initiated by the City Barrister;
 - (d) Where the liability of the Council to make payment has been established, or payment has been advised by the City Barrister;
 - (e) Payments created by other systems, where the Director of Finance has agreed that the controls within those systems are adequate and the Financial Management System can be used to generate payments;
 - (f) Foreign currency payments;
 - (g) Other cases where permitted by Financial Instructions. In particular, Financial Instructions shall stipulate and regulate where payments in advance of service provision can be made.
- 2.10 The Chief Operating Officer shall nominate a director to ensure that the Council maintains a record of all contracts for works, and of payments made under these contracts.
- 2.11 Where works, goods and services have been ordered without proper authority, the officer concerned may be deemed to be acting in a personal capacity.

Charges for Services Provided

- 2.12 Directors are encouraged to take payment in advance of the provision of services, avoiding the need to raise invoices.
- 2.13 Except where provided in 2.2 or 2.3 above, invoices for services provided may only be issued by means of the Financial Management System. The Director of Finance shall issue Financial Instructions specifying detailed operational arrangements.
- 2.14 Directors are responsible for ensuring that invoices are raised promptly for all debts due to the Council, and for ensuring that debts are properly evidenced (sufficient to pursue recovery action in the event of non-payment).
- 2.15 The Director of Finance is responsible for collecting all debts for which an invoice has been raised, except where debt proves to be irrecoverable at reasonable effort and expense.
- 2.16 Directors are responsible for reviewing their fees, charges and rents in consultation with the Director of Finance. Changes (or a decision not to make changes) shall be reported to the appropriate scrutiny committee at the discretion of the director or the Director of Finance.

Payment of salaries and other payments to employees and members

- 2.17 The payment of all salaries, allowances and expenses is the responsibility of the Director of Finance, together with the payment of all tax, pension and other contributions to the relevant bodies. Provision of information to ensure correct payment is the responsibility of directors.
- 2.18 The Director of Finance shall issue financial instructions specifying detailed arrangements for making payments. These shall, in particular:
 - a) Include provision ensuring that payment is only made when properly due;
 - b) Identify responsibilities for the provision of information by employees themselves (self-service);
 - c) identify responsibilities for the provision of information by employees' managers, particularly starters, leavers, absence, expense claims and provision for additional payments;
 - d) Stipulate what evidence must be retained, and how it must be retained, to substantiate payments;
 - (e) Include requirements for checks and reconciliations.

2.19 Except where otherwise permitted by the Director of Finance, all contractors engaged via personal services companies shall be treated as employees for the purpose of paying remuneration.

Payments Received

2.20 The Director of Finance is responsible for approving all methods used for collecting payments made to the Council, be that automated payment machines or kiosks, postal remittances, on-line payments or face to face. Separate arrangements may apply for schools to the extent permitted by the Scheme for Financing Schools.

2.21 In all cases where cash or cheques are collected, directors shall ensure there are arrangements for:

- (a) reconciling and banking payments as promptly as possible after collection;
- (b) safe custody pending banking, ensuring that cash is not left unattended except in a safe place that meets insurance requirements;
- (c) customers to obtain receipts for payments made (which must be given for face to face cash payment).

2.22 Officers responsible for handling cash:

- (a) must ensure it is banked intact;
- (b) must ensure a receipt is obtained if handed over to another officer or third party for banking;
- (c) must not borrow sums for personal use, or cash personal cheques.

2.23 The Director of Finance may issue Financial Instructions in respect of any specific method of collection or all methods of collection.

Debt Write Off

2.24 No debt properly due to the Council shall be discharged except by:

- (a) Payment in full
- (b) Write off, where a debt is irrecoverable at reasonable effort and expense.

2.25 Irrecoverable debts may be written off as follows:

- (a) By the Director of Finance, for amounts up to £5,000;

- (b) By the City Barrister for amounts exceeding £5,000, subject to periodic reporting to the appropriate scrutiny committee. Individual debts in excess of £100,000 shall be itemised.

2.26 The Director of Finance may write down any debt subject to insolvency proceedings, subject to periodic reporting to the appropriate scrutiny committee.

Monitoring Income Collection

2.27 The Director of Finance shall report at least annually to the relevant scrutiny committee on the Council's income collection performance.

Banking

2.28 Except for schools which manage their own bank accounts (where permitted by the Scheme for Financing Schools), the Director of Finance is responsible for providing all bank accounts required by the Council. No director other than the Director of Finance has authority to open or close a bank account.

2.29 The Director of Finance is responsible for approving the mandate by which each Council bank account operates and shall determine the procedural controls to be applied to each (including electronic approvals and signatories for transactions). In particular, the procedural controls shall provide that no payment can be made without the input of two officers (one to initiate and one to approve). However, a separate account with a single signature cheque book may be retained for emergency use. Such a cheque book shall be kept in a safe place, accessible only to named officers who are not signatories, and be subject to a maximum amount for each cheque.

2.30 The Director of Finance may authorise individual officers to hold imprest bank accounts. These accounts may be authorised only in circumstances where:

- (a) a service needs to make direct debit or BACS payments;
- (b) a service needs to pay by cheque.

2.31 The Director of Finance shall issue Financial Instructions on the management of imprest accounts, which shall include:

- (a) arrangements for evidencing payments made, and the collation of VAT receipts;
- (b) arrangements for providing information to account for sums spent;
- (c) replenishment of the account up to a specified level;
- (d) accounting for VAT;
- (e) reconciliation of balances.

- 2.32 Officers responsible for imprest accounts should sign to acknowledge their responsibilities, and to confirm that they have read and understood the Financial Instructions.
- 2.33 The Director of Finance shall make arrangements for the reconciliation of all bank accounts other than imprest accounts.

Cash Floats

- 2.34 The Director of Finance may make petty cash floats available to officers responsible for paying cash to clients. Floats shall only be used for this purpose and not for making purchases.
- 2.35 A nominated officer shall be accountable for each float, and shall be responsible for its proper use and safekeeping.
- 2.36 The Director of Finance shall issue Financial Instructions on the management of cash floats, which shall include:
- (a) arrangements for evidencing payments made, and the collation of VAT receipts;
 - (b) arrangements for providing information to account for sums spent;
 - (c) replenishment of balances;
 - (d) appropriate arrangements for safekeeping and insurance;
 - (e) accounting for VAT;
 - (f) reconciliation of balances.
- 2.37 Officers responsible for cash floats should sign to confirm receipt of the float, and that they have read and understood the Financial Instructions.

Inventories (Stocks and Stores)

- 2.38 Directors may hold stocks of consumable items and materials, and are responsible for the safe keeping of all items.
- 2.39 The Director of Finance shall issue Financial Instructions governing the management of inventories. Such instructions shall include:
- (a) Form of records which need to be maintained;
 - (b) Arrangements for safekeeping and insurance;
 - (c) Arrangements for certifying stock balances;
 - (d) Procedures for independent stock checks;

(e) Arrangements for the disposal of obsolete stock.

2.40 Writing off deficiencies in stocks may be authorised as follows

(a) By the director, for amounts of up to £5,000

(b) By the Director of Finance, for amounts exceeding £5,000, subject to periodic reporting to an appropriate scrutiny committee. Deficiencies of over £100,000 in any stock item shall be itemised.

Asset Registers

2.41 Directors may be in possession of equipment for use in the provision of services.

2.42 The Director of Finance shall issue financial instructions specifying:

(a) Assets which must be recorded in asset registers;

(b) Form of records which need to be maintained;

(c) Arrangements for safekeeping and insurance;

(d) Procedures for independent checks that assets continue to be held by the service;

(e) Authority to remove inventory items from the service's premises;

(f) Arrangements for the disposal of assets;

(g) Any separate considerations for leased assets.

2.43 Writing off deficiencies in asset registers may be authorised as follows:

(a) By the director - up to £5,000

(b) By the Director of Finance for amounts exceeding £5,000, subject to periodic reporting to an appropriate scrutiny committee. Deficiencies exceeding £100,000 in any category of asset shall be itemised.

Risk Management and Insurance

2.44 Directors are responsible for assessing the strategic and operational risks facing their services, and for identifying mitigating actions. These should be recorded on a risk register in a form approved by the Chief Operating Officer.

2.45 Except where schools have arranged their own insurance or have entered into alternative schemes (where permitted by the Scheme for Financing Schools), the Director of Finance is responsible for determining which risks require insurance, and for arranging cover or making alternative arrangements. No director is permitted to obtain insurance cover.

- 2.46 Where schools have made separate arrangements which are not as good as the minimum cover provided by the Director of Finance, the Director of Finance is responsible for acquiring any additional insurance required and charging schools accordingly.
- 2.47 Any event which may lead to an insurance claim shall be notified immediately to the Director of Finance. Directors should not admit liability for a third-party claim, or take any other action which could prejudice the Council's position.
- 2.48 Directors shall advise the Director of Finance of any material changes to service provision or insured assets; and of any new assets to be added to insurance arrangements.
- 2.49 All employees must comply with the terms of insurance policies.
- 2.50 Prior to entering into contracts, directors are responsible for assessing the risks associated with potential contractual breaches and for giving instructions on the appropriate level of insurance cover to be sought from contractors.

Financial Accounts and Returns

- 2.51 The Director of Finance is responsible for the preparation of the Council's accounts, and for making returns to Government Departments and HMRC.
- 2.52 The Director of Finance may issue Financial Instructions specifying information required (by means of input to the Financial Management System or otherwise) to support the above tasks.

3. Revenue Budgets

General

- 3.1 The Council shall set a budget each year when considering a recommendation of the City Mayor. The recommended budget shall, as a minimum, include:
- (a) The proposed council tax requirement;
 - (b) The proposed band D council tax;
 - (c) Total budgets available to individual departments;
 - (d) Budget Ceilings, being maximum amounts available to individual services within departments;
 - (e) A scheme of virement, which conveys authority to make in-year changes to the budget and specifies arrangements for the management of earmarked reserves.

- 3.2 The Director of Finance shall prepare a draft budget for the City Mayor's consideration each year, and directors shall provide such information as is necessary to support preparation of the draft budget.

Incurring Expenditure and Collecting Income

- 3.3 Directors are authorised to incur expenditure on services for which there is approved budget, provided such expenditure complies with Finance and Contract Procedure Rules and the UK's international subsidy obligations.
- 3.4 Directors are responsible for collecting all income due.

Grant Income

- 3.5 Where budgeted expenditure is to be met by grant income, directors are responsible for:
- a. complying with the conditions of grant aid;
 - b. complying with the UK's international subsidy obligations, and with any associated monitoring arrangements specified by the Director of Finance in Financial Institutions.
- 3.6 All applications for new external grant funding must be approved by a director in consultation with the Director of Finance and the City Barrister. The certification of expenditure in support of a grant claim is the responsibility of the Director of Finance.

Controlling Expenditure and Income

- 3.7 Each strategic director is responsible for ensuring their departmental budget is not overspent.
- 3.8 Each director is responsible for ensuring that services are provided within the budget ceilings available, and that no individual budget ceiling is overspent, after using flexibilities provided by the scheme of virement.
- 3.9 Each director is responsible for allocating the budget to individual nominated cost centre managers. When nominating cost centre managers, he/she must align budgetary accountability with managerial responsibility for use of resources as closely as possible.
- 3.10 Cost centre managers are responsible for ensuring that the budget for which they are responsible is not overspent (or under-recovered) and are accountable to their directors (through normal line management arrangements) in this regard.
- 3.11 The Director of Finance is responsible for providing training to cost centre managers.

Earmarked Reserves

- 3.12 The Council's budget management framework allows the creation of earmarked reserves, subject to the current Scheme of Virement.
- 3.13 Each department may transfer its aggregate year end underspend to an earmarked reserve.

Monitoring and Reporting Revenue Expenditure

- 3.14 Each director shall put in place arrangements, through normal management, for monitoring expenditure and income, and holding cost centre managers to account.
- 3.15 The Director of Finance shall periodically report progress on implementation of the budget to the City Mayor/Executive and the relevant scrutiny committee during the financial year, and at outturn. Directors shall supply information and explanations as requested by the Director of Finance for these purposes.

4. Capital Programme

Definitions

- 4.1 In this section of Finance Procedure Rules:
 - (a) Capital Resources are sums of money which may be spent on capital expenditure;
 - (b) Service Resources are such capital resources as the Council may determine when it approves the capital programme;
 - (c) Corporate Resources are all capital resources other than service resources;
 - (d) Programme Areas are groups of capital schemes within which the Council permits directors to reallocate resources, as determined by the Council when it approves the capital programme.

Setting the Programme

- 4.2 The Director of Finance is responsible for recommending a capital programme to the City Mayor. He/she may recommend the programme as a whole or authorise individual directors to recommend parts of the programme.
- 4.3 The capital programme may consist of:
 - (a) schemes for which specific sums of money are provided based on cost estimates;

- (b) provisions for later decision by the City Mayor or;
 - (c) a combination of the two.
- 4.4 The City Mayor shall recommend a capital programme to Council prior to the beginning of each period to which it relates. The programme may be for one or more years.
- 4.5 The capital programme approved by the Council shall determine:
- (a) the extent to which the programme can be changed or added to by the City Mayor, and the extent to which other decisions about deployment of resources can be taken by the City Mayor;
 - (b) the extent to which directors are authorised to commit expenditure.
- 4.6 When submitting a capital programme to the City Mayor, the Director of Finance (or director as the case may be) shall identify the following:
- (a) The revenue consequences of any unsupported borrowing;
 - (b) The revenue consequences of any schemes apart from the cost of borrowing;
 - (c) The extent to which borrowing is affordable, sustainable and prudent with reference to such indicators as the Director of Finance believes appropriate;
 - (d) The extent of any pre-commitment of capital resources in years beyond the plan;
 - (e) Where directors are authorised to commit expenditure on a scheme, the title of the director;
 - (f) The extent to which any schemes are grouped into programme areas.

Additions and Amendments to Capital Programme by Directors

- 4.7 Directors can add schemes to the capital programme provided the total cost of a new scheme is below £250,000 and totally funded from service resources.
- 4.8 Directors can amend schemes in the capital programme by:
- (a) transferring resources within programme areas;
 - (b) viring resources between schemes in their capital programme, or by using additional service resources, provided any increased costs or virement are below £250,000.

- 4.9 Additions and amendments made by directors shall be reported periodically to the relevant scrutiny committee.

Cost increases

- 4.10 Once directors have been authorised to incur expenditure, they are responsible for ensuring that each scheme is completed on time, in accordance with its objectives and within the approved capital programme provision.

Monitoring the Programme

- 4.11 Directors are responsible for ensuring that there are proper arrangements within their service areas for monitoring physical and financial progress of capital schemes.
- 4.12 The Director of Finance shall periodically report progress on the capital programme and the outturn position to the City Mayor/Executive and the relevant scrutiny committee. Directors shall supply such information as may be required for the preparation of this report.
- 4.13 At the outturn stage, the Director of Finance shall make recommendations about carrying forward permission to spend into later years, in respect of schemes which have underspent. The recommendation shall state how sums carried forward are to be paid for.

Subsidy to Third Parties

- 4.14 Directors are responsible for ensuring that capital expenditure in the form of a grant or loan to third parties shall comply with the UK's international subsidy obligations.

Capital receipts

- 4.15 The Director of Estates and Building Services and the Director of Housing are responsible for achieving capital receipts required to finance the capital programme.

5. Treasury Management and Leasing of Assets

General

- 5.1 All treasury management activities will be conducted in accordance with the Authority's treasury management policy as approved from time to time by the Council. The Director of Finance shall review, and seek Council approval to, a revised policy at least every 3 years.
- 5.2 At the beginning of each year, the Director of Finance shall seek the approval of the Council to a treasury strategy for the year. This shall identify the Authority's strategy for borrowing, leasing and investing for the year.

- 5.3 The performance of the treasury management function shall be reported at least annually to the relevant scrutiny committee.

Loans

- 5.4 Except as otherwise provided by the Scheme for Financing Schools, all borrowing shall be undertaken by the Director of Finance. Directors do not have authority to borrow money.
- 5.5 Where required, the Authority's registrar of stock, bonds and mortgages shall be the Director of Finance.

Leasing of Assets

- 5.6 All leases of property shall be undertaken by the Director of Finance, except for:
- (a) leases of land and buildings;
 - (b) leasing undertaken in accordance with the Scheme for Financing Schools;
 - (c) lease or hire arrangements for a period of one year or less;
 - (d) leases of equipment which are inclusive of a specialist repair and maintenance contract;
 - (e) leases for which the Director of Finance has given approval on a case by case basis.
- 5.7 Directors may enter into leases of a type described under 5.6 (c) to (e) above. Where directors enter into such leases, they may only extend or vary the terms after consultation with the Director of Finance.
- 5.8 Directors are responsible for the following in respect of leased assets (whoever has arranged the lease):
- (a) ensuring assets are safeguarded during the period of the lease, and complying with all obligations under the lease in respect of the asset;
 - (b) notifying the Director of Finance of the loss of any leased asset;
 - (c) arranging the disposal of unwanted assets in accordance with the lessor's instructions at the expiry of a lease.
- 5.9 Directors shall not dispose of any assets during the period of a lease without consulting the Director of Finance and shall be responsible for meeting any early termination charges.

Investments

5.10 Except as otherwise provided by the Scheme for Financing Schools, the Director of Finance shall make arrangements for the investment and management of all of the Authority's cash balances.

6. Audit and Investigations

6.1 The Director of Finance is responsible for procuring an internal audit service. He/she may also decide to provide an investigations team.

6.2 The Director of Finance shall approve an annual audit plan and report it to the Audit and Risk Committee.

6.3 The internal audit and investigations services shall have access to:

(a) all Council premises and property, including intellectual property such as software;

(b) all data and documents pertaining to any activity of the Council.

6.4 Where services are provided by partners or under contract, this right of access to data and documents is guaranteed by use of the Council's standard terms and conditions of contract, or (where standard terms and conditions are not used) by compliance with Contract Procedure Rules.

6.5 The internal audit and investigation services shall be entitled to seek information and explanations from any member, employee, or other person engaged on Council business.

6.6 Directors shall cooperate with the services and assist them to fulfil their role.

6.7 Directors shall inform the investigations team (or internal audit team if there is no investigations team) immediately a fraud or financial irregularity is known or suspected.

6.8 The Director of Finance shall report periodically to the Audit Committee on achievement of the audit plan, and on findings of significance.

7. Document Retention

7.1 The Authority's Records Retention Schedule must be complied with:

<http://www.leicester.gov.uk/your-council/how-we-work/records-retention-and-disposal>

These Financial Procedure Rules were reviewed by the Director of Finance 18 May 2021

PART 4G
CONTRACT PROCEDURE RULES

PREAMBLE

For capitalised words see Appendix 1 at the end of these Rules for the meanings.

1. The Contract Procedure Rules

- 1.1 These Contract Procedure Rules (“Rules”) are a legal requirement under Section 135 of the Local Government Act 1972 and are part of the Council’s Constitution. They set out the basic principles that must be followed by everyone proposing to enter into any Contract on behalf of the Council.
- 1.2 The Regulations contain further rules concerning procurement by the Council which must be followed.
- 1.3 If there is any doubt or lack of clarity as to the meaning or application of these Rules, officers must seek advice from Procurement Services and/or Legal Services.

2. Purpose

- 2.1 These Rules set various value levels, their application and the procedures that must be followed for each. The procedures are designed in incremental steps so the higher the value the more rigorous the processes.
- 2.2 Following the Rules ensures that the Council:
 - achieves value for money, meets the Best Value Duty and delivers savings from the market;
 - achieves accountability, fairness and transparency (as required by the Local Government Transparency Code 2014) and ensures an adequate audit trail is maintained;
 - ensures compliance with all legal requirements, following proper, fair and proportionate procedures for and throughout all procurement processes;
 - ensures that all procurement processes reflect appropriate quality requirements and all Submissions are judged by objective criteria which are clearly set out in the procurement documentation;
 - ensures that the Council’s wider policy objectives are promoted (including environmental sustainability, economic regeneration, business continuity);
 - reduces the risk of fraud, bribery and corruption.

3. Procurement Guidance

- 3.1 The Head of Procurement and/or the Head of Law may from time to time publish guidance to amplify and fine tune the steps to be taken as part of procurement and Contract management processes or vary the standard procurement documents.
- 3.2 Where there is any ambiguity or conflict between these Rules and or guidance issued under this Rule, the provisions of the Rules shall take precedence.

4. Social Value

- 4.1 The Public Services (Social Value) Act 2012 requires the Council under certain circumstances to consider how the economic, social and environmental wellbeing of Leicester may be improved by Services that are to be procured, and how procurement activity may secure these improvements.
- 4.2 The Council will apply the principles of the Public Services (Social Value) Act 2012 to the commissioning and procurement of all Medium, Large and PCR Contracts.
- 4.3 The Council has set out its policy on social value in its Social Value Charter which must be implemented in all relevant procurement processes.

5. Contracts Database and Electronic Tendering System

- 5.1 Procuring Officers must record all Medium, Large and PCR Contracts in the Contracts Database, which is part of the Electronic Tendering System.
- 5.2 In exceptional circumstances there may be occasions when use of the Electronic Tendering System is not appropriate or possible. E-mail and/or hard copy Submissions may be required.
- 5.3 Electronic auctions may be used, so long as, where applicable, the Regulations are complied with.

6. Minor Amendments & Review

- 6.1 The Chief Operating Officer, Chief Finance Officer and the City Barrister, may from time to time amend the thresholds in the table in Rule 13.1.
- 6.2 The City Barrister may from time to time amend these Rules:
 - to correct an error or clarify an ambiguity;
 - to reflect changes in the management structure, working practices and responsibilities, e.g. as set out elsewhere in the Constitution; and
 - to reflect changes in the Law to ensure consistency.

7. Periodic Review of the Rules

- 7.1 The City Barrister shall ensure that the Rules are reviewed at least every five years and, if appropriate, propose amendments to Full Council, following an initial report to the Audit & Risk Committee.

GENERAL PROVISIONS

8. Status

- 8.1 In the event of any inconsistencies between the Rules and the Law (including the Regulations), then the Law will apply over the Rules.

9. Scope

- 9.1 These Rules must be followed at all times and apply:

- to all members, officers and staff, (including agency staff and interims) and consultants of the Council;
 - to all departments trading organisations and organisations for which the Council is the accountable body;
 - where the Council is acting as agent for or working collaboratively with another body unless it is agreed between the parties otherwise and provided the Law is complied with at all times;
 - to all Contractors acting on behalf of the Council and empowered to form contracts on behalf of the Council and by any person who is not an officer of the Council engaged to manage a Contract on behalf of the Council;
 - to the award of a Contract where a sub-contractor/supplier is to be nominated by the Council to a main Contractor.
- 9.2 The Rules shall not apply to maintained schools, who must follow the Contract Procedure Rules for maintained schools as issued by the City Barrister from time to time.
- 9.3 Failure to comply with the provisions of the Rules may result in action being taken by the Council against the persons/organisations concerned including, where appropriate, referral to the Police.
- 9.4 These Rules apply to
- all Contracts, including but not restricted to:
 - the supply of Goods; and/or
 - the supply of Services (including consultancy); and/or
 - the carrying out of Works; and/or
 - a Capital Asset Disposal; and/or
 - any and all of the above in so far as they are (whether in part or whole) a Concession Contract.
 - any matters as may arise in the process of managing Contracts including those which change, vary or terminate;
 - any Contract which the Council awards to a Company in which it has an interest, but which is not a Teckal Company; and
 - any award of a Contract to another public body which is not a delegation of function.
- 9.5 These Rules do not apply to:
- contracts solely for the acquisition or disposal of any interest in land;
 - contracts of employment;
 - loan agreements;

- grants so long as they fall outside of the definition of procurement within the Regulations;
- functional arrangements with other public bodies, including any arrangements covered by Regulation 12 of the PCR, provided they are first approved by the Head of Law;
- contracts awarded to a Teckal Company of the Council; or
- delegations of functions to another Local Authority under the Local Government Act 1972 and Local Government Act 2000.

10. Private Interests

- 10.1 Whenever any member, officer or other person involved in a procurement process on behalf of the Council has any interest, or could be perceived to have any interest, in a Bidder or potential Bidder, or any procurement, this interest must be notified in writing to the City Barrister.
- 10.2 For each procurement (including re-procurements) where there is such an interest, that individual must declare it even where it has been declared before. The City Barrister will decide how to proceed to ensure fairness can be demonstrated, to reduce any potential accusation of misconduct, eliminate bias and maintain the integrity of the process.
- 10.3 For the avoidance of doubt, no member, officer or agent of the Council, shall improperly use their position to obtain any personal or private benefit from any Contract entered into by the Council.

11. Procurement Plan and Pipeline

- 11.1 The Head of Procurement will maintain a Procurement Plan and Pipeline and make this available on the Council's website to members, the public and potential Bidders, which will comprise a list of known Medium, Large and PCR Contracts to be procured in the forthcoming two years.

12. Monitoring & Reporting

- 12.1 The Executive and the Audit & Risk Committee will each receive a report following the end of each financial year to include:
- achievement of the Procurement Plan;
 - compliance with these Rules, including a summary of Waivers;
 - any changes to these Rules made under Rule 6;
 - any proposals for changes to these Rules to be made to Full Council.

THRESHOLDS & APPROVAL

13. Thresholds

- 13.1 The following table sets out the thresholds for categorisation of Contracts into value bands based on the Estimated Value which must be calculated so as to **include Value Added Tax (VAT) payable** in relation to the contract.

Category	Goods & Services	Social Care "Schedule 3"	Works & Concessions
Small Contract	£0 - £29,999.99	£0 - £29,999.99	£0 - £29,999.99
Medium Contract	£30,000.00 - £100,000	£30,000.00 - £100,000	£30,000.00 - £250,000
Large Contract	£100,000.01 - PCR Threshold	£100,000.01 - PCR Threshold	£250,000.01 - PCR Threshold
PCR Contract	Over PCR Threshold	Over PCR Threshold	Over PCR Threshold

14. Calculating Estimated Value

- 14.1 Before starting any procurement process, the Commissioning Officer must calculate its Estimated Value as follows:

- **in all cases** the Estimated Value must include the maximum possible VAT payable in relation to the Contract, regardless of the nature of the Contract **plus** one of the following, as applicable:
 - a. for fixed-term Contracts, the total estimated maximum value of the Goods, Services or Works to be supplied over the period of the Contract including any Extensions;
 - b. for Contracts with no defined term, multiplying the estimated average monthly value by 48;
 - c. for trials and pilots, the value of the full Contracts which may be awarded following the trial/pilot;
 - d. for Framework Agreements and DPSs, the total expected value of all Call-Off Contracts over the maximum duration of the Framework Agreement/DPS by all organisations who may use the Framework Agreement/DPS;
 - e. for Concession Contracts, the total income, regardless of source, to the Contractor over the Contract period;
 - f. for periodic/recurring purchases, whether it is from the same or different contractors, must be aggregated over a minimum of a 12-month period;

- 14.2 Further, when calculating the Estimated Value:

- With the exception of VAT (which must be included when calculating the Estimated Value) it must not include any other taxes and duties;
- it must include the combined estimated value of any department or

section of the Council that may use the Contract over the duration of the Contract including any Extensions;

- where the Council is contributing only part of the total value of a Contract, it is the total spend under the contract of all parties to it that must be taken as the Estimated Value and to determine its categorisation;
- it should be calculated including the total consideration that the Contractor(s) will receive in return for carrying out the Contract, whatever the nature or source of the consideration;
- the requirement shall be looked at as a whole and must not be artificially split to avoid competition;
- the Commissioning Officer shall take account of historic cost and an assessment of future trends or, where the requirement is new, the best estimate of value available at the time.

14.3 Where there is any doubt as to the Estimated Value and the band in which the Contract will fit then the procedure for the higher categorisation must be used.

14.4 With the written approval of the Head of Procurement the Procuring Officer may make use of the “Small Lots” provision set out at paragraph 14 of Regulation 6 of the Regulations, and therefore not aggregate the value of all requirements. The Procuring Officer must follow a procedure to award the Contract based only on the value of that ‘Small Lot’.

15. Financial Approval

15.1 Before procurement of any Contract reaches the Advertisement stage, it must have financial approval from the required officer(s), as set out in the table below:

Contract Categorisation	Financial Approval
Small Contract	Budget Holder(s)
Medium Contract	Head of Service
Large Contract	Divisional Director and Head of Finance
PCR Contract	Divisional Director and Head of Finance

EXEMPTIONS & WAIVERS

16. Exemptions & Waivers

16.1 Exemptions and Waivers may be requested by completion of a Form for Exemptions and Waivers (FEW).

16.2 A **Waiver** is an approval that for the purpose of a specific procurement the procurement procedure requirements contained in Rules 20 to 37 and their application will be waived, though they apply in principle (‘Waiver’).

16.3 An **Exemption** is an approval that, for one of the following reasons, the procurement is exempt from the procurement procedure requirements contained in Rules 20 to 37 (‘Exemption’).

- Goods, Services or Works which are available only as proprietary or patented articles; Services or Works from one Contract or for which there

is no reasonably satisfactory alternative available in the European Union; and for repairs to, or the supply of, parts of existing proprietary or patented articles or Works, including machinery or plant;

- works of art, museum specimens or historical documents (a FEW is not required if the Contract is for the Arts & Museum Service);
- particular artistes and performers and bought-in productions (a FEW is not required if the Contract is for the Arts & Museum Service);
- those genuine unforeseen emergencies (not of the Council's own making), where immediate action is required, including to fulfil the Council's statutory obligations under the Civil Contingencies Act 2004;
- Where one of the criteria for use of the Negotiated Procedure without Prior Publication set out in Regulation 32 of the PCR is met;
- Services as set out in Regulation 10 of the PCR.

16.4 In the event that an Exemption does not apply but there is a clear need to dispense with the requirements of the Rules the Commissioning Officer may request a Waiver.

16.5 Exemptions and Waivers require approval as follows.

Contract Category	Exemption	Waiver
Small Contract	Head of Service	Head of Service
Medium Contract	Divisional Director and Specialist Procurement Team Manager	Divisional Director and Specialist Procurement Team Manager
Large Contract	Divisional Director and Specialist Procurement Team Manager	Divisional Director, Specialist Procurement Team Manager and Head of Law
PCR Contract	Divisional Director, Head of Procurement and Head of Law	Divisional Director, Head of Procurement and Head of Law

16.6 Where the FEW is in relation to an ICT Contract it must also be signed by the Director of Delivery, Communications and Political Governance.

16.7 Exemptions and Waivers may alternatively be authorised by the Executive supported by formal advice from the Head of Procurement and the Head of Law.

TERMS AND CONDITIONS & EXECUTION OF CONTRACTS

17. Contract Duration

17.1 All Contracts (excluding Framework Agreements and Concession Contracts but including Call-Off Contracts) may only be for a maximum of five years unless first approved in writing by the Head of Procurement and the Divisional Director.

17.2 All Framework Agreements may only be for a maximum four years unless first approved in writing by the Head of Law, Divisional Director and Head of Procurement.

17.3 The length of a Concession Contract will be determined in accordance with the CCR and approved by the Head of Law and Head of Finance where it exceeds five years in length.

18. Terms & Conditions of Contract

18.1 For all Contracts, excluding Concession Contracts and Framework Agreements (for which Legal Services must be instructed to approve the terms and conditions), the following terms and conditions will be able to be used, otherwise Legal Services must provide bespoke/customised terms and conditions:

	Small	Medium	Large	PCR
Purchase Order	Yes	Only with prior written approval of Legal Services	No	No
Standard Terms and Conditions	Yes	Yes	Only with prior written approval of Legal Services	Only with prior written approval of Legal Services
Industry Standards	Only with prior written approval of Legal Services			
Contractor's Terms and Conditions	Only with prior written approval of Legal Services			
Framework Agreement Terms and Conditions	Only with prior written approval of Legal Services			

18.2 Where Standard Terms and Conditions are not used the proposed terms of all Contracts must include the clauses set out in Appendix 2.

19. Execution of Contracts

19.1 Contracts may only be signed and entered into as follows:

Small Contracts (non-deed)	Divisional Director
Medium Contracts (non-deed)	One Authorised Signatory (Legal Services)
Large Contracts (non-deed)	Two Authorised Signatories (Legal Services)
PCR Contracts (non-deed)	Two Authorised Signatories (Legal Services)
Any Contract to be entered into as a deed	Common Seal and one Authorised Signatory (Legal Services)

19.2 Legal Services will determine where a Contract should be executed as deed.

USE OF PROCEDURES

20. Principles

- 20.1 The following Rules set out the procedures for use based on the Contract categorisation.
- 20.2 All ICT Contracts must be procured by the ICT Procurement Team unless the ICT Commercial & Procurement Manager agrees otherwise. Where a procurement is not for an ICT Contract but contains an element of ICT the ICT Procurement Team must be consulted in relation to the procurement.
- 20.3 All other Contracts except Small Contracts must be procured by the relevant Specialist Procurement Team unless the Specialist Procurement Team Manager agrees otherwise.
- 20.4 In the case of Schedule 3 Contracts, Concession Contracts or where the Regulations permit or do not apply, the procurement procedures set out in Rules 24 to 26 may be adapted to suit the procurement process in question.

21. No Competition Required

- 21.1 A Contract may be awarded without competition for the following Services:
- Care Services where the provider is to be appointed as a matter of Service User Choice as per the Care Act 2014;
 - Contracts for the provision of Residential Care (both adults and children);
 - individual school placements sought for a child with Special Educational Needs (SEN);
 - special education packages managed by or on behalf of individual clients under the personalisation agenda; and

- where certain needs of an individual (whether an adult or a child) require a particular social care package, which is only available from a specific Contractor in the opinion of the Divisional Director.

21.2 The Divisional Director must ensure that the Contractor meets the relevant national minimum standards and that a record of the reasons for the choice of the Contractor is maintained on the individual's case notes.

21.3 A Medium Contract may be awarded to one or more VCSE(s) following direct negotiation where, if the Council were not to contract with the VCSE(s) it would significantly affect customers, or other greater gains or benefits would be lost.

22. Small Contracts

22.1 For Small Contracts award may be made based upon one quote provided by a Bidder, who is a Local Bidder where possible. The Commissioning Officer must consider whether additional quotes are in the Council's best interests.

22.2 Where written quote it is not practical, a record of any oral quotation obtained must be made and retained.

23. Medium, Large & PCR Contracts

23.1 The following table sets out the usual procedures for each Contract Value, but any lower value procurement may use a method for a higher value procurement where the relevant Specialist Procurement Team deems appropriate:

	Medium	Large	PCR
Targeted Quotation	Yes	Yes (with approval of the Head of Procurement)	No
Advertised Quotation	Yes	No	No
Use of Non-LCC Framework Agreement	Yes	Yes	Yes
Use of LCC Framework Agreement	Yes	Yes	Yes
Open Procedure	-	Yes	Yes
Restricted Procedure	-	Yes (where permitted by Regulation 107 of the PCR)	Yes
Competitive Dialogue (CD)	Only with Head of Law and Head of Procurement Approval		
Competitive Procedure with Negotiation (CPN)	Only with Head of Law and Head of Procurement Approval		

Innovation Partnership (IP) or Design Contest (DC)	Only with Head of Law and Head of Procurement Approval
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PROCUREMENT PROCEDURES

24. Targeted Quotation

- 24.1 The Procuring Officer must obtain three written Quotations of which at least two shall be from Local Bidders. Where Local Bidders cannot be approached or three Quotations cannot be obtained, written reasons and evidence as to why this is the case are required.
- 24.2 The Procuring Officer must log all details of the Quotations/responses.
- 24.3 The Evaluation Panel may make the decision on whether or not to award the Contract after considering the Quotations, making a written record of their decision and reasons.

25. Advertised Quotation

- 25.1 An advertisement will be placed by the Procuring Officer for a sufficient period of time to allow Bidders to respond.
- 25.2 A RfQ document must be made available to all interested parties who respond to the Advertisement. The RfQ must contain or identify:
- Instructions for the completion and return of Quotations;
 - A Specification setting out the Council's requirements;
 - The proposed terms and conditions of Contract; and
 - The procedure for the evaluation of Quotations.
- 25.3 Quotations received will be evaluated by the Evaluation Panel in accordance with the RfQ to recommend an award.

26. Open Procedure, Restricted Procedure, Competitive Procedure with Negotiation, Competitive Dialogue, Innovation Partnership and Design Contest

- 26.1 Where any of the above procedures are to be used on a PCR Contract the Regulations will be followed in full. Where a Contract below the PCR Threshold or a Concession Contract is being procured, the process shall reflect the procedure set out in the Regulations though the Specialist Procurement Team Manager may agree to alter the procedure as may be considered beneficial and/or necessary.
- 26.2 The CPN, CD, IP and DC processes may only be used for PCR Contracts in the circumstances set out in the Regulations. In such cases evaluation, award and any negotiation will be undertaken in accordance with the Regulations and the procurement documents issued.

USE OF FRAMEWORK AGREEMENTS & DYNAMIC PURCHASING SYSTEMS

27. LCC Framework Agreements

- 27.1 For the purposes of establishing a Framework Agreement the Rules must be followed unless otherwise stated.
- 27.2 The Framework Agreement must set out a methodology for awarding a Call-Off Contract.
- 27.3 Once it has been established, additional Contractors may only be added to a Framework Agreement where:
- it is not an PCR Contract or it is for Services listed in Schedule 3; and
 - the ITT states:
 - a) that additional organisations may be added to the Framework Agreement during the term;
 - b) how and when additional organisations be added to the Framework Agreement; and
 - c) that the same evaluation criteria and award methodology applied to the original Contractors will be applied to any potential Contractors when determining whether to add them.

28. Non-LCC Framework Agreements

- 28.1 The Council may use Framework Agreements set up by third parties where the Framework Agreement entitles the Council to do so, subject to the approval of the Head of Procurement and the Head of Law (other than for Small Contracts, where standing approval is given).
- 28.2 The methodology and all requirements set out in the Framework Agreement must be followed when awarding a Call-Off Contract under the Framework Agreement.

29. Dynamic Purchasing Systems (DPSs)

- 29.1 A DPS may only be established with the approval of the Head of Law and the relevant Specialist Procurement Team Manager and in accordance with the Regulations.

CONDUCTING A PROCUREMENT PROCESS

30. Fairness & Equal Treatment

- 30.1 All Bidders must be provided with the same information throughout any procurement process.
- 30.2 The Procuring Officer and Commissioning Officer must ensure that all processes set out in the procurement documentation issued to Bidders are followed.

31. Advertisements

- 31.1 Where the procurement procedure requires an advertisement, one must be placed in accordance with the Regulations and on a website as approved by the Head of Procurement and any such place as there is a legal requirement to place such adverts.
- 31.2 For all advertised procurement procedures, the Procuring Officer must allow a reasonable time between the date of the advertisement or the issue of documents to Bidders and the Closing Date, having regard to:
- the requirements of the Regulations;
 - the amount of effort likely to be required to make a Submission; and
 - the urgency of the requirement.
- 31.3 As a minimum, all advertisements must express the nature and purpose of the procurement procedure, stating where further details may be obtained.

32. Reserved Contracts

- 32.1 The Procuring Officer may Reserve a Contract with the written approval of the relevant Specialist Procurement Team Manager and, for PCR Contracts, the Head of Law.
- 32.2 The Procuring Officer must set out in all appropriate documentation, including the Advertisement, that the contract is Reserved; and comply with Regulations 20 or 77 of the PCR, LGA 1988 and/or PPN 11/20, if applicable.

33. Specification

- 33.1 All Specifications must be a written statement of the Goods, Services or Works required and shall be prepared in accordance with such guidance as issued by Legal Services and/or the relevant Specialist Procurement Team.
- 33.2 Unless justified by the subject matter of the Contract and approved by the relevant Specialist Procurement Team Manager, the Specification shall not refer to a specific make or source, or a particular process which characterises the Goods, Services or Works provided by a specific organisation, or to trademarks, patents, types or a specific origin or production with the effect of favouring or eliminating certain organisations or certain products. Such reference shall be accompanied by the words 'or equivalent'.

34. Receipt and Opening of Submissions

- 34.1 The PQQ, RfQ or ITT must specify the Closing Date for Submissions.
- 34.2 The Electronic Tendering System must be used for each procurement process, including but not limited to, for the publication of documents and receipt of documents to/from Bidders at all times unless otherwise agreed in advance with the Head of Procurement.
- 34.3 The Head of Procurement may authorise the acceptance of Submissions received via the Electronic Tendering System after the Closing Date where:

- there is clear evidence of technical issues preventing the Bidder sending their Submission ahead of the Closing Date, confirmed by the provider of the Electronic Tendering System; and
- the Bidder gains no other advantage through the acceptance of their Submission.

35. Clarification of Submissions

- 35.1 Bidders are not permitted to alter their Submissions after they have been received by the Council other than in accordance with the instructions provided to Bidders, this Rule or Rule 36.
- 35.2 Following the Closing Date but before the award of any contract, the Procuring Officer may seek clarification from a Bidder.
- 35.3 Clarification should be conducted via or recorded on the Electronic Tendering System.
- 35.4 Any clarification of Submissions during a procurement process must always ensure fair and equal treatment of all Bidders is maintained.

36. Negotiation

- 36.1 Other than for PCR Contracts (where negotiation will only be permitted where an appropriate procedure is used), the Procuring Officer in consultation with the Commissioning Officer may negotiate with Bidders to seek to secure improvements in the price or economic advantage. Such negotiation must take place following the Closing Date, but before award of Contract and be approved in writing by the Head of Procurement.
- 36.2 When conducting negotiations, the following shall apply:
- The negotiation must not increase the value so that it exceeds the PCR Threshold.
 - A Bidder must not be told the detail of any other Submission or how their Submission compares to any other Submission.
 - Two officers of the Council must be present at negotiations.
 - A written note of the negotiations must be made and retained detailing the time and location of the negotiations, the discussions and any agreement reached.
 - Negotiations shall not result in a material departure from the published Specification and/or Contract terms. The Head of Law, in consultation with the Head of Procurement and appropriate Divisional Director, shall determine whether any proposed change to the Specification constitutes a material departure and any resulting actions.

37. Standstill and Contract Award

- 37.1 Contract Award must be authorised prior any Standstill Period commencing, or where not applicable prior to the notification of award being issued to Bidders, as follows:

Small Contract	Budget Holder & Commissioning Officer (&, for ICT Contracts, the Specialist Procurement Team Manager)
Medium Contract	Head of Service & Specialist Procurement Team Manager
Large Contracts	Divisional Director & Specialist Procurement Team Manager
PCR Contracts	Divisional Director & Specialist Procurement Team Manager

- 37.2 A Standstill Period must be applied to PCR Contracts if required by the Regulations, and may be applied to Large Contracts and to Call-Off Contracts from Framework Agreements over the PCR Threshold.
- 37.3 Each Standstill Period must last a minimum of 10 calendar days from the day of sending the notice to Bidders, day one counting as the day after such notice is sent.
- 37.4 A challenge during the Standstill Period will mean that the approval of Head of Law and Head of Procurement is required to award the Contract.
- 37.5 Letters of Intent are not permitted unless prior written approval of the Head of Law has been granted.
- 37.6 For PCR Contracts the requirements with regards to notification of outcome, reasons/feedback, the end of a Standstill Period and any other such requirements within the Regulations shall be complied with.
- 37.7 For Medium Contracts and Large Contracts, the Procuring Officer must, following the approval of the award, send at the same time a notification in writing to:
- the successful Bidder(s) that their Submission is accepted; and
 - the unsuccessful Bidders that their Submission has not been accepted.

CONTRACT MANAGEMENT & CONTRACT MODIFICATIONS

38. Contract Management

- 38.1 The Divisional Director must ensure that for each Medium, Large and PCR Contract, a person is designated as the Contract Manager.
- 38.2 The Contract Manager is responsible for managing the performance of the Contract and the Contractor(s) throughout the Contract period, including ensuring that value for money is obtained and Best Value Duty met.
- 38.3 The Contract Manager is responsible for initiating procurement of a replacement contract, where required, in a timely manner in accordance with these Rules.

39. Financial Parameters for Extensions and Variations

39.1 When considering Contract Extensions and Variations, the Contract categorisation must be reviewed for which the calculation of the value should be undertaken as follows:

- the spend to date on the Contract (compared against the procured Contract value, detailing where any other variations have occurred and value of them); plus
- the projected spend on the Contract over the remaining term; plus
- any increase as a consequence of the proposed Extension or Variation.

For the purposes of this calculation, decreases in Contract value should not be considered other than in so far as they affect the projected spend.

39.2 Where the figure exceeds the original contract value this will be considered as a financial variation to the contract, in addition to any change to the scope of services.

39.3 Should the categorisation of the Contract change (Rule 13.1) this will mean the approval under Rules 40 and 41 will be for the new categorisation.

40. Extensions

40.1 An Extension of Contracts is only where it is expressly provided for in the Contract. Where the Contract does not provide for an extension then Rule 41 regarding variations apply. For an Extension the following approvals shall be required:

Category of Contract	Approval Required
Small Contract	Head of Service
Medium Contract	Head of Service
Large Contract	Divisional Director
PCR Contract	Divisional Director in consultation with the Head of Procurement

40.2 In the case of any Extension other than for Small Contracts, approval shall be via a CEV form. Once approved the CEV form must be forwarded to the relevant Specialist Procurement Team.

41. Contract Variations

41.1 No Variation may be authorised which alters the overall nature of the Contract.

41.2 Authorising officers must have due regard to transparency and openness and the value for money of the proposed Variation and must notify the Head of Procurement of the Variation.

41.3 Each Variation to a Contract must be made in writing and signed by the parties to the Contract unless the Contract allows otherwise. This must be done before the Variation takes effect.

- 41.4 The Contract Manager may, where they do not significantly affect the overall delivery or cost of the Contract, agree Variations on any Contract provided that such Variation is confirmed in writing and signed by the parties, with full details of the Variation included.
- 41.5 All Variations other than under Rule 41.4 above require authorisation via a CEV as follows:

Contract Categorisation	Percentage Change in Contract Value	Approval Required
Small Contract	Any	Head of Service
Medium Contract	Any	Head of Service
Large Contract	Less than 50%	Divisional Director
Large Contract	50% or more	Divisional Director and Head of Procurement
PCR Contract	Less than 10%	Divisional Director
PCR Contract	10% or more	Divisional Director, Head of Procurement and Head of Law

42. Novation of Existing Contracts

- 42.1 The novation of a Contract from an existing party to a new party requires prior written approval of the City Barrister and must be via a formal agreement. The Head of Procurement must be informed of the novation.

43. Early Termination of Contracts

- 43.1 Following consultation with the City Barrister the Divisional Director shall be authorised to terminate any Contract before the expiry of its agreed term. In such cases the Divisional Director must inform the Head of Procurement of the termination.

APPENDIX 1: DEFINITIONS

Terms defined in the Council's Constitution have the same meaning when used in these Rules. Where a job title is used and that job title is no longer appropriate, the Chief Operating Officer will identify the postholder to replace the stated job title. To ensure effective operation of these Rules, the Head of Procurement, Head of Law and City Barrister may delegate their responsibilities under these Rules to appropriately skilled officers.

Other terms are defined by these Rules as follows:

“Best Value Duty” means the duty under section 3(1) of the Local Government Act 1999 to make arrangements to ensure continuous improvement in the way its functions are exercised having a regard to the combination of economy, efficiency and effectiveness.

“Bidder” means a person or organisation who responds to an Advertisement or invitation and participates in a procurement procedure to win a Contract.

“Call-Off Contract” means a Contract based on a Framework Agreement or DPS.

“Capital Asset Disposal” means a relevant disposal of capital assets by the Council which fall within the scope of the Regulations which may include land disposal agreements from which the Council receives an income.

“CCR” means the Concession Contracts Regulations 2016 (as amended or re-enacted from time to time).

“Closing Date” means any stated closing time and date for the receipt of Submissions.

“Commissioning Officer” means a person appointed by a Head of Service or Chief Officer to identify and specify the requirement and provide specialist service/technical input into the Procurement Procedure.

“Contract” means any contract to be procured and entered into by the Council and includes Framework Agreements, Concession Contracts, ICT Contracts and Schedule 3 Contracts.

“Concession Contract” means as defined in Article 3 of the CCR.

“Contract Manager” means a person appointed by a Head of Service or Chief Officer to manage the performance of a Contract throughout its Contract period. The duties of a Contract Manager shall begin when the Contract is awarded and shall cease when it is completed or terminated.

“Council” means Leicester City Council.

“Contractor” means any person or organisation contracted to sell, provide or buy Goods, Service or Works. This term applies after a Contract is formed.

“DPC” means a certificate signed by a Director confirming their agreement to use their delegated powers as stated within the certificate.

“DPS” means a Dynamic Purchasing System as permitted in the PCR.

“Electronic Tendering System” means any IT system approved for use by the Head of Procurement via which a procurement process can be conducted.

“Estimated Value” means the estimate value of a Contract as established in accordance with Rule 12.

“Evaluation Panel” means the Procuring Officer, the Commissioning Officer and any other individuals appointed by them to participate in evaluating Submissions. For Large and PCR Contracts, the Evaluation Panel must include at least one other

officer to evaluate the technical quality elements of the Submission in addition to the Commissioning Officer.

“Extension” means an extension of a Contract for a further period of time in accordance with its terms.

“Goods” means the subject of a Public Supply Contract.

“Head of Law” means the Head of Law for Commercial, Property & Planning.

“Head of Procurement” means the person appointed to the role of the Head of Procurement or, where such post is vacant, such person as appointed by the City Barrister to undertake the functions of the Head of Procurement contained herein from time to time.

“ICT Contract” means any contract primarily for the provision of equipment, software or hardware that connects or interfaces with the Council’s ICT network, including maintenance and support services to this hardware and software.

“ITT” means an Invitation to Tender document issued by the Council to potential Bidders.

“Law” means any:

- (i) applicable statute or proclamation or any delegated or subordinate legislation or regulation;
- (ii) enforceable EU right within the meaning of Section 2(1) of the European Communities Act 1972;
- (iii) applicable judgment of a relevant court of law which is a binding precedent in England and Wales;
- (iv) National Standards;
- (v) Statutory Guidance; and

in each case in force in England and Wales and including any amendments.

“LGA 1988” means Local Government Act 1988.

“Local Bidder” means a business having a base from which the Goods/Services/Works will be delivered with an LE postcode.

“PCR” means the Public Contracts Regulations 2015 (as amended or re-enacted from time to time).

“PCR Contract” means a Contract which is over the PCR Threshold.

“PCR Threshold” means the relevant threshold set out in Regulation 5(1)(a), (c) or (d) of the PCR or Regulations 9(1) of the CCR.

“PPN 11/20” means Procurement Policy Note – Reserving Below threshold Procurements, Action Note PPN 11/20, issued by the Cabinet office December 2020.

“Procuring Officer” means a person appointed by the Head of Procurement for the purpose of carrying out the appropriate duties set out in these Rules. A Procuring Officer may be appointed specifically for the purpose of a single Contract or for a range of Contracts.

“Quotation” means a completed RfQ (or similar Submission from a Bidder), and any attached documents submitted by a Bidder as part of a procurement procedure.

“Regulations” means both the CCR and PCR.

“Reserve” means the reservation of a Contract a for sheltered workshops, mutuals or social enterprises (or similar), VCSEs, SMEs or local suppliers. Reserved shall be

construed accordingly.

“RfQ” means a Request for Quotation document issued by the Council to potential Bidders.

“Schedule 3” means Schedule 3 to the PCR.

“Services” means the subject of a Public Service Contract.

“Social Value Charter” means the social value charter as adopted and published by the Council from time to time and includes all guidance issued.

“Specialist Procurement Teams” Procurement Services (City Barrister & Head of Standards Division), ICT Commercial & Procurement Team (Finance Division) and Social Care & Public Health Procurement Team (Care Services and Commissioning Division).

“Specialist Procurement Team Manager” shall mean the appointed manager of the Specialist Procurement Team as appointed from time to time.

“Specification” means a clear written statement of the Goods, Services or Works the Council requires from the Contract.

“Standard Terms and Conditions” the standard terms and conditions for any Contract type as published and approved by Legal Services for use by officers without the need to instruct Legal Services.

“Standstill Period” any standstill period required in accordance with these Rules.

“Submission” means a completed ITT, RfQ, PQQ or other similar document submitted by a Bidder as part of a procurement procedure.

“Teckal Company” means a company which falls within the meaning of Regulation 12 of the Regulations.

“Variation” means a variation of any Contract as originally procured and, where the Contract does not allow for an Extension, it shall include a variation to extend the Contract.

“VCSE(s)” means a Voluntary Community Sector Enterprise being a not for profit organisation.

“Works” means the subject of a Public Works Contract.

APPENDIX 2: MANDATORY REQUIREMENTS

- Allowing the Council to terminate and recover sums paid where there is evidence of bribery or corruption;
- Allowing the Council to, where there is a breach by the Contractor;
 - a) terminate part or all of the Contract; and
 - b) appoint an alternative contractor, and recover the cost of doing so from the Contractor; and
 - c) recover any compensation as a consequence of the breach by the Contractor in the event of a breach of Contract by or the insolvency of the Contractor;
- Stating the price payable by the Council (and any mechanism by which the price, any additional price or discounts are to be ascertained) and setting out the mechanisms for payment;
- For Medium, Large and PCR Contracts, prohibiting the Contractor from sub-contracting, assigning or otherwise transferring the Contract without the prior written consent of the Council;
- Where the Contractor sub-contracts all or part of the Contract it remains liable to the Council for any such sub-contracted parts;
- Requiring compliance by the Contractor with all relevant legislation and requirements of the Council in relation to the same, including as a minimum:
 - a) The Human Rights Act 1998 (as if the Contractor were a public body);
 - b) Freedom of Information Act 2000/Environmental Information Regulations, Data Protection Act 2018;
 - c) The Equalities Act 2010, The Modern Slavery Act 2015, Bribery Act 2010, Prevention of Terrorism Act 2005, Counter Terrorism & Security Act 2015
 - d) The Transfer of Undertakings (Protection of Employment) Regulations 2006;
- Stating the levels and type of insurance required of the Contractor;
- Setting out indemnities in respect of claims made against the Council made in respect of a Contractor's activities;
- Where appropriate, requiring the provision to the Council of adequate Intellectual Property protection together with an indemnity protection;
- Requiring the provision to the Council of adequate warranties in Contracts for the purchase of Goods;
- Where the Contract relates to the Services to be delivered to vulnerable groups, requiring compliance with the Council's safeguarding policies, procedures and practice requirements;
- For Large and PCR Contracts, obliging the Contractor to maintain continuous improvement throughout the Contract;

- Requiring the Contractor to grant reasonable access to the Council to information and premises relating to the Contract, and to undertake appropriate monitoring and compliance procedures.

PART 4H – LAND &
PROPERTY
TRANSACTION RULES

Land Transactions

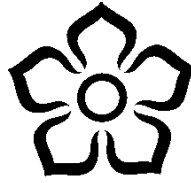
1 Application

- 1.1 This Procedure Rule applies where there is a land transaction.
- 1.2 The handling of Formal Tenders and Informal Tenders for Land Transactions is governed by the principles contained in the document entitled “Formal Tenders and Informal Tenders in Land Transactions”, attached as Schedule 1 to these Rules.
- 1.3 The disposal of land is governed by the principles contained in a document entitled “The Framework for the Disposal of Property”) as approved at Cabinet on 13 October 2003. It is not proposed to repeat the principles as individual Rules within these Contract Procedure Rules and Officers should refer to the document attached as Schedule 2 to these CPRs directly for Guidance.
- 1.4 The handling of Late and/or unsolicited offers in connection with Property Disposals is governed by the principles contained in the document “A Protocol for responding to Late and/or unsolicited offers in connection with Property Disposals” attached at Schedule 3 to these Rules.
- 1.5 With the exception of Contracts Procedure Rule 1, none of the Council’s other Contracts Procedure Rules apply to Land Transactions, unless otherwise stated in this Procedure Rule.

2. Maintenance of Land and Property Records etc.

- 2.1 The Director of Housing is responsible for:
 - (a) Maintaining records of all dwellings and buildings erected or acquired under the Housing Acts;
 - (b) Maintaining records of tenancies in respect of premises managed by the Housing Service.
- 2.2 The Director of Estates and Building Services is responsible for maintaining records of all other land and properties owned by the Council (on whatever tenure), and all interests in land granted.
- 2.3 The City Barrister is responsible for the secure custody of all title deeds, land certificates, contracts and agreements associated with the ownership and letting of properties; except that the Director of Housing shall have custody of agreements relating to the tenancy of HRA dwellings.
- 2.4 Other than the sale of HRA dwellings, no land or property shall be disposed of except by the Director of Estates and Building Services. No land or property shall be disposed of without prior valuation by a suitably qualified person.
- 2.5 The City Barrister and Head of Standards shall be responsible for executing legal documents for the acquisition of land and property, and in liaison with instructing

departments arrange for the completion of acquisitions on behalf of the Council in accordance with the requirements of the constitution.



Leicester
City Council

Schedule 1: Dealing with Formal Tenders and Informal Offers in Land Transactions

Contents

1 Dealing with Formal Tenders and Informal Offers in Land Transactions.

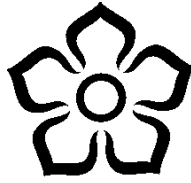
SCHEDULE 1

1. Dealing with Formal Tenders and Informal Offers in Land Transactions

- 1.1 When the deadline is set for receipt of Tenders (including a time limit for electronic submission as specified in the Tender), the case officer should arrange a date and time for the Tenders to be opened in the presence of the relevant officer from Estates and Building Services, appropriate finance officer, and such other officer as may be required, either by accessing the virtual Tenders (if submitted via a digital vault) or by way of a meeting . The Council's Asset Strategy Manager must be given notice of the receipt of Tenders.
- 1.2 Interested parties must be informed of the address for delivery of Tenders, which should usually be the Council's principal place of business, for the attention of the Head of Estates and Building Services, stating the contact name of the officer issuing the Tender, or to be submitted via a specific email address or digital vault as stated in the Tender documents.
- 1.3 Documentation supplied to the Tenderer must state the following Tender requirements:
 - 1.3.1 The closing date and time for the receipt of Tenders.
 - 1.3.2 That the Tender envelope/package or virtual submission to be submitted is only to be labelled using the official address label supplied with the Tender documents, the relevant email address or digital vault access.
 - 1.3.3 That the Tender submission must bear no indication of the identity of the Tenderer. Consequently, the Tenderer must ensure that, for example, if the Tender submission is returned by recorded delivery or courier, that the name and address of the sender is not stated on the recorded delivery/courier's label, usually attached to the envelope/ package or in respect of any electronic submission.
 - 1.3.4 If the Tender envelope/package is delivered by hand, the person delivering it must obtain an official receipt from the Council.
 - 1.3.5 Any late Tenders and Tenders delivered by post, courier, or personally to the wrong location, even if it is another City Council office, may be deemed void and may be opened (to identify the sender) and returned to the sender with an explanation in writing of the reason for its rejection. Notwithstanding this Rule, when dealing with a Late and/or Unsolicited Offers in connection with Property Disposals Officers should have regard to the Protocol entitled "A Protocol for Responding to Late and/or Unsolicited Offers in Connection with Property Disposals", attached at Schedule 3 to these Rules.
 - 1.3.6 That it is the Tenderer's responsibility to deliver the Tender to the location on the official address label of electronically before the closing

date and time and the City Council does not accept any liability for non-delivery, late delivery or delivery to the wrong location or incorrect email address or other method of electronic submission, by any company or other organisation or person charged by the Tenderer for its delivery.

- 1.3.7 That the tendered bid must not be calculable by reference to another bid, document or formula and must be exclusive of VAT.
 - 1.3.8 That the Council does not bind itself to accept the highest or any Tender.
 - 1.3.9 That Tenderers must accept full responsibility for ensuring compliance with the above requirements and that failure to do so may render the Tender liable for disqualification.
- 1.4 All Tenders must be delivered in accordance with the foregoing paragraphs of this Procedure. On receipt of each Tender, details are to be recorded and each submission referenced by Estates and Building Services. No Tenders should be accepted other than via the specified procedure.
 - 1.5 Before opening the Tenders, reference numbers for each Tender is cross-referenced accepted as correct on the date specified for opening and each Tender recorded and signed or recorded electronically by the officers attending the opening.
 - 1.6 After opening, all documentation is to be retained by the officer in Estates and kept secure. in order to provide a complete audit trail.



Leicester
City Council

Schedule 2: The Framework for the Disposal of Property (as approved by Cabinet)

Contents

1	INTRODUCTION	Error! Bookmark not defined.
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Leicester
City Council

SCHEDULE 2

THE FRAMEWORK FOR THE DISPOSAL OF PROPERTY

1 **INTRODUCTION**

- 1.1 The City Council is a major property owner in the City with land and buildings held for operational and non-operational purposes. The operational property includes administrative buildings, schools, libraries, museums, leisure centres, residential centres of various types, council housing stock, theatres and parks. The non-operational property is principally freehold and includes a wide range of retail, commercial and industrial property held for economic development, regeneration and other strategic purposes.
- 1.2 With this large property holding, inevitably the City Council receives requests from a wide variety of individuals and organisations seeking to acquire particular properties. This disposals framework is intended to guide Members in relation to the legal position, the Council's current policy and to ensure that, as far as possible, consistent and equitable responses are given to these requests. Prospective purchasers reading this framework must not assume that they will secure a particular site or property if they consider they fall within one of the exceptions to open marketing of property.

2 **METHODOLOGY TO DETERMINE WHETHER DISPOSAL IS APPROPRIATE**

- 2.1 When considering the disposal of any property asset it is first necessary to determine:
- 2.1.1 Whether the Council still requires the property in order to deliver the function for which it is currently held and, if so, whether by:
- (a) Direct service provision by the City Council.
- OR
- (b) Indirectly through third parties (by way of, for example, lease, partnership, management agreement).
- 2.1.2 Whether it is still required to fulfil another function of the authority.

2.1.3 Whether it should be disposed of to facilitate the exercise of any function of the authority (e.g. housing land for the provision of housing accommodation).

2.1.4 Whether, if it is identified as surplus, to dispose of the property to obtain the capital receipt or revenue equivalent.

3 THE COUNCIL'S LEGAL REQUIREMENTS

3.1 The umbrella under which all local authorities operate in relation to the transfer/disposal of their assets is the Local Government Act 1972, in particular sections 120 -123. In addition, there is a general fiduciary duty placed on local authorities to act reasonably and in the interest of the taxpayers, and consistent with the effective, economic and efficient discharge of the authority's functions. In other words, the Council should not divest itself of a valuable asset at an undervalue unless it is satisfied that circumstances justify such action.

3.2 It is Section 123 of the Local Government Act 1972 that requires local authorities to dispose of land for the best price reasonably obtainable, unless either consent is obtained from the Secretary of State to the disposal or the disposal is a short-term one, (less than 7 years). Price can either be a sum of money or something that has a commercial or monetary value that is capable of being assessed. Further, local authorities must be able to evidence that best consideration has been obtained. In some cases, particularly development land, this requires a marketing exercise to be undertaken. Current good practice (for example the Local authority Asset Management Programme issued by RICS), and guidance on disposal of Local authority Assets issued by the Ministry of Housing, Communities and Local Government issued in March 2016, and earlier guidance indicates that third party valuations are not always sufficient evidence of best consideration. The Council therefore needs to ensure an open competitive marketing of property takes place in all but a few circumstances.

3.3 Reference was made above to the consent of the Secretary of State. A specific application to the Secretary of State for consent may not be necessary in every case where the disposal is at less than best consideration. The Local Government Act 1972: General Disposal Consent (England) 2003 gives local authorities consent to the disposal of land within specified circumstances ie where the authority considers that the purpose for which the land is to be disposed of is likely to contribute to the achievement of any one or more of the following objectives in respect of the whole or in any part of its area, or of all or any persons resident or present in its area:

3.3.1 The promotion or improvement of economic well-being.

3.3.2 The promotion or improvement of social well-being.

3.3.3 The promotion or improvement of environmental well-being.

In each case it is a condition that the undervalue must not exceed £2 million. Further, the authority must remain aware of the need to fulfil its fiduciary duty in a way which is accountable to local people (this consent does not apply to land held under powers derived from certain Planning and Housing Acts nor does it enable the disposal of public open space without undertaking the advertising procedure set out in, for example, the Local Government Act 1972).

- 3.4. In addition, it should be noted that prior to the disposal of land constituting or forming public open space (whether or not it is designated as such), the land will need to be advertised in a local newspaper for two successive weeks in accordance with s.123 (2) (A) of the Local Government Act 1972, and any objections to be considered by an appropriate decision maker.

4 EXISTING POLICY – THE GENERAL ASSUMPTION RE PROPERTY DISPOSALS

- 4.1 The general assumption is that the City Council's property is marketed on the open market in accordance with the established good practice procedures to obtain best consideration and therefore not requiring the Secretary of State's consent (or use of the General Consents).

- 4.2 In addition, however, a few specific exemptions have been agreed to address particular circumstances in order to seek to address the changing priorities and pressures, as explained in detail below.

5 THE FRAMEWORK

5.1 The General Assumption re Property Disposals

The general assumption is that the City Council's property is marketed on the open market in accordance with the established good practice procedures to obtain best consideration and therefore not requiring the Secretary of State's consent (or use of the General Consents).

5.2 Exceptions to Open Marketing

A number of exceptions have been identified where requests or proposals to purchase property from the City Council, negotiated on a 'one-to-one' basis and to the exclusion of other potential purchasers, would be appropriate. Disposals on this basis are likely to require the consent of the Secretary of State (unless either covered by the General Disposal Consent or where there is adequate comparable evidence to support the valuation of the property). These exceptions are as follows:

5.2.1 Regeneration.

5.2.2 Service Delivery.

5.2.3 Major Projects of Regional or National Significance.

5.2.4 Special Purchasers.

5.2.5 De minimus.

5.2.6 Delivery of Council priorities.

Considering each in turn:

5.2.1 Regeneration

The disposal to any person or body where the terms of the disposal are to facilitate regeneration that, for reasons of either site assembly, preferred developer status, or preferred scheme, it is necessary to treat with that person or body to the exclusion of others, but nonetheless on commercial terms. Such a disposal may involve a disposal of property to enable the relocation of displaced occupiers from other strategic development sites.

An agreement for the disposal of land for the purposes of development or redevelopment where any consideration is, in whole or in part, deferred and is calculable in whole or in part by reference to the profit or value of the development or redevelopment to be undertaken subject to a full assessment of the anticipated outputs and policies for such arrangements (including financial policies), which shall be on an open basis and to ensure an appropriate rate of return for the Council.

5.2.2 Service Delivery

A disposal to a person or body where the terms of the disposal are to facilitate the exercise of the Council's functions, subject to the Council's budget, policy framework and objectives and where there are:

- (a) Significant returns or benefits to the Council commensurate with the level of service or function that would otherwise have been provided by the Council or
- (b) Where the services are of a high priority, but the Council is not delivering the service direct.

However, in both cases, where there is a market for similar service provision this category shall not apply.

5.2.3 Major Projects of Regional or National Significance

Disposals to a Charity, Community Association or similar where the terms of the disposal require the use of the land for a major project of regional or national importance and where major social, economic or environmental benefits and levered in funding are anticipated to the local community or Leicester as a whole. Disposals to other organisations

that have broad based community support and which generate significant economic benefits to the City.

In such cases in order to maintain transparency, appropriate criteria are required to provide an “audit trail” of the decision as to why one interested party was selected without undertaking a marketing exercise. It is suggested that the following are considered:

- (a) Other Potential Purchasers
 - (i) Likelihood of alternative uses.
 - (ii) Likelihood of alternative bodies who may have the potential to deliver the project outputs.
- (b) Location
 - (i) The proposal complements existing regeneration priorities.
 - (ii) The site is situated within a ward ranking in the 10% of the most deprived wards nationally.
 - (iii) The geographic location of the property is effectively limited by the nature of the constitution of the purchasing organisation.
- (c) Strategy
 - (i) The proposed use and outputs relate to a key action(s) in accordance with the Council’s wider strategic policies and objectives.
 - (ii) Is community-based and “not for profit”.
 - (iii) The disposal is on a leasehold basis only.
- (d) Funding
 - (i) The prospective lessee has secured sufficient external funding (and has demonstrated the existence that such funding is available without any further conditions) to enable acquisition of the property at open the marketvalue. A prospective lessee may be given a reasonable period of time to secure necessary funding (for example byway of an Agreement to Lease) and also to evidence to funders the availability of the property to the applicants.
 - (ii) An appropriately approved Business Plan and Project Appraisal are in place.

5.2.4 Special Purchaser

It is recognised that consent may not be required in the case of special purchasers where the valuation advice is that the method of disposal, even if that is to deal with a particular party without seeking to ascertain what others may be willing to pay (i.e. on a one to one basis), will secure, and does secure, the best consideration reasonably obtainable. These circumstances will be limited; examples are ransom strips and 'the tenants bid. Appropriate valuation advice should be obtained in all circumstances to ensure the Council is obtaining the necessary value in these disposals.

5.2.5 De minimis

Disposals to a person or body for the purposes of, and on the terms that, they become responsible for keeping the land and buildings erected, or to be erected, e.g. garages or garden sheds, in good condition and repair where any marketing exercise would merely involve abortive expense and where the land has a capital value of less than £2,500.00, or where it would be to the mutual advantage of the Council and an adjoining owner to make minor adjustments in boundaries by undertaking an exchange of lands.

5.2.6 Delivery of Council Priorities

Disposal to a partner for a purpose which helps the Council deliver its priorities.

6 THE TERMS OF THESE "EXCEPTIONAL DISPOSALS"

Freehold or Leasehold

- 6.1 Whether the disposal is on a freehold or leasehold basis will depend on the particular circumstances in each case. Freehold disposals maximise the capital receipt but result in a loss of future control of the property, though restrictive covenants could be imposed though it is noted that at times enforcement can be problematic, particularly when the use or changes in the locality may have rendered the covenant obsolete or of no further practical effect.
- 6.2 Leasehold disposals allow greater control and are appropriate where disposals are seeking particular outputs (e.g. service delivery) on an annual basis.

Best Consideration

- 6.3 The general assumption with regard to these 'Exceptional Disposals' is that the property will be disposed of at 'the best consideration reasonably obtainable'. The exceptions to this assumption will be either:
- 6.3.1 The Council has considered the benefits, advantages and disadvantages of a disposal at less than best consideration,

OR

- 6.3.2 The consideration payable under the disposal cannot be evidenced as best consideration (see 3.2 above).

- 6.4 In both these exceptions the disposal will be subject to the consent of the Secretary of State (unless covered by the General Disposal Consent (England) 2003) and also having regard to the City Council's general fiduciary duty (see 3.1 above).

- 6.5 In those cases where 'best consideration' is not required then, before arriving at this decision, it is suggested that the following factors are considered:
 - 6.5.1 The ability of the purchaser/lessee to pay the full value.
 - 6.5.2 The value of non-monetary benefits.
 - 6.5.3 The value any other conditions imposed by the City Council.
 - 6.5.4 The planning position.
 - 6.5.5 The Council's general fiduciary duty.
 - 6.5.6 The possibility of the disposal setting a precedent.
 - 6.5.7 Additional wider community benefit that would not otherwise be realised.
 - 6.5.8 Whether the disposal will lever in external funding.
 - 6.5.9 Whether the disposal contributes to the achievement of the promotion or improvement of economic, social or environmental well-being.

- 6.6 In those cases where the consideration cannot be evidenced then, in order to seek the Secretary of States consent, it will be necessary to identify at least a modest undervalue in order to obtain the consent and protect the City Council from challenge. The circumstances must nonetheless justify such action and the factors mentioned in 6.7 are again relevant. An independent valuation will be obtained in these instances to support the application to the Secretary of State or the use of the General Disposal Consent.

7 REVOCATION OF PREVIOUS POLICIES

- 7.1 This 'Framework for Disposals' revokes all previous policies relating to disposal of property directly to individuals, companies, organisations and any other bodies without undertaking a full marketing exercise. Those decisions taken prior to the introduction of this policy will not be affected (unless the need to review any decision arises from a change in circumstances e.g. default by the previously identified prospective purchaser).

APPENDIX 1 – Financial Policy to be Adopted for joint development projects

- 1 The following principles shall always apply:
 - (a) Obtaining value for money in all transactions.
 - (b) That all functions are discharged economically, effectively and efficiently. All valuations shall be fair and current and to relevant and appropriate professional standards.
- 2 Processes shall be transparent and consistent, and all financial dealings and commitments shall be subject to proper bookkeeping and capable of disclosing an adequate audit trail.
- 3 Land disposals shall be compliant with Section 123 of the Local Government Act 1972 (or any equivalent provision) and also provide a reasonable return to the Council. There shall be sufficient evidence to ensure and demonstrate compliance with this principle.
- 4 Due consideration shall be given to the VAT position and the efficiency of opting to tax to ensure the best return from the project, subject always to the protection of the Council's VAT shelter.
- 5 Arrangements and transactions shall be above board and provision shall be set out in particular to deal with situations of actual or apparent conflict of interest and the prevention of the making of improper inducements.
- 6 Any special purpose vehicle shall avoid being subject to regulation, regulated, controlled or influenced under Part V of the Local Government & Housing Act 1989 (or any equivalent or provisions succeeding this Act).
- 7 Proper provision shall be made to cover insurance and risk management.
- 8 Provision shall be made for the proper treatment of income and expenditure in relation to project property during the project.
- 9 Any financial plan shall be of a robust standard, in particular having regard to proper practices of audit and account and prudent forecasting.
- 10 There should be no commitment to the resources of the Council above that which has been specifically agreed by the Council.

APPENDIX 2 – Policy for Transfer of Assets for Community Governance

Policy for Transfer of Assets for Community Governance

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1. Purpose

- 1.1 This paper outlines Leicester City Councils policy on the transfer of Council assets to Community Organisations.
- 1.2 The Local Government White paper “Strong & Prosperous Communities” set out a new relationship between local government and its communities based on a devolution of power by giving residents greater say over local services. The City Council therefore adopted its “Policy for transfer of assets for community governance” as an addition to the “Framework for Disposal of Property” in 2008.
- 1.3 In 2011 it was agreed to offer community groups who had been stable, long term tenants in council properties the opportunity to buy their premises at market value less a 20% discount.
- 1.4 The Localism Act 2011 sought to further empower communities to self-manage and reducing funding is requiring Councils to consider different ways of delivering community services. With these factors in mind, the policy has been reviewed to reflect these changing circumstances. Transfer of assets is one way in which groups and organisations can acquire assets, other ways include the Community Right to Bid, more information on which can be found at www.leicester.gov.uk/propertyshop/.

2. Definition

- 2.1 Transfer of Assets for community governance is the legal transfer of property (via a management agreement, a meanwhile use agreement, licensing, letting or sale) by the Council to community led organisations for them to manage and operate to provide community benefits in accordance with the Council's priorities and strategies.
- 2.2 Transfer may be at market value, in some cases at less than best consideration or give community led organisations 'first refusal' on a commercially based disposal.
- 2.3 The decision on which type of transfer is the best option will be decided on a case by case basis. It will be informed by an assessment of the business case and which option is best suited to meeting the objectives of the transfer. It is considered that in most cases the Councils long term interests will be best served by long lease disposals rather than freehold although there will be particular circumstances in some cases which will require freehold sale.
- 2.4 A community led group is defined as being a formally constituted group based within and delivering or capable of delivering services or functions of benefit to a local community, be this area based, around a particular social group or other particular community interest.

3. Aims of community asset transfer

- 3.1 The Council's built assets include land, buildings and other structures used for a variety of different social, community and public purposes as well as for the Councils own operations. For some of these assets community management and ownership could deliver improved:
 - benefits to the local community
 - benefits to the Council and other public sector service providers
 - benefits for the organisation taking ownership
- 3.2 To be a tool in the flexible management of the Council's assets to maximise their contribution towards achieving the Council's priorities.
- 3.3 To balance the requirements of the Council to maximise the monetary value of disposal of assets against the added value of asset transfer to a Community Organisation.
- 3.4 Changing ownership or management of an asset can offer opportunities to extend the use of a building or piece of land and increase its value in relation to the numbers of people that benefit and the range of opportunities it offers. Community-led ownership offers additional opportunities to secure resources within a local area and to empower local citizens and communities.
- 3.5 The Council will proactively seek the transfer of appropriate assets to community groups in order to promote the widest public value that can be achieved in relation to, for example:
 - Facilitate inward investment
 - Community empowerment and greater control over services

- Area-wide benefits
- Building the capacity of the community and encouraging sustainable community organisations by building partnerships
- Economic development and social enterprise
- Improvements to local services
- Value for money

A property specific plan will be put together for each property identified as suitable for asset transfer outlining a communications plan and criteria to be adopted for selection.

- 3.6 The Council will consider the disposal of groups of properties on the same basis as individual properties.

4. **Scope**

- 4.1 The policy will cover all built assets, land and property in the freehold ownership of the Council excluding the school's estate with decisions on individual assets being made on a case by case basis.

5. **Key Principles for Asset Transfer**

- ❖ **Engagement and empowerment of community groups and social enterprise support.**

Under this strategy the core principle must be for the Council to support the engagement and empowerment of community groups to develop their capacity to deliver local solutions to meet identified needs. These are likely to vary from training opportunities to support services and must support the aims and priorities of the Council.

- ❖ **Only potential assets and not liabilities should be transferred.**

The transfer of assets that will contribute towards maximising the prospects of developing sustainable community groups and enterprises will be a key consideration. For the Council, assets in their present circumstances may be liabilities but a careful transfer can potentially provide community groups with financially viable assets. This may be the case where for instance where community bodies can access grants to improve facilities and provide services that the Council cannot access.

- ❖ **A 'gateway assessment for each property with potential for transfer should be conducted including consideration of the condition of the facility, alternative development/disposal scenarios, assessment of potentially competing provision from other centres and assessment of potential alternative transfer beneficiaries.**

As part of its asset management planning the Council will review each community asset it owns for alternative development and disposal. Where practical and feasible the Council will prioritise opportunities for the transfer of assets to appropriate community bodies. The Council will need to balance the competing interests of community groups and an assessment will need to be made as to the option that will deliver most sustainable benefit to the local community. Where possible, potential beneficiaries can be brought together in a partnership and this can result into a collective benefit to meet wider public purpose.

- ❖ **A community wide perspective should be adopted involving close working with other public and voluntary sector partners. The policy on community asset disposal is part of a long term programme of support to, and partnership with, community organisations.**

The Council will involve all relevant partners in developing asset transfer proposals to ensure there is no conflict with other initiatives involving public and voluntary sector partners. The opportunity to identify potential benefits of wider partnership working will also be taken into account particularly where this assists with the sustainability of a transfer. This can bring additional resources by way of staff support and funding opportunities.

- ❖ **Community groups/enterprises should have robust and sustainable business plans for asset transfer seen as part of their wider development plans.**

For a successful asset transfer a robust and sustainable business plan will be required. It should form the basis for clear development plans which set out what the community group or enterprise intends to deliver through management of the asset over the short, medium and long term.

Financial considerations should be included within the business plan in order to demonstrate a sound approach to managing and running the facility. The need for any on-going financial support will be carefully considered by the Council to establish a sustainable operation.

- ❖ **The tenure offered will be dependent upon the governance capabilities of the community organisation**

The disposal may be based upon a management agreement, meanwhile use agreement, licence, lease or freehold sale and this will be dependent upon the circumstances of the property and the governance capability of the organisation. It is anticipated that the security of tenure to the applicant would be subject to improvement over time in accordance with the success of the project and the growing strength of the applicant in terms of community governance capability. The general principle will be against freehold sale unless the particular circumstances of a case require.

Where there is a transfer of service provision, a community asset transfer may be accompanied by a Service Level Agreement identifying the benefits and how these will be monitored and measured, together with the remedies available to both parties if the Service Level Agreement is not met. This SLA will be in effect a contract for provision of services and will need to be compliant with procurement and state aid requirements.

- ❖ **Support for the community group or enterprise from the Council should be on-going at an appropriate level which is required to support the group's development plan over a realistic time period.**

Whilst the Council will aim to provide support during, and for a reasonable period beyond any transfer the Council has limited resources. Discussions need to take place to agree how, and over what period the support will be provided by the Council. It is likely that on-going support may in some

cases be better provided via other organisations and the Council can help to bring in such support.

- ❖ **The Council will include terms and conditions in disposal documents to safeguard the position should the community asset transfer fail to deliver the anticipated benefits.**

The Council will reserve the right to include conditions on any transfer to protect the future community use of the property. It is recognised that the imposition of such conditions could impact on asset value or the ability of groups to raise funds and each case will therefore be considered on its merits and conditions will be considered during the assessment process.

To safeguard the Councils long term position long lease will generally be preferred to freehold sale as it better protects the Councils position in the case of failure.

6. Benefits of community asset transfer

Benefits can be measured in terms of the economic, social or environmental wellbeing of the community. Not all benefits have to be financial – they can be about better community outcomes. The business case will need to articulate these benefits and how they will be measured. The potential benefits of asset transfer can include:

For Community Organisations

- Physical assets can provide sustainable wealth;
- Can strengthen the Organisation's community ties;
- Can strengthen the Organisation's ability to raise money. There may be access to funding to refurbish the building or to support staff training and development;
- Greater financial sustainability can help the organisation to escape short term grant-dependency;
- Community organisations can alter or modify a building to better suit their needs.

For the Council

- Transfer can help to solve building management problems ;
- The Community Organisation has "reach" into the community a transferred building can therefore provide a more accessible and responsive base from which to deliver services;
- Can strengthen 'community anchors';
- Can restore 'iconic' buildings;
- Can deliver social, economic, environmental benefits;
- Can provide a catalyst for inward investment and local multipliers through local purchasing and employment;
- Provide a source of rental income;
- Can lower ongoing costs;
- Can help to progress neighbourhood regeneration plans;
- Can provide opportunities for long-term working between sectors;

7. Risks of community asset transfer

The transfer of assets does have risks attached and each assessment will need to consider risks such as the following:

- Potential to disadvantage particular individuals or impact negatively on the local community;
- Potential for a negative impact on community cohesion;
- Potential loss of existing community services;
- Uncertainty around capacity of recipient to manage asset;
- Potential for the asset to become a financial liability for recipient;
- Capacity of recipient to deliver promised services/outcomes;
- Capture of asset by unrepresentative minority;
- Transfer contravenes State Aid and procurement rules;
- Conflict with other legal, regulatory constraints;
- Potential for ongoing Council liability;
- Lack of value for money;
- Conflict with other funders;
- Potential unfair advantage for one group over another.
- The risks associated with property ownership will pass in whole or in part from the Council to the Community Organisation.
- Perception of a loss of the use of a Community facility by certain sectors of the Community.

Before any transfer takes place, a risk assessment and management plan will be undertaken so that all parties are aware of the potential issues a transfer may create.

8. Expectations

Because every transfer project will be unique in its own way, it is vital to outline clear expectations and responsibilities of stakeholders involved. This is to ensure that a common platform is established that satisfies the overall outcome.

The Leicester City Council's expectations of the interested Community Organisation are:

- A project team is set up to overlook the entire project with a distinct point of contact.
- To provide relevant documentation requested within the CAT Application Form in order to comply with requirements of the transfer.
- A Business Plan demonstrating the viability of acquiring and improving the asset and also focusing on its viability and sustainability. A Risk Assessment within the Business Plan identifying potential risks and impact and how these will be dealt with.

The Community Organisation can expect the following from the Leicester City Council:

- Be assured LCC has adopted a CAT policy, to support communities in Leicester.

- The LCC has in place robust processes and procedures to ensure that all cases for CAT are considered in an equal, transparent and unbiased manner.
- Clear guidance and information on the process for CAT.
- Support and clarification on CAT process and procedures.
- Support and guidance on assessment criteria and application form.
- Communication in a timely manner throughout the process with an agreed timetable to be followed suitable for the specific characteristics of the particular disposal. Referral to Executive Lead should the group consider the application is not being progressed as agreed.
- Continued communication and dialogue to maintain and further develop the relationship between the Community organisation and LCC.
- Support and guidance on asset related matters.
- Support and guidance to ensure asset transfer remains stable and sustainable.

9 Application Procedure

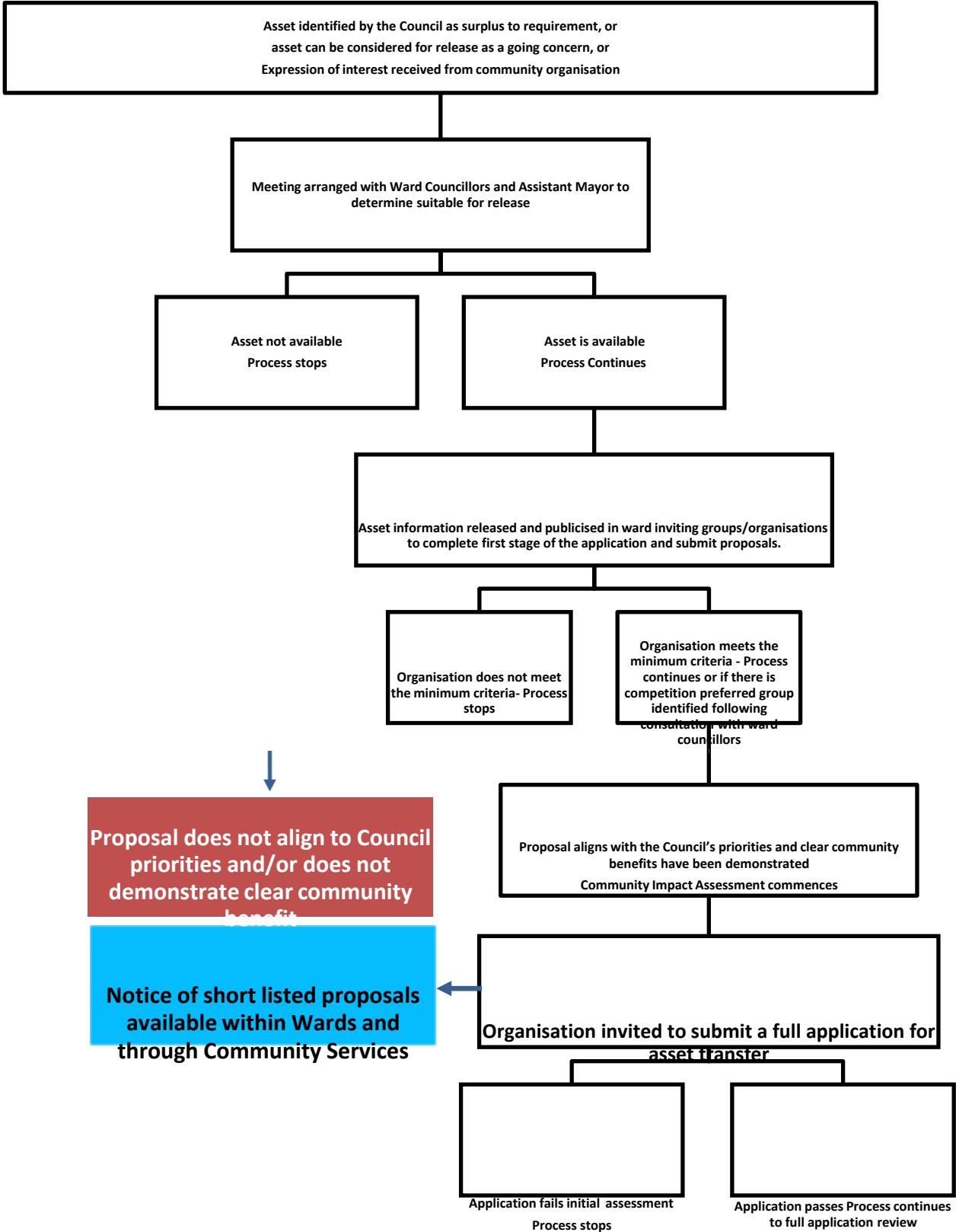
Any Community Organisation interested in applying for an asset transfer will be provided with the following documentation:

- A copy of Guide to Community Asset Transfer.
- A copy of CAT Application Form and CAT Guidance Notes-Application Form.
- A copy of 'CAT Assessment Criteria'
- Any relevant information on the property that the Council hold.

It is essential that every applicant has completed the Application Form and provided all the relevant documentation particularly a viable Business Plan demonstrating the capability of sustaining the asset.

Once the above documentation has been submitted, the steps outlined below will then be followed.

- Every application will be dealt with fairly and equally and guidance will be provided as outlined above.
- Applicants are likely to benefit from carrying out research on asset transfers and demonstrating this. Some useful sources include www.communitymatters.org.uk



Full review of the application by Asset Transfer Review Group

To include:

- >> Full application form
- >> Supporting documentation and evidence
- >> Asset condition and suitability survey
- >> Current use of asset
- >> Planning issues
- >> Joint Risk assessment/EIA/Community Impact
- >> Where more than one applicant, co-location considered

Application not supported

Asset Transfer Review Group NOT able to recommend application for approval following consultation with ward councillors

Process stops

Application is supported

Asset Transfer Review Group able to recommend application for approval following consultation with ward councillors - Subject to satisfactory agreement of terms and conditions

Process continues through Delegated Authority and/or

Executive approval (where necessary)

Legal Services instructed

Terms of transfer drafted in accordance with terms and conditions agreed and delegated authority/Executive approval

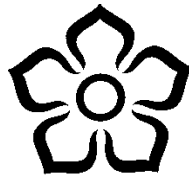
Community Asset Transfer Complete

Keys handed over and the organisation takes responsibility for the asset (on going access to advice and support available if required)

ASSESSMENT CRITERIA SUMMARY

	POTENTIAL FOR COMMUNITY ASSET TRANSFER	CONDITIONAL COMMUNITY ASSET TRANSFER – Demonstrates significant community benefit	NOT SUITABLE FOR COMMUNITY ASSET TRANSFER
Asset Value	Less than £200,000 (small)	£200,000 to £1,000,000 (medium)	Greater than £1,000,000 (large) may still be suitable but to be judged on merits
Length of occupation	20+ years	5-20 years	Less than 5 years
Asset holding	Operational	Operational	Non Operational
Community Impact	Minimal Impact	Manageable Impact	Significant Impact
Sustainability/Stability	Demonstrated ability to manage service, property and plan for future, history of stability and capability	Demonstrated ability to manage service, property and plan for future, history of stability and capability	Inability to demonstrate or record of failure
Governance	Settled legal entity with proven ability to manage change	Settled legal entity with proven ability to manage change	No record or poor history
Legal Structure	Constituted Group Registered Charity Registered Company Or seeking formalisation	Constituted Group Registered Charity Registered Company Or seeking formalisation	No form of structure; No identifiable accountability
Financial Standing	Established record of financial probity Including ability to meet running costs, long term planning – business plan	Established record of financial probity Including ability to meet running costs, long term planning – business plan	No record or poor financial history, business modelling or financial planning
Community Benefit	Established record of community benefit, Identifiable and measurable community benefits can be addressed	Established record of community benefit, Identifiable and measurable community benefits can be addressed	No record or poor outputs, community benefits not identified
Benefits of CAT	Strong business case to evidence anticipated benefit from CAT	Strong business case to evidence anticipated benefit from CAT	No evidence

Maintenance	Proven record of managing maintenance issues.	Proven record of managing maintenance issues, evidence of ability to manage on-going maintenance of building	No record or poor history – unable to demonstrate ability	
Commitment	Agreement to restrict use to community activities in line with stated intent and guaranteed by covenant	Agreement to restrict use to community activities in line with stated intent and guaranteed by covenant	No agreement	



Leicester
City Council

Schedule 3: A Protocol for Responding to Late and/or Unsolicited Offers in Connection with Property Disposals

Contents

1	INTRODUCTION.....	Error! Bookmark not defined.
2	APPLICATION OF THE PROTOCOL.....	Error! Bookmark not defined.

SCHEDULE 3

A PROTOCOL FOR RESPONDING TO LATE AND/OR UNSOLICITED OFFERS IN CONNECTION WITH PROPERTY DISPOSALS

1 INTRODUCTION

The receipt of late and/or unsolicited offers cannot be avoided when property disposals are being undertaken. Further, local authorities' property dealings are conducted within a fairly inflexible legal framework and must have regard to the Council's general fiduciary duty to act reasonably and in the interests of the taxpayers and consistent with the effective, economic and efficient discharge of the authorities' functions. It is therefore necessary to have in place a protocol to guide the response to the unsolicited offer together with precautionary measures to reduce the likelihood of late offers arising. This guidance covers the most likely scenarios, but exceptional circumstances may arise which may require separate consideration. The Council's Constitution refers to tendering procedure, but this relates to Tenders for the supply of works, services and goods rather than land. Nevertheless, the relevant principles are followed within this Protocol.

2 APPLICATION OF THE PROTOCOL

This protocol applies to unsolicited offers received during a property disposal exercise and the response to the offer will be dependent upon:

- 1 At which stage in the disposal process the offer is received.
- 2 The basis upon which the property has been marketed.

3 THE PROTOCOL

- 3.1 In relation to disposals by way of formal or informal Tender i.e. when offers are required before a fixed date and time (the Closing Date).
- 3.2 Late Tenders i.e. received after the Closing Date, or Tenders delivered or submitted prior to the Closing Date but to the wrong location or electronically following the closing date for the receipt of Tenders and subsequently received late.
- 3.3 Offers received outside the Tender process (i.e. without the official Tender label) after the Closing Date but before consideration by the City Mayor, an Assistant City Mayor (as may be appropriate) or the Chief Operating Officer and Head of Paid Service exercising delegated authority.
 - 3.3.1 All offers must be considered.
 - 3.3.2 If the late offer is higher and obviously not spurious or otherwise considered unsustainable, the parties that have already submitted offers be invited to make "full and final" offers by a specified date. In considering the sustainability of the late offer regard will be had as to whether the offer

is compliant with the requirements of the Tender process (other than meeting the time limit).

- 3.3.3 In the event that the unsolicited/late offer remains the highest offer then this offer, together with the highest compliant offer from the second round of bids from the Tenderers (i.e. received from one of the parties who submitted Tenders before the Closing Date) effectively the second highest bid, should be reported to City Mayor or where appropriate an Assistant City Mayor (disposals at less than best consideration are reserved to the City Mayor). In the event that the City Mayor wishes to accept the second highest bid then the Secretary of State's consent for a disposal at less than best consideration will be required (see below).

In deciding whether or not to accept the second highest bid, the Council must act reasonably and have due regard to:

- (a) Its general fiduciary duty (as referred to above).
- (b) Usual and prudent commercial practices.
- (c) Best practice.
- (d) Case law.

In the event that the second highest bid is accepted, reasons to support the decision must be recorded.

- 3.4 Offers received after the City Mayor's or Assistant City Mayor's decision (or exercise of the Chief Operating Officer's delegated authority) but before the exchange of contracts or before entering into conditional contract or lock out agreement

- (a) As 1.2 above.

- 3.5 Offers received after the exchange of contracts or entering into conditional contract or lock out agreement

- (a) Write to advise the party making the offer that the property has been sold or that conditional contract or lock out agreement entered into, thanking them for their interest (and offering similar property if currently available for disposal). Record this interest in the event that the contract is not completed, and the property is remarketed.

- 4 Disposals by private treaty (i.e. following a marketing exercise without a Closing Date or a "one-to-one" disposal when no marketing has taken place).

- 4.1 Offers received during the period of the negotiation with the prospective purchaser/lessee.

- 4.1.1 If the negotiation arises from a marketing exercise without a Closing Date then each party should be invited to submit their full and final offers within a specified time period.
- 4.1.2 If the offer arises during an off-market “one-to-one” disposal (e.g. where the City Mayor’s agreement has been obtained to dispose of the property to secure a particular use or facility from one particular party) then the offer is rejected (but can be used as useful evidence in the negotiations). In these instances, the City Barrister and Head of Standards must advise on the need to obtain the Secretary of State’s consent to a disposal at less than best consideration (see below).
- 4.2 Offers received before provisionally agreed terms are considered by the City Mayor/Assistant City Mayor (or the Chief Operating Officer exercising delegated authority).
- (a) As 1.2 above.
- 4.3 Offers received after the City Mayor’s/Assistant City Mayor’s decision (or the Chief Operating Officer exercising delegated authority) but before the exchange of contracts or entering into conditional contract or lock out agreement.
- (a) As 1.2 above.
- 4.4 Offers received after the exchange of contracts, entering into conditional contract or lock out agreement.
- (a) As 1.4 above.
- 5 Disposals by Auction
- 5.1 Offers received prior to the auction.
- (a) Refer the offer to the appointed auctioneers and agree whether or not to accept the offer. If the offer is recommended for acceptance then the acceptance must be subject to the purchaser exchanging contracts quickly (in accordance with the auction conditions of sale) before the date of the auction, ideally giving sufficient time to notify other parties who may have expressed an interest in the property of its withdrawal from the auction.
- (b) Offers received after the auction.
- If the property was sold under the hammer:
- (i) As 1.4 above.
- If the property failed to sell:
- (ii) As 3.1(a) above but within an appropriate short time period (ensuring the appropriate authority is in place for the auctioneer to accept such offers on behalf of the City Council).

PRECAUTIONARY MEASURES TO BE ADOPTED TO SUPPORT THIS PROTOCOL

In order to minimise the likelihood of unsolicited offers being received then the following good practice should be adopted when undertaking the marketing exercise:

- 1 Late offers must never be encouraged or in any way solicited.
- 2 Where the offer arises from a bidder who has already submitted a compliant bid within a tendering exercise, then consideration of the revised higher bid would only be undertaken provided there was clear justification for the second offer being made.
- 3 The market must be fully explored at an early stage in the marketing process so that every effort is made to identify all potentially interested parties.
- 4 Ensure that time periods between receipt of offers and an executive decision to accept and between acceptance and exchange of contracts (or entering into conditional contracts or lock out agreements) are kept to a minimum. The use of conditional contracts should be considered, with a strict time period by which it must be entered into by successful party, and when each element of conditionality has to be met.
- 5 Offers reported to the relevant decision maker are considered on the private agenda.
- 6 The public Minute contains no reference to the disposal price or the purchaser.
- 7 In those cases where reports refer to values of property, for example anticipated capital receipts, only totals are referred to, unless the transaction has been completed.
- 8 Ensuring that prospective purchasers are aware that their costs incurred prior to the exchange of contracts are at their own risk. (However, in the event that the City Council decides not to proceed, there may be a case for reimbursing the purchasers abortive costs. Each case would be considered on its merits).

CONSENT OF THE SECRETARY OF STATE TO DISPOSE AT “LESS THAN BEST CONSIDERATION”

Where a disposal at less than best consideration is proposed then this will require the consent of the Secretary of State. A specific application to the Secretary of State for consent may not be necessary in every case. The Local Government Act 1972: General Disposal Consent (England) 2003 gives local authorities consent to the disposal of land within specified circumstances i.e. where the authority considers that the purpose for which the land is to be disposed of is likely to contribute to the achievement of any one or more of the following objectives in respect of the whole or in any part of its area, or of all or any persons resident or present in its area:

- 1 The promotion or improvement of economic well-being.

- 2 The promotion or improvement of social well-being.
- 3 The promotion or improvement of environmental well-being.

In each case it is a condition that the undervalue must not exceed £2 million. Further, the authority must remain aware of the need to fulfil its fiduciary duty in a way that is accountable to local people (this consent does not apply to land held under powers derived from certain Planning and Housing Acts (which is subject to its own consent regime, most recently revised in 2013) nor does it enable the disposal of public open space without undertaking the advertising procedure set out in s.123 (2A) the Local Government Act 1972).

PART 4I – OFFICER EMPLOYMENT PROCEDURE RULES

This section includes changes approved by Council on 18th June 2015.

1. RECRUITMENT AND APPOINTMENT

(a) Declarations

- i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the partner of such persons.
- ii) No candidate so related to the City Mayor, a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment

- i) The Council will disqualify any applicant who directly or indirectly seeks the support of the City Mayor or any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii) Save for providing a written reference upon request, neither the City Mayor nor any Councillor will seek support for any person for any appointment with the Council.

2. RECRUITMENT OF HEAD OF PAID SERVICE AND DIRECTORS

Save where the Council proposes to appoint a Director from among existing officers (internal ring-fence) the Council will:

(a) draw up a statement specifying:

- i) the duties of the officer concerned (job description/responsibilities); and
- ii) any qualifications or qualities to be sought in the person to be appointed (person specification)

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;

3. **APPOINTMENT OF HEAD OF PAID SERVICE**

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a relevant committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Cabinet (Executive).
- (b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet (Executive).

4. **APPOINTMENT OF STRATEGIC DIRECTORS AND DIVISIONAL DIRECTORS**

- (a) A relevant committee or sub-committee of the Council will appoint Strategic Directors and Divisional Directors. That committee or sub-committee must include at least one member of the Cabinet (Executive).
- (b) An offer of employment as a Strategic Director or a Divisional Director shall only be made where no well-founded objection from the City Mayor or elected member of the Cabinet (Executive) has been received.

5. **OTHER APPOINTMENTS**

- (a) Appointment of officers below Divisional Director are the responsibility of the Head of Paid Service or his/ her nominee and may not be made by Councillors.

6. **DISCIPLINARY ACTION**

- (a) Suspension. The Head of Paid Service, Monitoring Officer and Director of Finance may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) Dismissal. No dismissal of the Head of Paid Service, the Monitoring Officer or the Director of Finance shall take place other than in accordance with a procedure that is compliant with the Local Authorities (Standing Orders)(England) Regulations 2001 as amended by the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015.
- (c) The City Mayor or elected Members will not be involved in the disciplinary action (meaning (i) dismissal; or (ii) other disciplinary action short of dismissal) against any officer below Divisional Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct, or where the Council's disciplinary, capability and related procedures allow a right of appeal to Members.

PART 5 – CODES AND PROTOCOLS

POLITICAL CONVENTIONS

This section was approved by Council on 19/09/13.

PART 5 - POLITICAL CONVENTIONS

CONVENTIONS FOR CITY MAYOR / COUNCILLORS / OFFICER RELATIONSHIPS

Note: Where the term 'Member' is used it will apply to Councillors and the City Mayor

The Council is democratically accountable and those elected to it may have political affiliations. Officers must serve the whole Council objectively. Together they must balance a complex range of obligations and competing interests. For this to be effective, the City Mayor, Councillors and Officers must have mutual trust and respect for each other's requirements and duties. There must also be transparency and consistency in everyday working relationships. These conventions seek to help ensure this.

The Council has a Code of Conduct under the Localism Act 2011 (attached) which sets out the minimum standards Members and co-opted members must observe in the interests of fair treatment and good governance. These Conventions operate within that framework. A failure to adhere to these Conventions may entail a breach of one or more of the principles that underpin the Code of Conduct for members (or indeed the separate Code of Conduct for Officers) but will not necessarily do so in every instance.

The Code and these Conventions cover Members whenever they are "*acting on the business of the Authority*". Further details are given in the Council's Code of Conduct. However, "acting on the business of the Authority" does not preclude a Member from engaging in legitimate scrutiny or challenge to the Council's policies or decision-making in individual cases. Further details are contained in the relevant sections which follow.

Officers of the Council must serve the whole Council objectively and will not seek to give an improper advantage to a Member. Neither will officers seek to exploit their unique access to Members to secure for themselves any improper advantage or bypassing of normal processes/procedures.

Officer advice and support recognises that the City Mayor / Councillors may legitimately act from political perspectives. A party group is entitled to the confidentiality of Officer advice on developing policies. The overall arrangements for Officer advice must be transparent.

The Conventions also seek to reflect the 7 principles of conduct in public life as defined by the Committee on Standards in Public Life (<http://www.public-standards.gov.uk/17-january-2013/>). These have been defined as:

<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<i>Objectivity</i>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

<i>Accountability</i>	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<i>Openness</i>	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<i>Honesty</i>	Holders of public office should be truthful.
<i>Leadership</i>	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

The document aims to help officers and Members identify broad principles and assist in their application on a daily basis. Therefore, Part A defines the principles around key themes with Part B giving more information to help guide their practical application.

It is hoped that this document will prove helpful but where problems arise:

Members - should raise unresolved problems with the relevant Divisional Director. If necessary, the Group Whip (if applicable) or Monitoring Officer should be consulted.

Officers - should raise any unresolved problem with their Divisional Director who will advise or take the matter up with the City Mayor / Member as relevant. If necessary, the Monitoring Officer should be consulted. The Monitoring Officer may involve the relevant Group Whip (if applicable).

Political Conventions

This Part seeks to identify defined principles with further supporting information to help their practical application

NEUTRALITY

1. All Officer appointment and employment decisions must be made on merit alone. Members have a formal role in certain employment appeals. In terms of appointments the law defines that Members can only be involved in the appointment of certain posts.

Both areas are set out in the Employee Committee Terms of Reference and Part 4I of the Constitution.

A member may provide a reference in relation to staffing matters within the Council.

In any officer employment process party political factors cannot be taken into account.

Officers involved in employment decisions must uphold employment procedures and Employee Code of Conduct and not be influenced by Members other than for posts where Members have a legitimate role in those decisions. Guidance must be sought from the Head of Paid Service and the Monitoring Officer.

- 2 Officers serve the whole Council and all officers must be politically neutral at work. Officers should not only be neutral they should appear neutral.

Concerns about officer neutrality or improper conduct should be referred to the relevant Divisional Director. If any question about neutrality or improper conduct by an officer arises these should be raised in private with the relevant Divisional Director or the Monitoring Officer.

Concerns about Member neutrality or improper conduct should be referred to the Monitoring Officer.

Public accusation (direct or indirect) of improper conduct is potentially defamatory and such questions should not be raised in public meetings. Advice should be taken before meetings. If an issue arises in a meeting, an adjournment may be appropriate to consider how to deal with it. Challenging an omission to declare an interest should not be done publicly in a meeting but where it must be then it should be done discretely through the Chair.

- 3 Members should respect an Officers' right to private political opinions.

Members' knowledge of an officer's private political opinions should not be used against an officer who remains neutral at work and observes the relevant Codes

- 4 The posts of certain senior officers will in law be classed as ‘politically restricted’. Those officers will adhere to the restrictions set out in law. The Council’s Human Resources Team will keep a register of those officer posts classed as politically restricted.

Politically restricted Officers cannot be Members or MPs. They cannot “*speak or publish written work to the public at large or a section of the public, with the apparent intention of affecting public support for a political party*”. They can speak or publish “*to such an extent as is necessary for the proper performance of their duties*”.

- 5 Where Members are given policy support it must not be for party political purposes. Particular care should be taken to avoiding potential for misinterpretation at sensitive times such as a pending election.

Officers advice should be objective, consistent and point out all relevant factors. Wherever possible different points of view between officers should be resolved or presented in a balanced way which helps Members to choose between them

- 6 Where close personal relationships arise or exist between Members and Officers these should be declared by both parties to the relevant Group Whip (where applicable) and to the relevant Divisional Director and Monitoring Officer who will consider how to manage or avoid contact to dispel any perceived bias. The relationship should be entered in the appropriate register of interests.

The test of whether to declare such a relationship is whether a member of the public might reasonably consider the relationship likely to influence the Member or Officer in their respective roles. The Member concerned should judge when a personal relationship has formed or whether a family relationship or friendship might reasonably be considered as having influence (depending on domestic arrangements and other circumstances). It should be noted that an Other Disclosable Interest (ODI) might arise in such circumstances.

- 7 Mutual Courtesy and due respect between Members and Officers is to be maintained at all times.

This Convention is not intended to restrict constructive discussion or criticism and the Member’s duty to challenge but instead to acknowledge that on many occasions the officer will not be able to respond on equal terms, such as in Council meetings. However, bullying by a Member could potentially expose the Council to a claim of constructive dismissal.

Where an officer has concerns that actions may have breached this principle these should be raised with the Monitoring Officer.

Officers should avoid unwarranted criticism of Members and should respect their rights under these Conventions

- 8 An individual Member cannot take a “decision” or instruct an Officer to take action unless taking a formal executive decision.

The City Mayor's Scheme of Delegation is available at:
<http://citymayor.leicester.gov.uk/welcome/my-executive-team/>

- 9 A Members right of access to Council premises and to bring in guests is based on the “*need to know*” (that is, to perform the Member’s role).

A Members right of access is further subject to:

- Operational continuity;
- Confidentiality;
- Compliance with Health & Safety arrangements;
- Compliance with physical and information security requirements.

- 10 Officers will not (i) seek to give an improper advantage to a Member or (ii) seek to exploit their unique access to Members to secure for themselves any improper advantage through bypassing of normal processes/procedures.

Staff may raise issues with Members as constituents outside of their working role. However, they must never lobby Members on personal employment or budgetary matters. Directors should ensure their staff are aware of these requirements and the proper channels for their views to be put forward.

Members should avoid involvement in lobbying on behalf of staff outside formal procedures and must avoid involvement in individual staffing matters. There are clearly defined procedures for resolution of staffing disputes and Members should make themselves aware of these. Members should not allow themselves to be lobbied by staff in relation to personal employment or budgetary matters.

BRIEFINGS

- 11 All Members have a right to request information reasonably required to perform his or her role (the “*need to know*”) unless a restriction applies. .

A Member’s need to know may be restricted where:

- The information is primarily needed for a non-Council purpose; or
- There is a conflict of interest; or
- Where a report is exempt or confidential by law
- There is an over-riding individual right of confidentiality (for example, in a children’s safeguarding or employment matter); or
- The resources needed to supply the information would be unreasonable.

- 12 Where a Member requests information they should declare any relevant interests, they have which are affected by the topic of the proposed Briefing

- 13 Members must respect the confidentiality of information identified as confidential and use only for the purpose it is given.

Executive Members individually and collectively are entitled to regular confidential briefing on matters relevant to their portfolios and in support of the policies they are developing prior to them formulating formal proposals. The relevant Executive Member or the Executive collectively determines whether confidential briefing material may be released to others for consultation or otherwise. When formal proposals are made supporting officer advice becomes publishable in conjunction with the proposals.

Other specific roles where members will have a special need to know arising from that role include:

- Chair and Vice-Chair: matters relating to their terms of reference and committee business;
- Scrutiny Committee or Commission members: matters directly relating to a review currently in process
- Ward Member: matters with special implications for the Ward (ie significantly more than the general implications for the City).

A Scrutiny Chair or Vice-Chair is not normally entitled to information in that capacity without it being known to and available to the other.

An Officer should seek clearance from his or her manager before embarking on a significant amount of work to provide information. The officer should be clear about the capacity in which the Member is being briefed and the implications of any interest. In cases of doubt, the Monitoring Officer may be consulted. The Officer should always make it clear if a briefing is still subject to consultation with other Officers. Otherwise the Member is entitled to assume co-ordinated advice is being given. Officers should note that any briefings may be disclosable.

Partial or restricted briefings may be given to Members where necessary in the interests of data protection or other considerations.

If officers refuse a request the Member should approach the relevant Divisional Director and, if still dissatisfied, the Monitoring Officer may be asked to determine entitlement.

It should also be noted that any unauthorised release of confidential information may damage the Council's reputation or entail a breach of the law.

- 14** Any briefings offered to Party Groups must also be offered to Non-grouped Members.

For all formal briefings to groups and non-grouped Members the following conditions must be applied:

- The Chief Operating Officer knows of and approves the briefing;
- All Groups are informed and offered the same briefing;
- More than one Officer attends;
- Officers withdraw after briefing and any questions, and before political discussion;

- Officers do not write reports for Groups, leaving it for City Mayor / Councillors to present draft Committee reports or briefing notes.

15. Where a briefing is provided to a Group, 'non-grouped' Members will be offered a written summary, and where appropriate a verbal briefing may be offered. If offered a written summary the non-grouped Member may request that they receive a verbal briefing instead and if necessary, refer the request to the Monitoring Officer.

MEMBER INVOLVEMENT IN CASEWORK

- 16 A Member's entitlement to be involved in issues around casework is based on the "*need to know*" and determined in accordance with these Conventions. The "*need to know*" is not confined to activities designed to "support" policies or decisions and can legitimately extend to "scrutiny" and/or "challenge".

A Members role in relation to casework is:

- To be briefed or consulted where there is a need to know;
- To pursue the interests of constituents by seeking information, testing action taken and asking for the appropriateness of decisions to be reconsidered.
- The Member should avoid becoming unduly involved in individual cases and operational detail, except within clear procedures.

Involvement in legal proceedings and audit investigations carries special dangers of prejudicing the case, of personal embarrassment and bringing the council and individual member into disrepute. Access to files may need to be denied or restricted if one of the restrictions detailed above applies. Any access then allowed may need to be "*managed access*".

When facilitating member access in relation to casework in accordance with this part officers should take the lead in pointing out where the boundaries lie in particular areas, recognising that:

- Members legitimately adopt different approaches to case resolution
- The special local knowledge of particular Members may be useful to a particular case.

Officers should point out to the Member when a restriction on the 'need to know' may apply, explore entitlement with the Member and, in cases of doubt, consult the Monitoring Officer.

Directors should ensure that their staff know how to obtain appropriate senior management support (particularly out of hours) when the extent of a Members involvement in an issue needs to be clarified.

Members should not seek to make themselves unduly involved in operational detail.

- 17 Caution should be exercised in all cases where a Member is lobbying to change (as opposed to 'challenge' or 'test') officer decision-making. Officers apply policies of the Council, and Members may find themselves in positions of conflict with Council policy if they set out to unduly influence officer decision-making. Proper channels exist to engage with officers about decision-making, and these should be pursued.

Where lobbied on an issue (especially planning policy) Members should carefully consider whether to express any view at all but if they do choose to comment to explain that any views expressed are personal and they cannot commit or anticipate the Council's decision. In this context "lobbying" involves more than merely receiving representations/requests to pursue a given outcome and envisages that the Member has engaged with the lobbyist and formed a commitment to pursuing the desired outcome. Where a Member, who is in the position of being a decision-maker, has been lobbied they should make, a declaration of interest and/or a declaration of bias and decide whether to participate as a decision-maker at all. In other cases (i.e. where the Member is not a decision-maker) a declaration of interests may not be necessary.

- 18 A Member should not act as an individual's '*friend*' but may act as a '*representative*' for a constituent.

A Member pursuing a Ward matter on behalf of a close family member or friend should declare the relationship and ask another Member to pursue the matter.

THE EXECUTIVE

- 19 All decisions made will be subject to the relevant statutory provisions and rules defined in the Constitution and these Conventions.

Each report to the Executive should name the City Mayor, Executive Member or a relevant Lead Director and be the subject of appropriate officer advice.

Reports to the Executive should ensure that:

- It is made clear what stage in the process has been reached and what is required from the Executive;
- There is a clear recommendation or options presented in a way which enable the Executive to choose between them;
- It is clear who is responsible for action and to what timetable (including further reports);
- All relevant factors are included, and the issues are presented with professional objectivity;
- Associated briefings and presentations are also professionally objective.

The Monitoring Officer will ensure that all decisions meet criteria laid down in the Constitution or legislation.

Meaningful officer engagement is required, particularly on equalities, legal, financial and climate emergency implications, on which consultees should be named. Officers must take account of relevant policies of the Council. Any risks and the reasons for taking them must be made clear in the report.

Reports must follow the prescribed template and follow advice given by the relevant Lead Director and clarify the options considered and the reasons for a recommendation / decision.

- 20** Executive Members, individually or collectively, may determine the timetable for developing their policies subject to requirements for formal reporting, proper scrutiny and meaningful officer advice.

In determining the timetable for developing their policies the Executive or relevant Executive Member will consider:

- The point at which confidential ideas become formal proposals for publication;
- Whom to consult and to what deadline;
- The timing of Executive reports.

The relevant Director must ensure that all essential decisions are requested by necessary deadlines.

- 21** Withdrawing or deferring an Executive report is an Executive responsibility.

A Director will be consulted and may advise on deferring or withdrawing a report. Officers will also provide appropriate professional advice on the issue of timing of Executive reports/proposals.

SCRUTINY

In considering actions account will be taken of the Scrutiny Operating Protocols.

In this section the term Committee will also apply to Scrutiny Commissions.

- 22** The Scrutiny and the Executive perform different roles and their actions should concentrate constructively on bringing benefit to the citizens and stakeholders of the City.

It is acknowledged that scrutiny may legitimately include both commenting on Executive reports and undertaking formal reviews and producing reports.

Scrutiny should be a constructive process involving appropriate consultation and engagement with relevant stakeholders and avoiding actions that risk prejudging outcomes, or which risk impacting on services prior to any formal recommendations being made.

There should be constructive engagement between the Scrutiny Committee Chair and relevant lead Director(s) during the scoping of any scrutiny review.

Officers will seek to facilitate appropriate engagement and dialogue between Scrutiny and the Executive, and other relevant stakeholders.

Officers should also be asked to ensure the factual accuracy of any scoping document or draft report before they are formally issued by a scrutiny committee/commission.

- 23** All final scrutiny review reports will receive a formal response from the Executive.

A scrutiny review report will be considered to be finalised once it has been endorsed by the Overview Select Committee for submission to the Executive. Such endorsement will only be withheld in exceptional circumstances.

In exceptional circumstances, including urgency, the Committee Chair may agree to the review report being sent direct to the Executive and the decision reported to the next meeting of the Overview Select Committee with the review report placed on the agenda for endorsement.

Finalised Scrutiny review reports will be submitted to the relevant Executive Member and the City Mayor (and any relevant key stakeholders) as soon as practicable after the meeting of the Overview Select Committee where the report was agreed, together with a letter requesting a formal written response to the findings and recommendations of the review within a maximum of two months of the date of the letter

It is accepted that where the Executive's response requires input from outside bodies or stakeholders, then the two-month deadline may not be practical. In such circumstances the relevant Deputy/Assistant City Mayor will keep the Overview Select Committee and relevant Commission Chairs informed of the progress being made and the response will be delivered as soon as possible.

Written responses received from the Executive / stakeholder(s) will be reported to the Overview Select Committee. Details of responses will be used as part of performance data to illustrate the effectiveness of scrutiny to City residents and stakeholders.

A Scrutiny Committee may ask for more time, information or other views before responding to proposals by the Executive. A scrutiny request for more time to consider an Executive proposal shall be subject to the City Mayor or relevant Deputy/Assistant City Mayor agreeing to additional time and consultation (these being matters for the Executive); and the relevant Director agrees that further information can be provided at reasonable cost and use of officer time and does not place the Council at significant risk for example of legal challenge.

- 24** Recommendations to officers and the Executive arising out of scrutiny must be agreed by the Committee.
- 25** There is an expectation that the relevant Executive Member and relevant Lead Director will attend the Committee meeting as an invitee with a view to explaining matters relevant to the agenda.

By attendance at formal Scrutiny meetings the appropriate Executive Member will be fully aware of the progress of a review and will seek to facilitate full officer support for the process. A Member who has been consulted on an operational decision is accountable to the Scrutiny Committee for the views expressed.

The Chair of the Scrutiny Committee / Commission should ensure that questions are properly directed to the City Mayor or relevant Deputy or Assistant City Mayor (for example, justifying policy) or relevant Lead Director (for example, progress with implementation), inviting both to attend where necessary

- 26** The procedures of Committee will be defined by the Scrutiny Procedure Rules. The operation of the support to scrutiny will be informed by the Scrutiny Operating Protocols which have been confirmed by the Overview Select Committee.

Each Scrutiny Committee/ Commission has a Lead Officer responsible for coordinating its overall programme and individual agendas in consultation with:

- The Chair and Vice-chair;
- Relevant Executive Members (in relation to Executive policies in development);
- Relevant Divisional Directors.

Chairs of Scrutiny Commissions may hold agenda planning meetings approximately two weeks before full scrutiny commission meetings, at which draft agendas and reports may be presented by an appropriate officer wherever possible, who may be the lead officer for the Commission.

The Chair is expected to conduct Scrutiny Committee / Commission meetings so as to ensure:

- The basis of any participation by non-Members of the Committee / Commission is made clear at the outset (for example, question and supplementary, statement or participation in debate);
- The questioning of Executive Members, Officers and others is properly structured, and conducted in a courteous, seemly and constructive manner.

The involvement of the Executive Member should reflect their status as an invitee and does not restrict the right of the Committee to invite officers to give evidence.

The Chair and Vice-chair should be jointly briefed on questions from the public and how they should be handled in the meeting.

- 27** It is for a full Scrutiny Committee to determine a purposeful work programme. Appropriate consultation with relevant parties should be undertaken in doing so.
- 28** Where the Executive and a Scrutiny Committee are considering the same service area, the City Mayor or Deputy / Assistant City Mayor, Scrutiny Chairs and Vice-Chairs and relevant Lead Director should agree an appropriate approach to handling this in a way which is constructive and manageable within the resources and the time line available. This might include undertaking a joint programme of work, and the order in which reports should be consulted upon and presented.

Where it appears that conflict between Executive and Scrutiny priorities may arise the relevant Lead Director will refer the matter to the City Mayor or Deputy / Assistant City Mayor and relevant Scrutiny Chair and Vice-Chair for consideration.

The work programme of a Scrutiny Committee is devised collaboratively between the Chair, Vice Chair and the relevant lead Director. If, the Committee insists on work or evidence that the Director feels is not appropriate / cannot be prioritised the Monitoring Officer should be consulted on how to resolve the impasse.

The Director will keep the Executive Member informed as appropriate.

- 29** Any press releases on behalf of scrutiny will be issued in accordance with the Conventions covering 'Media Relations and Published Material' set out in this document.

The Communications Team will be guided in Scrutiny matters by the Scrutiny Chair, acting in consultation with the Vice-chair (account will also be taken of the Scrutiny protocol in relation to press releases).

See 36 below for more detail.

REGULATORY, AND COUNCIL COMMITTEES (PLANNING AND DEVELOPMENT CONTROL, LICENSING, EMPLOYEES, AUDIT & RISK, HEALTH AND WELLBEING BOARD AND STANDARDS)

- 30** Development control, licensing (regulatory) and other quasi-judicial matters must be dealt with solely in accordance with the relevant policies and legal requirements.

The processes defined in the 'Planning Code of Good Practice for Member Involvement in Development Control Decisions ' must be followed by Members and the Planning and Development Control Committee.

The processes defined in the Members Licensing Code of Good Practice must be followed by Members and the Licensing and Public Safety Committee.

- 31** The appearance of decisions being based on party political considerations must be avoided. If officer recommendations are not accepted, care should be taken to ensure that valid reasons are given and that any departures can be justified and that they are consistent over time.

Members should clearly introduce themselves at the outset of each regulatory meeting to ensure clarity about their role.

Particular care should be taken to declare interests in formal meetings, at site visits and in any discussion and, if necessary, avoid participation. Potential interests should be raised with officers before meetings. Any Executive Member will have an interest in a planning application where the Council is the applicant.

- 32** Only Members who have received appropriate training may participate in decisions relating to regulatory decisions and Employees' Committee Appeal Hearings.

Any untrained Member asked to participate in a decision should request training, which will be fast-tracked if necessary and where practical to do so.

MEDIA RELATIONS AND PUBLISHED MATERIAL

- 33** Statements and published material on behalf of the Council (including the Council's website) must not be party political and must comply with the statutory 'Code of Recommended Practice on Local Authority Publicity' issued by Government.
- 34** Where a press release addresses a matter of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.

Executive Members are the Council's principal spokespersons on policy. As individuals, they may make party political comment, but the Council may not publish such comment. Officers may publish factual, professional and technical comment. Reports, presentations and publications must be professionally objective in language, content and tone. Relevant Divisional Directors must ensure that Officers who publish statements and material are competent for the role and understand the requirements of these Conventions.

- 35** News releases on behalf of the Council may only be issued through the Media Team.

The Media Team is responsible for promoting and protecting the Council's overall interests in relation to the media. The relevant divisional Director is responsible for informing Members as relevant when a media statement is proposed. In order to ensure consistency and compliance with the Code of Recommended Practice on Local Authority Publicity, official statements to the media should only be made after consultation with the Media Team.

The team will be guided in Executive matters by the City Mayor or Deputy or Assistant City Mayor's as relevant.

In relation to media activity for scrutiny matters including press releases, these will normally be arranged by the relevant Scrutiny Chairs in consultation with Vice Chairs acting through the Council's Media Team.

Where possible, an opportunity will be given for the Executive Member and any relevant key stakeholder(s), as appropriate, to include a comment within any communications or press release.

ELECTION PERIODS

36 During election periods reference should be made to the advice of the Returning Officer and Monitoring Officer before embarking on any public comment. That advice includes comprehensive guidance on the behaviour and activity of Members, including the use of Council premises and resources during election periods.

: Nothing should be published (including the Council's website) on a politically controversial issue, or which identifies views or policies with those of individual Members or party Groups; Any publicity should be strictly objective, concentrating on facts or explanations.

- In Parliamentary elections, nothing should be published which mentions or includes a picture of any prospective candidate;
- During local elections, no Council newspaper, corporate or departmental should be published;
- Members and Officers should take particular care to keep Officers distant from party political matters.
- Members requesting information should make their "*need to know*" (as explained in provisions 9-11 in Parts A & B) clear and the "*need to know*" principle should be strictly observed.
- Prospective Parliamentary candidates (including current MPs) should be treated equally.
- Officers should avoid even the appearance of political bias.

Officer commentary, where approved, should be on strictly factual or professional matters. Care should be taken to avoid being misquoted or inadvertently associated with a particular candidate or political perspective.

Where the Council ought to be represented as stakeholder at an event with a potentially political dimension, officers should:

- Ensure that all contributions to any discussion are factual and based on approved Council policy.
- Avoid expressing opinions or views which may be perceived as containing a party political dimension.
- Avoid engaging in any media activity relating to the event (that is avoid TV or radio interviews, comment to the media, inclusion in photographs or TV filming).

APPENDIX 1

NOLAN PRINCIPLES

Principle 1 - Selflessness

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

Principle 2 - Integrity

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

Principle 3 - Objectivity

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

Principle 4 - Accountability

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

Principle 5 - Openness

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

Principle 6 - Honesty

Holders of public office should be truthful.

Principle 7 - Leadership

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

Principle 8 - Respect for Others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Principle 9 - Duty to Uphold the Law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

APPENDIX 2

LEICESTER CITY COUNCIL CODE OF CONDUCT FOR MEMBERS (updated September 2022)

1. Application

The Code of Conduct applies to you whenever you are acting in your capacity as a Member (to include co-opted Members and the Elected Mayor) of Leicester City Council, and it continues to apply to you until you cease to be a Member.

It applies to you when:

- You are acting in your capacity as a Member
- You misuse your position as a Member
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Member

You may misuse your position by using, or attempting to use, your position as a Member to seek to gain an advantage for yourself or someone close to you, or to disadvantage someone. This includes threatening to use your position to do something, even if you don't in fact have the power to achieve it. Alternatively, you may misuse resources that are conferred upon you in your capacity as a Member (e.g. electronic hardware, your identity badge or letter headed paper/business cards).

However, Members are also private citizens. For something to fall within the Code there must be a link between the conduct and your Local Authority role as a Member. For example, an argument with a neighbour which does not relate to Local Authority business would not engage the Code, even if your neighbour knows you are a Member and therefore complains to the Local Authority about being treated disrespectfully. Equally, conduct engaged-in whilst on party political business does not fall within the Code (though you may be subject to separate expectations and sanctions from your political Group).

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

- At face-to-face meetings
- At online or telephone meetings
- In written communication
- In verbal communication
- In non-verbal communication
- In electronic and social media communication, posts, statements and comments

The interaction may take place whilst engaged on the business of your Local Authority, or when sitting on an outside body which you have been appointed by your Local Authority

The interaction may be with other Members, officers, members of the public or representatives of other organisations

Social Media postings – simply describing yourself as a Member in a social media

posting or at the top of your page or in your username or profile does not of itself mean that every posting you make is covered by the Code. There must be a link between the individual posting or thread and your role as a Local Authority Member. However even if you do not describe yourself as a Member you may fall foul of the Code if you are discussing Local Authority business in such a way that a reasonable member of the public might think you were invoking your office. The Council has published separate Guidance to Councillors on the use of Social Media [Standards.socialmediav2.pdf \(leicester.gov.uk\)](#)

2. Principles

The Principles underpinning this Code of Conduct are that you will act with:

- a. Selflessness
- b. Integrity
- c. Objectivity
- d. Accountability
- e. Openness
- f. Honesty
- g. Leadership
- h. Respect for others
- i. A commitment to uphold the law

The Code sets out the minimum expected standards of behaviour. You must, for example:

- a. Treat others with respect

You must respect other people, as well as respect the role they perform. Examples of disrespectful behaviour might include angry outbursts; use of inappropriate language such as swearing; ignoring someone who is attempting to contribute to a discussion; attempts to shame or humiliate others; nit-picking and fault-finding and the sharing of malicious gossip or rumours.

Members will engage in robust debate at times and are expected to challenge, criticise and disagree with views, ideas, opinions and policies. But you should do this in a respectful way in order to build up healthy working relationships and public trust and confidence. You should focus criticism or challenge upon ideas and policies rather than personalities. (In relation to Member meetings, see Table 2 for agreed Protocol for Member behaviour in meetings)

The circumstances in which the behaviour occurs are relevant to determining whether it is disrespectful. This will include where it occurs, with whom it occurs and the relationship of the people involved. It must also be balanced with the Member's right to Freedom of Expression. This extends to the expression of views that may shock, disturb or offend the beliefs of others. Freedom of Expression is protected more strongly in some contexts than others. In particular, a wide degree of tolerance is accorded to political speech. Public servants (i.e. officers) are subject to wider levels of acceptable criticism than other members of the public when matters of public concern are being discussed. However, the limits are not as wide as they are between elected politicians.

b. Not bully others

Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. It may be a regular pattern of behaviour or a one-off incident, happen face to face or virtually and may not always be obvious or noticed by others.

c. Respect the impartiality of officers

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

Members take decisions every day that affect the lives of those who live and work within the community. It is therefore important to have regard to all available evidence and to weigh up all sides of the argument. Decisions can be challenged if they are unreasonable. Members must have regard to any professional advice they have been offered. Members should also give reasons for their decisions in accordance with statutory requirements and any reasonable requirements imposed by the local authority.

d. Respect the confidentiality of information which you receive as a Member

In addition, you must (i) not disclose confidential information to third parties other than in accordance with the law and (ii) not act to prevent a third-party gaining access to information to which they are entitled in law

e. Uphold and promote the Authority's discharge of its Equality obligations, in particular to (i) eliminate discrimination (ii) promote equality of opportunity (iii) foster good relations

f. Uphold and promote these principles by leadership and by example, and act in a way that secures and preserves public confidence

g. Comply with the requirements regarding registration, declaration and participation in the Authority's business where you have a Disclosable Pecuniary Interest (DPI) or "Other Disclosable Interest (ODI)"

h. When using the Authority's resources, do so in accordance with the Authority's requirements, and not use such resources improperly

i. Not conduct yourself in a manner which is likely to bring the Authority into disrepute

j. Not use your position as a Member to improperly confer (or attempt to confer) upon yourself or any other person an advantage or disadvantage, but act only to further the public interest

- k. Comply with the Code of conduct. This includes (i) undertaking any training provided by my local authority; (ii) cooperating with any Code of conduct investigation; (iii) not to intimidate, or attempt to intimidate, any person who is involved with the administration of any investigation or proceedings and (iv) comply with any sanction imposed on you following a finding that you have breached the code of conduct.

The above list is not exhaustive, and any conduct which breaches the principles set out in section 2 can constitute a breach of this Code. Further Guidance can also be found in the Political Conventions found in Part 5 of the Council's Constitution ([Our constitution January 2022 \(leicester.gov.uk\)](https://www.leicester.gov.uk/our-constitution/our-constitution-january-2022))

3. Disclosable Pecuniary Interests (DPIs) (see Table 1 enclosed)

In addition to conducting yourself in accordance with the principles set out in section 2 you must:

- a. Declare any and all DPIs on your Register of Interests.
- b. Ensure that your Register of Interests is kept fully up to date, and notify the Monitoring Officer in writing within 28 days of becoming aware of any change in respect of your DPIs
- c. Make a verbal declaration (at the beginning, or as soon as you become aware of your interest) of the existence and nature of any DPI "in a matter" to be considered (unless it is already declared on your Register, in which case you must simply comply with point d. below).
- d. Comply with the statutory requirements to withdraw from participating in respect of any matter in which you have a disclosable pecuniary interest (DPI), by either leaving the room (where the business is being conducted at a "meeting") or by ceasing further participation in the item (where acting alone outside of a meeting)
 - The requirements cover not only DPI's of Members but a DPI of any other "relevant person", defined as spouse/civil partner, or someone with whom the Member is living as though they were a spouse or civil partner
 - Separate provisions within the law provide for the circumstances in which a Member may seek a "dispensation", or may ask that the interest be treated as "sensitive"

4. Other Disclosable Interests (ODIs) (pecuniary or non-pecuniary)

Aside from the statutorily defined DPIs, you may have another type of interest in a matter being discussed. These will be of category A. or B. below and you will either:

- disclose that interest (regular ODI), or
- disclose and withdraw from the meeting (prejudicial ODI).

A. Regular ODI

You will have an “Other Disclosable Interest” in an item of business of the Authority where:

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 (see below), to a greater extent than it would affect the majority of Council Tax payers, ratepayers or inhabitants of the Ward or electoral area

- You may need to register such “Other Disclosable Interest” into the Register of Interests operated by the Monitoring Officer
- If you attend a meeting at which any item of business is to be considered and you are aware that you have an “ODI” in that item, you should make verbal declaration of the existence and nature of that interest at or before the consideration of that item of business, or as soon as the interest becomes apparent

B. Prejudicial ODI

In addition to the above:

Where your ODI is of a nature where a member of the public, who knows the relevant facts, would reasonably think your “other disclosable interest” is so significant that it is likely to prejudice your judgement of the public interest you should disclose and withdraw from participating in respect of that matter

- “close association” is not defined in law but would reasonably include someone with whom you are in regular or irregular contact over a period of time, who is more than an acquaintance, and is someone whom a reasonable member of the public might think you were prepared to favour or disadvantage when discussing a matter that affects them.
- Note that that when a Member is acting as a decision-maker (but not in Scrutiny) there is a relationship between “bias/predetermination” and “interests”. Sometimes they will be synonymous [e.g. sitting on Planning Committee for a development that could, if approved, lower the value of your home will (i) certainly constitute a prejudicial ODI; (ii) possibly constitute a DPI; (iii) likely amount to “apparent bias” in common law].

However you might be predetermined over a matter in a way which does not translate into a registerable or a declarable “interest” (e.g. you are a member of Licensing Committee and have an ethical objection to the consumption of alcohol and a closed mind to the granting of any/all Liquor Licensing applications). Whilst this (i) will not constitute a DPI; (ii) may not constitute an ODI; it will (iii) constitute bias in law and breach the Nolan principles of objectivity, openness and upholding the law. You could therefore breach the Code of Conduct even though you strictly had no “interest” to declare/register.

5. Gifts and Hospitality

The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness, in which case you could accept it but must ensure it is publicly registered.

- a. 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 ~~£5025~~ which you have accepted as a member from any person or body other than the authority
- b. The Monitoring Officer will place your notification on a public register of gifts and hospitality
- c. 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

6. Validity of acts

Breaches of this Code will be dealt with under the “Standards Arrangements” as approved by Council on 06.07.17

In interpreting the Nolan Principles the relevant officers and Committee/subcommittee Members will be entitled to cross-refer the Local Government Association’s Guidance [Guidance on Local Government Association Model Councillor Code of Conduct | Local Government Association](#)

By virtue of section 28(4) Localism Act 2011 a decision is not invalidated just because something that occurred in the process of making the decision involved a failure to comply with this Code (though this does not mean that the decision cannot be impugned on other legal grounds e.g. judicial review)

Kamal Adatia
City Barrister & Head of Standards
September 2022

Table 1**Categories of DPIs**

Subject	Prescribed description
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.

**Protocol - Member Conduct in Meetings
(as agreed by The Standards Committee)**

Political interaction is one of the most powerful of the checks and balances which are built into policy development and service delivery. Such interaction should be robust and challenging but must stay within the Code of Conduct for Members. This protocol applies to all meetings held within the Council.

Members should at all times:-

1. Treat others with respect
 - Allow others to speak and explain their position without persistent interruption
 - Avoid unreasonable or excessive personal attack
 - Challenge unacceptable behaviours in others
 - Apologise immediately if they are aware they have caused personal offence
2. Not bully or intimidate others
 - Avoid language that is abusive, malicious, insulting, humiliating, defamatory or offensive
 - Avoid intimidating body language
3. Be aware of the need to respect confidentiality and treat information as such where appropriate
4. Not bring the office of councillor or Leicester City Council into disrepute
5. Avoid attempting to compromise the impartiality of officers
 - Officers are neutral and must not be persuaded to act in a way that would undermine their neutrality
6. Address comments to the Chair and avoid direct conversations with other members
7. Take personal responsibility for their behaviour and avoid the need for intervention from the Chair
8. Avoid playing to the public gallery, which could result in disruption of the meeting.

Appendix 3

ARRANGEMENTS FOR DEALING WITH STANDARDS COMPLAINTS AT LEICESTER CITY COUNCIL UNDER THE LOCALISM ACT 2011

(Agreed by Council 6 July 2017)

A. CONTEXT

These “Arrangements” set out how you may make a complaint that an Elected or co-opted Member of this Authority has failed to comply with the Authority’s Code of Conduct, and sets out how the Authority will deal with allegations of a failure to comply with the Authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “Arrangements” under which allegations that a member or co-opted member of the Authority or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Authority at any other stage, or by a Member against whom an allegation has been made

B. THE CODE OF CONDUCT

The Council has adopted a Code of Conduct for members, which is available for inspection on the authority’s website and on request from Reception at the Civic Offices. <https://www.leicester.gov.uk/contact-us/comments-compliments-and-complaints/complaints-about-councillors>

C. PRINCIPLES UNDERLYING THE SCHEME

The following principles should underpin Leicester City Council’s Arrangements:

- a. There should be simplicity to the scheme so that it is easily understood and transparent
- b. There should be flexibility at every stage of the process for informal resolution and / or robust decisions to be taken about “no further action”.
- c. There should be Member involvement at key stages in the process.
- d. There should be the involvement of Independent Members (IM) and the Independent Person (IP) at key stages of the process.
- e. The Monitoring Officer should have greater powers to deal with complaints relating to the Code of Conduct.
- f. All Members and co-opted Members shall cooperate with the application of these Arrangements, recognising that failure to do so can result in the incurring of wasted costs and reputational damage to the Council.

- g. Rights for complainants to seek a “review” of a decisions at various stages should be limited, consistent with the reduced scope and severity of allowable outcomes that can be imposed under the new regime
- h. At any stage in the process where it is clear that a matter should be referred to the police this should be done and the local investigation should be suspended.

D. THE PROCESS

1. Who may complain?

Complaints must be about Elected Members (to include the Elected Mayor) or co-opted Members and can be made by members of the public, Elected Members or officers of the Council. Where the Monitoring Officer lodges a complaint, it shall be made to the Standards Committee via the Deputy Monitoring Officer

2. To whom must a complaint be made?

Complaints must be made to the Monitoring Officer by writing to:

The Monitoring Officer
Legal Services Division
Leicester City Council
115 Charles Street
Leicester
LE1 1FZ

Or e-mail: monitoring-officer@leicester.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the Register of Members’ Interests and who is responsible for administering the system in respect of complaints of member misconduct on behalf of the Standards Committee

In order to ensure that all of the correct information is available to process the complaint they should preferably be submitted on the model complaint form, which can be downloaded from the authority’s website and is available on request from Reception at the Civic Offices.

The complainant should provide their name and a contact address or e-mail address, so that the Monitoring Officer can acknowledge receipt of the complaint and keep them informed of its progress. If the complainant wishes to keep their name and address confidential this should be discussed with the Monitoring Officer. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

Complaints should be lodged promptly, and normally within 3 months of the alleged breach occurring unless there are good reasons for the Monitoring Officer or Independent Person to accept a complaint lodged outside of this period.

3. How to complain?

Complaints must be made in writing either by letter, e-mail or on-line. Anonymous complaints will not be accepted because of the difficulties they cause with investigation. Appropriate safeguards for employees of the Council wishing to make a standards complaint will be afforded in parallel to those that might apply under the whistle blowing policy. Safeguards will also be in place, at the discretion of the Monitoring Officer, to protect confidential or sensitive information about a complainant, the disclosure of which may cause, or be likely to cause, "serious harm"

The complainant should be encouraged (either through questions on the standard complaint form or through subsequent discussion for clarification) what remedy is sought. This will help to identify informal methods of resolution at the earliest stages.

4. What will happen to the complaint?

The complaint will be acknowledged with the complainant within 5 working days

The complaint will also be notified (by sending a copy of the full complaint) to the subject Member within 5 further working days, save where there are exceptional or legal reasons for the Monitoring Officer agreeing with the complainant that there are elements of it, or the entirety of it, that must be kept confidential at this initial stage

Within 15 further working days the following actions will be taken by the Monitoring Officer, after consultation with the Independent Person:

- a. Revert to the complainant to seek further clarification.
- b. Refer the matter for further fact finding by Monitoring Officer (where further information is needed before deciding what route to follow).
- c. Reject the complaint on the grounds that it is not related to the Code of Conduct, or may be covered by another process
- d. Reject the complaint on the grounds that it discloses no breach or potential breach of the Code of Conduct
- e. Reject the complaint on the basis that it is (i) trivial or (ii) not in the public interest to pursue or (iii) vexatious (see Appendix 1 attached for definition).
- f. Recommend informal resolution where (i) Code engaged and not breached, but where some gesture of reparation would still be in the interests of fairness; or (ii) Code engaged but low-level breach only has occurred, such as not to warrant formal investigation
- g. Refer the matter for immediate further investigation.
- h. Refer the matter straight to the Standards Advisory Board where there is (i) clear evidence of a breach of the Code and (ii) it would be disproportionate and unnecessary to commission an investigation under g. above and (iii) informal resolution is not appropriate
- i. In exceptional cases, refer the matter to the Standards Committee or subcommittee thereof for a decision on a. to h. above on the grounds that the Monitoring Officer feels it would be inappropriate to make the decision himself/herself.

The complainant and the subject Member will receive a letter after expiry of the 5 days indicating which of the above outcomes is to be pursued.

By law the Subject Member has the right to consult with the Independent Person during the course of a complaint. Appendix 2 describes how this right is to be exercised.

Matters referred for fact finding - The Monitoring Officer will undertake this fact finding exercise by inviting the Member to attend for a discussion within 10 working days, or submitting information in writing. After obtaining the subject Member's factual account the Monitoring Officer will engage with the Independent Person (IP) to decide on next steps. The next steps will comprise either of outcomes c. to i. above.

Informal resolution - may incorporate acceptance by the subject Member that their behaviour was unacceptable and the offer of apology to the complainant, or other remedial action at the discretion of the Monitoring Officer (e.g. an offer of training). The outcome of 'informal resolution' does not require approval of the complainant or the subject Member (though the complainant may exercise a right to seek a "review" as per above).

Non-compliance with "informal" outcomes will be dealt with in accordance with Appendix 3 attached.

Review of a complaint - The complainant may seek a "review" of a decision only under outcomes c. to f. Such requests must be lodged with the Monitoring Officer within 5 working days of receipt of the outcome letter. Any Review will be undertaken by the Monitoring Officer, this time in consultation with a different Independent Person. The Monitoring Officer will notify the Subject Member of the request for a "review" and the reasons given for it by the complainant. It will be a matter for the Monitoring Officer and the Independent Person if they wish to invite any comment or representations from the Subject Member at this point.

In the case of all outcomes up to and including referral for investigation, the Monitoring Officer will report outcomes to the Standards Committee by updating report at each meeting

Investigation - should the matter warrant detailed investigation, the Monitoring Officer will appoint an investigating officer. The Investigator will conduct a thorough review within three months. Upon receipt of the Investigator's report by the Monitoring Officer (or by operation of the Monitoring Officer's own report under route h above) the matter will be referred for further decision to the Standards Committee (acting through its Standards Advisory Board), this time with the mandatory requirement to consult the Independent Person, who may determine:

- no further action
- referral for hearing

The option of 'no further action' may only flow from an investigator's own conclusion that no breach has occurred. If the Investigator (or Monitoring Officer) finds breaches, then the Board cannot decide, without a hearing, that no breach has occurred and no further action needs to be taken.

The option of 'informal resolution' is not available once a matter has been referred for Investigation (and the Investigator or Monitoring Officer finds breaches). Equally, where the Board refer a matter for hearing in order to establish if breaches have occurred (for

example after disagreeing with an Investigator who concludes there have been no breaches) informal resolution will not, at that point, be a viable outcome because the matter has ceased to be dealt with 'informally'.

Hearing Panel

If the matter is referred for hearing then a Hearing Panel will be convened to hear the evidence, make findings of fact and determine appropriate outcomes. The Hearing Panel (like the Standards Advisory Board) is a sub-committee of the Council's Standards Committee. The Independent Person is invited to attend all meetings of the Hearing Panel and his/her views are sought and taken into consideration before the Hearing Panel takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of misconduct.

The Hearing Panel is an advisory committee and can only make recommendations to the main Standards Committee in individual cases that it has adjudicated upon. As its findings are advisory, they must be referred to the main Standards Committee for endorsement. This is achieved by way of written report.

The complainant and the subject member would be written to and given reasons for any decision following a formal investigation/hearing, and no rights of review shall be afforded, save the right to challenge the process by way of Judicial Review or referral to the Local Government Ombudsman if appropriate.

A Standards Advisory Board or a Hearing Panel may make a recommendation to the Standards Committee that an Investigative Report be made public, whether the Report concludes that breaches of the Code of Conduct have been established or not.

5. Outcomes

The Hearing Panel may make recommendations to the Standards Committee for:

- a. Censure or reprimand the Member by letter
- b. Press release of findings
- c. Report findings to Council for information (with or without a subsequent motion of censure being proposed by Council)
- d. Recommendation to Group (or Full Council in the case of ungrouped Members) of removal from Committees/subcommittees of Council
- e. Recommendation to Elected Mayor that the Member be removed from The Executive, or from particular portfolio responsibilities
- f. Recommendation that the Member be removed from outside bodies to which they have been appointed by the Council
- g. Withdrawal of facilities provided to the Member by the Council
- h. Excluding the Member from the Council's offices or other premises (with the exception of accessing meetings of Council, Committees and subcommittees)
- i. Instructing the Monitoring Officer to arrange training for the Member

6. Revision of these arrangements

The Council may by resolution agree to amend these arrangements at any time, and delegates to the Monitoring Officer and/or Chair of the Standards Committee the right to depart from these arrangements where he/she considers it is necessary to do so in order to secure effective and fair consideration of any matter

Kamal Adatia
City Barrister & Head of Standards
June 2017

Appendix A

Vexatious Complaints – Member Misconduct process

Standards complaints are to be handled in accordance with the 'Arrangements for dealing with Standards Complaints at Leicester City Council'. This procedure was brought in following the new standards regime introduced by Chapter 7 of the Localism Act 2011.

One of the initial actions open to the Monitoring Officer (MO), after consultation with the Independent Person (IP), is to reject the complaint 'on the basis that it is:

*"... i) trivial or ii) not in the public interest to pursue or iii) **vexatious...**"*

No definition is provided within our Arrangements of 'vexatious'. The Localism Act and associated guidance make it clear that it is for the local authority to decide how they will investigate allegations for breach of conduct code and handle complaints. They do not specify what those arrangements must be.

Wherever possible, every effort should be made to find out what someone is complaining about, to investigate and respond. However, on occasion, complaints will be made that clearly do not substantiate claims or even justify further investigation. These types of complaints can be termed "vexatious complaints". It is important that the complaints procedure is correctly implemented and all elements of a complaint are considered as even repeated or vexatious complaints may have issues that contain some genuine substance.

It is important to note that it is the complaint itself that must be judged vexatious, oppressive or an abuse, not the complainant. Consideration of this ground should therefore focus primarily on the current complaint. The complainant's past complaint history may, however, be taken into account where it is relevant to show that the current complaint is vexatious, oppressive or an abuse.

The MO and IP should be able to demonstrate with evidence a reasonable belief that the complaint is vexatious, oppressive or an abuse of process before deciding to disapply the Standards process. Some assessment of the complaint will be required in order to demonstrate this.

- The LGO defines unreasonable and unreasonably persistent complainants as:

“those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation’s consideration of their, or other people’s complaints”

- Examples of unacceptable or vexatious behaviour, as defined by the LGO, include any action or series of actions which are perceived by the staff member to be “*deceitful, abusive, offensive, threatening*” whether they are delivered verbally or in writing or a combination of the two.

For the purposes of the Member misconduct processes the definition of ‘vexatious’ should include both limbs described above (that is, those that constitute unreasonable interpersonal behaviour as well as those that constitute unreasonable abuse of the system). Both represent behaviour which can potentially frustrate the proper application of the Standards regime in the interests of the wider public.

The following (non-exhaustive list) factors will be taken into account by the MO and IP when considering whether to classify a complaint as vexatious:

- Refusing to specify the grounds of a complaint, despite offers of assistance;
- Refusing to co-operate with the complaints investigation process;
- Refusing to accept that certain issues are not within the scope of the Complaints Procedure (e.g. substantive Planning Approval decisions);
- Insistence on the complaint being dealt with in ways which are incompatible with the Arrangements or with good practice;
- Demanding special treatment / immediate repeatedly;
- Politically motivated complaints
- Changing the basis of the complaint as the investigation proceeds;
- Denying or changing statements made at an earlier stage;
- Introducing trivial or irrelevant new information at a later stage;
- Raising numerous, detailed but unimportant questions; insisting they are all answered;
- Covertly recording meetings and conversations;
- Submitting falsified documents from themselves or others;
- Adopting a ‘scatter gun’ approach: pursuing parallel complaints on the same issue;
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous Council staff, or detailed letters every few days, and expecting immediate responses;
- Submitting repeat complaints with minor additions/variations that the complainant insists make these ‘new’ complaints;
- Repeatedly arguing points with no new evidence
- Refusing to accept the decision as to how the complaint shall be progressed

Process:

More usually, consideration of designating a complaint as vexatious will arise at the early stages of receipt of a complaint. However, this should not impede the MO and IP from considering whether the designation of “vexatious” should apply at a later stage in any complaint.

Whenever the issue is raised, the IP and the MO must discuss the designation and reach a unanimous view. Exceptionally, where they cannot do so the second IP may be consulted and a majority view shall prevail.

The designation of a complaint as “vexatious” will be recorded with brief reasons given and communicated to the complainant and the Subject Member, with a right of “review” afforded as per the Arrangements.

Appendix B

Protocol on the role of the Independent Person - meeting with Elected Members.

This Protocol aims to set out the arrangements to be followed in the event that an Elected Member whom it is alleged has committed a breach of the Code of Conduct for Councillors seeks a meeting with the Independent Person (I.P.)

Background

Section 28(7) Localism Act 2011 states:

- (7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person—
- (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
 - (b) whose views may be sought—
 - (i) by the authority in relation to an allegation in circumstances not within paragraph (a),
 - (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation,

The Parliamentary record (Hansard) reveals that one reason for a Member subject of a complaint seeking the views of the IP can be to express their concern about pressures that they might be facing from other Elected Members. The subject Member can raise with the IP their concerns about the conduct of other members in regards to the relevant complaint. This is addressed at point (ix) below.

The new “Arrangements” for dealing with complaints about the conduct of Councillors was established on 1 July 2012 and the principles of the new arrangements included:

- simplicity and transparency
- involvement of the I.P. at key stages of the process
- greater powers for the Monitoring Officer to deal with complaints relating to the Code of Conduct.

The right to “seek the views” of the IP therefore applies to any Elected Member who is the subject of a complaint. They may do this at any stage of the process except where a matter is referred to the police.

This right is separate to the right of the complainant to seek a “Review” of their complaint in the following circumstances as set out in our “Arrangements”:

- *rejection on grounds that complaint is not related to Code of Conduct, or is covered by another process*
- *rejection on grounds of being (i) trivial or (ii) not in the public interest to pursue or (iii) vexatious) or*
- *recommendation of informal resolution*

Such requests must be lodged with the Monitoring Officer within 5 working days of receipt of the outcome letter. Any Review will be undertaken by the Monitoring Officer, this time in consultation with a different Independent Person

The experience gained during the first year of the new Standards regime shows that Elected Members have in most cases been willing to accept the views of the Monitoring Officer (M.O.) and I.P. where informal resolution is the outcome. This outcome often involves offering to explain more fully the reason for adopting a course of action, offering an apology and/or offering a way forward.

However in any matter, whether it is proposed to be dealt with by informal resolution; is being “reviewed” or is one that proceeds to full investigation, the subject Member has a right to “*seek the views*” of the I.P. It is important that this engagement is defined and moderated so as to guard against:

- the Subject Member attempting to unduly influence the progress of the investigation by, for example, trying to explain “off the record” to the I.P. what they think of the complaint or how it should be resolved
- the Subject Member trying to compromise the independence of the I.P. by, for example trying to tell them things “in confidence” which are highly material to the investigation
- the Subject Member having false expectations of the purpose of exercising their right to seek the I.P.’s views
- the complainant being disadvantaged by the Subject Member’s exercise of their statutory right to seek the views of the I.P.

This Protocol therefore sets out the terms of engagement of such interaction, such as to promote transparency and preserve confidence in the Standards regime.

Arrangements for a meeting between the duly appointed IP and an Elected Member subject of a complaint:

- i. A Subject Member shall only be entitled to “seek the views” of the I.P. allocated to their complaint.
- ii. The right to speak with the I.P. will not apply where a decision has already been taken (and communicated) to dismiss the complaint. In such circumstances the Monitoring Officer can be approached to discuss any “lessons learned”

- iii. The right to speak with the I.P. will not apply where a complaint has been referred to the Police
- iv. The Subject Member shall make any request to “seek the views” of the I.P. through, and only through, the M.O. Where a Subject Member directly approaches the I.P., the I.P. will refer them back to the M.O. without further engagement
- v. The M.O. will arrange the meeting between the Subject Member and the I.P. at a date and time convenient to both, and on Council premises
- vi. The meeting shall be between the Subject Member and the I.P. only. No other attendees shall be permitted.
- vii. The I.P. will explain, at the outset the nature of their role at the meeting which is to answer questions about the investigative process, explain the types of questions that they will be addressing/have addressed before reaching an outcome and reiterate that they will NOT at that meeting express a concluded or tentative view on any of those matters
- viii. The purpose of the meeting will be for the Subject Member to better understand the investigative process and the reasons why the I.P. and M.O. have reached a particular outcome. It is NOT an opportunity for the Subject Member to attempt to exhort the I.P. to change their mind or to present “evidence” to them. I.P.s do not conduct “investigations” or “fact finding” exercises. These are done by the M.O. in cases that are not referred for formal investigation, or by the independent Investigator in cases referred for investigation.
- ix. The meeting may also be used by the subject Member as an opportunity to raise with the IP concerns they may have about any pressures that they might be facing from other Elected Members by virtue of the fact that these other Members know about the complaint. Whilst the IP may not have direct powers to intervene in such circumstances, they might be able to discuss with the MO any intervention (from the MO) to try to preserve the integrity of the complaints process (such as the MO talking to the other Members or their political parties)
- x. The I.P. will report back to the M.O. after the meeting a summary of the discussion.
- xi. If the I.P. takes notes of the meeting these will be as an aide memoire for the I.P. only and will not act as a formal minute. The Subject member is free to make their own notes
- xii. If the Subject member, contrary to this Protocol, submits information or evidence that is material to the handling of the complaint, this information or evidence will be shared by the I.P. with the M.O. (and an Investigator where one is appointed) and acted upon appropriately.

- xiii. There will only be one such meeting per complaint, save in exceptional circumstances which are to be approved by the MO and the IP.

Appendix C

Procedure for dealing with subject (Elected) Member who fails to act upon an outcome of “informal resolution”

The Council’s “Code of Conduct” and associated “Arrangements” govern the principles and processes to be applied when a standards complaint is made alleging misconduct by an Elected Member. To date, most complaints have been resolved by “informal resolution”, an outcome which is applied in circumstances where a potentially valid complaint is made, but where it is not deemed to be in the interests of justice to proceed to a full investigation and where instead a fair and proportionate outcome can be achieved by some other action (often an apology, coupled with an offer to revisit the original topic i.e. a Ward issue). It is the judgement of the Monitoring Officer and Independent Person as to whether to conclude that “informal resolution” is appropriate (with or without the consent of the complainant and subject member).

The Standards Committee, at its meeting on 10th April 2014 endorsed the following process for dealing with cases where a Subject Member fails to co-operate with such a recommendation:

- Step 1 – The Subject Member shall be invited to a meeting with the Chair of Standards Committee, the relevant Independent Person and the Monitoring Officer to explain their reasons for non-compliance
- Step 2 – If compliance is not forthcoming after Step 1, the Chair of Standards Committee and the Monitoring Officer may refer the matter for further action (e.g. for the Subject Member’s political Group to take any action it deems appropriate)
- Step 3 – In addition to or as an alternative to Step 2 above, the Subject Member’s non-compliance may be treated as a fresh potential breach of the Code of Conduct and a new complaint lodged, this time with the Monitoring Officer as the complainant (and with the Deputy Monitoring Officer handling the complaint). There will be no direct involvement of the original complainant into this separate complaint.

Kamal Adatia
City Barrister & Head of Standards
November 2014

APPENDIX 4

LEICESTER CITY COUNCIL

GOOD PRACTICE GUIDANCE FOR MEMBER INVOLVEMENT IN PLANNING AND DEVELOPMENT MANAGEMENT DECISIONS

1. WHY GOOD PRACTICE GUIDANCE IS REQUIRED

1.1 As an Elected Member one of your key tasks may be to get involved in planning matters through representing your Constituents; or as a Member of the Council's Planning & Development Control Committee deciding planning matters (e.g. applications and enforcement); as an Executive Member considering development of the Council's planning policies; or when considering these at Full Council

1.2 The key purpose of Planning Committee decision making is the consideration of private proposals and balancing these against the wider public interest. Committee Members should consider themselves strategic decision makers. Planning decisions can be controversial and sometimes questions are raised about planning decision making. The aim of this Guidance is to demonstrate that in the planning process in Leicester there has been objective transparency and any decision is justified based on material and relevant planning considerations.

2. WHEN THE GOOD PRACTICE GUIDANCE APPLIES

2.1 This Guidance applies at all times to Committee Members involved in the planning decision making process. This includes meetings of the Committee, meetings in connection with any pre-application process, meetings with Officers or the public e.g. consultative meetings.

2.2 It also applies to non-Committee Members when they have any involvement in a planning matter be it either their own Planning Application, or that of somebody else's (whether it affects their own property or not), or through being lobbied.

2.3 If you have any doubts about the application of the Guidance, you should take advice from the Head of Planning and/or the Monitoring Officer.

3. RELATIONSHIP WITH THE MEMBER CODE OF CONDUCT

3.1 The City Council's Member Code of Conduct (this is the document which, by law, must set out expected standards of behaviour of all Elected Members, breaches of which are reported to the Monitoring Officer and are dealt with under the Standards arrangements) must be complied with throughout the Committee decision making process therefore:

- Do apply the rules in the Member Code of Conduct first at all times. Members should pay particular regard to the rules concerning declaration of interests.
- Do then apply the advice contained in this Guidance which seeks to supplement the Members Code of Conduct for the purposes of planning decision making or involvement in planning matters as a non-Committee member.

3.2 If you do not follow this Guidance the following risks arise:

- The City Council is at risk of legal proceedings (Judicial Review) on the legality of any decision taken; and/or a complaint to the Ombudsman for maladministration and
- As a Member a complaint could be made against you regarding your conduct.

3.3 In the event of a conflict between this Good Practice Guidance and the Members' Code of Conduct the latter will prevail.

4. MEMBERS' OWN PLANNING APPLICATIONS

4.1 For obvious reasons any person who has a significant interest in the outcome of a planning decision should not take part in the decision making process. There is no objection to a Member (as a citizen) making their own planning application, but they should be open and transparent about it and declare the existence and nature of their interest.

4.2 Where a Member intends to submit a planning application the following applies:

- Consider employing an agent to act on your behalf in dealing with Officers and in relation to any public speaking at the Committee (but see below).

- Do not allow the application to be submitted on your behalf in a third parties name (including that of any agent engaged by you). Use your own name as the applicant.
- Ensure that you complete the Authority Employee/Member section of the planning application form
- Notify the Council's Monitoring Officer in writing of the application no later than submission of the proposal.

4.3 Once the application has been submitted, or where Pre-application advice is sought from the local authority:

- Do not participate or give the appearance of trying to participate in the making of any decision on the application by the City Council. This is a Disclosable Pecuniary Interest (DPI) and under the Localism Act 2011 participation is a criminal offence.
- Do not get involved in the processing of the application.
- Do not seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment because of your position as a Member.
- Always be open and transparent about the application particularly in your dealings with Planning Officers and do not assume the Officer knows that you are a Member.
- Note that the application/other relevant planning matter will always be reported to the Committee for decision. It is permissible for you to make written representations to Officers about your proposal.
- Think very carefully about whether you attend the Planning Committee that considers the matter. In circumstances where an Applicant has a right to speak, you will need to arrange for someone to speak on your behalf, save in circumstances where the Monitoring Officer has granted you a dispensation in accordance with the Member Code.

4.4 For obvious reasons any person who has a significant interest in the outcome of a planning decision should not take part in the decision making process. As such members should also follow the above guidance where they have a significant interest in a planning application which has been submitted but which is not their own application.

4.5 If you are unsure whether you have a significant interest in the outcome of a planning application you should seek advice from the Council's Monitoring Officer prior to taking any steps in relation to such an application.

5. COMMITTEE MEMBERS' OTHER INTERESTS

5.1 For Committee Members, and depending on the factual circumstances, an interest arising may require declaration or mention in accordance with the Member Code of Conduct, either as a DPI, an Other Disclosable Interest (ODI) or a concern about apparent bias or predetermination.

5.2 In accordance with the Code of Conduct and the Council's Constitution where a Member has a DPI or a 'prejudicial' ODI you may not vote or participate in a decision on the matter in respect of which the interest arises and must leave the room unless they have been given a dispensation by the Monitoring Officer in accordance with the Member Code of Conduct.

5.3 Declarations of bias and predetermination should also require the Member to refrain of taking part in decision-making, or the influencing of decisions (see section 8 below).

5.4 A declaration of a non-prejudicial ODI will merely require the Member to declare the interest but they may lawfully remain in the meeting and proceed to contribute to the decision-making.

5.5 Where a planning matter directly affects a Committee Member or their family/friends (e.g. a Planning Application next door to where the Member lives; or an application lodged by a family member), then advice should be taken from the Council's Monitoring Officer about involvement.

5.6 There are obvious dangers in the Member taking part in the planning decision-making process (see 5.1). Where a Committee Member has a DPI (note that a DPI can arise not only from a Member's own application but also one that directly affects

them e.g. next door neighbour's application) or prejudicial ODI, as well as leaving the room they will also be unable to address the Committee on the application.

5.7 The Member can arrange for a representative to address the Committee on their behalf and such representations should be expressed as being made on behalf of Councillor X as a person directly affected by the application.

5.8 Similarly if the Committee Member wishes to submit a written representation, it should be expressed to be submitted from or on behalf of Councillor X as a person directly affected by the application. This practice should also apply to Committee Members who make declarations in respect of predetermination and apparent bias (see section 8).

6. ATTENDANCE OF NON-COMMITTEE MEMBERS

6.1 Elected Members who are not Members of the Planning Committee do, in certain circumstances, have the right to speak at a Committee meeting.

6.2 Where a non-Committee Member wishes to make representations to the Committee s/he needs to notify the Committee Chair and Democratic Services no later than 12 noon of the day of any Committee Meeting. It is a matter for the Chair's discretion to allow non-Committee Members to speak if they have not given the required notification.

6.3 Non-Committee Members will be required to make an appropriate declaration. Members who have a DPI or prejudicial ODI may only attend and speak if they have received a dispensation granted at the discretion of Monitoring Officer in accordance with the Member Code.

6.4 Non-Committee Members will sit in the public gallery and the Chair will call them to the Committee table to sit in the designated place.

6.5 A Member who wishes to speak must follow the public speaking protocol where applicable. A non-Committee Member is expected to keep his/her representations within 5 minutes, as are all public speakers. After the non-Committee Member has spoken, the Chair will invite Officers as appropriate to respond but the non-Committee Member will not have a right of reply.

6.6 Subject to the DPI/ODI provisions of paragraph 6.3 above, exceptionally a Committee Member may wish to stand down to make representations to Committee as a Non-Committee Member. The same provisions as above will apply to Committee Members in these circumstances. The Committee Member will need to take extra care to ensure that they make the appropriate declarations.

6.7 Where a planning matter directly affects a non-Committee Member as an individual, such that they have a DPI or prejudicial ODI, it is not permissible for the Member to address Committee. As with clause 5.4 above (in respect of Committee Members) the Member can arrange for a representative to address Committee on their behalf.

7. MEMBER INVOLVEMENT IN WARD ISSUES

7.1 All Members will respect the expectation that in relation to planning issues in any Ward the primary responsibility for dealing with them is on the relevant Ward Members.

7.2 In the case of a Member who is also a Committee Member, and who intends to take part in the decision on the application if it comes before Committee, it is suggested that they should not deal with planning issues in their Ward. In such circumstances a fellow Ward Member should be asked to assist. Should the issue result in a Member attending at a Committee to make representations, the Chair will enquire of the Member whether or not they have had contact with the relevant Committee Member

7.3 There are circumstances where an applicant or objector may want to contact a Member outside of their Ward (e.g. in a situation where an objector does not have the support of Ward Members). Where any Member is approached to make representations to, or attend a Planning Committee meeting on behalf of any one individual in relation to any planning issue not in their Ward, they are expected as a matter of courtesy to notify the Ward Members concerned. In the absence of such notification, the Chair has discretion whether or not to allow the Member concerned to attend and speak for that purpose at any Committee Meetings.

7.4 Any non-ward Members speaking at Committee in this capacity shall be speaking as a Member. According to law Members cannot choose to shed their elected Member status when addressing a Committee of their Council.

8. DECISION MAKING - BIAS AND PREDETERMINATION

8.1 Planning Committee decisions must only be made on the basis of material and relevant planning considerations/merits.

8.2 Predetermination arises when someone has a closed mind so that they cannot consider any subsequent information presented and they have made their mind up. This can lead to legal challenges.

8.3 To participate in decision making on planning matters, Committee Members must not have a closed mind. Decisions can only be taken once all Committee Members present have read, seen and heard all the information presented including the Officers Report, any Addendum Report and information provided under the public speaking provisions.

8.4 The Localism Act 2011 makes it clear that a Member does not have a closed mind on a particular issue just because they have indicated what view they may or may not take before the issue is decided. This means that a Committee Member is not prevented from participating in decision making in relation to a matter which they have campaigned on a particular issue or have made public statements about any approach provided at the time of decision making the Committee Member has not closed their mind.

8.5 For Committee Members to refrain from having a closed mind they must be amenable to changing their views in the light of all the information presented to them. In order to avoid perceptions of and challenges of pre-determination it is advisable for Committee Members to avoid making categorical public statements in relation to applications for Planning Permission, Listed Building and conservation area matters if they subsequently intend to participate in the decision making process at Committee.

8.6 Great care is needed where any application before the Committee involves the Council as developer/landowner. Council applications should not be given any preferential treatment.

8.7 Although a Committee Member can make representations (either on their own behalf or on behalf of a constituent) on an application that is anticipated to be decided by officers under delegated powers, should this application in the event be referred to Committee then the Councillor should not take part in the decision making.

8.8 Where an Elected Member makes representations or contact on a planning application (whether orally or in writing) which is to be decided either by Committee or by Officers, that Elected Member shall always make it known that they are a Member of the Council. If the purpose of the representation/contact is to articulate a view in a personal capacity they shall identify themselves as a Member but go on to make it clear that they are writing in a personal (i.e. non-Council) capacity.

9. PRE-APPLICATION PRESENTATION/MEETINGS WITH APPLICANTS, DEVELOPERS AND OBJECTORS

9.1 It is recognised that pre-application discussions assist with the planning process provided they take place within clear parameters and governance arrangements.

9.2 Member engagement in pre-application discussions on major developments (10 or more dwellings or 1,000 square metres commercial or other floor space) is legitimate. The following safeguards have been developed to prevent any allegation of bias or predetermination being made against Committee Members:

- Do not agree to any formal meeting with applicants, developers or groups of objectors without consulting the Head of Planning (for ad hoc/informal meetings refer to Section 11 “Lobbying” below).
- A Planning Officer must always be present at any planned meetings (note that pre- application meetings with developers/ applicants are likely to be subject to a charge) It will be for the Officer to explain the constraints on Members. The Officer will prepare a written note of the meeting which will be publicly available (in circumstances where any applicant/developer asked for proposals to be treated as confidential any public note will cover non-confidential issues only and general advice given).
- Remember to follow the advice on lobbying (see below).
- Committee Members can ask questions and make preliminary comments on any proposals but should not give the impression/appearance from any such questions etc. that they have a predetermined view.
- Do report any prior significant contact with any applicant or other parties to the planning case officer or Head of Planning and explain the nature and purpose of the contacts and your involvement .. This will be recorded on the relevant file.

- Do make it clear that at any meeting/presentation it is not part of the formal decision making process and any view expressed by you as a Member is both personal and provisional since not all relevant information will be to hand and the views of other interested parties may not have been obtained.

9.3 The Head of Planning may arrange for appropriate presentations to be made in respect of significant Planning Applications which will be open to all Members. Such presentations will be of a fact finding nature to enable all Committee Cabinet Members to become familiar with what the application proposes and to ask questions. As mentioned above Committee Members can ask questions and make preliminary comment on any proposals but should not give the impression/appearance from any such questions etc. that they have a closed mind. In this way there is no objection or bar to them subsequently sitting on the Committee and making a decision on the application as presented.

10. REFERRAL OF APPLICATIONS FOR DECISIONS TO THE PLANNING AND DEVELOPMENT CONTROL COMMITTEE

10.1 Members should contact the Head of Planning about any applications included on the weekly list of applications circulated to them that they consider should be the subject of a Committee decision. Under the current Scheme of Delegation this needs to be before the publicity period has expired (normally 21 days .) This should be because they consider that there is a planning reason why the matter needs to be considered by the Committee rather than under delegated powers. The referral process should not be used simply to produce a different outcome from that anticipated from an officer delegated decision. It is unlikely that there would be a good planning reason for relatively minor and straightforward proposals to be a matter for the Committee eg house extensions unless they raised wider issues relating to principle and/or policy .

10.2 This request is separate from the making of representations – for or against - that a Member may also make on their own or another's behalf. A committee referral request does not in itself indicate the Member's own view on the application. A member may or may not choose to express their own view on the proposals (see also 8.7 and 8.8 above). Contact should be written and by e-mail. The planning reasons for the request must be given. Where appropriate a Planning Officer is able to assist Members with the formulation of reasons which can include design, highway issues and impact on amenity of local residents.

10.3 Members need to be aware that to meet Government targets decisions on applications are taken quite quickly after the circulation of a weekly list and they are advised therefore to check with case officers of timescales to ensure any requests they make can be considered.

10.4 If any Member wishes their particular view to be considered and included in the Planning Officer's Report such representations must be made in writing to the planning officer as soon as practicable normally within the publicity period to ensure it can be considered before determination of the application.

11. LOBBYING OF COMMITTEE MEMBERS

11.1 Lobbying by the public or other Members is a legitimate political activity. When Committee Members are lobbied, care needs to be taken to avoid any challenge of predetermination or bias or an allegation of breaching the Member Code of Conduct.

11.2 So:

- While you can listen to what people want to say to you about planning proposals and you can always give procedural advice as to how applications should be taken forward and agree to pass any comments on, it would be better when contacted directly to pass the matter on to a fellow Ward Member not on the Committee or indicate that contact be made with the Head of Planning or appropriate Planning Officer (see section 7).
- Do not favour any person, company, group or locality or make any commitment to a particular point of view on a planning application prior to its consideration by the Committee.
- Do not make up your mind or give the impression of making up your mind (particularly in relation to an external interest or lobby group) prior to the Committee Meeting and to hearing the Officer presentation and all information presented to the Committee. You should carefully consider whether accepting membership of, or attending external interest, advisory or lobby groups might lead to a position of conflict, or appearance of conflict, with your neutral decision making responsibility as a Committee Member (see 12.1 below).
- When you have received any direct representations in connection with any Planning Application before the Committee you should forward to planning officers copies of any representations or lobbying material you receive (either for or against a

proposal) where planning officers have not been copied into the material. You also need to declare the nature of all the representations and lobbying materials (e.g. e-mails) received, photographs or drawings received, attendance at meeting, any presentations, any meetings with the applicant or third party etc. You should also disclose to the Committee the general tenor of your response (i.e. supported/opposed/remained neutral and gave procedural advice/referred to another Councillor etc). If time is short you need not pass on the lobbying material to planning officers but can just declare this at Committee. Where the lobbying results in your having a closed mind you should, in addition, withdraw from sitting on the Committee for that item, preferably by prior arrangement.

11.3 Political group meetings prior to the Committee Meeting should not be used to determine how you or other Members should vote. The Ombudsman has ruled that the application of a group whip to a planning matter could constitute maladministration.

12. MEMBERSHIP OF OUTSIDE BODIES

12.1 If you are a Committee Member do not become a member of any organisation whose primary purpose is to promote, oppose or advise on development proposals, in Leicester, whether generally or specifically. The reason for this is the obvious risk of bias or predetermination.

12.2 As a Member there is no prohibition on joining general interest groups which might reflect your areas of interest and which concentrate on issues beyond particular planning proposals such as CPRE or local groups such as the Civic Society. Where you are a Committee Member it is suggested that you do not get involved in any representations made by an external interest groups you are involved in and make the appropriate declaration at any subsequent Committee Meeting. Such a declaration should explain the precise nature of your involvement or engagement with the item/application and should include a description of the views that you expressed on the matter.

13. COMMITTEE ADDENDUM REPORT

13.1 To enable any last minute issues to be considered, the Director prepares an Addendum Report. Committee Members will be provided with the report by e-mail and it will be available in Group Rooms in City Hall from 16.00 hours on the date of the Committee. Where the last minute issues lead to a fundamental change of recommendation (e.g. from refusal to approval or vice versa), the Addendum Report

will recommend deferral unless the possibility has already been identified in the original report .

13.2 As necessary the Head of Planning or Planning Officer presenting the Report will refer to the Addendum Report when relevant as part of the oral presentation in connection with reports before the Committee.

13.3 Representations received after the Addendum Report has been finalised, may be summarised orally.

14. RUNNING ORDER OF COMMITTEE AGENDA

14.1 The Chair has discretion to determine the order in which Committee Reports are considered and s/he will consider this in relation to the number of members of the public/Members who are present who wish to speak on any particular report.

14.2 The Council has introduced public speaking protocol for public speaking the Planning Committee. This sets out the process and procedure to be followed including the Order of speakers. Prior to any summing up by the Committee Chair, the Head of Planning will be entitled to provide final Officer comment.

14.3 Members of the Committee may seek points of factual clarification on the application under consideration from applicants (or their agents), Statutory Consultees or people making representations to the Committee meeting. It is not appropriate for Committee members to seek to negotiate to secure amendments to the application as the application is presented for determination at the meeting. In the event that the Chair feels a point of clarification is not appropriate then they will have the discretion to intervene.

14.4 Other than in accordance with the protocol for public speaking and in the circumstances described at 14.3 above an applicant shall have no general free-standing right to speak at Committee.

15. VOTING

15.1 Voting at the Planning Committee will be by a show of hands or by other appropriate method at the discretion of the Chair. The other provisions in the Council's

Constitution with regard to voting (request for recorded vote, chair's casting vote etc.) will apply.

16. DEPARTURES FROM OFFICER RECOMMENDATIONS

16.1 Decisions on planning applications must be taken in accordance with the Development Plan unless material considerations indicate otherwise. From time to time The Committee may give different weight or take a different view of the planning considerations and, therefore, take a decision which differs from the officer recommendation. Sometimes this will relate to conditions or terms of a S106 obligation. Sometimes it will change the outcome, from an approval to a refusal or vice versa. In cases where the recommendation is to refuse but members indicate they may be minded to grant planning permission the conditions attached to the permission or heads of terms for a s106 Obligation should also be considered.

16.2 In the above situations Members must be able to give a clear basis and reason for not accepting the officer recommendation. This is important to ensure, as far as possible, that any decision made will be capable of surviving a legal challenge or is defensible on appeal. In the event that this occurs the Chair is advised to ensure the following steps are taken before the Committee decision is made.

16.3 The planning reasons for taking a different view reasons are clear and included as part of the mover's motion

16.4 Where the officer recommendation is to refuse but the mover's motion is to grant the application, the reasons will explain why the officer suggested reasons for refusal can be overcome and why the planning balance weighs in favour of the Application.

16.5 Officers are given the opportunity of advising on the reasons proposed, and if necessary to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the council, should one be made. In some cases Officers may suggest a short adjournment before they provide the advice to Members, and in exceptional cases (including where the Officer recommendation is to refuse planning permission and members are minded to grant permission,) Officers may advise that a report is brought back to Committee to include Officers understanding of the reasons, and any conditions or heads of terms for a s106 Obligation

16.6 A detailed record of the committee's reasons should be included in the minutes.

16.7 Where no amendment is moved and seconded but the Committee votes to reject the Officer recommendation, the Chair will ask the committee to clarify the planning reasons for the vote and seek to follow the above process. If this is not possible, the application will be deferred until the next meeting of the Committee. At that subsequent meeting the Director will table his understanding of the reasons why the Committee rejected the recommendation and the Committee will then vote to confirm the reasons put forward by the Director or not as the case may be.

17. DELEGATION OF DECISIONS TO OFFICERS

17.1 The Committee may agree to delegate any further decision (e.g. finalisation of the wording of conditions or the detailed heads of terms of section 106 Agreements to be attached to the grant of Permission) to the Head of Planning even where the decision would normally be reserved to the Committee under the Scheme of Delegation of Development Control Decisions to Officers.

18. SITE VISITS

18.1 Officers will seek to ensure that full details and context of proposals can be reasonably ascertained from the information in the Committee Report and the photographs and plans available from the screen presentation.

18.2 Exceptionally site visits may be required where there is a need to view particular site factors in terms of the weight to be attached to them in making the decision.

18.3 Where, in such circumstances, a Committee Member feels a site visit is necessary it must make the request for a site visit to [the Head of Planning] no later than two days after the publication of the Agenda Papers (ie by 1700 on the Thursday) to allow arrangements to be made for the visit to be undertaken on the Monday preceding the meeting of the Committee.

18.4 All requests for site visits must detail the planning reasons and aspects of the site or the proposal which are considered to merit a site visit; the requests will be determined by the Head of Planning in consultation with the Chair with respect of the availability of appropriate presentational material and photographs.

18.5 Exceptionally, where there is a recommendation by Members during a meeting of the Committee Meeting to defer the application to allow for a site visit to take place, this must be moved and seconded and agreed by the Committee with valid planning reasons being given for the decision, which will be minuted. Information gained from the site visit should be reported back to the Committee so all Members have the same information

18.6 Site visits do not have decision making status and will be arranged by the Head of Planning. All Committee Members will be notified of the visits by Democratic Support. A Planning Officer will be present throughout. Site visits are for Committee Members only, and no other Members or the Public will be permitted to participate (although applicants may attend to facilitate access only)

18.7 On no account should any Committee Member present at a site visit express a view on the merits of the application and wherever possible not engage in any dialogue with the Applicant/Owner, or any other third parties during the visit.

18.8 Committee Members should try and attend site visits if at all possible 1300hrs the Monday preceding each Planning Committee will be the time generally reserved for visits. Where a Committee Member is not able to attend the site visit s/he may visit the site separately although Members should not enter onto the site without the Owner's consent. As with an organised site visit an individual Member should not engage in any dialogue about the application etc.

19. ATTENDANCE AT COMMITTEE

19.1 Planning Applications may in some cases come before the Committee on more than one occasion. For example, the Committee may decide to defer an application for further information.

19.2 It is important that Committee Members taking decisions are in possession of all the facts. Attendance of Members on all occasions when an application has been considered by Committee will not only demonstrate that Committee Members are fully informed but will also ensure high quality consistent and sound decisions are made minimising the risks of any legal challenge.

19.3 If as a Committee Member you have not been able to attend meetings in connection with an application that has been deferred you should only take part in

such a decision making process if you are satisfied that you can reasonably and properly do so in all the circumstances. Advice on involvement can be obtained from the Head of Planning and the Monitoring Officer.

20. OFFICERS

20.1 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. Accordingly:

- Do not put pressure on Officers to put forward a particular recommendation. This does not prevent you from asking questions or submitting views to the Head of Planning or the Director.
- In the first instance any contact by Members (Committee or non-Committee) about planning issues should be with the Head of Planning or other Officers authorised by the Director to have contact with Members. Note that any contact between a Member and Officer will be recorded.

21. APPEALS

21.1 The Director will prepare and where necessary present the City Council's case in an appeal based on the terms of the decision and the material considerations on which the decision was made. The best possible arguments and available evidence in support of the decision will be presented whether or not the Committee's decision was in accordance with the Director's recommendation.

21.2 Where the Committee's decision was not in accordance with the Director's recommendation and any subsequent appeal is to be determined at a Hearing or Public Inquiry, the Chair or, as appropriate, an alternative Committee Member may be required to be the Council witness. The Head of Planning will arrange appropriate Officer support but in accordance with professional requirements, this will be provided in a way so as Officers are not put in a conflict of interest situation arising from their professional opinion on the matter in question.

22. TRAINING

22.1 It is mandatory that Members serving on the Committee must attend annual refresher training and where appropriate initial training. Substitute Members have to comply with the training requirement.

22.2 Mandatory Training will be provided when a Member is appointed to the Committee. This includes mandatory annual refresher training, which will be arranged to take place as soon as possible after annual appointments to the Committee have been made . . .

23 GIFTS AND HOSPITALITY

In addition to complying with the Council's Member Code of Conduct on gifts and hospitality, Members involved in planning decisions should not accept over frequent or over generous hospitality, especially from the same organisation or where offered by lobbyists. Members should ensure that the acceptance of hospitality does not constitute a conflict of interest.

MEMBERS LICENSING CODE OF GOOD PRACTICE

1. Introduction

- 1.1 This code of good practice (the Licensing Code) gives advice to Councillors who:
- are members of the Licensing and Public Safety Committee and who sit on hearing panels or sub committees
 - wish to attend or address the Committee, a sub committee or a hearing panel on any licensing issue.
 - are involved outside the Committee on licensing applications or other licensing matters – including informal occasions such as meetings with officers or public and consultative meetings.
 - are involved in applications for licences under the Licensing Act 2003, the Gambling Act 2005 or any other licensing legislation.
- 1.2 A key aim of the Licensing Code is to ensure that there are no grounds for suggesting that a licensing decision has been biased, partial or is not well founded in any way. Councillors must make these decisions openly, impartially with sound judgement and for justifiable reasons.
- 1.3 This is particularly important, as licensing applications will be subject to close scrutiny both because applicants may be seeking to maximise the business potential of their premises and because the quality of the environment in which local residents and the wider community live and work may be detrimentally affected through the inappropriate grant of licences.
- 1.4 The Human Rights Act 1998 has implications for the licensing system and has created enhanced requirements for procedural fairness, transparency and accountability in decision making.
- 1.5 This Licensing Code is intended to minimise the prospect of legal or other challenge to decisions. Non-compliance without good reason could be taken into account in investigations into a breach of the Members' Code or possible maladministration or may have implications for the standing of Councillors and the Council as a whole.
2. Most licensing applications heard by Councillors will be determined by a hearing panel or by a sub-committee of the main Licensing and Public Safety Committee. It should be borne in mind that, given the small

numbers of Councillors on such hearing panels or sub-committee, the scrutiny of any interests held by Councillors making those decisions will be greater.

2 Relationship with the Members' code of conduct

- 2.1 The Members' code of conduct ("the Members' Code") must always be complied with and the rules in that code must be applied before considering the Licensing Code.
- 2.2 The Licensing Code is not intended to form a part of the adopted Members' Code but is a separate document, which is both supportive of the Members' Code and the source of expanded guidance in the particular area of licensing.
- 2.3 To distinguish it from the Members' Code, this document is referred to as the Licensing Code.

3 **Disclosable Pecuniary Interests**

- 3.1 The Localism Act 2011 places requirements on Councillors to notify the Monitoring Officer of or to disclose at committee Disclosable Pecuniary Interests (DPI) and prohibits participation in the business of the Council where a Councillor has such an interest. The current list of DPIs is set out in Schedule One to the Members' Code.
- 3.2 The requirement to notify the Monitoring Officer of a DPI applies not only to a Councillor's own interests but also to those of the Councillor's husband/wife/civil partner or a person with whom the Councillor is living as husband/wife or as if they were civil partners, if the Councillor is aware that that person has the interest. In this Licensing Code such a person is referred to as a "relevant person".
- 3.3 Failure to so notify/disclose a DPI in the circumstances required by the Localism Act 2011 is a criminal offence. Therefore, the requirements as to notification, disclosure and participation must be followed scrupulously and Councillors should review their situation regularly. Whilst advice can be sought from the Monitoring Officer, ultimate responsibility for compliance rests with individual Councillors.
- 3.4 A Councillor may have a DPI in relation to a licensing matter in a number of circumstances affecting them or a relevant person. Examples include, but are not limited to;
 - 3.4.1 An application for a premises licence for premises owned or leased by the Councillor or a relevant person;
 - 3.4.2 An application for a premises licence for a premises close to property owned by the Councillor or a relevant person, in particular where the grant of a licence could affect the Councillor's pecuniary interest in that property (e.g. by affecting the value of the property);
 - 3.4.3 An application for a review of a premises licence made by the Councillor's or a relevant person's employer.

- 3.5 Unless a Councillor has received a dispensation from Leicester City Council, he or she must not participate in a discussion or vote on any application in which he or she or a relevant person has a DPI.
- 3.6 The Members' Code of Conduct requires the disclosure at a meeting of a DPI even if the interest already appears on the register. Councillors need to be cautious about pending notifications (where the Monitoring Officer has been notified but the register has not yet been updated). There is an ongoing legal obligation to disclose at meetings until the register has been updated and therefore the Councillor should disclose at the meeting. In any event, Councillors may voluntarily declare a DPI or other interest at a meeting, even where there is no legal obligation to do so.
- 3.7 The Members' Code requires Councillors to withdraw from the room at a meeting during a discussion and vote upon an issue in which they have a DPI. Failure to comply with this requirement will not be a criminal offence but will be a breach of the Members' Code.
- 3.8 Where a Councillor who is due to sit on a hearing panel or sub-committee has a DPI or an Other Disclosable Interest (ODI) in a matter to be determined at that hearing panel or sub-committee, he or she should notify the Democratic Services team as soon as he or she receives the committee papers so that a substitute member can be organised. This is particularly important as such sub-committees and hearing panels have a small membership.
- 3.9 There are no longer any exemptions allowing Councillors who have a DPI or ODI to speak where a member of the public would be allowed to speak. Therefore where a Councillor has a DPI or ODI (either him/herself or through a relevant person) he or she may not participate in the debate or vote on a licensing matter and must withdraw from the room. This applies whether or not the Councillor is wishing to speak as a member of the committee, as a ward councillor or as a private individual (there are additional restrictions on speaking in a Licensing Hearing Panel which are set out in paragraphs 5.4 and 5.5 below). Where a Councillor who wishes to make representations has a DPI or an ODI in an application to be considered at a hearing panel or a sub-committee he or she may appoint a representative to attend on his behalf. If a Councillor with a DPI or an ODI wishes to attend personally in order to make representations, he or she must obtain a dispensation prior to the meeting.
- 3.10** Therefore if a Councillor has a DPI or and ODI in a matter being considered at a Committee, Sub-Committee or Hearing Panel (either his or her own interest or through an interest of a relevant person) he or she **must**
- 3.10.1 Declare the interest verbally at the meeting as soon as he or she becomes aware of it
- 3.10.2 If it is declared at the meeting under the requirement above, ensure that the Monitoring Officer is notified of the interest within 28 days of the meeting, for purposes of registration on the Register of Member Interests as applicable

- 3.10.3 Withdraw from the room and not participate in or give the appearance of participating in the debate or the vote
- 3.10.4 Not be present in the room to represent ward/ objectors/ supporters/ personal views

4 Predetermination, Bias and Other Significant Interests

- 4.1 Councillors must also be aware of and act within the rules on predetermination and bias. Avoidance of bias or predetermination is a principle of natural justice which has evolved through the courts, although s25 of the Localism Act 2011 is also relevant. Even if a Councillor does not have a DPI or is not acting in breach of the Members' Code, he or she may cause a decision to be invalid if he or she participates while predetermined or biased. The rules regarding predetermination and bias are likely to be more strictly applied where the Council is making "quasi-judicial" decisions, such as the determination of a licensing application, than in the case of other decisions to be made by the Council.
- 4.2 The basic legal position is that a Councillor should not take part in making a decision on a licensing matter if he or she is **biased** or has **predetermined** the matter. Councillors should bring an unbiased, properly directed mind to the consideration of any matters before them at Committee. This does not mean that Councillors are not entitled to have and to express opinions about general licensing matters, or licensing cases. However, they must approach, and must be seen to approach, matters before them without having closed their mind.
- 4.3 In this respect a distinction is to be drawn between those Councillors who are making the decision (i.e. speaking and voting as part of the hearing panel or sub-committee) and those Councillors seeking merely to influence the decision (e.g. making representations on behalf of an objector). The prohibition in respect of predetermination or bias only affects those actually making the decision. A Councillor who is not a member of a hearing panel or sub-committee who has predetermined or who is biased may still make representations at a hearing panel or sub-committee (provided that he or she does not also have a DPI or ODI in the matter).
- 4.4 A Councillor will have an ODI in a matter being considered at a meeting where their interest is closely aligned to the business of the agenda item and where the business affects the financial position or wellbeing of the following to a greater extent than most inhabitants of the area affected by the decision:
 - i) the Councillor;
 - ii) a member of the Councillor's family or friends or any person with whom the Councillor has a [close association](#);
 - iii) any outside body or group specified in [the Councillor's Register of Interests](#) of which the Councillor is a member or in a position of general control or management (as relevant).

And where a member of the public with knowledge of the relevant facts would reasonably think that the interest is so significant that it would be likely to prejudice the Councillors' judgement of the public interest.

- 4.5 Unless a dispensation has been granted a Councillor, who has a prejudicial Other Disclosable Interest must disclose this at the meeting, not take part in the discussion or vote and must leave the meeting room.

44 PREDETERMINATION

- a. The law also makes a distinction between *predetermination*, which rules out participation in decision-making and *predisposition*, which does not. A Councillor is entitled to have and to express views on local matters, both general licensing matters and more specific applications. These views may indicate that a Councillor has a predisposition towards a particular policy or viewpoint. This is perfectly acceptable and a Councillor with a predisposition may take part in decision-making.
- b. A predisposition will move on to becoming predetermination if, in relation to any matter before the Committee, a Councillor has taken a stance which indicates that he or she has finally closed his or her mind on the matter and that nothing that he or she hears at Committee will alter his or her position.
- c. Section 25 of the Localism Act 2011 expressly provides that a Councillor shall not be taken to have had a closed mind just because he or she has previously done anything that directly or indirectly indicated what view he or she took, or would or might take, in relation to a matter. Therefore, a Councillor will not have predetermined merely because he or she has made statements about a licensing matter in the past. However, this does not mean that a Councillor is free to say or do *anything* and still participate in the debate and vote. If by his or her actions and words the Councillor makes it clear that he or she will be voting a certain way no matter what information is presented at the Hearing Panel or Sub-Committee, then he or she will have predetermined and should not take part in the decision making.
- d. There is acceptance that a Councillor may legitimately consider matters in several capacities as different factors may apply to different decisions. Where premises require both a licence and planning permission Councillors may be asked to sit on both the Planning Committee and a Hearing Panel. Premises which are sexual entertainment venues are likely to need both a licence under the Licensing Act 2003 and a licence under the Local Government (Miscellaneous Provisions) Act 1982 and again Councillors may be asked to sit on both Hearing Panels. While the statutory regimes in such cases are different, often the factors to be taken into account can be similar. In these

circumstances, Councillors should carefully consider whether anything they have done or said in making the earlier decision would demonstrate a pre-determination of the second decision. If that is the case, the Councillor should not take part in the decision making at the second committee, sub-committee or Hearing Panel.

44. *BIAS/CONFLICT OF INTEREST*

- e. A Councillor should not be party to decisions in which he is actually biased or gives the appearance of being biased, to the reasonable observer. The test for the appearance of bias is whether a fair minded and informed observer, having considered the facts, would conclude that there was a possibility that the decision maker was biased. This can also be described as having a conflict of interest.
- f. Bias may arise by virtue of a Councillor being closely connected with a person who has a vested interest in the application – either the applicant or an objector. This may result from a personal connection, such as an applicant being a relative or friend, or result from the Councillor promoting a particular viewpoint (e.g. by being part of a lobby group). The role of the Hearing Panels and Sub-Committee is to consider applications in accordance with the legislation and to balance the interests of persons with competing views and this may not be possible where a Councillor is closely connected with a particular party.
- g. In addition, circumstances which raise the possibility of bias may also lead to an accusation of a breach of the Members' Code, as the Members' Code states that Councillors must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for themselves, their family, friends or close associates. Where this might occur, Councillors should not take part in the decision-making.

Particular Committees

45 Making representations to Licensing Hearing Panels

- a. This Licensing Code deals with all licensing matters, but there are particular rules as to who can be heard at a Licensing Hearing Panel (which determines applications under the Licensing Act 2003 and the Gambling Act 2005).
- b. In accordance with s18 of the Licensing Act 2003 (as amended) *any person* can now make representations in relation to an application to the Council for the grant of a premises licence and such representations will (if they meet the other requirements of s18 of the 2003 Act) be treated as relevant representations for the purposes of the Act. In accordance with section 51 *any person* may now (in accordance with the conditions set out in Regulations) apply for a review of a premises licence under

the Licensing Act 2003 where the Council is the licensing authority.

- c. The provisions of the Gambling Act 2005 are more prescriptive. Only Responsible Authorities and Interested Parties (as defined in the Gambling Act 2005) are able to make representations.
- d. Only “parties” – i.e. the applicant and any persons who have made relevant representations (under the Licensing Act 2003 or the Gambling Act 2005 as applicable) are permitted to speak at a Licensing Hearing Panel, although any party may be assisted or represented by another person.
- e. A Councillor may only therefore speak at a Licensing Hearing Panel in two circumstances:
 - (i) where the Councillor has himself or herself submitted a relevant representation and is therefore a party;
 - (ii) where the Councillor has specifically been asked by a party (i.e. the applicant or a person who has made a relevant representation) to represent him or her.

It is helpful for Councillors when making representations to identify to officers which of the above categories they fall into. However, in considering whether to attend a Licensing Hearing Panel in either of the above capacities, Councillors should remember that they will not be able to appear (either on their own behalf or as a representative) if they have a prejudicial ODI or if they have a DPI and do not have a dispensation.

- f. Where a Councillor has made a representation on an application or has called for a review of a licence it is very likely that he or she will have pre-determined the application or would be seen to be biased and so should not sit on the Licensing Hearing Panel dealing with that application or review.

46 Making representations to 1982 Act Hearing Panels

- a. The requirements of the Local Government (Miscellaneous Provisions) Act 1982 with regard to the making of representations on applications for sex establishment licences are less detailed than those of the Licensing Act 2003 or the Gambling Act 2005. The 1982 Act does not make specific provision for objectors to be heard at a Hearing Panel, but it is the Council’s policy to permit objectors to be heard. Therefore as above, a Councillor may address the Hearing Panel either having made an objection himself or herself, or as a representative of an objector if requested to do so by the objector. The guidance in paragraphs 5.4 and 5.5 above therefore apply equally to 1982 Act Hearing Panels.

47 Making representations at Licensing Sub-Committee

- a. The Licensing Sub-Committee hears appeals on taxi matters and other licensing matters not covered by the Licensing Hearing Panel or the 1982 Act Hearing Panel. In most of the matters dealt with by the Licensing Sub-Committee members of the public do not have rights to make representations and the Sub-Committee will be making a decision after having heard the Licensing officers and the applicant. If a Councillor wishes to make representations to the Licensing Sub-Committee he or she should contact the Licensing team for advice on whether this is possible having regard to the type of application upon which the Councillor wishes to make a representation.

Specific Areas of Guidance

48 Lobbying by Councillors

- a. Councillors can, of course, lobby and campaign on particular developments, but they should recognise that this may remove them from the decision making process.
- b. If a Councillor leads, represents or is a member of a group whose primary purpose is to lobby to promote or oppose the grant of a particular licence, he or she will be considered to have predetermined an application for that licence.
- c. The position in 8.2 is distinct from membership of general interest groups, which reflect a Councillor's area of interest, e.g. the Licensed Victuallers Association, CAMRA, associations supporting live music. If that organisation has made representations on an application, but the Councillor has not been involved in preparing those representations, he or she will not have predetermined merely due to that membership.
- d. Where a Councillor is in a position of general control or management of a body which has as one of its principal purposes the influence of public opinion

or policy then this could also give rise to a prejudicial Other Disclosable Interest which would prevent a Councillor from speaking or voting on the matter.

- e. Councillors should not lobby other Councillors regarding their views on licensing applications, nor should they, outside of the Hearing Panel or Sub-Committee, try to persuade other Councillors how to vote.
- f. Councillors should not decide or discuss how to vote on licensing applications at political group meetings or lobby other Councillors to do so. Political group meetings should never dictate how Councillors vote on licensing applications.

49 Lobbying of Councillors

- a. Lobbying is a normal and perfectly proper part of the political process. Those who may be promoting or affected by a licensing decision will often be seeking to influence it through an approach to their elected ward Councillor, another Councillor or a member of the Hearing Panel/Sub-Committee. However lobbying can, where a Councillor is a member of the Hearing Panel or Sub-Committee which will determine the application, lead to the integrity and impartiality of a Councillor being called into question. This can in turn affect the validity of a licensing decision.
- b. A Councillor who wishes to participate in the determination of a licensing application should explain to persons lobbying or attempting to lobby that it would prejudice their impartiality and ability to participate in the decision if they discuss how he or she intends to vote or expresses sympathies with a point of view in advance of the meeting. For the avoidance of doubt a Councillor will not have predetermined
 - i. by just listening to viewpoints from residents or interested parties;
 - ii. by making comments which fall short of prejudging the issue;
 - iii. by seeking information through appropriate channels;
 - iv. by asking questions at the Hearing Panel/Sub-Committee which reflect the issues raised.
- c. When a Councillor participates in making a licensing decision, his or her overriding duty is to the community as a whole and not just people in his or her ward. As decisions need to be taken impartially a Councillor should not improperly favour or appear to improperly favour any person, company, group or locality. To do so is likely to be a breach of the Members' Code.
- d. In addition to the requirement set out in the Members' Code to declare any gift or hospitality with an estimated value in excess of £25, Councillors should not

accept gifts or hospitality from any person involved in or affected by a licensing application. It is advisable to let the Monitoring Officer know if you feel you have been exposed to excessive lobbying or offers of gifts or hospitality linked to a licensing application. If you have personally received written representations on a licensing application you should forward copies of these to the Licensing Manager as soon as possible, as there are strict time limits for the receipt of representations in most licensing matters.

50 Contact with applicants, developers and objectors

- a. Councillors should refer those who approach for assistance on procedural or technical licensing matters to relevant officers in the Licensing team.
- b. Councillors who wish to consider a licensing application should not agree to formal or informal meetings with applicants, or groups of objectors. Unlike in the case of planning applications it is considered that Councillors who will be considering an application should not attend presentations on e.g. a major new licensing proposal even if it is part of a wider presentation organised by officers.

51 Policy formulation by the Council

- a. Individual licensing applications are generally dealt with by the Hearing Panels and the Licensing Sub-Committee. The Licensing & Safety Committee has the role of considering and formulating policy and recommending the adoption of the same to Council.
- b. Councillors may take part in both policy formulation and determining licensing applications. However, when attending meetings on policy formation Councillors should follow the guidance on pre-determination if they wish to take part in subsequent decisions on licensing applications. This will be particularly relevant where the policy being formulated is site specific.

52 Site inspections

- a. In exceptional cases Councillors may not be able to appreciate points being put to them at a hearing without a site inspection (for example on an application for a sexual entertainment venue licence where representations have been made about the nature of the vicinity and Councillors are not familiar with the particular vicinity and it cannot be explained adequately at the hearing). Where, prior to committee, officers identify that photographs of the site and/or vicinity would be helpful they will include these in committee papers. Where, on receipt of the agenda, a Councillor identifies that a view of the site/vicinity would be helpful and no photographs have been included he or she should contact the Licensing team in sufficient time prior to the committee to arrange for photographs to be available at the committee (these will need to be provided to the parties *prior* to committee). In the majority of cases this may avoid any unnecessary delay which would be caused by a site inspection. Site inspections may only be held with the agreement of the

landowner.

b. It is important to remember that a site inspection is a formal part of the licensing hearing process. The visit may be made either prior to the hearing or at the conclusion of the evidence. All members of the Hearing Panel/Sub-Committee must all attend and will be accompanied by an officer. Inspections made prior to the hearing will primarily be intended to appraise Councillors of conditions in the vicinity of the premises (and will usually be conducted in the absence of the applicant and objector(s)). Inspections following the conclusion of the evidence will primarily be used to clarify matters raised at the hearing and the applicant and objector(s) will be invited to attend, but not to make any further representations to the members of the Panel/Sub-Committee.

c. Where a site inspection is held the following conditions must be complied with:

14.4.1 No hospitality should be accepted at site inspections.

14.4.2 Councillors should endeavour to keep together as a group and not engage individually in discussions with any applicants, objectors or third parties who may be present.

14.4.3 Councillors taking part in the licensing decision must not express views to anyone present. If this happens it will usually lead to a cessation of the process and a rehearing by a new panel/sub-committee.

14.4.4 It is acceptable to ask officers at the site inspection questions to seek clarification on matters relevant to the site inspection.

14.4.5 The site inspection should be properly recorded as part of the hearing panel/sub-committee's proceedings.

14.4.6 All Councillors should remember the purpose of the site inspection and should refrain from making comments not relevant to the application to be considered by the Hearing Panel/ Sub-Committee. A site inspection is not a general public meeting and Councillors should not treat it as such.

14.4.7 Councillors who wish to determine an application should not enter a site subject to a licensing proposal other than as part of an official inspection even in response to an invitation.

53 Contact with Officers

- a. General guidance is given in the protocol on member/employee relations in the constitution and that is not repeated here.
- b. Councillors should not put pressure on officers to put forward a particular recommendation. However this does not prevent a Councillor asking questions or submitting views to a relevant officer.
- c. Officers must act in accordance with the employee code of conduct and any relevant professional codes of conduct, for example the Institute of Licensing's rules for professional conduct. As a result licensing officers may on occasion take a view which could be at odds with the views, opinions or decisions of the Committee or its members.

54 Licensing applications by Councillors and officers and Council applications

- a. Proposals to the Council by serving and former Councillors and officers and members of their family or persons with whom they have a close association can easily give rise to suspicions of impropriety, if not handled transparently. So indeed can applications made on behalf of the Council.
- b. Councillors (and officers involved in the licensing process) who submit applications in a personal capacity should notify the Monitoring Officer and play no part in its processing or determination and should avoid contact, whether direct or indirect with members of the relevant Hearing Panel or Sub-Committee concerning the application. Failure by a Councillor to comply with these principles could be a breach of the Members' Code.
- c. It is perfectly legitimate for such applications to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism. Councillors should carefully consider using agents to submit and take forward their own applications. Without a dispensation Councillors will not be able to attend a Hearing Panel or Sub-Committee dealing with their own application, as they will have a DPI in that matter. If they wish to make representations at the Hearing Panel or Sub-Committee they should apply for a dispensation or appoint a representative to make representations on their behalf.
- d. Serving Councillors and officers should avoid acting as agents for people pursuing a licensing applications and where they do so should play no part in the decision making process for that proposal.
- e. Councillors considering an application must of course consider whether the nature of any relationship with the Councillor submitting the licensing application could lead to an accusation of bias. Mere membership of the

same political group is unlikely to lead to an appearance of bias, but a close friendship could as this is likely to be an ODI.

55 Decision making

- a. Councillors making licensing decisions must
 - i. come to meetings without a closed mind and demonstrate they are not closed minded
 - ii. not vote or take part in the meeting's discussions on a proposal unless present to hear the entire case (including being present at any site inspection)
 - iii. not vote or take part in the meeting's discussions on a proposal where they may have a DPI or a prejudicial ODI, or are biased or predetermined.
 - iv. come to a decision only after due consideration of all information reasonably required upon which to base such a decision
 - v. make the licensing decision in accordance with the requirements of the relevant licensing legislation, having regard to relevant guidance and policy
 - vi. request further information if it is felt there is insufficient information before the Committee to reach a decision.
 - vii. Ask for professional advice from officers where needed
 - viii. Remain alert and attentive throughout the proceedings, and retain the appropriate degree of formality and dignity for the proceedings

56 Training

- a. Councillors should not participate in decision making meetings dealing with licensing matters unless they have attended the prescribed training on being first appointed and thereafter attending refresher training sessions provided at 12 month intervals.

NATIONAL CODE OF PRACTICE ON PUBLICITY

Subject Matter

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972, sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and sections 15 and 16 of the Local Government and Planning (Scotland) Act 1982; but there are several others.
2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, sections 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.
3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.
4. In considering the subject areas in which publicity is to be issued, the following matters will be important:
 - (i) the publicity should be relevant to the functions of the authority;
 - (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority;
 - (iii) in areas where central government, another tier of local government, or another public authority have the primary service of policy responsibility, local authorities should issue publicity only on matters that are directly relevant to their own functions.

Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.
6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.
7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.

8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.
9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses and which the resources could be put.
10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:
 - (i) whether the publicity is statutorily required or is discretionary
 - (ii) where it is statutorily required, the purpose to be served by the publicity
 - (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

Content and Style

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the Council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
12. Any publicity describing the Council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative and accurate. It should aim to set out the reasons for the Council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.
14. Publicity relating to the provision of a service should concentrate on providing factual information about the service.
15. In some cases promotional publicity may be appropriate – for example about the local authority's sports and leisure facilities or about tourist attractions.
16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the Council is unavoidable, particularly given the need for Councils to consult widely whenever material issues arise. Such publicity should be handled with particular care. Issues must

be presented clearly, fairly and as simply as possible, although they should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.

17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.
18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, as part of consultation processes where local views are being sought to promote the effective and efficient use of local services and facilities, or to attract tourists or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or race relations.
19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

Dissemination

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs to allow local people to have a real and informed say about issues that affect them; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.
21. Information and publicity produced by the Council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.
22. Where material is distributed on matters closely affecting vulnerable sections of the community – for example, the elderly – particular care should be taken to ensure that it is unambiguous, readily intelligible and unlikely to cause needless concern to those reading, seeing or listening to it.
23. Local authority newspapers, leaflets, and other publicity distributed unsolicited from house to house are able to reach far wider audiences than publicity available on application to the Council.
24. Such publicity should be targeted as necessary for its purposes, taking particular care with material touching on politically controversial issues.

25. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of dissemination information or facilitate consultation and can provide a means for local people to participate in debate on decisions the Council is to take. Inevitably they will touch on controversial issues and where they do, they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11-19 of the Code.
26. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations and making use of electronic communication systems.

Advertising

27. Advertising, especially on billboards or on television and radio is a highly intrusive medium. It can also be expensive. It may, however, provide a cost effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on tourism and in the area of economic development generally.
28. The primary criterion for decision on whether to use advertising should be cost-effectiveness.
29. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments and markets views and opinions.
30. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.
31. The attribution of advertising material, leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
32. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the condition attached to a grant may require the provision of publicity, including publicity for the work of the authority.
33. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.

34. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment Advertising

35. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as whole whatever its composition.
36. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
37. Advertisements for staff should not be placed in party political publications.

Individual Councillors, Elections, Referendums and Petitions

38. Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive of Chair of Overview and Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillor's proposals, decisions and recommendations where this is relevant to their position and responsibility within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors, personalisation of issues or personal image making should be avoided.
39. Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe an individual councillor's policies and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.
40. The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of those politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a political response to an important event outside the authority's control. It is advisable that proactive events involving members likely to be standing for election are not arranged in this period.
41. The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 prohibit an authority from incurring any expenditure to:

- publish material which appears designed to influence local people in deciding whether or not to sign a petition;
- assist anyone else in publishing such material; or
- influencing or assisting others to influence local people in deciding whether or not to sign a petition.

Publicity in these circumstances should, therefore, be restricted to the publication of factual details about the petition proposition and to explaining the Council's existing arrangements. Local authorities should not mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

- 42 Local authorities should ensure that any publicity about a referendum under Part II of the Local Government Act 2000 (the 2000 Act) either prior to or during the referendum period is factually accurate and objective. The referendum period means the period beginning with the date on which proposals under Part II of the 2000 Act are sent to the Secretary of State and ending with the date of the referendum. The publicity should not be capable of being perceived as seeking to influence public support for, or opposition to, the referendum proposals and does not associate support for, or opposition to, the proposals with any individual or group. Local authorities must conform with any specific restrictions on publicity activities which are required by Regulations under section 45 of the 2000 Act.

Assistance to Others for Publicity

43. The principles set out above apply to decisions on publicity issued by local authorities. They should also be taken into account by local authorities in decisions on assistance to others to issue publicity. In all such decisions local authorities should, to the extent appropriate:
- (a) incorporate the relevant principles of the Code in published guidance for applicants for grants
 - (b) make the observance of that guidance a condition of the grant or other assistance;
 - (c) undertake monitoring to ensure that the guidance is observed.
44. It will often be appropriate for local authorities to help charities and voluntary organisations not offend against any legal provision, but (subject to this) any such facility should be made available on a fair and equal basis and authorities may be able to draw on their powers of well being in section 2 of the Local Government Act 2000.

PROBITY RULES FOR PARTNERSHIPS WITH COUNCIL PARTICIPATION

Any partnership in which the Council participates must be asked to observe the General Principles of Conduct (or justify any departure) and to observe the following rules.

Public Duty and Private Interest

1. If you have a private or personal interest in a question which is to be considered by the partnership, you should declare your interest and have it formally recorded.
2. You should never do anything which you could not justify to the public or to your organisational management.
3. It is not enough to avoid actual impropriety. You should always avoid the opportunity for suspicion or appearance of improper behaviour.

Pecuniary and other interests

4. Agendas will have an item requesting that interests be declared.
5. If you have a pecuniary interest in a question which is to be considered by the partnership, you should declare your interest, have it formally recorded and vacate the room.
6. If you have an interest in which you might appear at risk of bias by putting private considerations above the public interest, you should declare your interest, have it formally recorded and vacate the room.
7. In considering interests, consideration should be given to the interest of a partner, close relatives or other person forming part of the same household, again applying the principle of avoidance of suspicion.

Gifts and Hospitality

8. If you receive any gift or hospitality as a member of a partnership, in that capacity, you should notify and have it formally recorded within your own organisation.

Membership of Partnership

9. The value is well recognised of different agencies and organisations playing an active part in partnerships. Whatever role you have, you must ensure that your responsibilities within the partnership do not clash with other responsibilities you also hold – whether as an Elected Member, Company Director or employee, paid official or in a voluntary capacity – so that your position is weakened to such an extent that your position becomes untenable.

Leicester City Council

Petitions Scheme

1) Introduction

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement within 10 working days of receipt. This will set out what we plan to do with the petition and when you can expect to hear from us again.

We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition and contains details and signatures of two or more people. The people who sign the petition must live, work or study in Leicester. However, where a matter may impact significantly beyond the city boundary, the City Mayor may exercise discretion to take the views of stakeholders outside the city into account. We categorise our petitions as follows – further details on these categories are explained in more detail later in this scheme:

Category	Signatory threshold	Description
Petition which triggers a debate	1,500	Any petition above this threshold will trigger a debate at Full Council
Petition which calls an officer to account	750 – 1499	Any petition above this threshold will summon a senior Council officer to give evidence at a public meeting
Standard petition	2- 749	A petition requesting action or response by the Council

2) What are the guidelines for submitting a petition?

- Petitions submitted to the Council must include:
 - a clear and concise statement covering the subject of the petition. (We refer to this statement as the Petition Prayer). It should state what action the petitioners wish the Council to take.
 - For paper petitions each signatory sheet should contain the petition prayer as evidence that the signatory has read and understood it.
 - details of each person supporting the petition including:
 - their name and;

- their signature and;
- their qualifying address (the qualifying address will be an address in the City where they work, live or study).

The petition organiser must submit their full contact details, including an address. This is the person we will contact to explain how we will respond to the petition. The petition organiser should make clear that they live, study at an educational establishment or have a business address, within the city boundary. If the petition does not identify a petition organiser, we will contact the first signatory to the petition to agree who should act as the petition organiser.

- Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. Please read our Terms and Conditions (Appendix A) before submitting a petition.
- In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case, we will explain the reasons and discuss the revised timescale which will apply.
- If a petition does not follow the guidelines set out above, the Council may not be able to do anything further with it. In that case, we will write to you to explain the reasons.
- Before organising it would be advisable to first check with your local Councillor or with the City Council to see if action is already being taken in relation to your concerns and to determine if the Council is the most appropriate organisation to receive your petition.

3) How can I submit my petition?

Paper petitions must be sent to:

Democratic Support
 City Hall
 115 Charles Street
 Leicester
 LE1 1FZ

e-Petitions:

A Petition can be created, signed and submitted online via the Council's website or via other online sites as long as it meets the qualifying criteria set out below.

The petition organiser must ensure that their e-petition is configured in such a way to meet the criteria that signatories live, work or study in the City. If you are signing an e-petition you will be required to provide us with basic personal information (an email address and an address including postcode). Each signatory must give a separate email address. We will only use the information you provide to validate your signature and that you live, work or study in the City.

You can only sign an e-petition once. The list of signatories will be checked by officers and any duplicate signatures or vexatious, abusive or otherwise inappropriate content will be removed.

Further guidance in relation to creating e-Petitions is available on the city council's website.

The person organising the e-petition should set a clear end date to the petition, (no longer than 6 months) before submitting to the Council. When the 'live' period is over, the way in which the Council responds, as with paper petitions, will depend on how many signatures are submitted.

If you are creating a petition on an online site, when you are ready to submit it please email committees@leicester.gov.uk with a link to the site and attaching a copy of all signatories downloaded by the petition organiser. After this point the verification process will commence.

4.)How will the Council respond to petitions?

Once a petition is received it will be checked to see if it meets the criteria defined in the Scheme and the Appendices. If there are any concerns about the validity of a petition, for example where key information is missing, the Council's Monitoring Officer will be consulted and will determine if the petition is valid. We will inform you if we consider the petition to be invalid and the reason why.

Following the above, and within 10 working days of receiving the petition, an acknowledgement will be sent to the lead petitioner. Once the petition has been verified and acknowledged no further signatures can be added to the petition.

To ensure that people know what we are doing in response to the petitions we receive, details of petitions submitted to us will be published on our website, except in cases where this would be inappropriate. The name of the petition organiser will be placed on the website but not their contact details.

Our response to a petition will depend on what a petition asks for and how many people have signed it. These responses can include:

- taking the action that is requested in the petition,
- undertaking further research into the matter,
- referring the petition for consideration by one of the Council's scrutiny committees,
- or consideration in some form of public meeting.

If the council can do what your petition asks for, the acknowledgement will confirm that we have taken the action requested and the petition will be closed.

If the council has not yet taken the action requested and the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the

acknowledgment will confirm this and tell you when and where the meeting will take place.

If the petition needs more investigation, we will tell you the steps we plan to take.

If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the Council is responsible from the Council's website.

If your petition is about something that a different Council is responsible for, we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council but could involve other steps. In any event we will always notify you of the action we have taken.

You may also verbally submit your petition at a relevant meeting of the Council or its committees. Meetings take place on a regular basis and dates and times are published on the Council's website. Where this happens, regardless of the number of signatures, the text of the petition is read out at the meeting following which, without any debate on the issues, the Committee asks the relevant officer to prepare a formal written response to the petition.

If you would like to present your petition to a Council meeting or would like your Councillor or someone else to present it on your behalf, please contact Democratic Support on 0116 4546350 at least 10 working days before the meeting and they will talk you through the process.

The above actions will be taken for all petitions but where the petition falls into a higher threshold of signatures the following will apply.

For Petitions between 750-1499 signatories Officer evidence

If a petition contains between 750 – 1499 valid signatures the lead petitioner may ask that the relevant senior officer be called to give evidence at a public meeting of the Council. This may be an Overview Select Committee, scrutiny commission or other meeting as determined by the Monitoring Officer.

The petition organiser will be given five minutes to present the petition at the meeting, following this there will be an opportunity for the Director to respond for a maximum of 5 minutes, with the petition then discussed by Councillors for a maximum of 10 further minutes. The Committee will then decide how to respond to the petition at the meeting and may:

- request the Executive to undertake the action the petition requests, or not, for reasons put forward in the debate, or

- recommend that further investigation is undertaken into the matter by the Executive.

A scrutiny committee has no power to make decisions on actions to be undertaken by the Council or Executive.

For Petitions with 1,500 or more signatories
Full Council debates

If a petition contains 1,500 or more valid signatures the petition organiser may ask that it be debated by the full Council . This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. In such cases petitions must be received by the Council at least 10 working days before the date of the Council meeting.

The Council will normally endeavour to consider the petition at its next meeting, although where this is not possible, consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 further minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the City Mayor is required to make the final decision, the Council may note the petition or make recommendations to the City Mayor. Council cannot make decisions where the subject matter of a petition falls to the Executive to decide.

5. What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly you may write to the Council's Monitoring Officer at the address below:

Kamal Adata
City Barrister & Head of Standards
Leicester City Council
City Hall, Leicester, LE1 1FZ

6. How else can I have my say?

The Council offers a range of ways in which members of the public can make their voice heard. These include:

- Contacting your local Councillor – contact details and regular surgeries are available at:
<http://www.cabinet.leicester.gov.uk/mgMemberIndex.aspx?GL=1&bcr=1>
- Contacting the City Mayor can be done in a number of ways as outlined here:
<https://www.leicester.gov.uk/your-council/city-mayor-peter-soulsby/contact-me/>

- An opportunity to raise concerns at your local Ward Community Meeting – details can be found on the Council's website at: <http://www.leicester.gov.uk/your-council/decisions-meetings-and-minutes/community-meetings>

Details of the above can also be accessed by contacting:

Democratic Support
Leicester City Council
City Hall
115 Charles Street
Leicester LE1 1FZ.
0116 454 6350

Terms and Conditions

Petitioners may freely disagree with the Council or call for changes of policy. We will not attempt to exclude critical views and decisions to accept or reject will not be made on a party-political basis. However, to protect this service from abuse, petitions should meet some basic criteria:

The Council shall only receive petitions which comply with this Rule.

No petition from a Councillor or member of the public shall be accepted

- (a) from a staff group, which instead should use the proper procedures, such as through management and trades union representatives;
- (b) which relates to a to a specific and identifiable person or which relates to an individual's particular circumstances;
- (c) about any matter where there is a right of appeal to the courts, a tribunal or to a government minister or on any matter which in the opinion of the Monitoring Officer is of a quasi-judicial nature;
- (d) if the petition applies to a planning or licensing application, is a statutory petition (i.e. petition relating to a change in Council governance), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, as other procedures apply and the petition will not be dealt with under this Scheme. The petition organiser will be informed where this is the case and what steps they should take.
- (e) about any matter which has been the subject of a petition or question or of a decision of Council, the Executive or any Committee or Sub-Committee within the previous six months;
- (f) at the Annual Meeting of the Council, or at any meeting of the Council summoned for the purposes of considering the budget;
- (g) which contains abusive, defamatory or offensive language.

Policy on Recording and Reporting on Public Meetings

This section was approved by Council on 18/09/14

Application

This policy applies to all public meetings of Leicester City Council, with the exception of meetings of the Licensing Sub Committees which are held under different meeting Regulations. The policy does not apply to meetings which aren't public meetings of the local authority, for example education appeal hearings.

Key Principles

- Leicester City Council is committed to transparency and supports efforts to record and share reports of proceedings of public meetings through a variety of means, including social media as a further means to encourage public interest and engagement.
- In accordance with the Openness of Local Government Bodies Regulations 2014 persons and press attending any meeting of the Council open to the public are allowed to record and/or report all or part of that meeting. This includes filming, audio-recording, photographing or any other means for enabling people not present to see or hear proceedings at a meeting at the same time as it takes place or later. The Council will provide reasonable facilities (such as space to view and hear the meeting, seats and a desk etc) to enable them to do so, as far as is practical.
- The aim of the Regulations and of the Council's policy is to encourage public interest and engagement so in recording or reporting on proceedings members of the public are asked:
 - ✓ to respect the right of others to view and hear debates without interruption;
 - ✓ to ensure that the sound on any device is fully muted and intrusive lighting avoided;
 - ✓ where filming, to only focus on those people actively participating in the meeting;
 - ✓ where filming, to (via the Chair of the meeting) ensure that those present are aware that they may be filmed and respect any requests to not be filmed.
- Where objections to being filmed arise (with the exception of the situations described in paragraph 3b below) the Chair of the meeting will operate from the principle that those members of the public who attend a public meeting in order to actively participate should expect to be recorded / reported, whereas those who attend merely to observe should have the right not to be recorded / reported.

- Recording and reporting should not be disruptive to the meeting (such as preventing others viewing and listening to the meeting such as asking people to repeat statements for the purposes of filming, intrusive lighting, excessive noise in setting up or re-siting equipment or moving to areas outside those designated for the public). Acting in a disruptive manner could result in expulsion from the meeting.

Further Guidance

1. The Regulations allow an individual or organisation to report and/ or provide non-verbal commentary on a public meeting making it available to others not present.
2. Individuals or organisations intending to record and/ or report on a public meeting are asked to notify the relevant Democratic Support Officer (as listed on the meeting agenda) in advance of the meeting to ensure that suitable arrangements are in place.
3. The Council will ensure that agendas issued for, and signage used at, meetings makes it clear to those attending that recording can take place.
4. If notification of an intention to record / report all or part of a meeting has been received the Chair will make an announcement accordingly at the start of the meeting.
 - a. If a member of the public present indicates that they do not wish to be recorded, then the Chair will ask the individual/ organisation to refrain from filming/ audio-recording/ photographing them.
 - b. If a person with known learning disabilities or mental health issues is expected to be speaking at the meeting, then there will be a need to ensure that they have given informed consent. If a young person will be speaking at the meeting, then parental consent should be sought for them to be filmed / recorded / photographed. The Chair will decide if this has been achieved and if not, request that recording does not take place while they are speaking.
5. Those recording and/ or reporting on public meetings should be aware of and abide by the following points:
 - a. Unless agreed otherwise in advance of the meeting, recording and reporting must take place from the public seating area and should be overt and focused on those speaking at the meeting.
 - b. The use of flash photography or additional lighting is not allowed unless it has been discussed in advance and agreement reached on how it can be done without disruption to the meeting.
6. Individuals and organisations recording a meeting are asked to respect any requests from external contributors/ members of the public to the meeting to suspend recording while they are speaking/ to not record them.
7. Recording is not allowed:

- a. when the meeting has agreed to formally exclude the press and public due to the nature of business discussed. Filming / recording equipment should not be left in the meeting room during private sessions.
 - b. if the meeting has been suspended.
 - c. If the Chair determines that it has not been possible to obtain informed consent from a person with known learning disabilities or mental health issues; or parental consent for a young person speaking (see paragraph 5 above) then, any recording of these individuals is not allowed.
8. Oral reporting or oral commentary on a meeting as it takes place is not allowed. Oral commentary should take place outside or after the meeting.
9. The Council expects that recording will not be edited in a way that could lead to misinterpretation of the proceedings.
10. Individuals and organisations recording/ reporting on a meeting must respect the law and will be responsible for any allegations of breaches of law which may result from their actions.
11. Individuals and organisations recording/reporting on a meeting will also be responsible for directly answering any requests to exercise rights made by/on behalf of individuals recorded by them at such meetings, under the provisions of the Data Protection Act 2018 and related legislation.
12. The Council allows such reporting/ recording to take place only in accordance with its legal obligations and takes no responsibility for, nor will accept any liabilities for, any filmed/ recorded/ photographed material made by any persons or its subsequent use or publication.

Any queries regarding this policy should initially be directed to Matthew Reeves, Democratic and Members Support Manager.

Telephone: 0116 454 6352

Email: matthew.reeves@leicester.gov.uk

Further guidance is also available in the DCLG publication 'Open and accountable local government', August 2014

PART 6 – MEMBERS’ ALLOWANCES SCHEME 2021/22

Note: Where the term ‘Member’ is used it will apply to Councillors and the City Mayor

Council, at its meeting on 29 April 2021 , agreed a Members’ Allowances Scheme, applicable for the 2021/2022 Municipal year and agreed a scheme of indexation through to the end of the Municipal year 2023/24

The Scheme below operates from 30 April 2021 8.

Members should be aware that allowances payable in return for acting as a Member are regarded as the same as salary or wages for the purposes of Income Tax and National Insurance Contributions (NIC), i.e. income tax and NIC will usually be deductible from such allowances.

1. ALLOWANCES PAID AUTOMATICALLY

(All amounts stated are gross)

(a) Basic Allowance

£11,276 per annum for each Member.

(b) Special Responsibility Allowances

Members will only be able to receive 1 SRA (including Civic Allowances).

City Mayor	£65,787
Deputy City Mayor	£44,434 *
Assistant City Mayors The City Mayor may choose to vary from the specified SRAs for the Deputy and Assistant City Mayors provided any variance does not result in the combined total allowances for these roles exceeding the total allocated budget for Executive SRA’s	£18,536*
Chair, Overview Select Committee	£10,483
Vice Chair, Overview Select Committee	£2,620
Chair, Children Young People and Education Scrutiny Commission	£8,736
Vice Chair, Children Young People and Education Scrutiny Commission	£2,184
Chair, Health and Wellbeing Scrutiny Commission	£8,736
Vice-Chair, Health and Wellbeing Scrutiny Commission	£2,184
Chair, Neighbourhood Services Scrutiny Commission	£8,736
Vice Chair, Neighbourhood Services Scrutiny Commission	£2,184

Chair, Heritage, Culture, Leisure and Tourism Scrutiny Commission	£8,736
Vice Chair, Heritage, Culture, Leisure and Tourism Scrutiny Commission	£2,184
Chair, Adult Social Care Scrutiny Commission	£8,736
Vice Chair, Adult Social Care Scrutiny Commission	£2, 184
Chair, Economic Development, Transport and Climate Emergency Scrutiny Commission	£8,736
Vice Chair, Economic Development, Transport and Climate Emergency Scrutiny Commission	£2,184
Chair, Housing Scrutiny Commission	£8,736
Vice Chair, Housing Scrutiny Commission	£2,184
Chair, Planning and Development Control	£10,483
Vice Chair, Planning and Development Control	£2,620
Chair , Licensing & Public Safety Committee	£10,483
Vice Chairs, Licensing & Public Safety Committee (two)	£2,620
Chair, Audit & Risk Committee	£6,406
Chair, Standards Committee	£3, 116
Minority Group Leader	£1,165 per annum plus an additional £292 per Member.
Majority Group Whip	£8,736

*The City Mayor may choose to vary from the specified SRAs for the Deputy and Assistant City Mayors provided any variance does not result in the combined total allowances for these roles exceeding the total allocated budget for Executive SRAs.

Civic Allowances

Lord Mayor	£18,054 *
Deputy Lord Mayor	£5,532
High Bailiff	£1,936

*£12,227 of the Lord Mayor's allowance will be provided via allowances, the other £5,827 will be administered by the Democratic & Members Support Manager.

(d) 'Independent Persons' 'Independent Members' and co-optees

The Council is required to appoint 'Independent Persons' and 'Independent Members' to support the Standards process. There is also a statutory requirement for co-optees to input into the Council's activities from an education perspective. These positions will receive an allowance as follows:-

'Independent Persons', Standards Committee 'Independent Members', Standards Committee Note: The rate for these roles is not considered by the Independent Remuneration Panel as they come under separate legislation but are included here for completeness.	£2,245 plus travel expenses £554
Co-opted Members of Committees / Commissions	£554

(e) Travel and Subsistence – Inside the City

£83.33 per month (£1,000 per annum) is payable to each Member. This is intended to cover all travel (including taxis) and subsistence costs for all activities within the City boundary.

(f) Telecommunications & Support Allowance

Paid to all Members at £27.25 per month (£327 per annum) as a contribution to council related costs for use of:

- telecommunications at a Member's home including any private mobile phone costs and;
- miscellaneous items which the Member feels necessary to support their role as a Member.

2. ALLOWANCES TO BE CLAIMED FOR

Travel and Subsistence - Outside the City

Outside the City of Leicester Members are entitled to claim travel and subsistence in accordance with the details attached at Schedule 1 whilst undertaking Approved Council Duties.

Dependant Carers' Allowance

Allowances can be claimed towards childcare or dependent care costs incurred by a Member on the basis set out in Article 7 of the Local Authorities (Members Allowances) (England) Regulations 2003 up to a limit of 20 hours per Member per week subject to the provisions attached at Schedule 2.

3. IT EQUIPMENT AND MOBILE TELEPHONES

Members will be offered standard specification equipment as defined in the list prepared by the City Information Officer and the Director of Delivery, Communications and Political Governance.

4. PAYMENT ARRANGEMENTS

i. All automatically paid allowances (as outlined in the first section) will be paid in twelve equal monthly instalments via the Payroll system.

ii. Entitlement will commence from the fourth day after the date of the election or the date of making the Declaration of Acceptance of Office, whichever is later. Where not returned entitlement for the former Member will cease on the fourth day after the election.

Entitlement to allowances will be calculated on a pro rata basis avoiding any overlap of the same allowance.

iii. Payment of travel and subsistence for expenditure outside the City will be made in arrears on the basis of a claim form being submitted and signed by Members within three months of the event claimed for taking place.

iv. Payment of Dependent Carer's Allowances will be made in arrears on the basis of a claim form being submitted and signed by Members within three months of the event claimed for taking place.

v. Allowance claims over three months old will only be paid in **exceptional circumstances** such as long-term illness. Such payments will be made in consultation with the relevant Group Whip (if a member of a constituted Group).

vi. Where any overpayments occur, the Member will be notified and the amount will be recovered from the next monthly payment (unless instalments are requested by the Member for accounts over £50).

vii. A Member may decide not to claim any element of automatic allowances (in full or in part) and must notify the Director of Delivery, Communications and Political Governance in writing of their intention.

Schedule 1

Travel and Subsistence - Outside the City

Approved Duties include:-

- i. Attendance at meetings of Outside Bodies as approved by the Executive/Council or the Group Whips.
- ii. Training courses, conferences and seminars in the furtherance of the Member's performance of their duties as a Member.
- iii. Other activities which, in the view of the Director of Delivery, Communications and Political Governance are in the interests of the Council.
- iv. For all claims for travel expenses, tickets, receipts or equivalent travel documents must be provided. The claim must include the reason for the journey.

i) Travel

Public Transport	Paid at the amount of an ordinary fare or any available cheap fares (tickets/receipts required).
Taxi	Where no public transport is reasonably available, the amount of the fare plus any reasonable gratuity paid (receipt required). In other cases, the amount of the fare for travel by appropriate transport will be paid. Taxis should only be used in exceptional circumstances. Significant taxi expenditure should be approved in advance by the Group Whip.
Private Transport	Rates payable at the level of the Approved Mileage Allowance Payments (AMAPs) laid down by the Inland Revenue as a tax free "approved amount" and shall be amended in line with any changes made to these amounts as and when they occur.
	Car or Van* 45p per mile for the first 10,000 miles, 25p per mile thereafter
	Motorcycle* 24p per mile (all miles)
	Pedal Cycle 20p per mile (all miles)
	An additional 5p per mile will be paid when one or more passengers travel to an approved duty in the same car. The cost of parking fees (including overnight garaging), tolls and ferries can also be claimed.
	*A valid VAT receipt for fuel is required for any car/van or motorcycle mileage claims.

Hired Motor Vehicle (car/light van)	The same rates as if the vehicle were privately owned (where approved by the Director of Delivery, Communications and Political Governance the rate may be increased to an amount not exceeding the cost of hiring)
	If the Council hires the vehicle the tax free rates are limited to the fuel element as detailed in HMRC guidance.
Travel by Air	Payable provided that the Director of Delivery, Communications and Political Governance agrees that the time saved justifies the fare. The rate of payment will not exceed the ordinary or any cheap fare available, or where no such service is available or in case of an emergency, the fare actually paid by the Member. This must be receipted to be tax-free.

ii) Subsistence Allowance (outside of Leicester)

- The allowance will not apply to a meal which is already provided at no charge or included in a conference/course fee.
- Receipts must be provided (where available a VAT receipt) for audit and reclaim purposes as a condition of the allowance.
- The actual money spent on the meal can be reclaimed up to a maximum allowance (see table below) on production of a receipt.

Meal	Qualifying duty period (inclusive of travelling time)	Rate
Breakfast	3 hours before 11.00 am	£8.00
Lunch	2 hours between 12 noon and 2.00 pm	£10.92
Tea	3 hours including 3.00 pm to 6.00 pm	£4.78
Dinner	3 hours ending after 7.00 pm	£18.72

Tea and dinner allowances will not be paid in respect of the same evening's duties. No claims should be made for alcohol.

iii) Overnight Accommodation and Out of Pocket Expenses

The following rates will apply for overnight absence (room only).

Provincial rate – not to exceed £86

London rate – not to exceed £146

Accommodation should be booked through Member and Civic Support Team.

Out of pocket expenses - maximum amount per night £4.81, maximum amount per week £19.15.

This amount is intended to cover out of pocket expenses whilst representing the Council.

These are only tax free when the Member is required to stay away overnight on Council business.

Schedule 2

Dependant Carers' Allowance

- Allowances for childcare and dependent care are paid as a contribution to costs, rather than a full reimbursement;
- Allowances paid towards childcare or dependent care costs incurred by an elected Member are subject to Income Tax and NIC even if the costs are unavoidably incurred as a result of carrying out Council duties. The only exception is the £55 per week voucher scheme outlined below;
- The maximum hourly rate reimbursed for the independent care of a child under the age of 14 shall be equal to the minimum wage applicable to the age of the carer;
- The maximum hourly rate reimbursed for the professional care of a dependant relative shall be equal to the Council's own hourly rate for a Home Care Assistant;
- Members must certify that the costs have been actually and necessarily incurred and the allowance shall be paid as a reimbursement of incurred expenditure against receipts;
- The allowance shall not be payable to a member of the claimant's own household, and
- Any dispute regarding entitlement or any allegation of abuse should be referred to the Council's Standards Committee for adjudication.

Members using registered childcare provision may, if they so choose, receive tax free, up to £55 per week of their contribution to childcare by way of vouchers, which will be reimbursed by the Council direct to the childcare provider.

PART 7 – MANAGEMENT STRUCTURE

Available at:

https://data.leicester.gov.uk/explore/dataset/senior-management-structure/information/?sort=-display_order