LEICESTER CITY COUNCIL

CONSTITUTION
<table>
<thead>
<tr>
<th>PART 1 - Introduction</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>PART 2 – Articles</td>
<td>10</td>
</tr>
<tr>
<td>PART 3 – Responsibility for Functions</td>
<td>49</td>
</tr>
<tr>
<td>PART 4A – Council Procedure Rules</td>
<td>83</td>
</tr>
<tr>
<td>PART 4B – Access to Information Procedure Rules</td>
<td>113</td>
</tr>
<tr>
<td>PART 4C – Budget &amp; Policy Framework Procedure Rules</td>
<td>131</td>
</tr>
<tr>
<td>PART 4D – City Mayor and Executive Procedure Rules</td>
<td>135</td>
</tr>
<tr>
<td>PART 4E – Scrutiny Procedure Rules</td>
<td>143</td>
</tr>
<tr>
<td>PART 4F – Finance Procedure Rules</td>
<td>149</td>
</tr>
<tr>
<td>PART 4G – Contract Procedure Rules</td>
<td>187</td>
</tr>
<tr>
<td>PART 4H - Land and Property Transaction Rules</td>
<td>239</td>
</tr>
<tr>
<td>PART</td>
<td>Title</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------------------------</td>
</tr>
<tr>
<td>4I</td>
<td>Employment Procedure Rules</td>
</tr>
<tr>
<td>5</td>
<td>Codes &amp; Protocols</td>
</tr>
<tr>
<td>6</td>
<td>Members’ Allowances Scheme</td>
</tr>
<tr>
<td>7</td>
<td>Management Structure</td>
</tr>
</tbody>
</table>
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 Deputy City Mayor and between one and eight 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 Mayor 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 [link]. 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 (Strategic Director Education and Children’s Services), someone responsible for the Council’s Adult Social Services functions (Strategic Director Adult Social Care, Health and Housing), someone to ensure the Council makes financially proper decisions (Director of Finance) and someone who ensures the Council acts within the law (City Barrister and Head of Standards).

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 since they elected him directly. 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 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

9
LEICESTER CITY COUNCIL

CONSTITUTION

Part 2
Part Two – Articles of the Constitution

Article 1 – The Constitution.................................................................13
Article 2 – Members of the Council......................................................14
Article 3 – Citizens and the Council.....................................................17
Article 4 – The Full Council.................................................................19
Article 5 – The City Mayor and the Executive........................................22
Article 6 – Key Decisions....................................................................26
Article 7 – The Lord Mayor and other Civic/Ceremonial roles...............28
Article 8 – Scrutiny Committees..........................................................30
Article 9 – Regulatory and other committees.......................................32
Article 10 – The Standards Committee...............................................33
Article 11 – Ward Community Meetings.............................................34
Article 12 – Joint Arrangements..........................................................35
Article 13 – Officers.............................................................................37
Article 14 – Decision-making...............................................................42
Article 15 – Finance, Contracts and Legal Matters...............................44
Article 16 – Review and revision of the Constitution.............................46
Article 17 – Suspension, Interpretation and Publication..........................47

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 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:

- Providing 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 15.
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) The City Mayor is responsible for all executive 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;
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;

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.

participate in the governance and management of the Council;

are available to represent the Council on other bodies; and,

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 Council and its committees, and public meetings of the Executive, 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 of the Executive at public meetings of the Executive 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 Standards Committee about a breach of the Councillors’ 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 and any application to the Secretary of State in respect of any Housing Land Transfer;

(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 an 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; although 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:

- Corporate Plan (Best Value Performance Plan)
- Library Strategy (Annual Library Plan)
- Leicester Children and Young People’s Plan (Children’s Services Plan)
- Community Strategy (Sustainable Community Strategy)
- Early Years Development Plan
- Education Development Plan
- Local Transport Plan
- Plans and strategies which together comprise the Development plan
- Youth Justice Plan
- Community Safety Partnership Plan (Crime and Disorder Reduction Strategy)
- Community Care Plan
• Annual Performance Plan
• Treasury strategy, insofar as it includes plans to control the Council’s borrowing

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

(ii) reserved to Full Council as a matter of local choice:

• Health Inequalities Improvement Plan
• Corporate Equalities Strategy
• Food Law Enforcement Service Plan
• Environmental Strategy (e.g. EMAS, Local Agenda 21).
• Housing Strategy (including Council housing rents, establishment of renewal areas, housing investment plan, Housing Improvement Programme).
• Local Cultural Strategy
• Leicester Regeneration Strategy
• 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.

(b) **Budget.**
The budget means the Council’s Revenue and Capital programme, including the setting of Council Tax and rent levels for housing tenants

(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

iv. Grant any approval under Section 85 of the Local Government Act 1972 which enables the authority to approve a member’s absence from a meeting for the Authority for a period in excess of 6 consecutive months for appropriate reasons. This responsibility is delegated to the Monitoring Officer to perform in consultation with the Council.

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 appointed as the Deputy City Mayor with the others known as Assistant City Mayors, to the Executive including:
   o Appointing to and removing from the Deputy City Mayor position; and
   o Appointing to and removing from the position of Assistant City Mayor.

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 publically 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 City Mayor and Assistant City Mayors, known as the ‘City Mayor’s Scheme of Delegation’ and maintain a written record of delegations to be publically available through the City Mayor’s Internet pages.

v. Inform the Monitoring Officer of changes to the City Mayor’s Scheme of Delegations.

vi. Create and publish the City Mayor’s Forward Plan of Key Decisions.
vii. Schedule and Chair meetings of the Executive.

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 City Mayor and Assistant City Mayors

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

The City Mayor may replace Assistant City Mayors and the Deputy City Mayor at any time but otherwise the 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;
b) s/he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension); or
c) s/he is no longer a Councillor.

The 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 from time to time.

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 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 provision of Article 47 of the Local Authorities (Executive and Alternative Arrangements) Modification of Enactments Order 2001 apply where the City Mayor, Deputy City Mayor or 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. The provisions of Regulations 7 to 9 of the Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) make provision for 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 City Mayor and Assistant City Mayors. In addition the City Mayor will publish on his/her internet page 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 Mayor
(iii) Assistant City Mayor
(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 (ie as defined in the City Mayor’s Scheme of delegation) are delegated to the appropriate Director.

Unless the City Mayor decides otherwise, the Deputy City Mayor and individual 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. Any such decision can be taken in private although there are additional regulations 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. There will be a link from the City Mayor’s Internet page to individual decision documents.

vi. All decisions are subject to call-in unless defined as urgent.

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 4 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 City Mayor’s 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 or capital expenditure, spending of 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 the City Mayor will take into account

- 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 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 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 minimum of 8 years 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 and the title of Honorary Alderman is to recognise those who have contributed but not have attained the title of Lord Mayor.
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 Mayor and Assistant City Mayors may not be members of Scrutiny Committees or Sub-Committees of Scrutiny Committees.

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 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 particular decisions, 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 the 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 various Hearing subcommittees) 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.

10.05 Chairing the Committee.

The Standards Committee will be chaired by an Elected Member. The Standards Advisory Board will be chaired by an Independent Member.
Article 11 – Ward Community Meetings

The Council may appoint area committees or area forums as it sees fit.

11.01 Ward Community Meetings (Area Forums)

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:

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, in any of the participating authorities or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

b. 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 3 and 7 of this Constitution.

b. **Head of Paid Service, Monitoring Officer and Director of Finance.** These roles are currently:

<table>
<thead>
<tr>
<th>STATUTORY ROLE</th>
<th>POST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head of the Paid Service (Section 4(1) of the Local Government and Housing Act, 1989)</td>
<td>Chief Operating Officer</td>
</tr>
<tr>
<td>Monitoring Officer (Section 5(1) of the Local Government and Housing Act, 1989)</td>
<td>City Barrister and Head of Standards</td>
</tr>
<tr>
<td>Director of Finance (Section 151 of the Local Government Act, 1972)</td>
<td>Director of Finance</td>
</tr>
</tbody>
</table>

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 accord 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 will be 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 and the organisation of officers.
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. **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.

h. **Restrictions on functions.** The Monitoring Officer cannot be the Director of Finance or the Head of the Paid Service.

### 13.04 Functions of the Director of Finance

a. **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer 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.

b. **Administration of financial affairs.** The Director of Finance will have responsibility for the administration of the financial affairs of the Council.

c. **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.

d. **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.

e. **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. **Maintaining the Constitution.** The Director of Delivery, Communications and Political Governance 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.

**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 Head of Regulatory Services, Chief Executives Department, Leicestershire County Council** is the Proper Officer for the purposes for the
38 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:

<table>
<thead>
<tr>
<th>Statute</th>
<th>Function</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Local Government Act 1972</strong></td>
<td></td>
</tr>
<tr>
<td>S83(1) to (3)</td>
<td>The taking and acceptance of declaration of acceptance of office from Councillors.</td>
</tr>
<tr>
<td>S84</td>
<td>The acceptance of registration of office of Councillors.</td>
</tr>
<tr>
<td>S96(1) and (2)</td>
<td>The acceptance of general notice of prejudicial interest of Councillor.</td>
</tr>
<tr>
<td>100B(2)</td>
<td>Circulation of reports and agendas.</td>
</tr>
<tr>
<td>S100B(7)(c)</td>
<td>Supply of papers to the press</td>
</tr>
<tr>
<td>S100D(5)(a)</td>
<td>Identification of background papers.</td>
</tr>
<tr>
<td>S100F(2)</td>
<td>Identification of exempt information not available for members.</td>
</tr>
<tr>
<td>Schedule 12, para 4(2)(b)</td>
<td>The issue of the summons to the Council meetings.</td>
</tr>
<tr>
<td><strong>The Local Election (Principal Areas) Rules 1986, rules 46-48</strong></td>
<td>Receipt of documents from Returning Officer after election and safe custody of same.</td>
</tr>
<tr>
<td><strong>Representation of the people Act 1983, Part II</strong></td>
<td>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.</td>
</tr>
<tr>
<td>S225(1)</td>
<td>The receipt of documents for deposit.</td>
</tr>
</tbody>
</table>
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

The Council will determine and keep up to date 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. This record is referred to as the City Mayor’s Scheme of Delegation, and the current record is shown in detail on the City Mayor’s Internet page.

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 can be taken by the City Mayor. Matters not reserved are delegated.

b. City Mayor: the City Mayor is responsible for all executive decisions but can delegate decision making to the Deputy City Mayor or Assistant City Mayors or to a Committee or Officer. As in the case of Council, matters not reserved are delegated (i.e. as defined in the City Mayor’s Scheme of delegation or to the appropriate Director).

c. Officers: In practice, unless reserved by the City Mayor, day to day Council decisions are made by officers on his behalf. In practice the Head of Paid Service and Directors can make arrangements for the discharge of responsibilities delegated to them by other persons on their behalf.

d. Key decisions: A Decision maker, whether it is the City Mayor, Deputy City Mayor, 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 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 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, Scrutiny 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 Principal Solicitors 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, the Principal Solicitor Social Care & Safeguarding, the Principal Solicitor Commercial & Contracts, the Principal Solicitor Employment, Education & Litigation, the Principal Solicitor Regulatory, and the Principal Solicitor Capital 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, the Head of Law (Social Care & Safeguarding), the Head of Law (Commercial, Property & Regulatory) and the Head of Law (Employment, Education & Litigation) 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.

15.06 Executive function contracts

Any large contract/ agreement, above the lower threshold for Large Contracts (as specified in Contract Procedure Rules,) entered into on behalf of the local authority in the course of the discharge of an executive function, shall be made in writing. Such contracts must either be signed by at least 2 officers of the authority or made under the common seal of the Council attested by at least one officer.

15.07 Changes to arrangements

The Council can change the authorisations in this article to meet the needs of future organisational needs.
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 and consequential amendments to it from time to time, after consultation with the Elected Mayor, for the purposes of ensuring its lawfulness and consistency.

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.

c. **Other changes.** Before the Council draws up proposals for different Executive arrangements which have previously been subject to consultation, and which involve any changes other than a change in the form of executive, the Council must follow any process defined in Statute and consult local electors, and other interested parties. Consultation will be proportionate in scale, scope and extent to the scale of the proposed changes to executive arrangements.
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 given to the City Mayor and each Councillor upon delivery to him/her 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

INTRODUCTION ........................................................................................................51
FULL COUNCIL FUNCTIONS ....................................................................................51
PLANNING AND DEVELOPMENT CONTROL COMMITTEE .............................55
LICENSES AND PUBLIC SAFETY COMMITTEE ..............................................57
LICENSES SUB-COMMITTEES ...........................................................................59
EMPLOYEES COMMITTEE ..................................................................................60
AUDIT & RISK COMMITTEE ...............................................................................62
STANDARDS COMMITTEE & SUB-COMMITTEES ..........................................68
LEICESTER CITY HEALTH AND WELLBEING BOARD ..............................70
THE CITY MAYOR ..................................................................................................75
WARD COMMUNITY MEETINGS ..........................................................................76
SCRUTINY COMMITTEES: TERMS OF REFERENCE .......................................79

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 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

<table>
<thead>
<tr>
<th>FUNCTION</th>
<th>RESPONSIBLE BODY</th>
</tr>
</thead>
<tbody>
<tr>
<td>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)</td>
<td>Planning &amp; Development Control Committee</td>
</tr>
<tr>
<td>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)</td>
<td>City Mayor</td>
</tr>
<tr>
<td>FUNCTION</td>
<td>RESPONSIBLE BODY</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Section 59 (provision of parking places in parks etc)</td>
<td></td>
</tr>
<tr>
<td>Section 60 (contribution towards provision of recreational facilities)</td>
<td></td>
</tr>
<tr>
<td>Section 80 (insurance of visiting pupils)</td>
<td></td>
</tr>
<tr>
<td>Section 83 (power to provide information)</td>
<td></td>
</tr>
<tr>
<td>Section 84 (publication of bulletins etc)</td>
<td></td>
</tr>
<tr>
<td>Section 85 (certain particulars to be furnished in writing)</td>
<td></td>
</tr>
<tr>
<td>Section 86 (evidence of confirmation of committee decisions etc)</td>
<td></td>
</tr>
<tr>
<td>Section 87 (training arrangements)</td>
<td></td>
</tr>
<tr>
<td>Section 88 (recording of documents)</td>
<td></td>
</tr>
<tr>
<td>Section 89 (microfilming of documents)</td>
<td></td>
</tr>
<tr>
<td>Section 90 (restriction on use of armorial bearings)</td>
<td></td>
</tr>
<tr>
<td>3. Leicestershire Act 1985:</td>
<td>Full Council</td>
</tr>
<tr>
<td>Making of byelaws</td>
<td></td>
</tr>
<tr>
<td>Any other matter under the Leicestershire Act not covered above.</td>
<td></td>
</tr>
<tr>
<td>4. Making arrangements for appeals against exclusion of pupils –</td>
<td>City Mayor</td>
</tr>
<tr>
<td>5. Appointment of review panels established under regulations made</td>
<td>City Mayor</td>
</tr>
<tr>
<td>under Sub-Section 4 of Section 34 (determination of claims and</td>
<td></td>
</tr>
<tr>
<td>reviews) of the Social Services Act 1998</td>
<td></td>
</tr>
<tr>
<td>6. Making arrangements for admission appeals – section 94 of the</td>
<td>City Mayor</td>
</tr>
<tr>
<td>1998 Act</td>
<td></td>
</tr>
<tr>
<td>7. Making arrangements for appeals by governing bodies – section 95</td>
<td>City Mayor</td>
</tr>
<tr>
<td>8. Making of arrangements for questions on police matters at meetings</td>
<td>Council</td>
</tr>
<tr>
<td>of the Council</td>
<td></td>
</tr>
<tr>
<td>9. Appointments to the Police Authority (the Council makes nominations</td>
<td>City Mayor</td>
</tr>
<tr>
<td>to a Joint Appointing Committee)</td>
<td></td>
</tr>
<tr>
<td>10. Any function relating to contaminated land, other than policy</td>
<td>City Mayor</td>
</tr>
<tr>
<td>matters reserved for Full Council.</td>
<td></td>
</tr>
<tr>
<td>11. Control of pollution and the management of air quality</td>
<td>City Mayor</td>
</tr>
<tr>
<td>12. Control, inspection and investigation in relation to noise and</td>
<td>City Mayor</td>
</tr>
<tr>
<td>other statutory nuisances.</td>
<td></td>
</tr>
<tr>
<td>13. Obtaining information under section 330 of the Town and</td>
<td></td>
</tr>
</tbody>
</table>
## Function Table

<table>
<thead>
<tr>
<th>FUNCTION</th>
<th>RESPONSIBLE BODY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country Planning Act 1990 as to interests in land;</td>
<td>a. City Mayor</td>
</tr>
<tr>
<td>Obtaining information under section 16 of the Local Government</td>
<td>b. Planning &amp; Development Control Committee</td>
</tr>
<tr>
<td>a. in connection with functions which are the responsibility of the</td>
<td></td>
</tr>
<tr>
<td>City Mayor.</td>
<td></td>
</tr>
<tr>
<td>b. in connection with functions which are not the responsibility of</td>
<td></td>
</tr>
<tr>
<td>the City Mayor.</td>
<td></td>
</tr>
<tr>
<td>14. Making agreements for execution of highways works.</td>
<td>City Mayor</td>
</tr>
<tr>
<td>15. Making of agreements with other local authorities for the</td>
<td>City Mayor</td>
</tr>
<tr>
<td>placing of staff at the disposal of those other authorities.</td>
<td></td>
</tr>
<tr>
<td>16. The appointment of any individual:</td>
<td></td>
</tr>
<tr>
<td>a) To any office rather than the office in which he is employed by</td>
<td>a. City Mayor</td>
</tr>
<tr>
<td>the Authority</td>
<td></td>
</tr>
<tr>
<td>b) To any body other than:</td>
<td></td>
</tr>
<tr>
<td>I. The Authority</td>
<td></td>
</tr>
<tr>
<td>II. A joint committee of two or more authorities</td>
<td></td>
</tr>
<tr>
<td>c) To any committee or sub-committee of such body.</td>
<td></td>
</tr>
<tr>
<td>And the revocation of such appointments</td>
<td></td>
</tr>
</tbody>
</table>

### 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 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 an Employees Committee. 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 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 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.

* “Director” means Strategic and Divisional Directors
PLANNING AND DEVELOPMENT CONTROL COMMITTEE

TERMS OF REFERENCE

1. To keep under review and be responsible for the implementation of all new legislation relating to the discharge of its functions.

2. To keep under review, comment and advise on policies proposed or made through executive powers.

3. To carry out the development control function of the Council as local planning authority.

4. To carry out the non-executive highways function of the Council.

5. To promote and secure a pattern of development in the City which is sustainable in terms of use of local and global resources.

6. To examine all proposals to acquire land for the purpose of securing planning objectives.

7. To enforce all legislation, relevant to the Committee’s terms of reference, which the Council is required or empowered to enforce except matters which are executive functions.

8. To exercise the Council's power to take legal proceedings in the public interest, in respect of matters within the Committee’s terms of reference.

9. To make, vary or revoke any order, regulation, plan or scheme relating to the Committee’s functions.

10. To consider and make recommendations on opposed Traffic Regulation Orders.

11. To comment upon development briefs for development sites.

12. To promote and secure high standards of design in new development.

13. To consider and determine all non-executive matters concerning conservation areas and buildings of architectural or historic interest or buildings of local significance and sites of archaeological interest.

14. To give directions to prevent demolition of a building in a conservation area.

15. To make Building Preservation Orders.

16. To serve notices stating that the City Council do or do not intend to acquire land to which a planning permission relates.
17. To make Tree Preservation Orders.

18. To consider and determine:-
   (a) enforcement notices and stop notices;
   (b) discontinuance, revocation and modification orders;
   (c) provision of recommendations to the County planning authority on behalf of
       the unitary planning authority in respect of applications to be determined by
       the County authority; and
   (d) any other similar regulatory procedures.

All matters within the Terms of Reference of the Planning & Development Control
Committee which are not reserved to Full Council or this Committee are delegated to
the Director of Planning, Transportation and Economic Development.

MATTERS RESERVED TO THE PLANNING AND DEVELOPMENT CONTROL
COMMITTEE:-

1. Matters of strategic significance relating to the Committee’s Terms of
   Reference.

2. To recommend to Council the making of bye-laws.

3. Making opposed regulations, order, plans and schemes within the
   Committee’s terms of reference.

4. 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:-

   Gambling Act 2005
   Hairdressers and barbers.
   Sale of pet animals.
   Caravan sites.
   Conduct of animal boarding establishments.
   Conduct of riding establishments.
   Hackney carriages and private hire cars and operators and their drivers.
   House to house collections.
   Street collections.
   Pool Promoters.
   Exposure of goods for sale in streets (Street Trading).
   Scrap metal dealers.
   Dog Breeding establishments.
   Sexual Entertainment.
   Dangerous Wild Animals.
   Leicester Doorwatch Scheme
   Distribution of free printed matter
   Skin Piercing and Tatooists
   Street Cafés
   Skips, scaffolding and deposits on the highway
   Zoos

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. To enforce any other non-executive licensing legislation which the Council is required or empowered to enforce.

5. To exercise the Council's power to take legal proceedings in the public interest in relation to matters within the Committee's Terms of Reference.

6. To keep under review, comment on and provide advice to the City Mayor on policies relating to licensing and registration functions of the Council.
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 Local Services and Enforcement

MATTERS RESERVED TO THE LICENSING AND PUBLIC SAFETY COMMITTEE:-

1. 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 had 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 of Local Services and Enforcement 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 of Local Services and Enforcement 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 of Local Services and Enforcement.

N.B. The City Council’s Constitution Council Procedure Rules 4 4 (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

1. To consider the terms and conditions of service on which staff hold office (including procedures for their dismissal), as appropriate.

2. To determine formal disciplinary, capability, and sickness procedure appeals.

3. To act as the Council’s Remuneration Committee

4. 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)

5. 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.

6. 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.

7. 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 appointed by the Monitoring Officer in consultation with the City Mayor or political group whips, as appropriate.

2. The maximum number of the Committee when it sits to hear any appeal shall be five, comprising the Chair and four panel members.
3. The Committee shall be subject to the rules on political balance.

4. The Committee's quorum shall be three.

5. 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.

6. 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.

7. 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

1. Constitution
The Council has established a Committee of the Council to be known as the Audit & Risk Committee to report to the Council. This supports the Council’s corporate governance responsibilities in relation to internal control, risk management and governance.

2. Membership
The Audit & Risk Committee shall consist solely of non-Executive Councillors. The Chair of the Committee shall be appointed by the Council from amongst the non-Executive Councillors.

The membership of the Committee should reflect the political representation of the Council as a whole.

A quorum of at least three Committee members will be required at all meetings.

3. Attendance at Meetings
The Director of Finance, the Head of Internal Audit and the Internal Audit Manager shall normally be invited to attend meetings. Other officers will be required to attend if called for by the Committee or when relevant items appear on the agenda. All Councillors are entitled to attend public meetings, should they choose to do so. All such attendees shall have the right to speak, at the discretion of the Chair, but not vote at meetings.

4. Frequency of Meetings
Meetings shall be held not less than three times a year. Additionally, special meetings may be convened if an issue arises that, in the opinion of the Chair, cannot wait until the next scheduled meeting.

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

6. Authority
The Committee approves, on behalf of the Council, the Council’s accounts and its internal control, risk management and governance frameworks and any aligned policies and arrangements.

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 employee and all employees are directed to co-operate with any request made by the Committee. The Committee 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 employee, 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 Committee shall notify the Chief Operating Officer as the Head of Paid Service before any fees for such attendance are agreed.

7. Communications

The Secretary of the Committee will circulate the agenda and papers for meetings five clear days before the meeting.

The Committee will consider and agree the approved minutes of the Committee at its next meeting.

The Committee’s Terms of Reference will be made available on the Council’s website. They will be reviewed and, where necessary, updated at least annually.

An annual report of the Committee’s activity will be submitted to the Council each year.
Duties of the Audit & Risk Committee

1. Audit Framework

1.1 Internal Audit

- On behalf of the Council, to approve the Head of Internal Audit’s annual report and opinion, considering the level of assurance given over the Council’s corporate governance arrangements and decide on appropriate actions.
- To consider, challenge and approve (but not direct) Internal Audit’s strategy and plan and monitor performance on an annual basis.
- To receive summaries of Internal Audit reports and the main issues arising.
- To review and challenge management’s responsiveness to the internal audit findings and recommendations, seeking assurance that appropriate action has been taken where necessary and agreed recommendations have been implemented within a reasonable timescale.
- To monitor and assess the role and effectiveness of the Internal Audit function.

In fulfilling these functions, the Audit & Risk Committee fulfils the role of ‘board’ for the purposes of the Public Sector Internal Audit Standards.

1.2 External Audit

- On behalf of the Council, to review with the external auditor and inspection agencies the findings of their work including any major issues which are unresolved; key accounting and audit judgments; and the levels of errors identified during the audit. The Committee should obtain explanations from management and from external auditors, where necessary, as to why errors might remain unadjusted.
- To consider the scope and depth of external audit work and to assess whether it gives value for money.
- To liaise with Public Sector Audit Appointments Ltd (as successor body to the Audit Commission for this purpose) over the appointment of the Council’s external auditor and conduct such other related functions as required by the local public audit regime.
- To facilitate effective relationships between external and internal audit, inspection agencies and other relevant bodies and ensure the value of these audit relationships is actively promoted.
- To approve any instances of non-audit work by the external auditors in accordance with the Policy for Engagement of External
Auditors for Non-Audit Work and report any such instances to the Council.

2. Risk Management Framework
   • On behalf of the Council, to consider and challenge the effectiveness of the Council’s Risk Management Strategy and Framework, including the Risk Management and Insurance Services function.
   • To consider and approve, on behalf of the Council, the Council’s Risk Management Strategy and its key risk management policies including the Council’s statement of overall risk appetite.
   • To approve, on an annual basis, the Risk Management and Insurance Services function’s terms of reference and its annual plan.
   • To review (and take any actions as a consequence of) reports from the Head of Internal Audit & Risk Management in respect of the status of key current and emerging risks and internal controls relating to those risks (the Operational and Strategic Risk Registers).

3. Internal Control and Governance Framework
   • To review the adequacy of the Council’s internal control framework through review of its system of internal control and system of internal audit and overseeing the production and approval of the Council’s Annual Governance Statement prepared in accordance with the Local Code of Conduct Governance.
   • To consider the external auditor’s report to those charged with governance on issues arising from the audit of the accounts. (The Committee is to do this before approving the Council’s published financial statements. The Committee should take note of any adjustments set out in the external auditor’s report and agree any such adjustments where management has declined to do so or set out the reasons for not doing so.)
   • To maintain an overview of the Council’s Constitution in respect of contract procedure rules, finance procedure rules and codes of conduct and behaviour.
   • To review and approve, on an annual basis, the Council’s anti-fraud, bribery and corruption and its disclosure (whistle-blowing) policies and procedures.
   • Annually, to assess all significant risk issues considering:
     o Changes since the last annual assessment and the Council’s response;
o The scope and quality of management’s ongoing monitoring of risks and the system of internal control;

o The incidence of significant control failings in relation to all significant risks and their impact.

• To review regular reports from Internal Audit and Risk Management on risk and internal controls, considering:
  o The effectiveness of systems of internal control across the Council
  o Reports on major control issues and their impact on the Council’s risk profile.

• To consider and decide on appropriate actions relating to the Council’s compliance with its own and other published or regulatory policies, standards and controls, including:
  o Information assurance including compliance with the Data Protection Act;
  o Freedom of Information Act;
  o Health & Safety at Work;
  o The Disclosure Policy
  o Complaints;
  o Raising Concerns at Work; and
  o Others as appropriate.


• To review and approve the Council’s published financial statements, the external auditor’s annual opinion and other reports to Members and to monitor management action in response to issues raised.

• To review and approve the annual statement of accounts and the annual Letter of Representation on behalf of the Council, giving particular attention to critical accounting policies and practices, decisions requiring a significant element of judgement, how any unusual transactions should be disclosed and the clarity of the disclosures.

• To bring to the attention of the Council any concerns arising from the financial statements or from the audit.

5. 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.
• To present an annual report to the Council on the Committee’s conduct, business and effectiveness.

Director of Finance
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 Standards Advisory Board (chaired by an Independent Member) 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 Standards Advisory Board 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 Standards Advisory Board:

- **Composition** - The Standards Advisory Board 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 Board shall be three, with a majority or equal number of Independent Members (with the Independent Chair having the casting vote).

- **Frequency of Meetings** – The Standards Advisory Board 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 the Standards Advisory Board. He/she remains completely neutral to the political and scrutiny process, and works closely with the City Barrister on individual complaints at the initial decision and review phases. He/she does remain a standing invitee to meetings of the Committee and the Board, and will also attend Board meetings to offer advice on the progression of individual complaints, which may or may not be adopted by the Board.

**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

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 has operated in shadow form since August 2011. In April 2013, the Board became a formally constituted Committee of the Council with statutory functions.

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 publically 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 four Elected Members of Leicester City Council (4)
- The Executive Lead Member for Health & Wellbeing (1)
- An Elected Member nominated by the City Mayor (1)
- An Elected Member nominated by the City Mayor (1)
- An Elected Member nominated by the City Mayor (1)

Up to four representatives of the NHS (4)
- 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 Director of the Leicestershire and Lincolnshire Area Team, NHS England (1)

Up to four Officers of Leicester City Council (4)
- The Strategic Director of Adult Social Care (Leicester City Council) (1)
- The Strategic Director Children (Leicester City Council) (1)
- The Director of Public Health (Leicester City Council) (1)
- The Chief Operating Officer (Leicester City Council) (1)

Up to four further representatives including Healthwatch Leicester/Other Representatives (4)
- One representative of the Local Healthwatch organisation for Leicester City (1)
- Leicester City Basic Command Unit Commander, Leicestershire Police (1)
- Two other people that the local authority thinks appropriate, after consultation with the Health and Wellbeing Board (2)

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 & Wellbeing 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 other Elected Member must be present in order for the meeting to be declared quorate)

6 Voting

6.1 Officer members of Leicester City Council shall not have a vote. All other members will have an equal vote

6.2 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 the outcome of a vote is impasse the chair will have the 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 though 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 are communication mechanisms 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 six 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

8.4 The first meeting of the Health and Wellbeing Board will be 11 April 2013

Agreed by Council 18/06/15
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 and Assistant City Mayors, 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 City Mayor’s Internet pages.

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 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

2.1 Number of Committees

a) There will be no more than one Community Meeting 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.
d) The Ward Community Meeting may set up working groups to identify and achieve the priorities within the ward.

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 residents  
b) Housing Associations  
c) Health Trusts  
d) Police  
e) Fire and Rescue Services  
f) Tenant and Residents forum  
g) Young Peoples Network  
h) Older Peoples Network  
i) Community Groups  
j) Others as decided by the Committee  

People who attend should work or live in the ward.

2.4 Budget

a) Each Ward will have a budget allocated to it by the City Mayor  
b) The principle for allocating resources would be to implement priorities within the ward as set out in ward action plans  
c) Additional funding may be attracted from other sources.  
d) 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.  
e) 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 Voting

a) As far as possible, Ward Community Meetings should seek to reach agreement by consensus rather than vote.  
b) It is for the chair of the meeting to decide whether a matter should be decided by a vote. Each Councillor shall have one vote. Issues put to the vote shall be decided by a majority of the Councillors present at a quorate meeting of the Community Meeting. In the case of equal votes, the chair of the meeting shall have the second or casting vote.

2.6 Quorum

Two councillors from the ward constitute a quorum. Both must be present to hold a formal meeting.
2.7 Meetings

a) Where they take place, meetings should take place on at least three monthly cycles 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.

2.8 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 will be in 2 parts.

c) The format of part 1 will encourage the engagement of local people and partner organisations on local issues. The style of the meeting will facilitate the expression of views of local people.

d) Part 2 will operate in a more structured way in accord with the Council’s committee procedure rules and deal with business items, for example allocation of the ward neighbourhood budget.

2.9 Chairing

The Committee will normally elect a Chair on an annual basis. Arrangements for chairing will be confirmed at each agenda meeting. If the Chair is not present at a Ward Community Meeting, another Councillor for the ward shall chair.
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 particular decisions, 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 Schools Scrutiny Commission
• Economic Development, Transport and Tourism Scrutiny Commission
• Health and Wellbeing Scrutiny Commission
• Heritage, Culture, Leisure and Sport Scrutiny Commission
• Housing Scrutiny Commission
• Neighbourhood Services and Community Involvement Scrutiny Commission

**SCRUTINY COMMITTEE: OVERVIEW SELECT COMMITTEE**

The Overview Select Committee will:

• Specifically scrutinise the work of the City Mayor and Deputy City Mayor 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
• Consider the training requirements of Members who undertake Scrutiny and seek to secure such training as appropriate.

**SCRUTINY COMMISSIONS**

Scrutiny Commissions will:

• Be aligned with the appropriate Executive portfolio.
• 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, who will be a standing invitee.
• Have their own work programme and will make recommendations to the Executive 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.
• Consider the training requirements of Members who undertake Scrutiny and seek to secure such training as appropriate.
LEICESTER CITY COUNCIL

CONSTITUTION

Part 4
<table>
<thead>
<tr>
<th>PART 4 – RULES OF PROCEDURE</th>
</tr>
</thead>
<tbody>
<tr>
<td>PART 4 – RULES OF PROCEDURE ......................................................84</td>
</tr>
<tr>
<td>PART 4AB – COUNCIL PROCEDURE RULES ...........................................86</td>
</tr>
<tr>
<td>PART 4B – ACCESS TO INFORMATION - PROCEDURE RULES ..................114</td>
</tr>
<tr>
<td>PART 4C – BUDGET AND POLICY FRAMEWORK PROCEDURE RULES .................................................................131</td>
</tr>
<tr>
<td>PART 4D – CITY MAYOR &amp; EXECUTIVE PROCEDURE RULES ............135</td>
</tr>
<tr>
<td>PART 4E – SCRUTINY PROCEDURE RULES ..............................................143</td>
</tr>
<tr>
<td>PART 4F – FINANCE PROCEDURE RULES .................................................150</td>
</tr>
<tr>
<td>PART 4G – CONTRACT PROCEDURE RULES .............................................187</td>
</tr>
<tr>
<td>PART 4H – LAND &amp; PROPERTY TRANSACTION RULES .....................239</td>
</tr>
<tr>
<td>PART 4I – OFFICER EMPLOYMENT PROCEDURE RULES ....................272</td>
</tr>
</tbody>
</table>
PART 4A – COUNCIL PROCEDURE RULES

This section includes changes approved by Council on 18 September 2014

(Note: rules in this section shown in bold are required by law)

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 statutory limits on the holding of the annual council meeting are:

   (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 Mayor 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.

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. 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(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 may be presented at an ordinary meeting and shall be relevant to some question over which the Council has authority or which affects the City.

(c) The address of each person signing the petition shall be shown.

(d) Petitions to be presented by members of the public shall be received by the Monitoring Officer no later than five clear days before the meeting. (Clear days exclude the day of receipt, the day of the meeting, Bank Holidays, Saturdays and Sundays). Petitions to be presented by Councillors must be received by the Monitoring Officer not later than three clear days before the meeting.

(e) A petition to be presented by a member of the public shall indicate which one of the signatories is to present the petition.
(f) 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.

(g) The reading of the subject matter shall not be of excessive length and speeches or additional remarks shall not be permitted.

(h) 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.

(i) 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.

(j) Where a petition has been referred to a Committee or Sub-Committee, a report shall be submitted to the Committee or Sub-Committee on the action taken as soon as practicable. Where the petition was presented by a member of the public, the lead petitioner shall be informed of the response. If the report on the petition requires an executive decision, the report will also be referred to relevant Executive member or appropriate Director

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. S/he may also may ask the duly nominated member of the Police Authority a question(s) regarding the Police Authority.

   (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, a Special 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 summary of 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) An adult resident of the City of Leicester or the Chair or Vice-Chair (or /her/his nominee) of the Leicester Young People’s Council may ask the Lord Mayor or the City Mayor 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) from or on behalf of a political party or organisation or in connection with the activities and aims of such a party or organisation.
(b) from a staff group, which instead should use the proper procedures, such as through management and trades union representatives;

(c) in relation 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, a Special 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

(f) which relates to a specific and identifiable person.

(v) Notice of the question(s), in writing, must be received by the Monitoring Officer not later than 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.

(ix) 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, except that where the question is to be asked by a
friend under (viii) above if the friend is absent, the person who gave notice may ask the question.

(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 summary of 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 and Part 3 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.

(b) An Executive report to Council shall be submitted in the name of the City Mayor

(c) 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).

(d) 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.

(e) 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.

(f) 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).

(g) 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.

(h) 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.

(i) 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.

(j) 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 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). 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 and the Council, 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 alteration or 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 alter or 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) 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.
(c) 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.

(d) 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.

(e) 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.

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 the right of reply of the proposer of a motion.

(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 minutes, and in the absence of any lesser period being specified, any extension shall be presumed to be for five 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. No discussion shall be allowed on the Lord Mayor's ruling.

24. **PERSONAL EXPLANATION**

(a) If a Councillor makes a statement which is misunderstood or misquoted by another Councillor at that meeting, the Councillor may stand to make a personal explanation and with the consent of the Lord Mayor, be given the
opportunity to correct the misunderstanding, either immediately or at the end of the speech then in progress.

(b) The ruling of the Lord Mayor on the admissibility of a personal explanation 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.

(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.

(b) In taking the votes on any proposition, only those Members who are not disqualified from voting, and are present in the Council Chamber, 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, the Lord Mayor may name that Councillor and another Councillor may move that the Councillor named not be heard further and 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 or
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 and shown in bold, 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 until 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 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 the requirements 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.

(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**

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) **The Council may vary these arrangements from time to time.**

36. **CHAIRS AND VICE-CHAIRS OF COUNCIL COMMITTEES**

(a) **Committees**

(i) At its annual meeting the Council shall appoint, and may, from time to time appoint and remove, the Chairs and Vice-Chairs of Committees, and Chairs and Spokespersons of Scrutiny Committees.

(ii) 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.

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

(b) **Sub-Committees**

(i) The parent Committee shall appoint, and may remove, the Chairs and Vice-Chairs of any Sub-Committees it appoints.

(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 Standing Committee shall be three.

The quorum of the Standards and Audit and Risk Committees shall be three. For the Standards Committee this shall include an independent member.

* Please note that it is anticipated that the Localism Act 2011 may necessitate change to procedures of the Standards Committee following the publication of finalised guidance scheduled to be issues in Summer 2012.

(b) **Sub-Committees**

The quorum of a Sub-Committee with 11 or more Councillors shall be three. The quorum of a Sub-Committee with less than 11 Councillors shall be two; except that the quorum of the Licensing Sub-Committee shall be three.

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 in terms of their frequency and sequence.

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

The dates of Committees and Sub-Committees shall be set by the Monitoring Officer in consultation with Group Leaders and the Head of Paid Service and an agreed programme of dates shall be presented to Annual Council for confirmation.
(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) In addition to the dates of meetings agreed by the Monitoring Officer, in consultation with the City Mayor, Group Leaders and Head of Paid Service any Committee or Sub-Committee may be summoned specially if so required by either:

(i) The Lord Mayor; or

(ii) The Chair, after consultation with the Vice Chair; or

(iii) 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 nominated first Vice-Chair shall take precedence over the second Vice-Chair.
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 Committee 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.

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. (b) These rules apply to meetings of full Council, however, when a point of procedure arises at meetings of the Scrutiny Committee which is not covered by the Scrutiny Procedure Rules, then reference shall be had to these Council Procedure Rules in accordance with Rule 11(2) Scrutiny Procedure Rules found in Part 4E of this Constitution.

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 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) A Committee or Sub-Committee may decide that any matter is of such urgency that no objection may be made.

(i) 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.

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

MOTION MOVED
- Motions must be submitted in writing 6 clear days before the meeting. Urgent motions can be moved with prior approval of the Lord Mayor.
- The mover reads aloud the motion before. Mover can speak for 5 minutes on the motion.

MOTION SECONDED
- The Seconder may speak for up to 5 minutes. The Seconder may reserve the right to speak later in the debate.

MOTION DEBATED
- Any member may speak for up to 5 minutes. Member indicates to the Lord Mayor that they wish to speak. A Member can speak only once on a Motion. Must speak strictly to the Motion or matter under debate. It must be relevant!
- If Seconder has reserved their remarks the Lord Mayor will invite them to speak for up to 5 minutes on the motion.

MOVE OF THE MOTION REPLIES
- Mover can reply to the debate and speak for up to 5 minutes.

MOTION PUT
- All those in favour say aye
- Show of hands
- Recorded vote – 3 Councillors stand and ask for recorded vote
MOVING AN AMENDMENT

NB: A second Amendment cannot be moved until the first Amendment has been dealt with.

MOTION MOVED

SECONDED

AMENDMENT MOVED

SECONDED

DEBATED

MOVED OF THE ORIGINAL MOTION REPLIES

VOTE IN FAVOUR

AMENDMENT BECOMES SUBSTANTIVE MOTION

DEBATE CONTINUES (PROCESS AS BEFORE AMENDMENT)

MOTION PUT

Councillor speaks on main motion can:
- speak on amendment
- make a further amendment

Councillor speaks on amendment can speak on main motion after amendment disposed of

Amendment can only be moved if proposer has not spoken on main motion

An Amendment must be relevant to the Motion and shall be:
- to leave out words
- to insert of add words; Or
- to leave out words & insert or add others.
The Amendment shall not be a direct negative of the Motion

NB: No Member shall move or second more than one Amendment upon any Motion.

VOTE AMENDMENT LOST

IF NO FURTHER AMENDMENTS MOVED VOTE ON ORIGINAL MOTION

ANOTHER AMENDMENT CAN NOW BE MOVED
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, Public 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. Not all Executive decision-making is undertaken at “meetings”. 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 to meetings, the sole purpose of which is for officers to brief members. For the purpose of this rule such a briefing is not a ‘meeting (see Note ro Rule 4)’.

d) Where it is proposed to make a Key Decision at a meeting (rather than individually), that meeting shall be conducted in public, subject to Rule 12.

e) 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.

f) The Head of Paid Service, the Director of Finance 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 of the Executive meet with an officer merely to seek clarification of a particular matter, that briefing need not be in public.

RULE 5 – Notices 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 open to the public available at 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
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 Offices. 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) If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public.

(2) Such reports will be marked ‘Not for Publication’ together with the category of information likely to be disclosed.
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 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 LA(EA)(M&AI)(Eng)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, the Deputy City Mayor or an Assistant City Mayor or an officer receives a report which s/he intends to take into account in making any 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 give 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 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.
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.

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.

Exempt information need not be included in a Plan of Key Decisions and confidential information cannot be included.

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

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. This is in addition to the right of call-in for any Executive decision provided for by Rule 12 pf Part 4D (City Mayor & Executive Procedure Rules)
(2) Any request under this Rule for call-in of a City Mayor & Executive decision must:

(a) be in writing (all Members signing such a notice should sign and print their name on the notice in the interests of clarity).

(b) specify reasons for the call-in

(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 call-in 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 15 (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 subcommittees, or a Committee/subcommittee meeting of the Council in accordance with this Rule.

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 (or Committee) 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 (or Committee)

The Councillor may not vote on any item.

The Chair may, at her/his 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 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, 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.
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

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>QUALIFICATIONS/DEFINITIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Information relating to any individual.</td>
</tr>
<tr>
<td>2</td>
<td>Information which is likely to reveal the identity of an individual.</td>
</tr>
<tr>
<td>3</td>
<td>Information relating to the financial or business affairs of any particular person (including the authority holding that information). Information is not exempt information if it is required to be registered under – (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 2011 ‘financial or business affairs’ includes contemplated, as well as past or current, activities ‘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)</td>
</tr>
</tbody>
</table>
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.

   ‘employee’ means a person employed under a contract of service
   ‘labour relations matter’ means –
   (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
   (b) any dispute about a matter falling within paragraph (a) above;
   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;
   ‘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;

5  Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

6  Information which reveals that the authority proposes –
   (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
   (b) to make an order or direction under any enactment

7  Information relating to any action taken or to be taken in connection with the
<table>
<thead>
<tr>
<th>Prevention, investigation or prosecution of crime.</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>7A</strong> Information which is subject to any obligation of confidentiality.</td>
<td>Applies to Standards Committee only</td>
</tr>
<tr>
<td><strong>7B</strong> Information which relates in any way to matters concerning national security.</td>
<td>Applies to Standards Committee only</td>
</tr>
<tr>
<td><strong>7C</strong> 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.</td>
<td>Applies to Standards Committee only</td>
</tr>
<tr>
<td>Generally.</td>
<td>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.</td>
</tr>
</tbody>
</table>

**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

This section includes changes approved by Council on 19/09/13

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 POLICY AND BUDGETARY FRAMEWORK

(1) The Council will be responsible for the adoption of plans and strategies comprising the policy framework, and the budget (as defined in Article 4)

(2) The City Mayor and Executive 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 the budget the City Mayor must :-

   a) include in the forward plan a timetable for making proposals to the Council;

   b) prepare draft proposals in advance of making firm proposals, and provide a consultation period within which Scrutiny Committees 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 executive to reconsider or

   c) amend the budget, plan or strategy itself

(6) If the Council approves the proposals with amendments or approves alternative 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.

(7) If the Council rejects the proposals, the City Mayor must resubmit her/his proposals or make fresh proposals.
(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 – IN YEAR 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, and any virement and in-year policy changes permitted by the Council.

(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 in line with the existing Budget and/or the Policy Framework 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 or approved by Council (and any permitted variation), if the decision is a matter of urgency and is taken in accordance with this Rule.

(2) Except where the reason for urgency is a declared 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 the 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.
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.

Except where the reason for urgency is a declared emergency, following the decision 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.

Where a decision is taken as part of a response to a declared 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.

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 Councillors
who 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 Council’s 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. 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 City Mayor/Executive 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 executive 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 City Mayor/Executive 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 or proposal of the Executive decision taker falls within the existing 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 City Mayor 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 out in the Executive Arrangements (including the Scheme of Delegation) as adopted by the Council 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. the 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 the 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. The Monitoring Officer will notify the body or individual affected by the change as soon as reasonably practicable on receipt of notice of the change. The change in delegation will take effect when the Monitoring Officer reports the change in delegation to the affected individual or body which will be as soon as practicable.

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 Mayor 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 Mayor 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 – The Council’s Scheme of Delegations and Executive Functions

The Council’s Scheme of Delegation will be subject to adoption by the Council, and may only be amended by the Council. It will contain the details required by this Constitution.

RULE 4 – Conflicts of Interest

If the exercise of an executive function has been delegated to a Committee of the Executive, the 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 5 – 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 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 of meetings

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 Deputy City Mayor shall take the Chair's place.

b. Should the City Mayor arrive at a meeting which is in progress with the 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 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 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, the 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 (all Members signing such a notice should sign and print their name on the notice in the interests of clarity)

   ii. specify a sponsor and a seconder

   iii. specify reasons for the call-in

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 declared 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 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 by:

Five Member call-in:

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

Scrutiny 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.

i. Following consideration of a ‘call-in’ by Council under this Rule the original decision will be deemed to be revived in its entirety. Any agreement by an Executive Decision maker to change the original decision will require a further formal Executive Decision.

j. The Executive’s decision after considering a Council recommendation 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.
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.

RULE 3 – Dates of meetings

   a. Scrutiny Committees

      The dates of Committees and Sub-Committees shall be set by the Monitoring Officer in consultation with the Head of Paid Service and Chairs and Vice Chairs 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 and Vice-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) In addition to the dates of meetings agreed by a Committee at its first ordinary meeting in the municipal year, any Scrutiny Committee / Commission may be summoned specially 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.

   (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 at meetings by Councillors and others 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 speak by the Committee on a specific item 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.

RULE 8 – Attendance 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) 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.

(3) A member of the public may make a request to be allowed to speak by the Chair in advance of the meeting.

(4) 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.

(5) If a formal officer response is requested at the meeting the question / representation / statement of case should be submitted in advance of the meeting under the process identified in Rule 10. Otherwise a formal officer response will only be prepared where this is resolved by the meeting.

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

(a) from or on behalf of a political party or organisation or in connection with the activities and aims of such a party or organisation;
(b) from a staff group, which instead should use the proper procedures, such as through management and trades union representatives;
(c) in relation 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;
(f) or relates to a specific and identifiable person.

RULE 9 – Petitions and questions at Scrutiny Committee Meetings

(a) **PETITIONS**

(i) **Referred from Council**

Where a petition has been referred to a Scrutiny Committee by the Council 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.

(ii) **Petitions Presented to Committee**

(a) The Committee shall only receive petitions which comply with the Council’s Scheme for Petitions,

(b) 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.
(c) The reading of the subject matter shall not be of excessive length.

(d) If, subsequent to the meeting, it becomes apparent that the petition is more relevant to some other Committee, it may instead or also be submitted by the Monitoring Officer to that Committee.

(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 that the petition be considered with the report.

(f) Further to the presentation of a petition, a report shall be submitted to the Committee on the action taken as soon as practicable.

(iii) **Petitions Presented to a Director**

A petition received by a Director shall be referred to the appropriate Committee.

**RULE 10 – Questions, representations and statements of case**

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

(1) Questions, representations and statements of case:

   (a) Should be received by the Monitoring Officer not later than 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. The Monitoring Officer shall decide at which Committee an issue shall be addressed.

   (b) At the meeting, matters will normally be discussed in the order in which they have been received.

   (c) Where the person who gave notice of the topic 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.

   (d) Where the person presenting is not present 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.

   (e) At the meeting, the Chair shall notify the member of the public the extent to which they may participate in the meeting.
(f) The name of the person who gave notice of the topic, the text of the question and a summary of the representation, statement of case or response shall be recorded in the Minutes.

(g) 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.

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

(a) from or on behalf of a political party or organisation or in connection with the activities and aims of such a party or organisation,
(b) or from a staff group, which instead should use the proper procedures, such as through management and trades union representatives;
(b) in relation 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) which contains abusive, defamatory or offensive language;
(e) or relates to a specific and identifiable person.

Rules 9 & 10 applies to Councillors who are not members of the relevant Scrutiny Committee.

RULE 11 – Procedure at meetings

(1) The procedure to be followed at a Scrutiny Committee meeting 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 person presiding at the meeting. Such rulings shall not be challenged at any meeting.

(2) In determining procedure, the person presiding shall have regard to the Council Procedure Rules for the conduct of meetings and debate.

RULE 12 – Education representatives

(1) The Children, Young People and Schools Scrutiny Commission (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 13 – Agenda items

(1) Any member of a Scrutiny Committee / Commission 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 / Commission 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

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.
PART 4F:
FINANCE PROCEDURE RULES

This section was amended by Council on 18/06/15.
PART 4F – FINANCE PROCEDURE RULES

A. Introduction and Guide

1.1 Finance Procedure Rules (FPRs) exist to regulate the way in which the Council manages its financial affairs. This is a necessary discipline in any large organisation and particularly in the public sector where there are expectations for the proper use and management of public money. Under the 1972 Local Government Act, the Council has a specific statutory responsibility, through the Director of Finance, for the “…..proper administration of its financial affairs.”

1.2 Essentially these rules set out the framework of responsibilities and requirements across the whole range of the Council’s financial affairs and in doing so their content inevitably covers a range of audiences of Council employees. In addition to those that relate to the Director of Finance’s, responsibilities can be broadly split into three main groups;

- Strategic and Divisional Directors (A)
- Corporate and service finance staff (B)
- Cost Centre Managers (CCMs) and other non-finance employees (C)

1.3 To help users of these rules find the sections most relevant to their responsibilities the detailed FPRs in section B are marked to show which rules relate to which broad group of employees.

1.4 Whilst all employees, at whatever level in the Council, should be aware of FPRs, category A and B employees should have a fairly good knowledge of the detail. Category C employees will probably need to consult FPRs less often.

1.5 The rules cover a number of areas and these are listed in the index at the start of section B.

1.6 The Director of Finance is, for the purposes of Section 151 of the Local Government Act 1972, the ‘designated officer’ responsible for the proper administration of the Council’s financial affairs.

1.7 Within these rules, the term Strategic Director includes the Chief Operating Officer. The term “member” includes the elected City Mayor.

1.8 These Finance Procedure Rules must be adhered to at all times. All Directors are accountable to the Director of Finance for compliance with these Rules. The Director of Finance is, in turn, accountable to the Council. All Officers with delegated responsibility for undertaking financial duties are accountable to their Divisional Director for compliance with these Rules.
1.9 Any waiver of the application of these Rules must be approved by the City Mayor / Executive or by the Director of Finance in consultation with the Elected Mayor. Decisions made by the Director of Finance shall be reported to the City Mayor / Executive for information.

1.10 Should a material unauthorised breach of these Rules come to light then it must be reported immediately to the Director of Finance.

1.11 These Rules assign responsibilities to Directors and to the Director of Finance, and generally do not assign responsibilities to individual nominated postholders (except, occasionally, where it is helpful to do so). The Director of Finance and Directors may delegate responsibilities assigned to them under these Rules. In particular, the Director of Finance may delegate responsibilities to Heads of Finance in service areas.

1.12 Reference in these Rules to “Scrutiny / Select Committee” or “the relevant Scrutiny / Select Committee” means the appropriate Scrutiny Committee as determined by the Director of Finance in consultation with such Members as he/she believes appropriate. Where consideration by a specific Scrutiny / Select Committee is required under these Rules, this is mentioned by name within the Rules.

1.13 For the purpose of these Rules, whenever a matter is referred to a Scrutiny / Select Committee for consideration that Committee may resolve to refer the matter to the City Mayor / Executive for a decision. Such referral may contain such recommendations as the Scrutiny / Select Committee sees fit.

1.14 In the case of a declared emergency, the Director of Finance may determine that alternative arrangements to those in Finance Procedure Rules shall apply. In particular, the Director of Finance may:

- establish different rules for financial systems (2.0) and financial administration (3.0) to the extent necessary to meet the requirements of the emergency;
- establish a budget for the emergency, over and above the approved budget;
- determine which officers may commit the emergency budget, and any rules to apply in managing the budget;
- authorise any capital expenditure required as a consequence of the emergency”.

1.15 In determining arrangements for an emergency, the Director of Finance shall consult the City Mayor if possible.

1.16 In the case of a declared emergency, the senior officer responsible for the Council’s response may commit resources prior to alternative arrangements
described in paragraph 1.14 being made by the Director of Finance, consulting the Director of Finance if possible"
B. Financial Procedure Rules Index

2.0 Financial Systems
   o Accounting System
   o All Financial Systems

3.0 Financial Administration
   o Approved officers
   o Orders for works, services and supplies
   o Payments for works, services and supplies
   o Salaries and other payments to employees
   o Income
     o Credit Income
     o Cash Income
   o Writing off of debts
   o Monitoring income collection
   o Banking arrangements
   o Cash advances, petty cash and imprest accounts
   o Stocks and Stores
   o Asset Register and inventories
   o Buildings & Land
   o Risk management and insurance

4.0 Revenue Budgets

General Fund and HRA
   o Setting budgets
   o Incurring expenditure and collecting income
   o Controlling expenditure and income
   o Reserves
   o Monitoring expenditure
   o Reporting outturn
   o Changes in Policy

Trading organisations
   o Budget setting
   o Accounting records
   o Budget management
   o Surpluses
   o Other

5.0 Capital Programme
   o Capital Programme
     o Additions and amendments to Capital Programme
   o Incurring expenditure
   o Cost increases
   o Capital monitoring
   o Carry forward of resources
   o Capital receipts
6.0 Treasury Management
   - Loans
   - Leasing of assets
   - Investments

7.0 Internal Audit
   - General
   - Audit Planning and reporting
   - Divisional Director’s responsibilities in respect of financial control and irregularities
   - Investigations

8.0 Document Retention

2.0 FINANCIAL SYSTEMS

Definition
2.1 In this section of Finance Procedure Rules, a financial system means any system (computerised or otherwise) and associated procedures for making or recording any financial transaction of the Authority.

Accounting Systems
2.2 The Director of Finance is responsible for the provision of a corporate system for the preparation of the Council’s accounts and for monitoring expenditure and income. This is currently provided by means of the Council’s Resource Management System, (RMS) which is Agresso Business World.

2.3 Divisional Directors are responsible for ensuring RMS accurately records the financial transactions of their functions, and for complying with any guidance issued by the Director of Finance. Divisional Directors shall ensure that transactions are recorded in a manner which complies with proper accounting practices, enables returns to be made to taxation authorities, and complies with other legal requirements. The Director of Finance shall give whatever guidance is necessary to ensure that this obligation can be fulfilled.

2.4 Divisional Directors shall use RMS as the prime means of monitoring expenditure and income in their services and for comparing spending against budget, except where the Director of Finance advises or agrees that alternative arrangements can apply. Divisional Directors shall keep such subsidiary information and records as are necessary to effectively monitor expenditure, income and commitments, and to support returns made to the taxation authorities.
2.5 Divisional Directors shall provide all relevant information deemed necessary to compile the Council's final accounts in accordance with guidance issued by the Director of Finance.

**All Financial Systems**

2.6 Divisional Directors may not make changes to financial systems without the agreement of the Director of Finance. Proposals for changes in staffing and organisational arrangements relating to financial systems shall also be agreed with the Director of Finance prior to implementation. The Director of Finance may waive these requirements for consultation in circumstances where he or she is satisfied that change will not prejudice the proper administration of the Council’s financial affairs. The Director of Finance will normally delegate such permissions to heads of finance.

2.7 Each Divisional Director shall be responsible for the effective operation of financial systems to the extent that they are operated or controlled within their services and shall ensure proper security and confidentiality including adherence to the requirements of Data Protection and other information legislation.

2.8 Each Head of Finance shall monitor the effectiveness of financial systems in his or her supported services and shall in particular ensure that financial systems discharge the Director of Finance’s duty to ensure that there is proper administration of the Council’s financial affairs. Where Heads of Finance believe that systems are ineffective, they shall report the matter to the relevant Divisional Director in the first instance (as a breach of regulation 2.7 above) but shall also report the matter to the Director of Finance if it appears that the matter cannot be satisfactorily resolved.
3.0 FINANCIAL ADMINISTRATION

3.1 In the following sub-sections 3.2, 3.3, 3.4 and 3.6 references are made to the use of RMS. Where RMS is not used, alternative arrangements must be approved by the Director of Finance.

3.2 Authorised Officers

3.2.1 Divisional Directors shall authorise appropriate officers to undertake the following duties. No other officers may undertake the functions of an authorised officer:

(a) Raising purchase requisitions, normally on RMS, for works, supplies or services;

(b) Approving purchase requisitions or otherwise generating official orders;

(c) Certifying, normally on RMS, the receipt of works, supplies or services;

(d) Approving personnel variations, time sheets, officer expense claims, petty cash, imprest accounts, change floats, cash advance forms, debtors accounts, internal recharges and end of year stock certificates; and

(e) Certification for cheques, BACS authorisation, CHAPS authorisation and grant claims;

(f) Certifying payments for goods, works and services.

3.2.2 Divisional Directors shall ensure that authorised officers have appropriate seniority and expertise to ensure that they are able to discharge the functions assigned to them for the purposes of these rules. Authorised Officers are accountable to their Divisional Directors for the exercise of these functions.

3.2.3 Divisional Directors shall ensure that arrangements are made for effective separation of duties when designating authorised officers, in order to provide adequate internal check over all transactions, and comply with any guidance given by the Director of Finance. Divisional Directors shall ensure
that the arrangements for authorised officers are consistent with the budgetary control framework for their division (see Section 4 of these Rules) and that in particular cost centre managers’ ability to manage their budgets is safeguarded.

3.2.4 Divisional Directors shall maintain, in a single place, an up-to-date record of all authorised officers, together with specimen signatures where appropriate. Lists of authorised officers can be found on InterFace.

3.2.5 References to Authorised Officers in the rest of this section of Financial Procedure Rules shall be read in the context of the above.

3.3 Orders for Works, Supplies and Services

3.3.1 The Director of Finance is responsible for providing a corporate system for raising purchase requisitions and creating orders (RMS). This system shall be used for all orders, except in emergencies, or in accordance with other arrangements specifically approved by the Director of Finance. In giving such approval, the Director of Finance shall ensure the alternative arrangements provide for effective financial control, and shall have regard to the continuing viability of the corporate arrangements.

3.3.2 Official orders shall be issued for all purchases, excluding the following items:

i. Purchases through petty cash and imprest accounts.

ii. Recurring charges such as gas, electricity and telephone charges and other charges for which a payments register or other method of recording/monitoring payments is more appropriate than an order.

3.3.3 When raising or approving purchase requisitions or placing orders, authorised officers, shall ensure that contract procedure rules have been complied with (this will be satisfied by placing orders with approved suppliers).

3.3.4 In those exceptional circumstances in which the corporate system is not used, Divisional Directors shall only obtain official order forms in accordance with arrangements approved by the Director of Finance and shall be responsible for their control and use.

3.3.5 Where urgent orders are given orally, they shall be confirmed immediately by an official order.

3.3.6 Requisitions and orders should be specific, e.g. they should state
quantity, weight, size, grade, quality, and where practicable, price. Where supplies are ordered under contract, it is particularly important that the order and contract have the same specification of supplies required.

3.4 Payments for Works, Supplies and Services

3.4.1 The Director of Finance is responsible for providing a corporate system for the payment of accounts (RMS). Divisional Directors shall use this system for all payments except in accordance with other arrangements specifically approved by the Director of Finance. In giving such approval, the Director of Finance shall ensure that the alternative arrangements provide for effective financial control, and shall have regard to the continuing viability of the corporate arrangements.

3.4.2 Authorised officers shall ensure that payments for works, supplies or services are not made unless:

(a) Works, supplies or services have been appropriately procured. In this context, this means:

(i) Works, supplies or services are being supplied in accordance with an official order, and the amount invoiced is correctly payable. The official order number should be quoted on the invoice; or

(ii) Payment is in respect of a service regularly supplied (e.g. gas and electricity), and the amount invoiced is properly payable; or

(iii) Payment is made for works, supplies or services under contract, and the amount is properly payable under the terms of that contract.

(b) Works, supplies or services have been evidenced as received (unless the contract explicitly allows for payment in advance). This means:

(i) The works, supplies or services have been certified as received by an authorised officer (normally done through RMS); or

(ii) They have been certified as received under specific alternative arrangements which have been approved by a Divisional Director.

(c) Appropriate payment documentation exists. This means an invoice or contract certificate which satisfies VAT regulations.

3.4.5 Notwithstanding the above, a payment can be made where the Council has
a clearly established contractual obligation to make a payment. The Head of Procurement should be advised of the circumstances

3.5  **Salaries and other payments to employees**

*Rules*

3.5.1 The Director of Finance is responsible for approving a corporate payroll system for recording payroll data and for generating payments to employees. The Director of Finance is also responsible for ensuring that National Insurance, Income Tax and any other such liabilities are properly determined and that deductions due are made and properly accounted for.

3.5.2 Divisional Directors shall use the corporate payroll system for all payments to employees.

3.5.3 Where payments are made for services in which the relevant taxation authorities deem that a contractor is “employed” by the Council, Divisional Directors are responsible for ensuring that National Insurance, Income Tax and any other such liabilities are properly determined, and deductions due are made and properly accounted for.

3.5.4 Except where employees are responsible for providing data directly themselves, Divisional Directors are responsible for ensuring that all information affecting an employee’s entitlement to pay, or rate of pay, and all other information required for the smooth operation of the corporate payroll, shall be notified to the Employee Service Centre. This shall be done by means of direct input to the corporate payroll system or by means of a form, in either case following procedures approved by the Director of Finance. In either case, Divisional Directors shall make arrangements for data supplied to be verified and authorised by an authorised officer. In particular the following shall be notified:

i. Appointments, resignations, dismissals, suspensions, secondments and transfers;

ii. Changes to standing data held on the payroll system;

iii. Absences from duty for sickness or other reason, apart from approved leave;

iv. Changes in remuneration, other than normal increments, pay awards and any agreements generally reached, and notified separately to the Director of Finance; and

v. Information necessary to maintain records of service for superannuation, Income Tax, National Insurance and related purposes.
3.5.5 All time records or other paper documents affecting entitlement to salaries and wages on any specific occasion shall be in a form approved by the Director of Finance and shall be processed in accordance with procedures specified by the Director of Finance. These documents shall be signed by the employee and certified as correct by an authorised officer. Alternatively, the Director of Finance may require such documents to be submitted electronically.

3.5.6 All claims for payment of car allowances, travelling and subsistence allowances, removal expenses and the like shall be submitted in an approved form to the Director of Finance for payment and be certified as correct by an authorised officer. Alternatively, the Director of Finance may require such documents to be submitted electronically.

3.5.7 All claims for the payment of Councillors’ allowances and expenses shall be submitted in a form specified by the Director of Finance which complies with statutory requirements, and certified as correct by an authorised officer. Alternatively, the Director of Finance may require such documents to be submitted electronically.

3.5.8 The Monitoring Officer has discretion to make monetary advances to Councillors and officers on account of expenses to be incurred, at the request of a Director. Councillors and Officers who receive advances on account of expenses shall repay them in accordance with the terms of the advance.

3.5.9 Any other benefits provided to employees, in particular benefits in kind rather than in cash, but also including such things as payments received by staff for Jury Service, may/will also be taxable and/or liable to National Insurance contributions, and may also be subject to a deduction from pay. The responsibility for identifying any liabilities in this respect is with each Divisional Director who should seek advice from the Director of Finance where appropriate.

3.6 Income

3.6.1 In this sub-section of the Finance Procedure Rules, money means all cash, cheques, or other forms of payment including credit/debit cards.

**Credit Income**

3.6.2 The Director of Finance is responsible for approving a corporate invoicing system (RMS). Divisional Directors shall use this system for all credit income except in accordance with other arrangements specifically approved by the Director of Finance. In giving such approval, the Director of Finance shall ensure that the alternative arrangements provide for effective financial control, meet with the requirements of the appropriate taxation authorities.
3.6.3 Divisional Directors are responsible for ensuring that all debts due to the Council are promptly and accurately raised and either collected in money (or other forms of immediate payment) or invoiced.

3.6.4 The Director of Finance is responsible for collecting all income invoiced via the corporate invoicing system, or for writing-off debt as non-collectable under the provisions of these Rules.

3.6.5 Divisional Directors are responsible for making changes to fees and charges in order to fulfil their obligations under FPR 4.4.3 below. Such changes only need to be referred to the relevant Scrutiny Committee for consideration and comment at the discretion of the relevant Strategic Director.

3.6.6 Divisional Directors shall advise the Director of Finance of any new sources of income which are exempt from VAT, and of material change to existing sources of income which are exempt from VAT.

**Cash Income**

3.6.7 Officers responsible for the collection of money shall ensure that money collected is recorded and banked without undue delay.

3.6.8 Subject to the following Rules, all receipt forms, tickets and other types of controlled stationery by which income is acknowledged shall be ordered and supplied to divisions by the Director of Finance; and Divisional Directors shall be responsible for the safe custody of such documents.

3.6.9 Receipts and other forms of controlled stationery which are specific to a particular function may be ordered and controlled by the appropriate Divisional Director, in accordance with arrangements approved by the Director of Finance.

3.6.10 All cash received must be acknowledged at once by the issue of an official receipt or ticket, or an entry on a payment card provided for the purpose. No officer or agent of the Council shall give a receipt for cash received on behalf of the Council in any form other than an official receipt. No acknowledgement need be given for payment by cheque, however, unless requested by the debtor.

3.6.11 All money received must be accounted for and paid into an approved bank account, either directly, or via Cash Collection centres or the Area Housing Offices, on the day of the receipt, or as soon as practicable thereafter, dependent on the values involved and arrangements for the safe custody of cash (i.e. ensuring insurance value limits are not exceeded). An officer may on no account borrow any money temporarily for their own use, nor should they, except in the case of expenses they incur whilst travelling on Council business, make payments on behalf of the Council from their own pocket. Arrangements may be made with the
3.6.12 An officer is responsible for the safe custody of any money she or he has received until it has been balanced and banked or handed over to another officer for banking. If the money is handed over to another officer, a receipt should be obtained from the officer receiving it. If the money is in a sealed container, the officer should obtain a receipt for the container.

3.6.13 Whilst money is in their custody, officers should, at no time, leave it unattended unless it is locked in a safe place, to which the officer alone has access, and which fulfils insurance requirements.

3.6.14 All officers who pay money into any of the Council's bank accounts shall list the amount of every cheque on the paying-in slip and the counterfoil or duplicate, together with some reference, such as an account number, which will connect the payment with the debt; or failing this, the name and address of the debtor.

3.6.15 Cash received by officers on behalf of the Council shall not be used to cash postal orders, personal or other cheques.

3.6.16 The Director of Finance is responsible for approving all systems for the processing of payments by debit, credit and top up payment cards.

3.7 Write-Off of Debts

3.7.1 No debt properly due to the Council shall be discharged otherwise than by:

   i. payment in full;

   ii. write-off.

3.7.2 Subject to conditions set out below, all debts which a Divisional Director or the Director of Finance has been unable to recover at reasonable effort and expense and for which normal recovery processes have been exhausted, shall be referred without delay to the Head of Legal Services.

3.7.3 Debts may be written off as follows:

   i. By the relevant Divisional Director or Director of Finance for debts up to £2,000;

   ii. By the Head of Legal Services for debts above £2,000, subject to periodic reporting of such action to the Overview Select Committee.

   provided that: there is a properly established, enforceable debt, which remains unpaid in whole or in part, and is irrecoverable at reasonable effort and expense, or is remitted by a competent court. In the event that
there is reason to believe that the cause of any debt being irrecoverable is attributable to fraud, theft, irregularity or the negligence of an employee, the Strategic or Divisional Director shall refer the matter to the Head Of Audit (HoA) under FPR 7.3.3. The debt shall not be written off until any necessary investigative or other action has been agreed by the Strategic or Divisional Director and the HoA.

3.7.4 The Director of Finance or Head of Legal Services may also write down to £1 any debt subject to insolvency proceedings pending resolution of the case, provided that s/he shall report periodically such actions to the Overview Select Committee.

3.8 Monitoring of Income Collection

3.8.1 The Director of Finance shall report twice a year to the Overview Select Committee on progress with the collection of the Council’s income, with particular reference to the arrears outstanding in respect of each main class of income, debts written-off and action being taken to recover or reduce those arrears.

3.9 Banking Arrangements

3.9.1 In this sub-section of the Finance Procedure Rules, the Council’s main bank accounts are all bank accounts maintained by the Council other than those operated solely for specific establishments or purposes.

3.9.2 The Director of Finance is responsible for operating the Council’s main bank accounts. Divisional Directors may open and maintain other Council bank accounts for specific purposes in accordance with arrangements specifically approved by the Director of Finance, or, for schools, in accordance with the Scheme for Financing Schools.

3.9.3 The Director of Finance is responsible for ensuring that regular and complete reconciliations are carried out, for all the main bank accounts, of balances held to financial records maintained. Divisional Directors are responsible for ensuring that regular and complete reconciliations are carried out of all other Council bank accounts maintained by them. Arrangements for carrying out such reconciliations shall be in a form specifically approved by the Director of Finance.

3.9.4 All cheques (except imprest cheques) for the Council’s main bank accounts shall be produced directly from RMS in a format approved by the Director of Finance, who shall make proper arrangements for the preparation and despatch of the cheques, and for the custody of blank cheques.

3.9.5 Imprest cheques shall be ordered and controlled by the Director of Finance who shall make proper arrangements for the safe custody of blank cheques and the preparation, signing and despatch of the cheques.
Divisional Directors shall ensure that for all other Council bank accounts cheques are held, prepared, signed and despatched in a form approved by the Director of Finance.

3.9.6 All cheques drawn on the Council’s main bank accounts shall bear the pre-printed signature of the Director of Finance or, in the case of imprest cheques, be signed by the Director of Finance or signatory authorised by him or her. Cheques drawn on any other Council bank accounts should be signed by an authorised officer.

3.9.7 The Director of Finance is responsible for ensuring that all payments made from the main bank accounts by way of Clearing House Automated Payments (CHAPs) and Bankers Automated Credits (BACs) transactions are properly controlled and suitably authorised.

3.9.8 The Director of Finance is responsible for sanctioning the issue of Corporate Credit Cards to staff and members and for reconciling expenditure incurred to the main bank accounts. Divisional Directors are responsible for ensuring that staff use the cards in accordance with procedures issued, including the provision of valid receipts to support the expenditure incurred. Where Corporate Credit Cards are not used in accordance with stipulated procedures then the Director of Finance may withdraw the arrangement.

3.10 Cash Advances, Petty Cash floats and Imprest accounts

Definitions

3.10.1 For the purposes of this sub-section of the Finance Procedure Rules the following definitions shall apply:

A cash advance is a specific cash loan made to an employee to enable them to purchase appropriate items/services in connection with their employment by the City Council.

A petty cash float / imprest account is an amount of money provided for the purpose of funding small cash payments incurred on behalf of the City Council.

A petty/imprest cash book is a record of cash payments made from a petty cash /imprest account.

A cash voucher is a receipt or other document evidencing the making of a payment from petty cash float / imprest account, supplied by the vendor.

A petty cash float / imprest account holder is an officer authorised by their Divisional Director to hold a petty cash float or imprest account.
Rules

3.10.2 The Director of Finance may provide cash advances from the main Cash Office, or other designated distribution points, to employees for such amounts as are considered necessary by Divisional Directors for the purpose of meeting expenses. Divisional Directors are responsible for ensuring that employees promptly return any unused advances together with valid receipts to support monies expended, to the appropriate distribution point. Where this does not occur the Director of Finance may authorise deduction of the appropriate sum from the employee’s next salary payment.

3.10.3 The Director of Finance may provide petty cash floats / imprest accounts of such amounts as are considered necessary by Divisional Directors for the purpose of meeting minor expenses.

3.10.4 Divisional Directors are responsible for making arrangements for the safe keeping and proper use of all petty cash / imprest accounts.

3.10.5 Each petty cash float / imprest account must be in the sole charge of a single petty cash float / imprest account holder, who is responsible for the proper use and safety of the sums held. Divisional Directors shall ensure that petty cash float / imprest account holders sign a document to confirm receipt when first acquiring a petty cash float / imprest account. The petty cash float / imprest account holder may use the account to make payments in respect of expenditure legitimately incurred for Council purposes, and must record payments made in a petty cash / imprest cash book. The petty cash float / imprest account holder shall obtain cash vouchers for all payments made, and such cash vouchers shall adequately record any VAT incurred and have VAT receipts attached. The person receiving the cash sum shall sign the voucher.

3.10.6 When a petty cash float /imprest account needs replenishing, the petty cash float /imprest account holder shall summarise payments made on a record in a form approved by the Director of Finance. The record must be certified as correct by an authorised officer, who must check the petty/imprest cash book, the cash vouchers and any cash held. The completed record, and such other documentation as the Director of Finance shall require, shall be presented to the Director of Finance for reimbursement.

3.10.7 Each petty cash float /imprest account must be kept in a lockable box to which the petty cash/imprest account holder alone has access. The box shall be kept securely, for example in a lockable cupboard or safe, in accordance with arrangements specified by the Director of Finance (Specific requirements for Insurance cover must be met).

3.10.8 On ceasing to hold a petty cash float /imprest account, the petty cash /imprest account holder must produce the petty/imprest cash book,
vouchers and any unspent balance to an authorised officer for checking and retention. The advance will then be handed over to a successor nominated by the Divisional Director, or returned to the Director of Finance.

3.10.9 Petty cash float /imprest account should only be used for small transactions where it is quicker and more efficient to buy the goods locally rather than by official order.

3.10.10 Travelling, subsistence and post-entry training expenses should be reimbursed through the appropriate allowance payment systems, and not from petty cash float /imprest account.

3.10.11 No income should be paid into a petty cash float/imprest account.

3.10.12 For the purposes of closure of the Council’s accounts each financial year end, the Director of Finance will require a certificate from each petty cash float /imprest account holder, which should be countersigned by an authorised officer, providing such details as the Director of Finance shall specify.

3.10.13 Divisional Directors shall keep up-to-date records of petty cash float /imprest account holders.

3.11 Stocks and Stores

3.11.1 Divisional Directors may hold stocks of consumable items; materials; and equipment for use in the maintenance of assets under their control and the provision of services. They are responsible for the receipt, custody and issue of stock items for their functions and for maintaining suitable records which comply with any guidance given by the Director of Finance. Divisional Directors shall ensure that arrangements to operate their own stores continue to represent value for money to the Council as compared to obtaining materials direct from suppliers.

3.11.2 Divisional Directors shall ensure that stock items are effectively safeguarded from loss, theft or damage.

3.11.3 Divisional Directors shall arrange for a periodic stock-take to be undertaken independently of the employees responsible for the custody of those stocks, such that the existence and value of all items are checked at least once a year. The write-off of deficiencies or adjustments related to individual stock items may be authorised as follows:

i. By the relevant Divisional Director for write-offs which do not exceed £5,000, subject to an overall limit equivalent to 5% of total opening stock; and

ii. By the Director of Finance for write-offs in excess of £5,000 subject to
periodically reporting the write-offs to the Overview Select Committee.

3.11.4 The value of stocks held at 31st March each year shall be certified by an authorised officer and supplied to the Director of Finance in such form and at such time as may be decided by the Director of Finance.

3.11.5 Surplus and obsolete stocks and stores must be disposed of by Divisional Directors on the best terms possible. Divisional Directors shall comply with any guidance given by the Director of Finance in respect of identification of the fact that stock is surplus or obsolete. Where such items are not disposed of and or sold to a company under contractual terms, they may, when judged best, and, subject to independent check, be offered for sale to staff, provided that permission to proceed is first obtained from the Risk Management Section (x 297465) and that subject to that permission, the sale is advertised to as many staff as possible (e.g. using the intranet) for a reasonable length of time (i.e. no less than 4 weeks).

3.11.6 All devices that could contain data (e.g. PCs, laptops, mobile phones, hand held communication devices, memory sticks etc.) must be disposed of through ICT.

3.11.7 Any disposals shall be recorded by the Divisional Director concerned and records maintained.

3.12 Asset Register and inventories

Definition

3.12.1 In this sub-section of the Council’s Finance Procedure Rules, the following definitions shall apply:

An asset register is a register of all significant assets owned by the Council, which is maintained by the Director of Finance for statutory accounting purposes.

An inventory is a record of all plant, machinery, vehicles, equipment and other assets under the custody of Divisional Directors, including assets the Council does not own outright. It should aid effective control of such assets and can support the management of risk of loss or damage.

Rules

3.12.2 The Director of Finance shall have access to all inventories and other records maintained by Divisional Directors for the purposes of compiling and maintaining an asset register in accordance with the relevant accounting regulations.

3.12.3 Divisional Directors will maintain inventories and other records to support
the asset register in a format agreed by the Director of Finance. Any individual items of plant, machinery, equipment and other assets that are capitalised will be included in the asset register.

3.12.4 The Director of Finance will also specify what other inventories and records need to be maintained by Divisional Directors in order to help safeguard the items recorded in it from loss, theft or damage.

3.12.5 Divisional Directors shall be responsible for carrying out an annual check of all items on all inventories and other records of equipment maintained. Based on original cost, the write-off of deficiencies may be authorised as follows:

i. By the relevant Divisional Director for amounts not exceeding £2,000.

ii. By the Director of Finance for amounts exceeding £2,000 subject to periodically reporting the write-offs to the Overview Select Scrutiny Committee.

3.12.6 Any significant variations should be investigated and reported to the Director of Finance for insurance purposes, with consideration given to reporting the matter to the Director of Finance as a suspected irregularity, under Section 7 of the Finance Procedure Rules.

3.12.7 With the exception of portable IT and communication devices issued to individual officers to assist them in undertaking their duties, assets in the custody of the City Council shall not be removed from Council premises, other than in accordance with the ordinary course of the Council's business, or used otherwise than for the Council's purposes, except where specifically authorised by the appropriate Divisional Director.

3.12.8 Surplus or obsolete items should initially be offered for use elsewhere in the Council, and where not required, disposed of by Divisional Directors on the best possible terms. Where items are to be disposed of for a sum which is less than current value, by an amount which exceeds £2,000, then this shall be authorised by the Director of Finance, subject to periodically reporting the disposals to the Overview Select Committee. Where such items are not disposed of and or sold to a company under contractual terms, they may, when judged best, and, subject to independent check, be offered for sale to staff, provided that permission to proceed is first obtained from the Risk Management Section (x 297465) and that subject to that permission, the sale is advertised to as many staff as possible (e.g. using the intranet) for a reasonable length of time (i.e. no less than 4 weeks).

3.12.9 All devices that could contain data (e.g. PCs, laptops, mobile phones, hand held communication devices, memory sticks etc.) **must** be disposed of through ICT.
3.12.10 Any disposals shall be recorded by the Divisional Director concerned and records maintained.

3.12.11 Divisional Directors shall advise the Director of Finance of the disposal of items for which an adjustment is required to an asset register.

3.13 **Buildings and Land**

3.13.1 The Divisional Director responsible for housing shall maintain records of all dwellings and other buildings erected or acquired under the Housing Acts, and the Divisional Director (Strategic Asset Management) shall maintain records of all other land and properties owned or occupied by the Council.

3.13.2 The Divisional Director responsible for housing shall maintain records of tenancies granted in respect of premises managed by the Housing Service, and the Divisional Director (Strategic Asset Management) shall maintain records of all other tenancies.

3.13.3 The Head of Legal Services shall have custody under secure arrangements of all title deeds, land certificates, leases, tenancy agreements and contracts and associated bonds under seal (and any other such documents). The Divisional Director responsible for housing shall have custody of agreements relating to the tenancy of premises managed by the Housing Revenue Account.

3.13.4 Terms of disposal should not be finalised without the benefit of a current valuation undertaken by the Divisional Director (Strategic Asset Management) or a suitable firm of valuers appointed under arrangements approved by that Director. The terms of disposal must also take account of the taxation implications to the Council of the disposal.

3.13.5 Except in the case of dwellings within the Housing Revenue Account, no property should be disposed of without the prior consultation and agreement of the Divisional Director (Property) or their designated representative.

3.13.6 Where disposal to an existing tenant takes place, the relevant Divisional Director shall ensure that all outstanding rent and local taxes have been discharged before the transfer takes place.

3.14 **Risk Management and Insurance**

3.14.1 The Director of Finance is responsible for ensuring that the Council’s risks are adequately assessed, and for arranging external insurance cover or making alternative arrangements to provide for potential future liabilities and losses.
3.14.2 Divisional Directors shall advise the Director of Finance of all risks, and changes to risks, in accordance with procedures specified by the Director of Finance. Strategic and Divisional Directors are not authorised to arrange insurance cover except via the Director of Finance.

3.14.3 Formal identification of key risks which could threaten identified service or Council objectives must be carried out using a risk management process approved by the Director of Finance. Identified risks and any remediable actions are to be agreed as part of the process which will include costs and timescales for action. Divisional Directors shall maintain operational risk registers and ensure that they are kept up to date and monitored on a quarterly basis, reporting significant divisional risk / projects to the Director of Finance.

3.14.4 Any damage, loss or other event which may lead to an insurance claim shall be notified immediately to the Director of Finance. No action should be taken or undertaking given by any officer which would prejudice the Council’s position in making an insurance claim. Failure to inform the Director of Finance of any changed circumstances could affect the validity of the insurance cover.

3.14.5 Divisional Directors are responsible for ensuring compliance with the terms of any relevant insurance policy and for implementing any other advice given by the Director of Finance on the management of insured and uninsured risks.
4.0 REVENUE BUDGETS

GENERAL FUND AND HRA BUDGETS

4.1 General

These rules apply to all activities of the Council, except for trading units for which the Council determines that separate rules in 4.9 to 4.14 shall apply.

4.2 Definitions

Budget ceilings are spending limits given to individual services when the annual budget is approved, as varied from time-to-time in accordance with the scheme of virement.

A corporate budget is a sum of money included in the annual budget which is not included in a budget ceiling. This may be a ceiling or an estimate.

The council tax requirement is the amount required by the Council from council taxpayers in any given year to meet its budgeted expenditure.

A departmental budget is the sum of all budget ceilings for which a single strategic director is responsible.

An earmarked reserve is a reserve created for a specific purpose.

A carry forward reserve is a reserve created for the purpose of holding underspends carried forward.

A scheme of virement is a scheme approved as part of the annual budget, which may include:

(a) authority given to the Mayor and directors to vary budget ceilings;

(b) authority to commit monies held in corporate budgets;

(c) authority to create, add sums to, and commit sums held in, earmarked reserves.

4.3 Setting a Budget

4.3.1 The Council shall set a budget each year when considering a recommendation of the City Mayor. The recommended budget shall, as a minimum, contain:
(a) the proposed council tax requirement;
(b) the proposed band D council tax;
(c) budget ceilings for individual services and the departmental budget each forms part of;
(d) a scheme of virement.

4.3.2 The Director of Finance shall advise the Council on the adequacy of the estimates made in the Mayor’s recommended budget, the adequacy of reserves, and risks inherent within the budget.

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

4.3.4 Strategic directors shall ensure that a detailed budget is correctly recorded on RMS, as soon as practicable after the budget is approved by the Council.

4.4 Incurring Expenditure and Collecting Income

4.4.1 Subject to the following paragraph, strategic directors are authorised to incur expenditure on services for which there is approved budget provision within a budget ceiling. Finance and Contract Procedure Rules must be complied with when expenditure is incurred.

4.4.2 Strategic directors are responsible for collecting budgeted income.

4.4.3 Where budgeted expenditure is to be met by grant income, strategic directors are responsible for complying with the conditions of grant aid. This includes making arrangements for the appropriate retention of documents, including clear working papers, for audit purposes.

4.4.4 All applications for grant income must be signed by a strategic or divisional director, having taken advice from the Director of Finance. The certification of expenditure in support of a grant claim may only be authorised by the Director of Finance or his/her nominee.

4.5 Controlling Expenditure and Income

4.5.1 Each strategic director is responsible for:

i. managing the cost of each of his/her services within the provision contained within each budget ceiling;

ii. ensuring that their departmental budget is not overspent in total; this is the key control on which budget management is based.

4.5.2 Each strategic director is responsible for ensuring that there is a nominated cost centre manager responsible for controlling each budget
ceiling within his/her departmental budget. Budget ceilings may be divided amongst more than one cost centre manager, but each part of the departmental budget must be allocated to one (and only one) cost centre manager.

4.5.3 When nominating cost centre managers, strategic directors shall align budgetary accountability with managerial responsibility for use of resources as closely as possible.

4.5.4 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 strategic directors (through normal line management arrangements) in this regard.

4.6 Reserves

4.6.1 The Council’s budget management framework allows the creation of earmarked reserves, as permitted within the scheme of virement.

4.6.2 Each department shall have a carry forward reserve.

4.6.3 At the end of each year, resources shall be transferred to each department’s carry forward reserve equal to the amount by which there is an underspend on that department’s departmental budget.

4.6.4 If, notwithstanding the prohibition on overspending, a departmental budget is overspent, the amount of overspend shall be deducted from the relevant carry forward reserve (which may, as a consequence, become overdrawn).

4.6.5 Strategic directors may use sums held in carry forward reserves for such purposes as they see fit, subject to approval of a business case by the City Mayor.

4.7 Monitoring Expenditure

4.7.1 Each strategic director shall ensure there is a framework for monitoring budgets, which complies with guidelines given by the Director of Finance.

4.7.2 These frameworks must ensure that cost centre managers receive adequate information and training to enable them to control those parts of the budget for which they are responsible.

4.7.3 The Director of Finance shall periodically report progress on implementation of the budget to the City Mayor/Executive and the Overview Select Committee.

4.7.4 Each strategic director shall report progress on the implementation of his/her departmental budget to the Director of Finance, in such manner and to such timescales as the Director of Finance specifies.
4.7.5 The City Mayor/Executive shall hold strategic directors to account for their management and use of resources and may seek explanatory information from strategic directors as it sees fit.

4.7.6 The Overview Select Committee may seek further explanation from any strategic director as it sees fit, or refer any matter to the City Mayor/Executive for its consideration.

4.8 Reporting the Outturn

4.8.1 The Director of Finance shall report the revenue outturn to the City Mayor/Executive and to the Overview Select Committee, as soon as practicable after the end of the financial year.

4.8.2 Each strategic director shall supply such information and explanations to the Director of Finance as is requested for the purposes of this report.

4.8.3 The City Mayor/Executive shall hold strategic directors to account for their management and use of resources during the course of the year and may seek further information from strategic directors as it sees fit.

TRADING ORGANISATIONS

4.9 Definitions

For the purpose of this part of this section of the Rules, the following definitions shall apply:

i. a trading organisation is a part of the Council to which these Rules apply as determined from time to time by the Council (and which makes income from selling its services either inside or outside the Council);

ii. a retained surplus is a trading surplus earned by a trading organisation which they are permitted to retain under these Finance Rules.

4.10 General

4.10.1 Rules in section 4.11 to 4.14 apply to trading organisations to which the Council determines they should apply. Other parts of the Authority’s budget shall be managed in accordance with the Rules in sections 4.1 to 4.8 above.

4.11 Budget Setting

4.11.1 Prior to the beginning of each year, the relevant strategic director shall set a budget for each trading organisation in accordance with a timescale and guidance given by the Director of Finance.

4.11.2 Arrangements for supplying work to Council services, and charging for such work, shall be made prior to the beginning of each year following
consultation with client strategic directors.

4.12 Accounting Records

4.12.1 Accounts of trading organisations shall be kept in accordance with legislation, statements of accounting practice issued by CIPFA, and other instructions issued by the Director of Finance.

4.13 Budget Management

4.13.1 Strategic directors responsible for trading organisations shall ensure that each organisation achieves its budgeted return.

4.13.2 Where it appears that the budgeted return is not going to be achieved, the relevant strategic director shall advise the Director of Finance and take appropriate action. He/she should make recommendations to the City Mayor/Executive as necessary. The following action is available:

i. to reduce the costs of the organisation;

ii. to seek alternative sources of income;

iii. to supply additional chargeable work in accordance (in the case of internal clients) with arrangements set prior to the beginning of the year (see above);

iv. to reduce the budgeted return of the organisation (this will usually involve creating a deficit budget).

4.13.3 Where action (iv) is to be taken, the relevant strategic director is responsible for finding compensating savings within a budget ceiling for which he/she is responsible.

4.13.4 Notwithstanding the above, where it appears that a budgeted return is not achievable, a strategic director may decide to take no action, provided that failure to achieve the budgeted return can be accommodated within the aggregate retained surpluses from previous years of the trading services under his/her control.

4.13.5 The Director of Finance shall report part year and full year trading results of each trading organisation, and strategic directors shall ensure that information is provided as required.

4.14 Surpluses

4.14.1 Each strategic director may retain such proportion of the aggregate surplus of his/her trading organisations as the City Mayor shall specify under this Rule. The current proportion is 50%.

4.14.2 Retained surpluses may be used, subject to approval of a business case by the City Mayor, for the purposes of the trading organisation.
5.0 CAPITAL PROGRAMME

5.1 Definitions

In this section of Finance Procedure Rules:

Capital Resources are sums of money which may be spent on capital expenditure.

Service Resources are such capital resources as the Council may determine when it approves the capital programme.

Corporate Resources are all capital resources other than service resources.

The Capital Programme is the Council’s planned level of spending on all capital schemes.

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.

5.2 Capital Programme

5.2.1 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.

5.2.2 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.

5.2.3 The City Mayor shall recommend a capital programme to Council prior to the beginning of each period to which it relates on the basis of one or more reports referred to in paragraph 5.2.1. The programme may be for one or more years.

5.2.4 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;
5.2.5 When submitting a capital programme to the City Mayor, the Director of Finance (or director as the case may be) shall identify the following:

- The revenue consequences of any unsupported borrowing;
- The revenue consequences of any schemes apart from the cost of borrowing;
- The extent to which borrowing is affordable, sustainable and prudent with reference to such indicators as the Director of Finance believes appropriate;
- The extent of any pre-commitment of capital resources in years beyond the plan;
- Where directors are authorised to commit expenditure on a scheme, the title of the director;
- The extent to which any schemes are grouped into programme areas.

5.2.6 The Director of Finance shall determine how controllable budgets are charged for any projects that are funded by borrowing in respect of capital consumption and interest.

5.3 Additions and Amendments to Capital Programme by Directors

5.3.1 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.

5.3.2 Directors can amend the approved programme by:

(a) transferring resources within programme areas;

(b) viring resources between schemes in their approved capital programme, or by using additional service resources, provided any increased costs or virement are below £250,000.

5.3.3 Additions and amendments made by directors shall be reported to the City Mayor/Executive as part of the next capital monitoring report (see paragraph 5.6).

5.4 Incurring expenditure

5.4.1 The approved capital programme shall specify the authority given to directors and the City Mayor to commit expenditure.

5.4.2 No expenditure may be incurred on a scheme funded by grant or third
parties contributions without written confirmation of these resources.

5.5 Cost increases

5.5.1 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.

5.6 Capital Monitoring

5.6.1 Directors are responsible for ensuring that there are proper arrangements within their service areas for monitoring physical and financial progress of capital schemes.

5.6.2 The Director of Finance shall periodically report progress on the capital programme and the outturn position to the City Mayor /Executive and the Overview Select Committee. Directors shall supply such information as may be required for the preparation of this report.

5.6.3 The Overview Select Committee may seek further information on the performance of individual schemes from directors or refer matters to the City Mayor for further consideration as they see fit.

5.7 Carry forward of resources

5.7.1 Any corporate resources unspent at the end of the financial year will be carried forward to future years unless the City Mayor determines otherwise, after consideration of the outturn position.

5.7.2 Any service resources unspent at the end of the financial year may be carried forward provided it is possible to do so.

5.8 Capital receipts

5.8.1 The Directors of Property and Housing are responsible for achieving capital receipts required to finance the capital programme.

5.8.2 The Director of Finance shall report the capital receipts received in the year to the City Mayor / Executive and Overview Select Committee as part of the capital monitoring reports.
6.0 TREASURY MANAGEMENT

6.1 General

6.1.1 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.

6.1.2 The Director of Finance shall review and seek Council approval, to a revised Treasury Management Policy at least every 3 years.

6.1.3 The performance of the Treasury Management function shall be reported periodically to the Overview Select Committee.

6.2 Loans

6.2.1 All borrowing shall be undertaken by the Director of Finance. Strategic and Divisional Directors do not have authority to borrow money.

6.2.2 At the beginning of each year, the Director of Finance shall seek the approval of the City Mayor / Executive to a Treasury Strategy for the year. The Strategy, which shall comply with the approved policy, shall identify the Authority’s strategy for borrowing and lending during the financial year.

6.2.3 The Director of Finance is responsible for ensuring that loans are effected in the Authority’s name to meet the needs of the Authority on the most economic terms. All borrowing shall comply with the Council’s Treasury Strategy.

6.2.4 The Authority’s Register of Stock, Bonds and Mortgages shall be the Director of Finance unless otherwise approved by the City Mayor / Executive in respect of any specific debt, and the Director of Finance is responsible for maintaining records of money borrowed by the Authority.

6.3 Leasing of Assets

6.3.1 This sub-section of the Council’s Finance Procedure Rules applies to all leasing of assets other than land and buildings.

6.3.2 The Director of Finance is responsible for securing agency status where necessary for the acquisition of leased assets with a financial company or broker, and shall from time to time make arrangements to lease various assets required by the Council where this is financially advantageous. The Director of Finance shall comply with the relevant
Contract Procedure Rules and Finance Procedure Rules when securing a company or broker or when leasing assets. Except where specified below the Director of Finance shall:

i. arrange all leases of assets entered into by the Authority;
ii. negotiate all lease extensions and terminations;
iii. negotiate arrangements with lessors for the disposal of unwanted assets;
iv. maintain records of all leases entered into by the Authority.

6.3.3 Divisional Directors may request the Director of Finance to arrange leases for specific items. Strategic and Divisional Directors are not permitted to negotiate or enter into leases except in the following circumstances:

i. short term lease or hire arrangements for a period of one year or less;
ii. leases for specialist equipment where the Director of Finance has agreed that such leases can be entered into without further reference to him/herself.
iii. arrangements for leases of equipment which are inclusive of a specialist repair and maintenance contract.

6.3.4 Where Divisional Directors enter into leases under the provisions of the above regulation, they may also terminate or extend such leases after consultation with the Director of Finance.

6.3.5 Divisional Directors are responsible for the following in respect of leased assets:

i. establishing appropriate insurance arrangements for leased assets;
ii. receipt of goods / assets to be leased;
iii. recording leased assets on divisional inventories of assets in accordance with Finance Procedure Rules on financial administration;
iv. ensuring assets are safeguarded during the period of the lease, and complying with all obligations under the lease in respect of the asset;
v. notifying the Director of Finance of the loss of any leased asset;
vi. arranging the disposal of unwanted leased assets in accordance with the lessor’s instructions at the expiry of a lease.

6.3.6 Divisional 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 costs of any early termination or similar charges.

6.4 Investments

181
6.4.1 At the beginning of each financial year, the Director of Finance shall seek the approval of the City Mayor / Executive to an annual investment strategy for that year.

6.4.2 The Director of Finance shall make arrangements for the investment and management of all of the Authority’s cash balances (including schools except where they opt out) in accordance with the Annual Investment Strategy, except in respect of any specific cash balances where other arrangements are approved by the City Mayor / Executive.

6.4.2 All investments under the control of the City Council shall be made in the name of the Authority unless otherwise agreed by Council in respect of any specific investments.
7.0 INTERNAL AUDIT

7.1 General

The primary role of the Internal Audit Service is to objectively examine, evaluate and report on the adequacy of the Council’s internal control environment as a contribution to the proper, economic, efficient and effective use of resources and the management of risk. Internal Audit also advises on, carries out and directly supports investigations into suspicions of fraud or financial irregularity.

Provision of an adequate and effective system of Internal Audit is the responsibility of the Council. The Council has delegated this function to the Director of Finance, who shall provide an Internal Audit Service to the City Council in accordance with statutory requirements and professional standards.

7.2 Audit Planning and Reporting

7.2.1 The Head of Audit shall prepare and agree with the Director of Finance an Annual Audit Operational Plan which will set out the intended work of Internal Audit over the coming year. The plan shall be based on an objective assessment of need arising from an analysis of risk and shall be approved, but not directed, by the Audit Committee. Irrespective of its means of delivery, every process, service and activity falling within the City Council’s responsibility shall be subject to the City Council’s system of internal audit.

7.2.2 The views of Strategic Directors shall be sought about which activities are to be included in the plan as being in need of audit.

7.2.3 Work outside the plan may also be specially commissioned at the request of a Strategic or Divisional Director. Any such reviews shall be risk-assessed by Internal Audit and only undertaken if the risks involved justify the audit work necessary.

7.2.4 Internal Audit shall at all times conduct its work in accordance with the Code of Practice for Internal Audit in Local Government, issued by CIPFA in 2006. Internal Audit shall also abide at all times by the requirements of the Council’s Internal Audit Charter.

7.2.5 For the purposes of carrying out an audit or investigation, Internal Auditors are authorised to:
   i. have access at all times to any City Council premises and property;
   ii. have access to all data, records, documents and correspondence relating to any financial or any other activity
of the City Council;

iii. have access to any assets of the City Council;

iv. require from any member, employee, agent, partner, contractor or other person engaged in City Council business any necessary information and explanation.

These rights of access include access to relevant records (whether electronic or otherwise) held by service providers. They apply to Council services provided under contracts and partnership arrangements of all kinds including joint and pooled arrangements. This right of access shall be incorporated within all relevant contract or service agreement documents involving City Council services provided other than internally. It applies to all internal auditors legitimately engaged on Leicester City Council Internal Audit business, whether they are employees of Internal Audit or are provided under an authorised agency or other contract or partnership.

7.2.6 Internal Audit shall remain at all times free from undue influence or other pressure affecting its actions and reporting.

7.2.7 Internal Audit shall report in its own name to the Director of Finance. The Head of Audit has the right to report directly to the City Mayor if, in his opinion, there are matters of concern that could place the Council in a position where the risks it faces are unacceptable.

7.2.8 From time to time, the Head of Audit shall report to the Audit Committee on progress made in delivering the Internal Audit Operational Plan.

7.2.9 Implementation of the recommendations made in internal and external audit reports shall be monitored by the Audit Committee. Strategic and Divisional Directors are accountable to the Audit Committee for ensuring that appropriate action is taken in accordance with those recommendations.

7.2.10 The Director of Finance shall report annually to the Audit Committee on the provision of the Internal Audit service. In addition, the Director of Finance shall report to the Audit Committee on the annual review of the effectiveness of the Council’s system of internal audit.

7.3 Divisional Directors’ Responsibilities in respect of financial control and irregularities

7.3.1 All Divisional Directors shall maintain proper financial controls in financial systems operated within their area of responsibility (see section 2 of these rules) and shall be responsible for the prevention,
detection and resolution of fraud and irregularities.

7.3.2 Divisional Directors shall cooperate fully at all times with Internal Audit and ensure that Internal Audit can properly fulfil its role. Any disputes or non-cooperation may be referred to the Director of Finance and ultimately the Audit Committee for resolution.

7.3.3 Immediately any actual or potential financial irregularity affecting the Council is known or suspected, the appropriate Strategic or Divisional Director shall inform the Head of Audit and make proposals in respect of any further investigation that may be required (and the extent of any support required from Internal Audit) and make proposals in respect of other action to be taken.

7.3.4 If the proposals are acceptable to the Director of Finance, Strategic and Divisional Directors shall carry out the proposed actions. Otherwise, alternative proposals shall be made.

7.3.5 Strategic and Divisional Directors are responsible for taking appropriate action on receipt of recommendations from Internal Audit, either as a consequence of a planned or specially commissioned review or an investigation into a suspected fraud or financial irregularity.

7.4 Investigations

7.4.1 For the purposes of carrying out an investigation, the corporate investigations team are authorised to:
   i. have access at all times to any City Council premises and property;
   ii. have access to all data, records, documents and correspondence relating to any financial or any other activity of the City Council;
   iii. have access to any assets of the City Council;
   iv. require from any member, employee, agent, partner, contractor or other person engaged in City Council business any necessary information and explanation.

   These rights of access include access to relevant records (whether electronic or otherwise) held by service providers. They apply to Council services provided under contracts and partnership arrangements of all kinds including joint and pooled arrangements. This right of access shall be incorporated within all relevant contractor service agreement documents involving City Council services provided other than internally.

7.4.2 All action taken shall comply with the Council’s Anti-Fraud and Corruption Policy Statement and Prosecutions Policy as adopted and approved by the Audit Committee.

7.4.3 In respect of investigations into suspected Housing and Council Tax
benefits fraud, the Director of Finance, or another person authorised by the Director of Finance for this purpose, shall have full discretion to determine the appropriate course of action, including referral to Legal Services or the Police for consideration of prosecution.

7.4.4 In all other cases, referral to the Police shall only be made after full consultation with the appropriate Strategic or Divisional Director and the Monitoring Officer.

8. **DOCUMENT RETENTION**

Officers and members must comply with the Authority’s current Document Retention and Disposal Policy.

This can be viewed by clicking on the hyperlink below

http://www.leicester.gov.uk/your-council/how-we-work/records-retention-and-disposal
PART 4G – CONTRACT PROCEDURE RULES

CONTRACT PROCEDURE RULES

This section was approved by Council on 18/06/15
PART 4G – RULES OF PROCEDURE ................................................................. 187
PREAMBLE .................................................................................................... 191
1. The Contract Procedure Rules ............................................................... 191
2. Aims ......................................................................................................... 191
3. Compliance with Contract Procedure Rules ....................................... 192
4. Procurement Guidance ........................................................................ 192
5. Processes ............................................................................................... 193
6. Transparency ......................................................................................... 193
7. Social Value ........................................................................................... 193
8. Collaboration .......................................................................................... 194
9. Best Value & the Delivery of Savings ................................................... 194
10. Contracts Database and Electronic Tendering System ....................... 194
11. Contract Management .......................................................................... 195
GENERAL PROVISIONS ............................................................................. 196
12. Status .................................................................................................... 196
13. Scope .................................................................................................... 196
14. Private Interests .................................................................................... 197
THRESHOLDS ............................................................................................... 197
15. Financial Parameters ............................................................................ 197
APPROVALS & REPORTING ......................................................................... 199
16. Procurement Plan ................................................................................ 199
17. Procurement Pipeline .......................................................................... 199
18. Procurement Strategy .......................................................................... 200
19. Monitoring & Reporting ....................................................................... 200
20. Minor Amendments to these Rules ..................................................... 200
21. Periodic Review of the Rules ............................................................... 201
22. Financial Approval ................................................................................ 202
<table>
<thead>
<tr>
<th>EXCLUSIONS, EXEMPTIONS &amp; WAIVERS</th>
<th>Page 203</th>
</tr>
</thead>
<tbody>
<tr>
<td>23. No Competition</td>
<td>Page 203</td>
</tr>
<tr>
<td>24. Exemptions &amp; Waivers</td>
<td>Page 203</td>
</tr>
<tr>
<td>25. In-House</td>
<td>Page 205</td>
</tr>
<tr>
<td>TERMS AND CONDITIONS</td>
<td>Page 206</td>
</tr>
<tr>
<td>26. Contract Duration</td>
<td>Page 206</td>
</tr>
<tr>
<td>27. Contract Terms</td>
<td>Page 206</td>
</tr>
<tr>
<td>28. Execution of Contracts</td>
<td>Page 206</td>
</tr>
<tr>
<td>29. Mandatory Clauses</td>
<td>Page 207</td>
</tr>
<tr>
<td>USE OF PROCEDURES</td>
<td>Page 210</td>
</tr>
<tr>
<td>30. Principles</td>
<td>Page 210</td>
</tr>
<tr>
<td>31. Minor Contracts</td>
<td>Page 210</td>
</tr>
<tr>
<td>32. Small Contracts</td>
<td>Page 210</td>
</tr>
<tr>
<td>33. Intermediate Contracts</td>
<td>Page 211</td>
</tr>
<tr>
<td>34. Large Contracts</td>
<td>Page 211</td>
</tr>
<tr>
<td>35. EU Contracts</td>
<td>Page 212</td>
</tr>
<tr>
<td>PROCUREMENT PROCEDURES</td>
<td>Page 213</td>
</tr>
<tr>
<td>36. Advertised Quotation</td>
<td>Page 213</td>
</tr>
<tr>
<td>37. Quick Quotation</td>
<td>Page 213</td>
</tr>
<tr>
<td>38. Targeted Quotation</td>
<td>Page 214</td>
</tr>
<tr>
<td>39. Competition for Funding</td>
<td>Page 214</td>
</tr>
<tr>
<td>40. Open Tender</td>
<td>Page 215</td>
</tr>
<tr>
<td>41. Restricted Tender</td>
<td>Page 215</td>
</tr>
<tr>
<td>42. Innovation Partnership and Design Contest</td>
<td>Page 216</td>
</tr>
<tr>
<td>43. Competitive Procedure with Negotiation</td>
<td>Page 217</td>
</tr>
<tr>
<td>44. Competitive Dialogue</td>
<td>Page 217</td>
</tr>
<tr>
<td>USE OF FRAMEWORK AGREEMENTS &amp; DYNAMIC PURCHASING SYSTEMS</td>
<td>Page 218</td>
</tr>
<tr>
<td>45. Value Categorisation of Framework Agreements &amp; DPSs</td>
<td>Page 218</td>
</tr>
<tr>
<td>46. LCC Framework Agreements</td>
<td>Page 218</td>
</tr>
<tr>
<td>47. Non-LCC Framework Agreements</td>
<td>Page 218</td>
</tr>
<tr>
<td>48. Dynamic Purchasing Systems (DPSs)</td>
<td>Page 219</td>
</tr>
<tr>
<td>CONDUCTING A PROCUREMENT PROCESS</td>
<td>Page 220</td>
</tr>
<tr>
<td>49. Fairness &amp; Equal Treatment</td>
<td>Page 220</td>
</tr>
</tbody>
</table>
50. Advertisement ............................................................................................................. 220
51. Specification .............................................................................................................. 221
52. Opening of Submissions .......................................................................................... 221
53. Reserved Contracts ................................................................................................... 223
54. Clarification of Submissions ...................................................................................... 224
55. Negotiation .................................................................................................................. 224
56. Standstill Period ......................................................................................................... 225
57. Contract Award .......................................................................................................... 226

CONTRACT MANAGEMENT & CONTRACT AMENDMENTS ....................................... 227
58. Contract Management ............................................................................................... 227
59. Financial Parameters for Contract Amendments ...................................................... 227
60. Contract Extensions .................................................................................................... 227
61. Contract Variations ..................................................................................................... 228
62. Novation of Existing Contracts .................................................................................. 229
63. Early Termination of Contracts ................................................................................ 229
64. Execution of Contract Amendments .......................................................................... 229

APPENDIX 1: DEFINITIONS .......................................................................................... 230

APPENDIX 2: INTERPRETATION OF THE CONTRACT PROCEDURE RULES FOR MAINTAINED SCHOOLS ................................................................. 233
Part 1: Interpretation of the Rules for Schools ................................................................. 233
Part 2: Amended Rules for Schools ............................................................................... 235
PREAMBLE

Defined words are shown with initial capital letters and definitions given/signposted in Appendix 1 at the end of these Rules.

1. **The Contract Procedure Rules**

1.1 These Contract Procedure Rules are a legal requirement and are part of the Council’s Constitution. Section 135 of the Local Government Act 1972 requires every local authority to make standing orders with respect to Contracts for the supply of Goods or for the execution of Works and provides that local authorities may make standing orders in respect of other contracts. Contract Procedure Rules fulfil these statutory requirements. Contract Procedure Rules set out the basic principles that must be followed by everyone proposing to enter into any Contract on behalf of the Council. Following these Contract Procedure Rules ensures that the Council meets its legal obligations and therefore it is important that all officers understand, apply and adhere to Contract Procedure Rules.

1.2 The Public Contracts Regulations 2015, which are derived from EU public procurement law, also require the Council to follow specific processes for certain contracts. Contract Procedure Rules are designed to ensure that open, fair and transparent processes are applied throughout the whole commissioning and procurement cycle in order to help secure Best Value and continuous improvements for the Council and protect the Council (and its officers and members) in the event of challenge and dispute.

1.3 Contract Procedure Rules apply to all the Council’s departments (including arrangements with Voluntary & Community Sector Enterprises (VCSEs). This means that every department, internal trading department and organisation or external partner managing Contracts on the Council’s behalf must comply with the Contract Procedure Rules.

1.4 If there is any doubt or lack of clarity as to the meaning or application of these Contract Procedure Rules, officers must seek advice from Procurement Services and/or Legal Services.

2. **Aims**

2.1 These Contract Procedure Rules aim to:

2.1.1 achieve Best Value and deliver savings from the market;

2.1.2 achieve accountability and transparency at all levels within the Council, and ensure an adequate audit trail is maintained;
2.1.3 ensure that officers comply with legal requirements and follow proper, fair and proportionate procedures for the involvement and selection of Bidders and the award of Contracts;

2.1.4 ensure that all procurement processes reflect appropriate quality requirements and that Submissions are judged by objective criteria set out in Invitation to Tender or Request for Quotation documentation;

2.1.5 ensure that all procurement processes are delivered within an appropriate legal framework

2.1.6 ensure that appropriate levels of monitoring exist to ensure compliance and that these Contract Procedure Rules are regularly reviewed to take account of new requirements;

2.1.7 ensure that as many potential suppliers as possible are able to identify opportunities and to put themselves forward;

2.1.8 ensure that the Council’s wider policy objectives are promoted (including environmental sustainability, economic regeneration, business continuity);

2.1.9 reduce the risk of fraud, bribery and corruption.

3. Compliance with Contract Procedure Rules

3.1 Where the Council fails to comply with procurement legislation, it leaves itself open to challenges from Bidders/Contractors who may bring claims for damages against the Council. Non-compliance may also lead to the Council being fined and/or having funding withdrawn.

3.2 Failure to comply with the provisions of Contract Procedure Rules may be considered as misconduct and result in disciplinary action. Where it is considered appropriate, misconduct may be reported to the Police with potential criminal consequences for any person involved.

3.3 Responsibility for compliance with Contract Procedure Rules rests with anyone who carries out procurement of Goods, Services or Works for, or on behalf of, the Council.

4. Procurement Guidance

4.1 The Head of Procurement, where appropriate in consultation with the City
Barrister, may from time to time publish procurement processes and/or
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.

4.2 Where there is any ambiguity or conflict between these Contract Procedure
Rules and or guidance issued under this Rule, the provisions of Contract
Procedure Rules shall take precedence.

5. **Processes**

5.1 Tender and Quotation processes assist Procuring Officers in meeting their
obligation to deliver a fair and transparent procurement process that
encourages competition and delivers good value solutions that meet the
requirements of the Council.

5.2 The higher the value and risk, the more rigorous the process. The Council
recognises the administrative cost involved in tendering Contracts and provides
for less exhaustive processes for lower value Contracts. These Contract
Procedure Rules set value levels and describe how these will apply together
with the procedures that must be followed. A risk assessment should be
conducted as required by the Council’s Risk Management Strategy and Policy
and this will inform the procurement process and documentation in many ways.

5.3 The use of electronic quotation and tendering processes helps to reduce the
burden, improve transparency and reduce the Council’s carbon footprint.

5.4 The procedures are designed in incremental steps depending upon the value of
the Contracts. Contracts that exceed the EU Thresholds are subject to the most
rigorous processes.

6. **Transparency**

6.1 The Council is required to ensure that its processes are fair and transparent
and will publish data in accordance with the requirements stated in the Local
Government Transparency Code 2014 and any additions or amendments
thereto.

7. **Social Value**

7.1 On 31st January 2013 the Public Services (Social Value) Act 2012 came into
effect. The Act 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.

7.2 The statutory requirements of the Public Services (Social Value) Act 2012 only apply to Services Contracts over the EU Threshold; however, the Council will, wherever possible, implement the principles of social value procurement into the commissioning and procurement of all Large and EU Contracts, and where appropriate Intermediate Contracts.

8. **Collaboration**

8.1 There may be demonstrable benefits of collaborative procurement with the wider public sector, as well as (where permitted) the private and voluntary sectors, and the Council should consider taking advantage of these where appropriate and including the opportunity for others to join in contracts that it is procuring.

9. **Best Value & the Delivery of Savings**

9.1 All officers must be mindful of their responsibility in securing Best Value through all procurement activity and must consider how savings can be delivered.

10. **Contracts Database and Electronic Tendering System**

10.1 Procuring Officers must record all Intermediate, Large and EU Contracts in the Contracts Database, which is part of the Electronic Tendering System.

10.2 With the introduction of the Electronic Tendering System, many of the requirements for security and segregation required for the processing of Submissions are covered by the security features built into the system. In addition the system is fully auditable.

10.3 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.

10.4 Any reference in these Rules to “written”, or “in writing”, will be satisfied by an e-mail, a process within the Electronic Tendering System or any other Electronic Means.

10.5 Electronic auctions may be used, so long as, where applicable, Regulation 35 of the Public Contracts Regulations 2015 is complied with.
11. **Contract Management**

11.1 Contracts must be properly managed after they have been awarded to ensure compliance and continuous improvement. Therefore in addition to the processes by which Contracts are established, these Contract Procedure Rules also cover aspects of contract management which relate to ongoing Contract Variation, price control or termination of Contracts at any time during the contract period.

11.2 The majority of the ‘life’ of most contracts is spent in contract management and effective performance management will help ensure that the contract delivers what is intended at the intended price. Contracts should include an appropriate framework for contract monitoring, quality assurance and measurement of continuous improvement. The need to maintain proper and auditable records cannot be over emphasised.
GENERAL PROVISIONS

12. **Status**

12.1 In the event of any inconsistencies between the provisions of Contract Procedure Rules and the provisions of the law, then the provisions of the law shall prevail.

12.2 These Contract Procedure Rules:

12.2.1 are made under Section 135 of the Local Government Act 1972 and all other relevant enabling powers;

12.2.2 are applicable to all members, officers and staff, including agency staff, interims and consultants, of the Council;

12.2.3 are applicable to all departments of the Council, including the Council’s trading organisations and organisations for which the Council is the accountable body;

12.2.4 are applicable where the Council is acting as agent for another body (principal) unless the principal directs otherwise;

12.2.5 must be adopted by any external Contractor that is acting as an agent 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;

12.2.6 shall be interpreted so far as possible to ensure the aims set out at Rule 2 of these Contract Procedure Rules are achieved;

12.2.7 are not applicable to expenditure between or within Council departments;

12.2.8 are applicable to Maintained Schools, as detailed/amended in Appendix 2, but are not applicable to Academies (including Free Schools).

13. **Scope**

13.1 These Contract Procedure Rules are applicable to the formation of Contracts and to any matters as may arise in the process of managing Contracts including those which change, vary or terminate any Contract during its term, or extend its term.

13.2 These Contract Procedure Rules are applicable to all Contracts for the:

13.2.1 provision, supply, and/or hire to the Council of Goods, Works
or intellectual property;

13.2.2 for the provision of Services, including consultancy, to the Council;
13.2.3 Works and Services Concession Contracts;
13.2.4 disposal of capital assets;

which may include Contracts from which the Council receives an income.

13.3 These Contract Procedure Rules apply to the award of a Contract where a sub-
contractor or supplier is to be nominated by the Council to a main Contractor.

13.4 These Contract Procedure Rules are not applicable to:
13.4.1 Contracts for the acquisition or disposal of any interest in land;
13.4.2 Contracts of employment;
13.4.3 Contracts for the lending or borrowing of money;
13.4.4 Grants that are given to support the aims and objectives of an
organisation or as gap funding, so long as they fall outside of the
following definition of procurement (taken from the Public Contracts
Regulations 2015): “the acquisition by means of a public contract of
Works, supplies or Services by [the Council] from economic operators
chosen by [the Council], whether or not the Works, supplies or
Services are intended for a public purpose”;
13.4.5 Functional arrangements with other public bodies, including
arrangements which meet the criteria set out in the Regulation 12 of
the Public Contracts Regulations 2015, so long as the advice and prior
written approval of the City Barrister has been obtained.

14. **Private Interests**

14.1 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.

14.2 Employees shall comply with the Code of Conduct for Officers (Appendix V of
the Local Conditions of Service). Section 7 of the Code deals with ‘Balancing
Personal and Work Life’ and includes requirements for registering interest and
maintaining the highest standards of probity and fairness.
14.3 Members' interests are governed by the Code of Conduct for Members. This includes the requirement for members to declare interests in Contracts to the City Barrister.

14.4 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, this interest must be notified in writing to the Procuring Officer, or (e.g. in the case of the Procuring Officer), to the Head of Procurement and/or City Barrister. Any such interest must be declared even if it has been declared on an earlier occasion, either generally or in relation to another Contract/procurement exercise. The Head of Procurement, in consultation as appropriate with the City Barrister, will decide how, if at all, the process, or the role of the person concerned, should be adjusted to ensure fairness can be demonstrated, and to reduce any potential accusation of misconduct, eliminate bias and maintain the integrity of the process.
**THRESHOLDS**

15. **Financial Parameters**

15.1 Before the procurement of any Contract is begun the Commissioning Officer must calculate its Estimated Value in accordance with this Rule.

15.2 The Estimated Value shall be calculated as follows:

15.2.1 Where the Contract period is fixed the Estimated Value shall be the total estimated maximum value of the Goods, Services or Works to be supplied over the period covered including any extensions to the Contract;

15.2.2 Where the Contract period is indeterminate the Estimated Value shall be calculated by multiplying the estimated average monthly value by 48;

15.2.3 For trials or pilots the Estimated Value shall be the value of the scheme or Contracts which may be awarded as a result;

15.2.4 For Concessions the Estimated Value shall include the total income, regardless of source, to the Contract or over the Contract period;

15.2.5 The Estimated Value must exclude Value Added Tax (VAT) but must include all other taxes and duties;

15.2.6 Periodic purchases for the same requirement, whether that is from the same or different contractors, must be aggregated over a minimum of a 12-month period;

15.2.7 Requirements for any department or section of the Council should be included (no department or section is permitted to regard itself as a ‘discrete operational unit’ within the terms of the Public Contracts Regulations 2015);

15.2.8 Where the Council may be contributing only part of the total value of a Contract, it is nevertheless the total Estimated Value that must be applied in determining the correct procedures to be applied under these Rules;

15.2.9 The value should be calculated considering the total consideration that the Contractor(s) will receive in return for carrying out the Contract, whatever the nature or source of the consideration.
15.3 Where there is any doubt as to the Estimated Value then the procedure for the higher categorisation must be used.

15.4 The requirement shall be looked at as a whole and must not be artificially split to avoid competition.

15.5 In calculating the Estimated Value, 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.

15.6 The following table sets out the thresholds for categorisation of Contract into value bands based on the Estimated Value as calculated following the principles set out above.

<table>
<thead>
<tr>
<th>Contract Categorisation</th>
<th>Value</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Goods &amp; Services</td>
<td>Works &amp; Concessions</td>
</tr>
<tr>
<td>Minor Contract</td>
<td>£0 - £1,000</td>
<td>£0 - £5,000</td>
</tr>
<tr>
<td>Small Contract</td>
<td>£1,000 - £10,000</td>
<td>£5,000 - £25,000</td>
</tr>
<tr>
<td>Intermediate Contract</td>
<td>£10,000 - £75,000</td>
<td>£25,000 - £250,000</td>
</tr>
<tr>
<td>Large Contract</td>
<td>£75,000 – EU Threshold</td>
<td>£250,000 – EU Threshold</td>
</tr>
<tr>
<td>EU Contract</td>
<td>Over EU Threshold</td>
<td>Over EU Threshold</td>
</tr>
</tbody>
</table>

15.7 Subject to the prior 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 Public Contracts Regulations 2015, and therefore not aggregate the value of all requirements. The Procuring Officer must follow a procedure to award the Contract based on the value of that ‘Small Lot’ alone and how it would be categorised in the table in Rule 15.6 above.
16. **Procurement Plan**

16.1 The Executive is responsible for periodically approving a Procurement Plan. The Procurement Plan will consist of a list of EU Contracts expected to be procured to alert members, the public and potential Bidder.

16.2 Before procurement of any EU Contract reaches the Advertisement stage, it must be approved either:

16.2.1 by the Executive through inclusion in the Procurement Plan; or

16.2.2 by the Executive through a separate decision approving commencement of procurement; or

16.2.3 by the Chief Operating Officer, in consultation with the Director of Finance and the City Barrister, through a separate decision approving commencement of procurement.

16.3 Where an EU Contract is being procured without an Advertisement stage, it must be approved by the Executive through either:

16.3.1 by the Executive through inclusion in the Procurement Plan; or

16.3.2 by the Executive through a separate decision approving procurement; or

16.3.3 by the Chief Operating Officer, in consultation with the Director of Finance and the City Barrister, through a separate decision approving procurement,

Prior to the Contract being awarded.

16.4 The award of any EU Contract pursuant to a procedure approved as per Rule 16.2 or 16.3 is delegated to the appropriate Divisional Director in consultation with the Head of Procurement and the City Barrister.

16.5 The award of all non-EU Contracts is delegated to officers as set out in Rule 28 below.

17. **Procurement Pipeline**
17.1 The Head of Procurement will maintain a Procurement Pipeline and make this available on the Council’s website to members, the public and potential Bidder, which will comprise:

17.1.1 the Procurement Plan; and

17.1.2 a similar list of known Intermediate Contracts and Large Contracts.

18. **Procurement Strategy**

18.1 The Executive is responsible for periodically approving a Procurement Strategy, which will include the Council’s approach to procurement and how procurement and management of Contracts will contribute to the overall aims and objectives of the Council.

19. **Monitoring & Reporting**

19.1 The Audit & Risk Committee will receive a report at least annually to include:

19.1.1 Delivery of the Procurement Strategy;

19.1.2 Achievement of the Procurement Plan;

19.1.3 Compliance with these Rules, including a summary of Waivers;

19.1.4 Any changes to these Rules made under Rule 20 below; and

19.1.5 Any proposals for changes to these Rules to be made to Full Council.

19.1.6 The Bi-annual monitoring reports prepared under section 19.2 below

19.2 The Executive will receive bi-annual monitoring reports of all Waiver activity undertaken pursuant to section 24 of these Rules and all Contract Extensions undertaken pursuant to sections 60.5 and 60.6 of these Rules.

20. **Minor Amendments to these Rules**

20.1 The Chief Operating Officer, in consultation with the Head of Procurement and the City Barrister, may from time to time amend the thresholds in the table in Rule 15.6.
20.2 The City Barrister, in consultation with the Head of Procurement, may from time to time amend these Rules:

20.2.1 To correct an error or clarify an ambiguity;

20.2.2 To reflect changes in the management structure, working practices and responsibilities, e.g. as set out elsewhere in the Constitution; and

20.2.3 To reflect changes in the law where otherwise these rules would not be constituent with the law;

20.3 If changes to these Rules are made pursuant to Rule 20.1 or 20.2 above, the City Barrister shall cause such changes to be published and the Constitution to be amended.

21. **Periodic Review of the Rules**

21.1 The Head of Procurement and City Barrister, in consultation with the Chief Operating Officer, shall at least every five years review these Rules and, if deemed appropriate, propose amendments to Full Council, following an initial report to Audit & Risk Committee.
22. **Financial Approval**

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

<table>
<thead>
<tr>
<th>Contract Categorisation</th>
<th>Financial Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minor Contract</td>
<td>Budget Holder(s)</td>
</tr>
<tr>
<td>Small Contract</td>
<td>Budget Holder(s)</td>
</tr>
<tr>
<td>Intermediate Contract</td>
<td>Head of Service</td>
</tr>
<tr>
<td>Large Contract</td>
<td>Divisional Director and Head of Finance</td>
</tr>
<tr>
<td>EU Contract</td>
<td>Divisional Director and Head of Finance</td>
</tr>
</tbody>
</table>
EXCLUSIONS, EXEMPTIONS & WAIVERS

23.  **No Competition**

23.1  The actions permitted under this Rule must be considered alongside the requirements of EU Directives, the Treaty on the Functioning of the European Union (TFEU), Acts of Parliament and UK Regulations, all of which take precedence over these Rules. Procuring Officers should seek advice from Procurement Services and Legal Services.

23.2  The Commissioning Officer may directly negotiate the award of a Contract without competition, to one or more Contractors for the following social care/education Services:

   23.2.1  residential placements sought for an individual with a registered care provider of their choice;

   23.2.2  supported living Services sought for an individual with an appropriate care and support provider of their choice under the National Health Service and Community Care Act 1990;

   23.2.3  individual school placements sought for a child with Special Educational Needs (SEN);

   23.2.4  social care and special education packages managed by or on behalf of individual clients under the personalisation agenda; and

   23.2.5  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 Contract or in the opinion of the Divisional Director.

In each case the Divisional Director must ensure that the contractor meets the relevant national minimum standards (for example those standards set by the Health and Social Care Act 2008, OFSTED and HMI) and that a record of the reasons for the choice of the Contractor is maintained on the individual’s case notes. A written record of the annual cumulative expenditure with each Contractor will be maintained by each division and made available for audit.

23.3  The Commissioning Officer may award a Minor or Small Contract without competition, following direct negotiation, to one or more VCSEs 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.

24.  **Exemptions & Waivers**
24.1 The Commissioning Officer may request an Exemption to the Contract Procedure Rules to directly negotiate the award of a Contract without competition by completing a Form for Exemptions & Waivers (FEW) for Contracts for:

24.1.1 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;

24.1.2 works of art, museum specimens or historical documents (the completion and authorisation of a FEW is not required if the Contract is for the Arts & Museum Service);

24.1.3 particular artistes and performers and bought-in productions (the completion and authorisation of a FEW is not required if the Contract is for Arts & Museum Service);

24.1.4 those genuine unforeseen emergencies (not of the Council’s own making), where immediate action is required, including in order to fulfil the Council’s statutory obligations under the Civil Contingencies Act 2004;

24.1.5 Goods, Services or Works where one of the criteria for use of the Negotiated Procedure without Prior Publication set out in Regulation 32 of the Public Contracts Regulations 2015 is met;

24.1.6 certain Services set out in Regulation 10 of the Public Contracts Regulations 2015:

   a) certain legal Services;

   b) certain financial Services; public passenger transport Services by rail or metro;

   c) certain civil defence, civil protection or danger protection Services.

24.2 When none of the circumstances listed in Rule 24.1 apply, the Commissioning Officer may, following consultation with the Head of Procurement, request a Waiver of the Contract Procedure Rules by completing a Form for Exemptions & Waivers (FEW).
24.3 The following table sets out the required authorisations for Exemptions and Waivers.

<table>
<thead>
<tr>
<th>Contract Categorisation</th>
<th>Exemption</th>
<th>Waiver</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minor Contract</td>
<td>Head of Service</td>
<td>Head of Service</td>
</tr>
<tr>
<td>Small Contract</td>
<td>Divisional Director</td>
<td>Divisional Director &amp; Head of Procurement</td>
</tr>
<tr>
<td>Intermediate Contract</td>
<td>Divisional Director &amp; Head of Procurement</td>
<td>Divisional Director &amp; Head of Procurement</td>
</tr>
<tr>
<td>Large Contract</td>
<td>Divisional Director &amp; Head of Procurement</td>
<td>Divisional Director &amp; Head of Procurement &amp; City Barrister</td>
</tr>
<tr>
<td>EU Contract</td>
<td>Divisional Director &amp; Head of Procurement &amp; City Barrister</td>
<td>Divisional Director, Head of Procurement, City Barrister &amp; Chief Operating Officer</td>
</tr>
</tbody>
</table>

24.4 Exemptions and Waivers may alternatively be authorised by the Executive supported by formal advice from the Head of Procurement and City Barrister. In-House

25. In-House

25.1 Where an in-house service is able to provide the Goods, Services or Works required by another department/service of the Council, the Commissioning Officer should consult with the in-house service prior to commencing a procurement exercise.

25.2 Where the Commissioning Officer considers it more advantageous to the Council as a whole to procure the service externally rather than use the in-house service, the Contract Procedure Rules must be followed.

25.3 Where the Commissioning Officer decides to engage the in-house service, these Contract Procedure Rules do not apply.
TERMS AND CONDITIONS

26. Contract Duration

26.1 A Contract may not be of indeterminate duration or have a duration exceeding five years without the prior written approval of the Head of Procurement and appropriate Divisional Director.

26.2 A Framework Agreement may not be of indeterminate duration or have a duration exceeding four years without the prior written approval of the Head of Procurement and City Barrister.

27. Contract Terms

27.1 For Minor Contracts, the Commissioning Officer may place a Purchase Order including the Council's Standard Terms and Conditions.

27.2 For Small and Intermediate Contracts, the Procuring Officer may use:

27.2.1 Appropriate Industry Standard Contract Templates, e.g. NASS, JCT or NEC; or

27.2.2 The Council’s Standard Contract Templates for the appropriate type of Contract;

provided no significant amendments are made to these templates. If these templates require significant amendment or bespoke terms and conditions are required, the Procuring Officer must engage Legal Services to provide appropriate terms and conditions. If the Council is to Contract on a Contractor's terms and conditions, these must be approved in writing by Legal Services prior to the Contract being signed.

27.3 For Large and EU Contracts, the Procuring Officer must engage Legal Services to provide and/or approve appropriate terms and conditions.

28. Execution of Contracts

28.1 For Small Contracts, the Procuring Officer must complete a Delegated Powers Certificate (DPC) for authorisation by the Head of Procurement and Budget Holder. Once the DPC is authorised, the Procuring Officer may award the Contract.
28.2 For Intermediate Contracts, the Procuring Officer must complete a DPC for authorisation by the Head of Procurement and appropriate Head of Service. Once the DPC is authorised, the Procuring Officer may award the Contract.

28.3 For Large and EU Contracts with no Standstill Period, following completion of the evaluation procedure, the Procuring Officer must complete a DPC for authorisation by the Head of Procurement and appropriate Divisional Director. Once the DPC is appropriately authorised, Legal Services may issue the Contract to the Contractor(s) for execution.

28.4 For Large and EU Contracts with a Standstill Period, following completion of the evaluation procedure, the Procuring Officer must complete a DPC for authorisation by the Head of Procurement and appropriate Divisional Director. Once the DPC is appropriately authorised, the Procuring Officer may issue the notices under Rule 56.1 to commence the Standstill Period. On completion of the Standstill Period, the DPC must be again authorised by the Head of Procurement, and, if a challenge is received, by the City Barrister. Once the DPC has again been appropriately authorised, Legal Services may issue the Contract to the Contractor(s) for signature.

28.5 For Contracts awarded pursuant to Rule 23.2, the City Barrister and appropriate Divisional Director may agree in writing alternative arrangements for the execution of Contracts.

28.6 Large and EU Contracts must be executed in accordance with Article 15.05 (Authority to sign contracts and other documents) of the Constitution.

28.7 Letters of Intent may only be issued ahead of the full Contract with the prior written approval of the City Barrister.

29. **Mandatory Clauses**

29.1 The proposed terms of Contract must include the provisions:

29.1.1 Permitting the termination of the Contract and the recovery of any sums paid where there has been evidence of bribery or corruption.

29.1.2 Entitling the Council to terminate part or all of the Contract or to obtain substituted provision of the Goods, Services and Works to be supplied under the Contract in the event of a breach of Contract by or the insolvency of the Contractor.

207
29.1.3 Stating the price (and/or any mechanism by which the price, any additional price or discounts are to be ascertained), and where appropriate, setting out the mechanisms for payment such as BACS, and requiring the inclusion of purchase orders numbers on invoices.

29.1.4 For Intermediate, Large and EU Contracts, prohibiting the Contract or from sub-contracting, assigning or otherwise transferring the Contract without the prior written consent of the Council and providing that the Contractor shall remain liable to the Council for any part of the Contract that may be sub-contracted.

29.1.5 Requiring compliance by the contractor with any relevant legislative requirements, including where appropriate, in respect of:

a) health and safety, including the setting up of appropriate systems and procedures for the Goods, Services and Works procured;

b) the prevention of inequality and the promotion of equality;

c) the observance of human rights in the performance of functional activity under the Contract (as if the Contractor were a public body);

d) Freedom of Information and Environmental Information Regulations, and requiring the Contractor to co-operate with the Council in dealing with requests, the Contractor accepting that information will be liable to disclosure and allowing for requirements as to local transparency on Contracts and Tenders;

e) data protection, confidentiality and information security;

f) clinical governance; and

g) workforce transfer legislation, where appropriate, including associated codes of practice.

29.1.6 Setting out indemnities for any claim in respect of employer's liability or public liability arising from the Contract, including if appropriate infringement of intellectual property rights, and appropriate insurance requirements of the Contractor;

29.1.7 Setting out indemnities in respect of claims made against the Council
made in respect of a Contractor's activities and the provision of satisfactory insurance against such claims;

29.1.8 In cases where the Contractor's activities are of a type that can normally be so insured, requiring provision to the Council of evidence of satisfactory professional indemnity insurance held by the Contractor.

29.1.9 Where appropriate, requiring the provision to the Council of adequate Intellectual Property protection together with an indemnity protection;

29.1.10 Requiring the provision to the Council of adequate warranties (or direct covenants) from manufacturers of mechanical and engineering supplies, or for supplies of other products, where the Council's requirements have prescribed or prohibited materials or where a duty of skill and care is appropriate to the manufacture of the product in Contracts for the purchase of Goods;

29.1.11 If necessary, ensuring that appropriate vetting and barring is undertaken to ensure the safety of vulnerable groups, and appropriate safeguarding requirements, such as in relation to incident reporting, the Council's right to investigate and access to records/data;

29.1.12 For professional consultancy Contracts, requiring fair dealing in the case of conflict of interest;

29.1.13 Where appropriate for Large and EU Contracts, obliging the Contractor to maintain continuous improvement throughout the Contract period which may result in efficiencies to the Council's benefit;

29.1.14 Requiring the Contractor to Grant reasonable access to the Council to information relating to the Contract, and to undertake appropriate monitoring and compliance procedures;

29.1.15 Where appropriate, requiring relevant and proportionate social value considerations, such as prompt payment of sub-contractors.
USE OF PROCEDURES

30. **Principles**

30.1 A Contract of a lower categorisation may be procured via a procedure for a Contract of a higher categorisation, especially when the requirement is complex or the Contract could be considered high risk, so long as the procedure is proportionate to the requirement and complies with the Public Contracts Regulations 2015.

30.2 Where the Public Contracts Regulations 2015 permit (or do not fully apply), the procurement procedures set out in Rules 36 to 44 may be adapted to suit the nature of the procurement process in question. The process to be followed must be set out in the documents issued to Bidders and must at all times be fair and transparent.

30.3 Where a collaborative procurement process is being led, or has already been conducted, by another public sector body, the Contract Procedure Rules (or equivalent) of that public body shall apply to the process, so long as all relevant legislation is complied with.

30.4 The Commissioning Officer and Procuring Officer must ensure that any Quotation/Tender, if accepted, is reasonable in all the circumstances and represents value for money for the Council.

31. **Minor Contracts**

31.1 For Minor Contract, the Commissioning Officer should obtain at least one written quotation, preferably from a Local Bidders.

31.2 Whilst there is only a requirement for one quotation the Commissioning Officer must consider whether additional quotations are in the Council’s best interests.

31.3 Where it is not practical or possible to obtain a written quotation, the Commissioning Officer must obtain at least one oral quotation and record this contemporaneously.

32. **Small Contracts**

32.1 Small Contracts must be procured by one of the Specialist Procurement Teams and/or using the Electronic Tendering System, unless agreed otherwise by the Head of Procurement.
32.2 Small Contracts must be procured in one of four ways:

32.2.1 An Advertised Quotation process;

32.2.2 A Quick Quotation process;

32.2.3 A Targeted Quotation process; or

32.2.4 Use of a Non-LCC Framework Agreement (with approval from the Head of Procurement).

33. **Intermediate Contracts**

33.1 Intermediate Contracts must be procured by one of the Specialist Procurement Teams, unless agreed otherwise by the Head of Procurement.

33.2 Intermediate Contracts must be procured in one of four ways:

33.2.1 An Advertised Quotation process;

33.2.2 A Competition for Funding process;

33.2.3 Use of a Non-LCC Framework Agreement; or

33.2.4 A Targeted Quotation process (with the approval of the Head of Procurement).

34. **Large Contracts**

34.1 Large Contracts must be procured by one of the Specialist Procurement Teams, unless agreed otherwise by the Head of Procurement.

34.2 Large Contracts must be procured in one of four ways:

34.2.1 An Open Tender process;

34.2.2 A Restricted Tender process, but only where permitted by Regulation 107 of the Public Contracts Regulations 2015;

34.2.3 A Competition for Funding process; or

34.2.4 Use of a Non-LCC Framework Agreement.
35. **EU Contracts**

35.1 EU Contracts must be procured by one of the Specialist Procurement Teams, unless agreed otherwise by the Head of Procurement.

35.2 EU Contracts must be procured in one of the following ways:

35.2.1 An Open Tender procedure;

35.2.2 A Restricted Tender procedure;

35.2.3 Use of a Non-LCC Framework Agreement;

35.2.4 A Competition for Funding process (only for Services listed in Schedule 3 to the Public Contracts Regulations 2015);

35.2.5 An Innovation Partnership or Design Contest procedure;

35.2.6 A Competitive Procedure with Negotiation; or

35.2.7 A Competitive Dialogue procedure.

35.3 The Innovation Partnership or Design Contest procedures, Competitive Procedure with Negotiation, and Competitive Dialogue procedure may only be used with the approval of the Head of Procurement and City Barrister.
PROCUREMENT PROCEDURES

36. **Advertised Quotation**

36.1 The Procuring Officer must advertise the requirement for an appropriate period of time to allow interested parties to respond.

36.2 A Request for Quotation (RfQ) document must be made available to all interested parties who respond to the Advertisement. The RfQ must contain or identify:

36.2.1 Instructions for the completion and return of Quotations;

36.2.2 A Specification setting out the Council’s requirements;

36.2.3 The proposed terms and conditions of Contract; and for Intermediate Contracts:

36.2.4 The procedure for the evaluation of Quotations.

36.3 Quotations received in accordance with the instructions contained in the RfQ (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the RfQ to make a decision on which Bidder(s), if any, will be awarded the Contract.

37. **Quick Quotation**

37.1 The Procuring Officer must use the Electronic Tendering System to notify a random selection of appropriate organisations which have pre-registered on the Electronic Tendering System and invite them to quote.

37.2 A minimum of five organisations must be invited to quote. If there are insufficient appropriate organisations pre-registered on the Electronic Tendering System, a Quick Quotation Procedure may not be used.

37.3 A Request for Quotation (RfQ) document must be made available to the selected organisations who respond to the Advertisement. The RfQ must contain or identify:

37.3.1 Instructions for the completion and return of Quotations;

37.3.2 A Specification setting out the Council’s requirements;
37.3.3 The proposed terms and conditions of Contract; and

37.3.4 The procedure for the evaluation of Quotations.

37.4 Quotations received in accordance with the instructions contained in the RfQ (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the RfQ to make a decision on which Bidder(s), if any, will be awarded the Contract.

38. **Targeted Quotation**

38.1 The Procuring Officer must obtain four written Quotations of which at least two shall be from Local Bidders. Where this is not reasonably practical, the Procuring Officer must make a file note to evidence reasonable effort to obtain the required Quotations.

38.2 The Procuring Officer must log all details of the Quotations or other responses for future reference.

38.3 The Evaluation Panel may make the decision on whether or not to award the Contract after considering all offers and shall keep a written record of their decision including reasons for the decision.

39. **Competition for Funding**

39.1 The Competition for Funding process is to be used for where the Council has an amount of funding to support the achievement of certain outcomes or delivery of services.

39.2 The Procuring Officer must advertise the Competition for Funding for an appropriate period of time to allow interested parties to respond.

39.3 A Competition for Funding (CFF) document must be made available to all interested parties who respond to the Advertisement. The CFF must contain or identify:

39.3.1 Instructions for the completion and return of Submissions;

39.3.2 A Specification setting out the Council requirements;

39.3.3 The proposed terms and conditions of Contract;

39.3.4 The procedure for the selecting successful Bidders, and allocating the
available funding between them.

39.4 Submissions received in accordance with the instructions contained in the CFF (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the CFF to make a decision on which Bidder (s), if any, will be awarded the funding.

40. **Open Tender**

40.1 The Procuring Officer must advertise the requirement on the Source Leicestershire website (or other appropriate website) for an appropriate period of time to allow interested parties to respond.

40.2 An Invitation to Tender (ITT) document must be made available to all interested parties who respond to the Advertisement. The ITT must contain or identify:

40.2.1 Instructions for the completion and return of Tenders;

40.2.2 A Specification setting out the Council’s requirements;

40.2.3 The proposed terms and conditions of Contract; and

40.2.4 The procedure for the evaluation of Tenders.

40.3 Tenders received in accordance with the instructions contained in the ITT (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the ITT to make a decision on which organisation(s), if any, will be awarded the Contract.

40.4 When using an Open Tender process for an EU Contract, the Procuring Officer must comply with any applicable requirements set out in the Public Contracts Regulations 2015.

41. **Restricted Tender**

41.1 The Procuring Officer must advertise the requirement on the Source Leicestershire website (or other appropriate website) for an appropriate period of time to allow interested parties to respond.

41.2 A **Pre-Qualification Questionnaire (PQQ)** document must be made available to all interested parties who respond to the Advertisement. The PQQ must contain or identify:
41.2.1 Instructions for the completion and return of PQQs;

41.2.2 A brief overview of the Council’s requirements; and

41.2.3 The procedure for the evaluation of PQQs.

41.3 PQQs received in accordance with the instructions contained in the PQQ (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the PQQ to make a decision on which Bidders, if any, are to be invited to tender. For EU Contracts, a minimum of five Bidders must be selected to tender (unless fewer suitable candidates have met selection criteria and these are sufficient to ensure genuine competition).

41.4 An Invitation to Tender (ITT) document must be made available to all Bidders selected to be invited to Tender following the procedure set out above. The ITT must contain or identify:

41.4.1 Instructions for the completion and return of Tenders;

41.4.2 A Specification setting out the Council’s requirements;

41.4.3 The proposed Terms and Conditions of Contract; and

41.4.4 The procedure for the evaluation of Tenders.

41.5 Tenders received in accordance with the instructions contained in the ITT (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the ITT to make a decision on which Bidder(s), if any, will be awarded the Contract.

41.6 When using a Restricted Tender process for an EU Contract, the Procuring Officer must comply with any applicable requirements set out in the Public Contracts Regulations 2015.

42. **Innovation Partnership and Design Contest**

42.1 An Innovation Partnership or Design Contest process may only be used with the approval of the Head of Procurement.

42.2 When using an Innovation Partnership or Design Contest process for an EU Contract, the Procuring Officer must comply with any applicable requirements set out in the Public Contracts Regulations 2015.
43. **Competitive Procedure with Negotiation**

43.1 A Competitive Procedure with Negotiation may only be used in the circumstances set out in the Public Contracts Regulations 2015 and with the approval of the Head of Procurement and City Barrister.

43.2 When using a Competitive Procedure with Negotiation process for an EU Contract, the Procuring Officer must comply with any applicable requirements set out in the Public Contracts Regulations 2015.

44. **Competitive Dialogue**

44.1 A Competitive Dialogue process may only be used with the approval of the Head of Procurement and City Barrister.

44.2 When using a Competitive Dialogue process for an EU Contract, the Procuring Officer must comply with any applicable requirements set out in the Public Contracts Regulations 2015.
**USE OF FRAMEWORK AGREEMENTS & DYNAMIC PURCHASING SYSTEMS**

45. **Value Categorisation of Framework Agreements & DPSs**

45.1 Categorisation of Framework Agreements and DPSs will follow that set out in Rule 15.6 for Contracts. The Estimated Value should consider the total expected value of all Call-Off Contracts over the maximum duration of the Framework Agreement by all organisations who may use the Framework Agreement or DPS.

46. **LCC Framework Agreements**

46.1 Where the Council is the contracting authority, the Framework Agreement must be established by following these Contract Procedure Rules as if it were a Contract.

46.2 The Framework Agreement must set out a methodology for how contracts under the Framework Agreement will be called off. Completion of this process will replace the procedures required by these Rules for Call-Off Contracts.

46.3 Additional Contractors may only be added to a Framework Agreement during the term of the Framework Agreement in circumstances where:

46.3.1 it is not an EU Contract or the Framework Agreement is for Services listed in Schedule 3 to the Public Contracts Regulations 2015; and

46.3.2 the Invitation to Tender states:

   a) that additional organisations may be added to the Framework Agreement during the term of the Framework Agreement;

   b) how and when additional organisations can apply to be added to the Framework Agreement; and

   c) that the same evaluation criteria and award methodology are applied when deciding whether to award the Framework Agreement to additional organisations as was applied at the time of the original award.

47. **Non-LCC Framework Agreements**

47.1 The Council may use Framework Agreement s set up by other public authorities
or Central Purchasing Bodies where the Framework Agreement entitles the Council to do so, subject to the approval of the Head of Procurement. Such approval is not required for Minor Contracts.

47.2 Where the Council’s Call-Off Contract is itself a Large Contract or an EU Contract, the City Barrister must authorise the use of the Framework Agreement.

47.3 The Procuring Officer must follow the methodology and all requirements set out in the Framework Agreement when awarding a Call-Off Contract under the Framework Agreement.

48. **Dynamic Purchasing Systems (DPSs)**

48.1 A Dynamic Purchasing System may only be established with the approval of the Head of Procurement.

48.2 A Dynamic Purchasing System must be established and used in accordance with the Public Contracts Regulations 2015.
CONDUCTING A PROCUREMENT PROCESS

49. **Fairness & Equal Treatment**

49.1 The Procuring Officer must give all Bidders the same information about the proposed Contract and procurement process and in particular information relating to the Tender/Quotation process, Specification, award methodology and evaluation criteria.

49.2 The Procuring Officer must ensure that all processes set out in the procurement documentation issued to Bidders are followed.

49.3 Between the Advertisement and deadline for receipt of Submissions or where no Advertisement is placed (e.g. in the second stage of a Restricted Tender procedure or in a Targeted Quotation procedure), the issue of documents to Bidders, the Procuring Officer may respond to questions of clarification received from Bidders, but must ensure that Rule 49.1 is complied with, to the extent that any response given to one Bidder may be relevant to other Bidders.

50. **Advertisement**

50.1 Wherever stated in the Procurement Procedures section above, procurement procedures must be advertised on the Source Leicestershire website. This website may be substituted with another appropriate advertising medium at the discretion of the Head of Procurement.

50.2 Advertising on Source Leicestershire is a minimum requirement and does not preclude further Advertisement as deemed appropriate by the Procuring Officer (e.g. in the local newspaper, trade or professional journal, the Council website).

50.3 For all procurement procedures that are advertised, the Procuring Officer must allow a reasonable time between the date of the Advertisement (or where no Advertisement is placed (e.g. in the second stage of a Restricted Tender procedure or in a Targeted Quotation procedure), the issue of documents to Bidders) and the deadline for receipt of Submissions, having regard to:

50.3.1 the requirements of the Public Contracts Regulations 2015;

50.3.2 the amount of effort likely to be required to make a Submission; and

50.3.3 the urgency of the requirement.

50.4 The Advertisement must express the nature and purpose of the procurement
procedure, stating where further details may be obtained.

50.5 For Contracts where the Public Contracts Regulations 2015 require an Advertisement to be placed in the OJEU and/or on Contracts Finder, the Procuring Officer must ensure that such Advertisements are placed compliantly.

50.6 For EU Contracts where an OJEU Contract Notice is required, the Procuring Officer must ensure that the Advertisement is first despatched to the OJEU before it is published on Source Leicestershire or in any other media.

50.7 No Advertisement should contain any more information than that published in the OJEU (if an OJEU Contract Notice is required).

50.8 For EU Contracts, the Procuring Officer may use a Prior Information Notice (PIN) followed by an Invitation to Confirm Interest in place of an OJEU Contract Notice, as permitted by the Public Contracts Regulations 2015.

51. **Specification**

51.1 The Specification must be a clear written statement of the Goods, Services or Works required, in sufficient detail to:

51.1.1 enable the Bidder to submit a competitive price, demonstrating quality and added value;

51.1.2 ensure that Goods, Services or Works supplied will meet the requirement of the Council; and

51.1.3 define the precise output and/or outcomes required.

51.2 Unless justified by the subject matter of the Contract, 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 trade marks, patents, types or a specific origin or production with the effect of favouring or eliminating certain organisations or certain products. Such reference shall be permitted on an exceptional basis, where a sufficiently precise and intelligible description of the subject-matter of the Contract is not possible and this is agreed by the Commissioning Officer and the Procuring Officer. Such reference shall be accompanied by the words ‘or equivalent’.

52. **Opening of Submissions**

52.1 The PQQ, RfQ, CFF or ITT must specify the latest day and hour for the receipt
52.2 Wherever possible, the Procuring Officer should use the Electronic Tendering System for the receipt of Submissions.

52.3 For Large and EU Contracts, where the Electronic Tendering System is not used:

52.3.1 Tenders must be returned to an officer designated by the Head of Procurement. The Designated Officer must have no other involvement in the procurement process.

52.3.2 Tenders must be received in a plain sealed envelope or parcel addressed to the Designated Officer. The envelope or package must bear the word “Tender” followed by the subject to which it relates.

52.3.3 On receipt, envelopes containing Tenders must be date and time stamped by the Designated Officer and shall remain in the Designated Officer’s secure custody until they are opened, which shall not be before the stated closing date/time.

52.3.4 The Designated Officer must open the Tenders at one time in the presence of at least one other officer. Each officer must initial each Tender once opened which must also be date stamped.

52.3.5 Particulars of all Tenders opened must be entered by the Designated Officer upon a written record which must be signed by the officers present at the opening, together with a written note of any Tenders rejected at the point of opening and the reasons for their rejection.

52.3.6 The Designated Officer must retain a copy of the record and forthwith send a copy to the Procuring Officer with the Tenders.

52.4 For Quotations, completed CFFs and Tenders not covered by Rule 52.3 above, where the Electronic Tendering System is not used:

52.4.1 Submissions must be returned to an officer designated by the Head of Procurement. The Designated Officer must have no other involvement in the procurement process.

52.4.2 On receipt, envelopes containing Tenders must be date and time stamped by the Designated Officer and shall remain in the Designated Officer’s secure custody until they are opened, which shall not be before the stated closing date/time.
52.5 Where Submissions are received by e-mail, the requirement in Rules 52.3 and 52.4 for date and time stamping, and initialling is removed, and the requirements for labelling envelopes should be applied to the subject of the e-mail instead.

52.6 Where the Electronic Tendering System is not used, completed PQQs may be returned directly to the Procuring Officer.

52.7 The Head of Procurement may authorise the acceptance of Submissions received via the Electronic Tendering System after the stated date and time where:

52.7.1 there is clear evidence of technical issues preventing the Bidder sending their Submission ahead of the deadline, as acknowledged by the provider of the Electronic Tendering System; and

52.7.2 the Bidder gains no other advantage through the acceptance of their Submission.

52.8 Where the Electronic Tendering System has not been used a Submission received after the closing date and time may be opened and evaluated if there is clear evidence of it having:

52.8.1 been posted by first class post at least a day before the closing date; or

52.8.2 been posted by second class post at least three days before the closing date; or

52.8.3 been placed in the custody of a courier who has provided reasonable written assurance of delivery prior to the closing date and time.

52.9 Submissions not received in compliance with the Rules set out for Bidders will be rejected, except where the City Barrister considers that there are exceptional circumstances and that the Bidder who made the Submission has gained no advantage from its non-compliance, he may determine to accept the Submission and authorise that it be opened and evaluated together with any other Submissions. The City Barrister shall record in writing the reasons, which must be consistent with the application of public procurement law, for which the Submissions has been accepted. Any such reason shall not be deemed to set any precedent.

53. **Reserved Contracts**

53.1 The Procuring Officer may reserve a Contract for sheltered workshops, mutuals
or social enterprises (or similar) as long as this is clearly set out in all appropriate documentation, including the Advertisement. Where an EU Contract is reserved for sheltered workshops, mutuals or social enterprises, the approval of the Head of Procurement and City Barrister must be sought and the criteria and processes set out in Regulation 20 or Regulation 77 of the Public Contracts Regulations 2015 must be followed.

54. **Clarification of Submissions**

54.1 Bidders are not permitted to alter their Submissions after opening save in accordance with the instructions provided to Bidders, this Rule or Rule 55 below.

54.2 Following the closing date for receipt of Submissions but before acceptance/shortlisting of any Submission, the Procuring Officer may correspond or discuss with Bidders in order to seek clarification of its Submission.

54.3 A written note of the discussions must be made to record the date, time, and detail of the discussion. Where the Electronic Tendering System is being used, clarification should be conducted via or recorded on the Electronic Tendering System.

54.4 Any clarification of Submissions during a procurement process must always ensure fair and equal treatment of all Bidders is maintained. Clarification of Submissions is at the Council’s discretion.

55. **Negotiation**

55.1 Subject to the prior written approval of the Head of Procurement, for all Contracts except EU Contracts, following the closing date for receipt of Submissions, but before acceptance of any Submissions, the Procuring Officer in consultation with the Commissioning Officer may negotiate with the Bidder(s) in an attempt to secure improvements in the price or economic advantage.

55.2 When conducting negotiations, the following rules shall apply:

55.2.1 At no time during the negotiations must a Bidder be informed of the detail of any other Submission or as to whether or not the Tender he submitted was the lowest.

55.2.2 During negotiations in person there must always be present at least two officers of the Council.
55.2.3 A written note of the negotiations must be made and retained by one of the officers’ present recording those present, the time and location of the negotiations, detail of the discussion and any agreement reached.

55.2.4 Post-tender negotiations shall not enable any material departure from the published Specification and/or Contract terms. The City Barrister, 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 whether as a consequence other Bidders shall be permitted to participate in negotiations and/or whether new Tenders should be invited, to avoid any potential allegations of competition being distorted.

55.3 Post-tender negotiations are not allowed for EU Contracts; however, clarifications of errors or discrepancies in Tenders may take place in accordance with Rule 54.

56. **Standstill Period**

56.1 For Tenders for EU Contracts, the Procuring Officer must notify all Bidders who are required to be notified under Regulation 86 of the Public Contracts Regulations 2015 of the decision regarding the acceptance or rejection of their Tender, including:

56.1.1 the successful Bidder’s score;

56.1.2 the score (if any) of the Bidder receiving the notice;

56.1.3 the characteristics and (if appropriate) relative advantages of the successful Bidder’s Tender;

56.1.4 any reasons why the Bidder receiving the notice did not meet the Specification;

56.1.5 the name of the Bidder to be awarded the Contract, and

56.1.6 the date when the Standstill Period required in accordance with Rule 56.2 will come to an end.

A Standstill Period may be applied to Large Contracts and Call-Off Contracts from Framework Agreements that themselves constitute EU Contracts.

56.2 For EU Contracts, the Standstill Period must last a minimum of 10 calendar days from the day of sending the notice in Rule 57 to the date on which the
Council enters into the Contract, if the notice is sent electronically. Where the notice is sent by other means, then the Standstill Period must last a minimum of either 15 days from the day of sending the notice or 10 days from the day of receipt of the notice by the last Bidder to receive the notice. In all cases counting the day after sending the notice as day one. The Standstill Period must end on a Working Day.

56.3 If, during the Standstill Period, a formal challenge is received from a Bidder, the authorisation of the Head of Procurement and City Barrister to award the Contract must be sought.

57. **Contract Award**

57.1 Following the appropriate authorisation of a DPC (see Rule 28), and including, where applied, the completion of the Standstill Period, the Procuring Officer must notify the successful Bidder(s) of the acceptance of their Submission.

57.2 For Intermediate, Large and EU Contracts the Procuring Officer must also notify in writing all unsuccessful Bidders at the same time as the successful Bidder(s).

57.3 For Contracts for which the Public Contracts Regulations 2015 stipulate that an OJEU and/or Contracts Finder Contract Award Notice is required, the Procuring Officer shall ensure that such Award Notice(s) is/are placed within the timescales required by the Public Contracts Regulations 2015.

57.4 The Procuring Officer must ensure that all Intermediate, Large and EU Contracts are entered onto the Contracts Database.
58. **Contract Management**

58.1 The appropriate Divisional Director must ensure that for each Intermediate, Large or EU Contract, a person is designated as the Contract Manager. The Contract Manager may be a Council officer or a Contractor/consultant. The Commissioning Officer may be, but need not be, the Contract Manager.

58.2 The Contract Manager is responsible for managing the performance of the Contract and the Contractor(s) throughout the Contract period, including ensuring that Best Value is obtained and that the Council and Contractor both fulfil their respective obligations under the Contract.

59. **Financial Parameters for Contract Amendments**

59.1 When considering Contract Extensions and Variations as set out in Rules 60 and 61 below the categorisation of a Contract should follow the table at Rule 15.6 but the value should include the value for the original period of the contract and any proposed extension or variation (including any further options for additional extensions/variations) whether provided for in the original Contract or not.

60. **Contract Extensions**

60.1 Where a Minor, Small or Intermediate Contract provides for the proposed extension, the appropriate Head of Service shall be authorised to extend the period of the Contract. The Head of Service must inform the Head of Procurement of the extension.

60.2 Where a Large or EU Contract provides for the proposed extension, the appropriate Divisional Director shall be authorised to extend the period of the Contract in consultation with the Head of Procurement.

60.3 Where a Minor or Small Contract does not provide for the proposed extension, the appropriate Divisional Director shall be authorised to extend the period of the Contract. The Divisional Director must inform the Head of Procurement of the extension.

60.4 Where an Intermediate Contract does not provide for the proposed extension, the appropriate Divisional Director shall be authorised to extend the period of the Contract in consultation with the Head of Procurement and City Barrister so long as this does not give cause to an increase in value of more than 100% of the original Contract Value. If the proposed extension will give cause to an
increase to the original Contract Value of more than 100% the Divisional Director must seek the authorisation of the Head of Procurement and City Barrister.

60.5 Where a Large Contracts does not provide for the proposed extension, the appropriate Divisional Director shall seek authorisation to extend the period of the Contract from the Head of Procurement and City Barrister.

60.6 Where an EU Contract does not provide for the proposed extension, the appropriate Divisional Director shall seek authorisation to extend the period of the Contract from the Head of Procurement and City Barrister.

61. **Contract Variations**

61.1 No variation may be authorised under this Rule that alters the overall nature of the Contract. When authorising all variations, the officer(s) must have due regard to transparency and openness of procurement and to value for money of the proposed variation.

61.2 The Contract Manager may make changes to the Contract or delivery of the Contract where these have been explicitly foreseen within the terms of the Contract or where changes are of a minor nature and will not significantly affect the overall delivery or cost of the Contract. The Contract Manager must retain both parties’ written agreement to the change which must include details of the change.

61.3 The appropriate Head of Service shall be authorised to vary a Minor, Small or Intermediate Contract. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter. The Head of Service must inform the Head of Procurement of the variation.

61.4 The appropriate Divisional Director shall be authorised to vary a Large Contracts, so long as this does not give cause to an increase in value of more than 50% of the original Contract Value, whether caused by this one variation or the aggregation of this variation with ones that have previously been authorised. In such cases the Divisional Director must inform the Head of Procurement of the variation. If the proposed variation will give cause to an increase to the original Contract Value of more than 50% the Divisional Director must seek the authorisation of the Head of Procurement. This authorisation must be issued before the Goods/Services/Works that are the subject of the Variation are provided/carried out, or in the case of an emergency, immediately thereafter.

61.5 The appropriate Divisional Director shall be authorised to vary an EU Contract,
so long as this does not give cause to an increase in value of 10% or more (15% for Works Contracts) of the original Contract Value, whether caused by this one variation or the aggregation of this variation with ones that have previously been authorised. In such cases the Divisional Director must inform the Head of Procurement of the variation. If the proposed variation will give cause to an increase to the original Contract Value of 10% or more (15% for Works Contracts) the Divisional Director must seek the authorisation of the Head of Procurement and City Barrister ensuring the Council remains within the provisions of the Public Contracts Regulations 2015. This authorisation must be issued before the Goods/Services/Works that are the subject of the Variation are provided/carried out, or in the case of an emergency, immediately thereafter.

62. **Novation of Existing Contracts**

62.1 The novation of a Contract from/to the Council or to a new Person (in place of the Council or in place of another party to the Contract) requires the prior written approval of the City Barrister. The novation of a Contract must be agreed in writing between the parties. The Head of Procurement must be informed of the novation.

63. **Early Termination of Contracts**

63.1 Following consultation with the City Barrister and Head of Procurement the Divisional Director shall be authorised to terminate any Contract before the expiry of its agreed term or the provision of the Goods, Works or Services is complete.

64. **Execution of Contract Amendments**

64.1 For Small and Intermediate Contracts, the Contract Manager must complete a DPC detailing the Contract Amendment for the appropriate authorisations. Once the DPC is appropriately authorised, the Contract Manager may confirm the Contract Amendment in writing to the Contractor (s), so long as the Contract Manager is authorised to do so under Article 15 of the Constitution. If the Contract Manager is not authorised to do so, another officer, so duly authorised may do so.

64.2 For Large Contracts and EU Contracts the Contract Manager must complete a DPC for the appropriate authorisations detailing the Contract Amendment. Once the DPC is appropriately authorised, Legal Services may issue the Contract Documents to the Contractor (s) for signature.
APPENDIX 1: DEFINITIONS

Terms defined in the Public Contracts Regulations 2015 have the same meaning when used in these Rules.

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 and City Barrister may delegate their responsibilities under these Rules to appropriately skilled officers.

Other terms are defined by these Rules.

In all of the above cases, hyperlinks are provided to the appropriate definition wherever the term is used.

Where necessary, additional definitions are provided below:

“Best Value” A statutory framework that ensures that Councils are required to plan, deliver and continuously improve local authority services. Each local authority has a duty to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a 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” – a Contract based on a “Framework Agreement” or DPS.

“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 an agreement between the Council and a Contractor comprising the conditions of Contract, Specification and any defined schedules or other matters referred to in the ITT/RfQ and/or the Contractor’s Submission.

“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.

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

“EU Threshold” means the relevant threshold set out in Regulation 5(1)(a), (c) or (d) of the Public Contracts Regulations 2015.

“Evaluation Panel” means the Procuring Officer, the Commissioning Officer and any other individuals designated by them to participate in evaluating Submissions. All such individuals must have the relevant skills and experience to make value judgements on the Submissions received. For Large and EU 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.

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

“Grant” means a sum of money awarded following the receipt of a successful application against published criteria. The issue of funds will be reliant on the entering into of an agreement and the submission to published compliance and monitoring criteria.

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

“OJEU” means the Official Journal.

“Procuring Officer” means a person appointed by the Head of Procurement for the purpose of carrying out the appropriate duties set out in these Contract Procedure 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.

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

“Specialist Procurement Teams” Procurement Services (Finance Division), ICT Contract & Procurement Team (Information and Access Division) and Social Care & Public Health Procurement Team (Care Services and Commissioning Division).

“Specification” means a clear written statement of the Goods, Services or Works, in sufficient detail to:

a) enable the Bidder to submit a competitive price, demonstrating quality and added value.

b) ensure that Goods, Services or Works supplied will meet the requirement of the Council.

c) define the precise output and/or outcomes required.

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

“Tender” means a completed ITT, and any attached documents submitted by a Bidder as part of a procurement procedure.

“Works” means the subject of a Public Works Contract.
APPENDIX 2: INTERPRETATION OF THE CONTRACT PROCEDURE RULES FOR MAINTAINED SCHOOLS

Part 1: Interpretation of the Rules for Schools

1. **Scope & Definitions**

1.1 The Contract Procedure Rules apply to Maintained Schools, but not to Academies (including Free Schools).

1.2 The Contract Procedure Rules, as amended by this Appendix, shall form part of the Scheme for Financing Schools.

1.3 All references to officers and staff of the Council shall be interpreted to cover all employees in schools (including Teachers and Head Teachers) and Governors.

1.4 The following terms will be substituted when interpreting these Rules for Schools:

1.4.1 ‘City Barrister’ shall be replaced by ‘Chair of Governors’ except in Rules 20 and 21;

1.4.2 ‘Council’ shall be replaced by ‘School’ except the first reference in Rule 1.1;

1.4.3 ‘Divisional Director’ shall be replaced by ‘Chair of Governors’;

1.4.4 ‘Head of Procurement’ shall be replaced by ‘Chair of Governors’ except in Rules 20 and 21;

1.4.5 ‘Head of Finance’ shall be replaced by ‘Head Teacher’;

1.4.6 ‘Head of Service’ shall be replaced by ‘Head Teacher’;

1.4.7 ‘member’ shall be replaced by ‘Governor’;

1.4.8 ‘officer’ shall be replaced by ‘School Employee’;

It is recognised that this may lead to (for example) the Head Teacher consulting with him/herself (etc.) but these references are maintained for consistency with the Council’s Rules, and may be applicable should the Head Teacher choose to delegate some of his responsibility, (e.g. those of the Divisional Director in the Council’s Rules).
1.5 It is acknowledged that Schools may not have specialist procurement staff, and therefore it is the Chair of Governors’ responsibility to ensure that the School Employees who carry out these duties have access, where necessary, to appropriate support, guidance and professional advice to follow these Rules and act lawfully. The Council may provide its own internal guidance for the use of Schools and provide initial advice and support.
**Part 2: Amended Rules for Schools**

The following Rules are amended for Schools as set out below. All other Rules remain unchanged, except for the application of the interpretation set out in Part 1 above.

6. **Transparency**

6.1 This Rule does not apply to Schools.

10. **Contracts Database & Electronic Tendering System**

10.1 This Rule does not apply to Schools.

10.3 Schools may use an Electronic Tendering System, e-mail or traditional paper- based processes when carrying out procedures under these Rules.

14. **Private Interests**

14.2 to 14.3 Replace this Rule with “School Employees and Governors shall comply with the School’s codes of conduct and the requirements of the Scheme for Financing Schools, which includes the requirement for the Governing Body to maintain a register of business interests.”

15. **Financial Parameters**

15.2.7 Replace this Rule with “Each School may be considered to be a discrete operational unit when considering the aggregate value of a requirement, except when more than one school choose to procure jointly, at which stage the aggregate of all the schools procuring together must be considered.”

16. **Procurement Plan**

16.1-16.5 This Rule does not apply to Schools.

17. **Procurement Pipeline**

17.1 This Rule does not apply to Schools.

18. **Procurement Strategy**
18.1 This Rule does not apply to Schools.

19. **Monitoring & Reporting**

19.1 This Rule does not apply to Schools.

22. **Financial Approval**

22.1 Replace this Rule with “Before procurement of any Contract reaches the Advertisement stage, it must have financial approval from the appropriate officer, as set out in the table below:

<table>
<thead>
<tr>
<th>Contract Categorisation</th>
<th>Financial Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minor Contract</td>
<td>Budget Holder(s)</td>
</tr>
<tr>
<td>Small Contract</td>
<td>Head Teacher</td>
</tr>
<tr>
<td>Intermediate Contract</td>
<td>Chair of Governors</td>
</tr>
<tr>
<td>Large Contract</td>
<td>Chair of Governors</td>
</tr>
<tr>
<td>EU Contract</td>
<td>Chair of Governors</td>
</tr>
</tbody>
</table>

24. **Exemptions & Waivers**

24.1 The Commissioning Officer may request an Exemption to the Contract Procedure Rules to directly negotiate the award of a Contract without competition:

24.1.3 particular artistes and performers and bought-in productions; [other sub-paragraphs remain unchanged]

24.2 When none of the circumstances listed in Rule 24 applies, the Commissioning Officer may, request a Waiver of the Contract Procedure Rules.

24.3 The following table sets out who may authorise Exemptions and Waivers.

<table>
<thead>
<tr>
<th>Contract Categorisation</th>
<th>Exemption</th>
<th>Waiver</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minor Contract</td>
<td>Head Teacher</td>
<td>Head Teacher</td>
</tr>
<tr>
<td>Small Contract</td>
<td>Head Teacher</td>
<td>Chair of Governors</td>
</tr>
<tr>
<td>Intermediate Contract</td>
<td>Chair of Governors</td>
<td>Chair of Governors</td>
</tr>
<tr>
<td>Large Contract</td>
<td>Chair of Governors</td>
<td>Chair of Governors</td>
</tr>
<tr>
<td>EU Contract</td>
<td>Chair of Governors</td>
<td>City Barrister</td>
</tr>
</tbody>
</table>

24.4 This Rule does not apply to Schools.
27. **Contract Terms**

27.2 Replace this Rule with “For all Contracts, the Procuring Officer may use, as appropriate:

   27.2.1 Appropriate Industry Standard Contract Templates, e.g. NASS, JCT or NEC; or

   27.2.2 The Council’s Standard Contract Templates for the appropriate type of Contract; or

   27.2.3 Contract Terms developed for the Contract and approved by the Head Teacher.”

27.3 This Rule does not apply to Schools.

28. **Execution of Contracts**

28.1 to 28.4 This Rule does not apply to Schools. Replace with “Employees so authorised by the Head Teacher may sign Contracts on behalf of the School on completion of an appropriate procurement procedure as set out in these Rules.”

28.5 Replace this Rule with “Contracts with a value of over £60,000 per annum and a total value over £1,000,000 must be approved by the Head of Finance (Children’s Services) prior to being signed on behalf of the School.”

32. **Small Contracts**

32.1 This Rule does not apply to Schools.

33. **Intermediate Contracts**

33.1 This Rule does not apply to Schools.

34. **Large Contracts**

34.1 This Rule does not apply to Schools.

35. **EU Contracts**
35.2 This Rule does not apply to Schools.

52. **Opening of Submissions**

52.2 This Rule does not apply to Schools.

57. **Contract Award**

57.1 Replace this Rule with “After the completion of the Standstill Period, or, if no Standstill Period is applied, the Procuring Officer must notify the successful Bidder(s) of the acceptance of their Submission.”

57.4 This Rule does not apply to Schools.

64. **Execution of Contract Amendments**

64.1 Replace this Rule with “Once the Contract Amendment is appropriately authorised, the Contract Manager may confirm the Contract Amendment in writing to the Contractor(s), so long as the Contract Manager is so authorised to do so. If the Contract Manager is not authorised to do so, another officer, so duly authorised may do so.”

64.2 This Rule does not apply to Schools.
PART 4H – LAND & PROPERTY TRANSACTION RULES

This section was approved by Council on 19/09/13.
Section 4 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.
Schedule 1:  Dealing with Formal Tenders and Informal Offers in Land Transactions

Contents

1 Dealing with Formal Tenders and Informal Offers in Land Transactions ..... 242
SCHEDULE 1

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

1.1 When the deadline is set for receipt of Tenders, arrange meeting with the relevant Finance Officer to be held within 1 hour of that time (eg deadline Tuesday 2.30pm – meeting arranged for Tuesday 3.00pm). Property Services (the Head of Property) must be given notice of the receipt of Tenders, this notice to be either at least 6 weeks or before the first advertisement appears in the press, whichever is the earlier. Property Services will arrange for a private area to be available in which to open the Tenders (confirm the availability with Property Services a few days prior to the opening time).

1.2 Address labels supplied to interested parties must state the delivery address as Head of Property, Property Services, Leicester City Council, preferably with a contact name.

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 submitted is only to be labelled using the official address label supplied with the Tender documents.

1.3.3 That the Tender envelope/package must bear no indication of the identification of the Tenderer. Consequently, the Tenderer must ensure that, for example, if the Tender envelope/package 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.

1.3.4 That delivery must be to the location on the official address label ie Property Services. If the Tender envelope/package is delivered by hand, the person delivering it must obtain an official receipt from Property Services.

1.3.5 Any late Tenders and Tenders delivered 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 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, by any company or other organisation or person charged by the Tenderer for its delivery (also make reference to the office hours when Tenders can be delivered prior to the closing date).

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.

1.3.10 Although not required under the Council’s Constitution, Tenderers are likely to find it helpful if the Tender documentation indicated when it was anticipated that the successful Tenderer would be notified (remember to take into account the Member challenge period following a Cabinet decision, and the consequent delay if a challenge is received).

1.4 All Tenders must be delivered to Property Services directly. On receipt of each Tender, details are to be entered into a fixed leaf register and a reference number from the register is to be written on the envelope. The register is to be kept and administered by Property Services.

1.5 Under no circumstances must other staff accept Tenders on behalf of the Council. Anyone trying to hand one in elsewhere must be redirected to Property Services.

1.6 All Tenders delivered by hand must be entered into the register and the person delivering the Tender must be given an official receipt by Property Services with the date, time and receipt number being written on the Tender envelope/package. Any spoilt receipt(s) must be logged in the register as spoilt and the spoilt receipt(s) placed with the Tenders in the safe.

1.7 When Tenders are received in the Post Room they will be logged (as current practice) and hand delivered on their next round (at about 2.00pm, as they are usually second post). On the day of the deadline, the Property Officer is to contact the Post Room after the second post has been delivered (at about 11.00am) and check if any Tenders have arrived. If they have, the Property Officer must immediately pick them up and take them to Property Services to be entered into the register and stored with the others.

1.8 All the Tenders are to be stored in the strong room in Property Services until opening time.
1.9 Before opening the Tenders, reference numbers on the envelopes are to be checked against the register to ensure none are missing or misplaced within the safe. The register is to be signed and dated as correct, below the last entry for that Tender, by the Finance Officer and Property Officer when all Tenders have been accounted for.

1.10 The Standard form is to be used when opening Tenders to record relevant information for cross-referencing and signed by both Officers at the end of opening and recording.

1.11 After opening, all documentation is to be retained by the Property Officer and kept in a secure file, including envelopes, the standard opening form, any spoilt receipts and a copy of the relevant page in the register, to provide a complete audit trail.

1.12 Receipt books will be issued by the Head of Property, who shall be responsible for their safe custody and accountable for all receipts therein.
Schedule 2: The Framework for the Disposal of Property (as approved by Cabinet)

Contents

1 INTRODUCTION .................................................................................................................................. 247
2 METHODOLOGY TO DETERMINE WHETHER DISPOSAL IS APPROPRIATE ............................................. 247
3 THE COUNCIL’S LEGAL REQUIREMENTS ......................................................................................... 248
4 EXISTING POLICY – THE GENERAL ASSUMPTION RE PROPERTY DISPOSALS ........................................ 249
5 THE FRAMEWORK AND PROPOSED POLICY .................................................................................. 249
6 THE TERMS OF THESE “EXCEPTIONAL DISPOSALS” ..................................................................... 252
7 REVOCATION OF PREVIOUS POLICIES ......................................................................................... 253

APPENDIX 1 – Financial Policy to be Adopted for Development Alliances .... 254
APPENDIX 2 – Policy for Transfer of Assets for Community Governance ..... 255
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 let by way of ground leases, leases, tenancies and licences. It 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 addition, there is a general fiduciary duty placed on local authorities to act reasonably and in the interest of the tax payers, and consistent with the effective, economic and efficient discharge of the authorities 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. Established good practice and a previous public interest report produced by the District Auditor’s Office indicates that third party valuations are not adequate 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 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:

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).

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 circumstance, such as the disposal of land to facilitate the building of the National Space Science Centre.

4.3 In recognition of this, and in order to seek to address the changing priorities and pressures, it has been decide to review the policy and seek approval to the inclusion of some specific exceptions, rather than dealing with cases on a one off basis.

5 THE FRAMEWORK AND PROPOSED POLICY

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 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 within the area of Prospect Leicestershire Ltd where the City Council and the Prospect Leicestershire are in agreement 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 reasonably commercial terms. Such a disposal may involve a Development Alliance, or involve a disposal of property to enable the relocation of displaced occupiers from sites.

A Development Alliance is 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. The financial policy set out in the appendix shall apply to these Development Alliances.

Relocation property would only be made available exclusively to a displaced occupier where it was agreed between the City Council and Prospect Leicestershire that it was appropriate in the circumstances.

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 Community Plan and Budget and Policy Framework 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. Also 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 able 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) within the Leicester Neighbourhood Renewal Strategy and is a Priority within the Community Plan.

(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 to enable acquisition of the property at open market value. (An Agreement to Lease is likely to be required by the prospective lessee to enable a period of time for funding to be applied for and secured [together with securing any other consents] 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 (ie 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’.

5.2.5 De minimus

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, eg 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 £1,500, 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 (restrictive covenants could be imposed but enforcement can be problematic).

6.2 Leasehold disposals allow greater control and are appropriate where disposals are seeking particular outputs (eg 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 agreed to 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 sort of 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 REVOCAOTION 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 eg default by the previously identified prospective purchaser).
APPENDIX 1 – Financial Policy to be Adopted for Development Alliances

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 provision).

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.
# Policy for Transfer of Assets for Community Governance

## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Purpose</td>
<td>1</td>
</tr>
<tr>
<td>2. Definition</td>
<td>2</td>
</tr>
<tr>
<td>3. Aims of community asset transfer</td>
<td>2</td>
</tr>
<tr>
<td>4. Scope</td>
<td>3</td>
</tr>
<tr>
<td>5. Key principles for asset transfer</td>
<td>3</td>
</tr>
<tr>
<td>6. Benefits</td>
<td>5</td>
</tr>
<tr>
<td>7. Risks</td>
<td>6</td>
</tr>
<tr>
<td>8. Expectations</td>
<td>6</td>
</tr>
<tr>
<td>9. Application procedure</td>
<td>7</td>
</tr>
<tr>
<td>10. Assessment criteria summary</td>
<td>10</td>
</tr>
</tbody>
</table>

## 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 schools 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 Council’s long term position long lease will generally be preferred to freehold sale as it better protects the Council’s position in the case of failure.

6. Benefits of community asset transfer

Benefits can be measured in terms of the economic, social or environmental well being 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](http://www.communitymatters.org.uk)
Asset identified by the Council as surplus to requirement, or asset can be considered for release as a going concern, or Expression of interest received from community organisation

Meeting arranged with Ward Councillors and Assistant Mayor to determine suitable for release

**Asset not available**
- Process stops

**Asset is available**
- Process Continues

Asset information released and publicised in ward inviting groups/organisations to complete first stage of the application and submit proposals.

**Organisation does not meet the minimum criteria**
- Process stops

**Organisation meets the minimum criteria**
- Process continues or if there is competition preferred group identified following consultation with ward councillors

Proposal does not align to Council priorities and/or does not demonstrate clear community benefit

Organisation invited to submit a full application for asset transfer

**Proposal aligns with the Council’s priorities and clear community benefits have been demonstrated**
- Community Impact Assessment commences

Notice of short listed proposals available within Wards and through Community Services

Application fails initial assessment
- Process stops

Application passes Process continues to full application review
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 (ongoing access to advice and support available if required)
<table>
<thead>
<tr>
<th></th>
<th>POTENTIAL FOR COMMUNITY ASSET TRANSFER</th>
<th>CONDITIONAL COMMUNITY ASSET TRANSFER – Demonstrates significant community benefit</th>
<th>NOT SUITABLE FOR COMMUNITY ASSET TRANSFER</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Asset Value</strong></td>
<td>Less than £200,000 (small)</td>
<td>£200,000 to £1,000,000 (medium)</td>
<td>Greater than £1,000,000 (large) may still be suitable but to be judged on merits</td>
</tr>
<tr>
<td><strong>Length of occupation</strong></td>
<td>20+ years</td>
<td>5-20 years</td>
<td>Less than 5 years</td>
</tr>
<tr>
<td><strong>Asset holding</strong></td>
<td>Operational</td>
<td>Operational</td>
<td>Non Operational</td>
</tr>
<tr>
<td><strong>Community Impact</strong></td>
<td>Minimal Impact</td>
<td>Manageable Impact</td>
<td>Significant Impact</td>
</tr>
<tr>
<td><strong>Sustainability/Security</strong></td>
<td>Demonstrated ability to manage service, property and plan for future, history of stability and capability</td>
<td>Demonstrated ability to manage service, property and plan for future, history of stability and capability</td>
<td>Inability to demonstrate or record of failure</td>
</tr>
<tr>
<td><strong>Governance</strong></td>
<td>Settled legal entity with proven ability to manage change</td>
<td>Settled legal entity with proven ability to manage change</td>
<td>No record or poor history</td>
</tr>
<tr>
<td><strong>Legal Structure</strong></td>
<td>Constituted Group Registered Charity Registered Company Or seeking formalisation</td>
<td>Constituted Group Registered Charity Registered Company Or seeking formalisation</td>
<td>No form of structure; No identifiable accountability</td>
</tr>
<tr>
<td><strong>Financial Standing</strong></td>
<td>Established record of financial probity Including ability to meet running costs, long term planning – business plan</td>
<td>Established record of financial probity Including ability to meet running costs, long term planning – business plan</td>
<td>No record or poor financial history, business modelling or financial planning</td>
</tr>
<tr>
<td><strong>Community Benefit</strong></td>
<td>Established record of community benefit, Identifiable and measureable community benefits can be addressed</td>
<td>Established record of community benefit, Identifiable and measureable community benefits can be addressed</td>
<td>No record or poor outputs, community benefits not identified</td>
</tr>
<tr>
<td><strong>Benefits of CAT</strong></td>
<td>Strong business case to evidence anticipated benefit from CAT</td>
<td>Strong business case to evidence anticipated benefit from CAT</td>
<td>No evidence</td>
</tr>
<tr>
<td><strong>Maintenance</strong></td>
<td>Proven record of managing</td>
<td>Proven record of managing</td>
<td>No record or poor history – unable to manage change</td>
</tr>
<tr>
<td>Commitment</td>
<td>Agreements: maintenance issues, evidence of ability to manage on-going maintenance of building</td>
<td>demonstrate ability</td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>-------------------</td>
<td></td>
</tr>
<tr>
<td><strong>Commitment</strong></td>
<td>Agreement to restrict use to community activities in line with stated intent and guaranteed by covenant</td>
<td>Agreement to restrict use to community activities in line with stated intent and guaranteed by covenant</td>
<td>No agreement</td>
</tr>
</tbody>
</table>
Schedule 3:
A Protocol for Responding to Late and/or Unsolicited Offers in Connection with Property Disposals

Contents

1 INTRODUCTION .................................................................................................................. 267
2 APPLICATION OF THE PROTOCOL ............................................................................. 267
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 ie when offers are required before a fixed date and time (the Closing Date).

3.2 Late Tenders ie received after the Closing Date, or Tenders delivered prior to the Closing Date but to the wrong location and subsequently received late.

3.3 Offers received outside the Tender process (ie without the official Tender label) after the Closing Date but before consideration by Cabinet (or the Chief Operating Officer 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 (ie received from one of the parties who submitted Tenders before the Closing Date) effectively the second highest bid, should be reported to Cabinet (disposals at less than best consideration are reserved to Cabinet). In the event that Cabinet 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 Cabinet 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 (ie 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 agreement of Cabinet 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 Director of Legal Services 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 Cabinet (or the Chief Operating Officer exercising delegated authority).

(a) As 1.2 above.

4.3 Offers received after the Cabinet 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 Cabinet are considered on the private agenda.

6. The Cabinet 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 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:

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 March 2005) 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) 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**

Where the Council proposes to appoint a director and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:

i) the duties of the officer concerned; and

ii) any qualifications or qualities to be sought in the person to the appointed
(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

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 committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Cabinet.

(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.

4. **APPOINTMENT OF STRATEGIC DIRECTORS AND DIVISIONAL DIRECTORS**

(a) A 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.

(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 any other member of the Cabinet has been received.

5. **OTHER APPOINTMENTS**

(a) Appointment of officers below Divisional Director is 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 Councillors 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:

<table>
<thead>
<tr>
<th>Principle</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Selflessness</td>
<td>Holders of public office should act solely in terms of the public interest.</td>
</tr>
<tr>
<td>Integrity</td>
<td>Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their</td>
</tr>
</tbody>
</table>

277
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.

<table>
<thead>
<tr>
<th>Objectivity</th>
<th>Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accountability</td>
<td>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.</td>
</tr>
<tr>
<td>Openness</td>
<td>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.</td>
</tr>
<tr>
<td>Honesty</td>
<td>Holders of public office should be truthful.</td>
</tr>
<tr>
<td>Leadership</td>
<td>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.</td>
</tr>
</tbody>
</table>

The document aims to help officers and Members identify clear 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 / Councillor as relevant. If necessary, the Monitoring Officer should be consulted. The Monitoring Officer may involve the relevant Group Whip (if applicable).
Political Conventions – Part A

This Part seeks to identify principles with further information to support their application given in Part B where necessary.

The document is therefore divided on the same basis as Part B with section numbers relating to sections in Part B.

NEUTRALITY

1. All Officer appointment and employment decisions must be made on merit alone.

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.

3. Members should respect an Officers’ right to private political opinions.

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.

5. Where Members are given policy support it must (i) conform to the “unified advice” principle (see explanation in Part B), (ii) be for Council and (iii) not be for party political purposes. Work which could be open to misinterpretation must be transparent and justified where necessary, particularly at sensitive times (such as a pending election).

6. Where close personal relationships arise or exist between Members and Officers these should be declared to the relevant Group Whip (where applicable) and to the Relevant Divisional Director / Monitoring Officer and entered in the voluntary register of interests.

7. The Relevant Divisional Director / Group Whip should consider how to manage or avoid contact to dispel any perceived bias.

8. Mutual Courtesy and due respect between Members and Officers is expected by the Council.

9. Unless operating within the scheme of delegation an individual Member cannot take a “decision” or instruct an Officer to take action.

10. 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).

11. Officers will not seek to give an improper advantage to a Member or seek to exploit their unique access to Members to secure for themselves any improper advantage or bypassing of normal processes/procedures.
BRIEFINGS

12 All Members have a right to request information reasonably required to perform his or her role (the "need to know"). Officers should assume the Member has a need to know unless a restriction applies.

13 Where a Member requests information they should declare any relevant interests they have which are affected by the topic of the proposed Briefing.

14 Members must respect the confidentiality of information identified as confidential and use only for the purpose it is given.

15 Briefings to Party Groups / ‘non-grouped’ Members may be given as part of preparation for the decision making process.

16 Non-grouped Members will receive details of any briefings given to Party Groups.

MEMBER INVOLVEMENT IN CASEWORK ISSUES

17 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”.

18 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.

Caution should be exercised in all cases where a Member is lobbied 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.

19 A Member should not act as an individual’s ‘friend’, but may act as a ‘representative’ for a constituent.
THE EXECUTIVE

20 All decisions made will be subject to the relevant statutory provisions and rules defined in the Constitution and these Conventions.

21 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.

22 Withdrawing or deferring an Executive report is an Executive decision and responsibility.

SCRUTINY

In this section the term Committee will also apply to Scrutiny Commissions

23 The Scrutiny and the Executive functions acknowledge their different roles and the need for actions to concentrate constructively on bringing benefit to the citizens and stakeholders of the City.

24 All finalised scrutiny reports will be formally responded to by the Executive.

25 Recommendations to officers and the Executive must be agreed by the Committee.

26 There is an expectation that the relevant Executive Member and Relevant Divisional Director will attend the Committee meeting as an invitee with a view to explaining matters relevant to the agenda.

27 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.

28 It is for a full Scrutiny Committee to determine a purposeful work programme for scrutinising the implementation of decisions. Appropriate consultation with relevant parties should be undertaken in doing so.

29 Where the Executive and a Scrutiny Committee are considering the same service area, the City Mayor or Assistant City Mayor, Scrutiny Chairs and Vice-Chairs and Relevant Divisional 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.

30 Any press releases will be issued in accordance with the Conventions covering ‘Media Relations and Published Material’ set out in this document.
REGULATORY, COUNCIL, AND COUNCIL COMMITTEES (PLANNING DEVELOPMENT CONTROL, LICENSING, EMPLOYEES, AUDIT & RISK AND STANDARDS)

31 Development control, licensing (regulatory) and other quasi-judicial matters must be dealt with solely in accordance with the relevant policies and legal requirements.

32 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.

33 Only Members who have received appropriate training may participate in decisions relating to regulatory decisions and Employees’ Committee Appeal Hearings.

MEDIA RELATIONS AND PUBLISHED MATERIAL

34 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.

35 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.

36 News releases on behalf of the Council may only be issued through the Communications and Digital Media Team.

ELECTION PERIODS

37 From the notice of a Parliamentary or local election until election day: 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.

38 During such election periods the Town Hall and City Hall shall not be used for political meetings (other than normal private meetings on Council business). This prohibition shall extend to the Town Hall Square Concourse.
Political Conventions – Part B

This part provides supporting information where necessary to the principles defined in Part A to help their practical application.

The document is therefore divided on the same basis as Part A with the section numbers corresponding to the numbered principles.

NEUTRALITY

1 Members have a formal role in certain employment appeals as defined in Council policy.

In terms of appointments the law defines that Members can only be involved in the appointment of certain posts. The City Council has defined that these should be for: Directors and other officers who are directly accountable to a Strategic Director / Head of Paid Service for all or most of their duties (excluding officers whose duties are solely secretarial / clerical / support).

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 Codes of Conduct and not be influenced by Members other than for posts where Members have a legitimate role in those decisions. Failure to do so could be a disciplinary matter.

2 If any questions about neutrality or improper conduct by an officer arise these should be raised in private with the relevant Divisional Director, or 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 a deliberate decision not to declare an interest should not be done in a meeting.

Officers must be prepared to correct an inadvertent failure to declare an interest, or to justify a decision not to declare an apparent interest. Prior employment is not automatically a declarable interest, but it may be in certain cases.

3 Members' knowledge of an officers private political opinions should not be used against an officer who remains neutral at work and observes the
relevant Codes.

4 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 ‘Unified Advice’ is advice which is objective, consistent and points out all relevant factors. Different points of view between officers should be resolved or presented in a balanced way which helps Members to choose between them.

6 & 7 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.

Where a member of a political group, the Group should consider how working contact between the Member and Officer should be avoided or managed to dispel perceived bias, taking advice from the Monitoring Officer if necessary.

The Officer concerned should judge when to make a declaration. The Relevant Divisional Director should consider how to avoid or manage working contact to dispel perceived bias, taking advice from the Monitoring Officer if necessary. Officers should declare any interests to their manager and where appropriate record using ‘MyView’.

8 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.

9 The City Mayor’s Scheme of Delegation is available at:
http://citymayor.leicester.gov.uk/welcome/my-executive-team/

10 A Member’s right of access is subject to:
- Operational continuity;
- Confidentiality;
- Compliance with Health & Safety arrangements;
- Compliance with physical and information security requirements.

11 Staff may raise issues with Members as citizens. They must not 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 staff lobbying outside formal procedures and avoid involvement in individual staffing matters. Members should not allow themselves to be lobbied by staff in relation to personal employment or budgetary matters.

BRIEFINGS

12 A Member’s right of access is 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.

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 not based on unified advice, (ie is still subject to consultation with other Officers). Otherwise the Member is entitled to assume unified 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.

15 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.

16 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**

17 & 18 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 individuals 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, and of personal embarrassment. The District Auditor has warned of the dangers of individual Members intervening in the processes of the Council without full knowledge of the facts. 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”.

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.

Officers should not seek to involve Members in operational detail.

19 A Member pursuing a Ward matter on behalf of a close family member or friend should declare the relationship and consider whether to ask another Member to pursue the matter.

THE EXECUTIVE

20 Each report to the Executive should be in the name of the City Mayor or a Relevant Divisional 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 particularly on equalities and financial and legal implications, on which consultees should be named is required. Officers must take account of relevant policies of the Council. Any risks and the reasons for taking must be made clear in the report.

Reports must follow the prescribed template and follow advice given by the relevant Divisional Director and clarify the options considered and the reasons for a recommendation / decision.

21 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.

22 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 the timing of Executive reports / proposals.

SCUTINY

In considering actions account will be taken of the Scrutiny Operating Protocols confirmed by Overview Select Committee on 27/09/12.

In this section the term Committee will also apply to Scrutiny Commissions.

23 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.

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 2 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 2 month deadline may not be practical. In such circumstances the relevant Assistant 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 Executive consultation. A scrutiny request for more time to consider an Executive consultation shall be subject to the City Mayor or 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.

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 officer 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 Divisional Director (for example, progress with implementation), inviting both to attend where necessary.

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 should 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. After the Chair has responded, the Vice-chair may add comments.

Where it appears that conflict between Executive and Scrutiny priorities may arise the Relevant Divisional Director will refer the matter to the City Mayor or 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 not be prioritised the Monitoring Officer should be consulted on how to resolve the impasse.

The Director will keep the Executive Member informed as appropriate.

The Communications and Digital Media 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 DEVELOPMENT CONTROL, LICENSING, EMPLOYEES, AUDIT & RISK AND STANDARDS)

31 The processes defined in the ‘Planning Code Of Good Practice For Member Involvement In Development Control Decisions 2012’ must be followed by Members and the Planning and Development Control Committee.

32 In order to ensure clarity of what is a Member’s role at the meeting where a regulatory committee is held in public committee members should clearly introduce themselves to the public.

Particular care should be taken to declare interests in formal meetings, at site visits and in formal discussion and, if necessary avoid participation. Potential interests should be raised with Officers before meetings. Any Executive Member would have an interest in a planning application by the Council.

33 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

34 Members, through the Executive, 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.

36 The Communications and Digital 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 Communications and Digital Media Team.
The team will be guided in Executive matters by the City Mayor or Deputy or Assistant City Mayor 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 Communications and Digital Media Team. It is suggested that these may seek to:

- introduce the review and invite public comment;
- announce the agreement by Overview Select Committee of the finalised report;
- give details of formal Executive or key stakeholder comments.

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**

- 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.

Appropriate guidance will be given in relation to elections not covered within the list above.

Subject to this Convention, publicity is permitted of Members speaking on behalf of the Council about an approved policy.

External comments 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).

38 Town Hall Square other than Town Hall Square Concourse may (subject to prior booking) be used for political meetings.

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.
LEICESTER CITY COUNCIL

CODE OF CONDUCT FOR MEMBERS

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, including:

a. At formal meetings of the Council, its Committees and Sub-Committees, its Executive and Executive Committees
b. When acting as a representative of the Authority
c. In taking any decisions as a Member of the Executive or as a Ward Councillor
d. In discharging your functions as a Ward Councillor
e. At briefings meetings with officers
f. At site visits
g. When corresponding with the Authority other than in a private capacity
h. At any other time when you conduct the business of your Authority

* The Code therefore applies when performing your duties in meetings, or when acting alone, and it applies whether you are acting inside or outside of the City boundary

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

3. General conduct
You must, therefore:

a. Respect others and not bully or intimidate any person
b. 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
c. Exercise your own independent judgement, paying due regard to any advice provided to you by the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and giving reasons for your decisions as required by the law and the reasonable requirements of the Authority
d. Uphold the law at all times
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. Not do anything which compromises, or is likely to compromise, the impartiality of those who work for (or work on behalf of) the Authority

(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)

4. 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”

5. 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 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.

6. **Gifts and Hospitality**

   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 £25 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.
7. Other

Breaches of this Code will be dealt with under the “Standards Arrangements” as approved by Council on 13.11.14.

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
November 2014

Table 1
Categories of DPIs

<table>
<thead>
<tr>
<th>Subject</th>
<th>Prescribed description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment, office, trade, profession or vacation</td>
<td>Any employment, office, trade, profession or vocation carried on for profit or gain.</td>
</tr>
<tr>
<td>Sponsorship</td>
<td>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(1).</td>
</tr>
<tr>
<td>Contracts</td>
<td>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.</td>
</tr>
</tbody>
</table>
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.
Appendix 3

ARRANGEMENTS FOR DEALING WITH STANDARDS COMPLAINTS AT LEICESTER CITY COUNCIL UNDER THE LOCALISM ACT 2011

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


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 decision 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
16 New Walk
Leicester
LE1 6UB

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 basis that it is (i) trivial or (ii) not in the public interest to pursue or (iii) vexatious (see Appendix A attached for definition).
e. 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
f. Refer the matter for immediate further investigation.
g. In exceptional cases, refer the matter to the Standards Committee or subcommittee thereof for a decision on a. to f. 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 B 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 g. 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 C attached.

**Review of a complaint** - The complainant may seek a “review” of a decision only under outcomes c. d. or e. 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 formal investigation, the Monitoring Officer will report outcomes to the Standards Committee by updating report at each meeting*

**Formal 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 he/she will refer the matter 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 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 formal Investigation (and the Investigator 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’.

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 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 complainant and the subject member would be written to and given reasons for any decision following a formal investigation, 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.
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.

306
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
JUNE 2015

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 Management Committee deciding planning matters (e.g. applications and enforcement); or as an Executive Member considering development of the Council’s planning policies.

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.

• You should:
  - 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. 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. 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.

5.2 Declarations of bias and predetermination should also require the Member to refrain from taking part in decision-making, or the influencing of decisions (see section 8 below).

5.3 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.

5.4 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. 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’ 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. However 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. 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 5.2 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 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 and if there has been no contact the Chair has discretion whether or not to allow the representations to be made.

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. 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. http://www.cabinet.leicester.gov.uk/documents/s52419/PublicSpeakingLeaflet_Jun12_Copy2a1.pdf.

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 predetermination 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 encouraged. 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. 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 and ask him/her to ensure that this is recorded on the planning 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 will 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 as soon as possible about any applications included on the weekly list of applications circulated to them that they consider should be the subject of a Committee decision. 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.

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 6.8 above). Contact should be written and preferably 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 after the Member has been alerted to the existence of the Planning 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 need to declare the nature of those representations e.g. e-mail 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). 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 the Group Rooms 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 Director 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, will be summarised orally.

13.4 Written representations and supporting materials of applicants, objectors and/or third parties, including those arising from public speaking will only be circulated to members if they have been provided to Democratic Services by 1600 hours on the day before the meeting

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 which can be found here:


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. The other provisions in the Council’s Constitution with regard to voting (request for recorded vote, chairs casting vote etc.) will apply.

16. DEPARTURES FROM OFFICER RECOMMENDATIONS

16.1 Committee Members wishing the Committee to consider a different recommendation from that made by the Director must move an amendment giving planning reasons and have it seconded. As necessary the Chair will then seek clarification for the planning reasons and take advice from the Head of Planning and Solicitor. The planning reasons will be recorded in the minutes.

16.2 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, which will form the basis of a second vote. 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 conditions or section 106 Agreements to be attached to the grant of Permission) to the Director 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 of the publication of the Agenda Papers (ie by 1700 on the Thursday following publication) 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 in 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.

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 will be permitted to attend.

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 The expectation will be that the Committee Members will attend the site visit and 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 in the Council’s file.

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, 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 Initial basic training will be provided at the start of each Council Municipal Cycle (2015 etc.). Mandatory annual refresher training will be arranged to take place as soon as possible after the Council’s Annual General Meeting in May.
APPENDIX 5

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 Action 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.
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.

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

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.

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 interests 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 or 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:

<table>
<thead>
<tr>
<th>Category</th>
<th>Signatory threshold</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Petition which triggers a debate</td>
<td>1,500</td>
<td>Any petition above this threshold will trigger a debate at Full Council</td>
</tr>
<tr>
<td>Petition which calls an officer to account</td>
<td>750 – 1499</td>
<td>Any petition above this threshold will summon a senior Council officer to give evidence at a public meeting</td>
</tr>
<tr>
<td>Standard petition</td>
<td>2- 749</td>
<td>A petition requesting action or response by the Council</td>
</tr>
</tbody>
</table>

2) How can I submit my petition?

**Paper petitions** must be sent to:

Democratic Support  
City Hall  
115 Charles Street  
Leicester  
LE1 1FZ
e-Petitions:

Petitions can be created, signed and submitted online via the Council’s website.

In addition to submitting a hard copy petition or an e-petition you may also verbally present 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 the normal process is that 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 454 6350 at least 10 working days before the meeting and they will talk you through the process.

3) How will the Council process my petition?

Once a petition is received it will be checked to see if 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.

The key Council roles in addressing petitions are:

- **Executive** - Determining the course of action to be taken in light of a petition is the responsibility of the City Mayor and his Executive team (his Deputy and Assistant Mayors). Responses to valid petitions will be approved and signed off by the City Mayor or an appropriate Assistant Mayor.

- **Lead Officer** - Each petition is allocated a lead officer who will co-ordinate the response. Where a petition relates to a particular area or Ward in the city, information will also be shared with the relevant Ward Councillors, who will want to ensure their constituents receive a timely and thorough response.

- **Scrutiny** - Information on all petitions is shared with the Council’s Overview and Scrutiny Committee and Scrutiny Commissions who focus on whether
petitions are being responded to in a timely and sufficiently clear and robust manner. Scrutiny may also use petitions to identify where there may be issues in terms of Council policy or operational practice that they wish to review in more detail as part of their work programmes.

4) 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. It should state what action the petitioners wish the Council to take
  - details of each person supporting the petition including:
    - their name
    - their signature and;
    - their qualifying address (the qualifying address will be an address in the City where they work, live or study).

- Petitions must be accompanied by full contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. 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 signatories 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 decide not to do anything further with it. In that case, we will write to you to explain the reasons.

- Before submitting a petition, you should 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.
5) How will the Council respond to petitions?

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

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 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.

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’s Overview Select Committee. Senior staff that can be called to give evidence are the Chief Operating Officer and Strategic Directors. You should be aware that the Overview Select Committee may decide that it would be more appropriate for another officer to give evidence instead of the officer role referred to in the petition – for instance if the named officer has changed jobs. The process that will be followed is explained below, however it should be noted that, where appropriate, Scrutiny Committees will sometimes seek to approach matters in a less formal manner.

The Overview Select Committee will normally endeavour to consider the petition at its next meeting. 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 Overview Select 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.

As a scrutiny committee the Overview Select Committee has no power to make decisions on actions to be undertaken by the Council or Executive.

Full Council debates

If a petition contains 1,500 or more valid signatures the lead petitioner may ask that it be debated by the full Council (unless it is a petition asking for a senior council officer to give evidence at a public meeting). 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 organisers 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.

6) E-petitions

What is an e-petition?

An e-petition is a petition which is submitted electronically to the City Council for consideration in relation to a particular issue or concern. It differs from a traditional paper based petition in that it is accessible to anyone who wishes to sign it through the Council’s website. E-petitions must follow the same guidelines as paper petitions and will be dealt with in the same manner.
Who can submit an e-petition?

As with paper based petitions, to submit an e-petition to the City Council, you must live, work or study in the City. Therefore if you are not a resident of the city, please include your ‘qualifying’ address which will be an address in the City where you work, or study.
We need full contact details of the person who is leading on the petition. Therefore you would need to register on the website. It is a straightforward process which requires you to provide us with a few details for when we need to contact you about the petition.

There is a limit of 28 days for the petition to be ‘live’ on the Council’s website for signatures. 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.

Who can sign an e-petition?

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. Your name (but no other details) will be published on the e-petitions section of the website. 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 details in relation to e-Petitions is given in Appendix B.

7) 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 Adatia
City Barrister & Head of Standards
Leicester City Council
City Hall
Leicester
LE1 1FZ

8) 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

- Regular ‘Meet the Mayor’ sessions – details are available on the Council’s website at
  http://citymayor.leicester.gov.uk/welcome/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 & Member Support
Leicester City Council
City Hall
115 Charles Street
Leicester LE1 1FZ.
0116 454 6350

Director of Delivery, Communications & Political Governance
Leicester City Council
Appendix A

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) which contains abusive, defamatory or offensive language or relates to a specific and identifiable person;

(b) at the Annual Meeting of the Council, a Special Meeting of the Council, or at any meeting of the Council summoned for the purposes of considering the budget;

(c) in relation 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 an issue raised by a petition or of a decision of Council or the Executive within the previous six months.

No petition from a member of the public shall be accepted:

(a) from or on behalf of a political party or organisation or in connection with the activities and aims of such a party or organisation, or from a staff group, which instead should use the proper procedures, such as through management and trades union representatives; or

(b) if the petition applies to a planning or licensing application, is a statutory petition (ie 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.
Further Information in relation to e-Petitions

How do I start an e-petition?
On the Active E-Petitions homepage (link), select the ‘Submit a new ePetition’ option. You will be prompted to enter a title which the system will automatically check against ePetitions to allow you to see if a similar one has been considered recently.

You will then need to fill in the online form. There are various stages to this, if it is your first petition, you will need to register, by way of entering a validation code of letters / numbers at the bottom of the registration form and validate your registration when you receive an email. The petition will be submitted to the Democratic Support Team, they will check over the petition and contact you if there are any queries. Please note that it may take up to five working days before it is published online. If you are already registered on the system, you just need to type in your user name and password.

You will then need to fill in the details in the boxes on the screen with details of the petition, i.e. what you are asking, a ‘call for action’. There is also a space for further supporting details.

A short name is also needed for your petition in order to generate the weblink to the e-petition.

What happens to an e-petition which has been submitted?
Following auto receipt by the system it will be checked over for its validity. You will then be contacted to discuss making the petition live on the website.

How do I sign an active e-petition?
Anyone wishing to sign an e-petition has to click on a link on one of the Active Petitions via the e-petitions homepage.

Unless you are already a user and can log onto the system with your existing user name and password, you will be prompted to register as a new user with your contact details (and, so we can ascertain you are a valid user, enter a validation code of letters / numbers at the bottom of the registration form). As a new user, you will then be requested to validate your account via a link sent to your registered email address before being able to sign the petition. You will only be allowed one signatory per email address to ensure that the process is not abused. Where people share the same email address the second or further signatories are invited to indicate in writing (contact details below) that they support the petition.

If you are not a city resident please use the name and address of your workplace or educational establishment for registration purposes.

Privacy Policy
The details you give us are needed to validate your petitions but will not be published on the website. This is equivalent to the process for a paper petition. On completion of the e-petition, your details will be forwarded to the lead petitioner.
Appendix 8

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 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. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. The Council expects that recording will not be edited in a way that could lead to misinterpretation of the proceedings.

9. 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.

10. 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 John Thorpe, Democratic and Members Support Manager.

Telephone: 0116 454 6351
Email: john.thorpe@leicester.gov.uk

Further guidance is also available in the DCLG publication 'Open and accountable local government', August 2014
PART 6 – MEMBERS’ ALLOWANCES SCHEME

ELECTED MEMBERS’ ALLOWANCES SCHEME 2015/2016
Note: Where the term ‘Member’ is used it will apply to Councillors and the City Mayor

Council, at its meeting on 17 March 2016, agreed a Members’ Allowances Scheme, applicable for the 2015/2016 Municipal year taking into account the recommendations of the Independent Panel on Members’ Allowances and agreeing a scheme of indexation through to the end of the Municipal year 2019/2020.

The scheme is detailed below and operates from 1 April 2016.

Members should be aware that allowances payable in return for acting as an Member are regarded as the same as salary or wages for the purposes of Income Tax and National Insurance Contributions (NIC), ie income tax and NIC will usually be deductible from such allowances.

1. ALLOWANCES PAID AUTOMATICALLY
   (All amounts stated are gross)

   (a) Basic Allowance
   £10,146 per annum for each Member.

   (b) Special Responsibility Allowances
   Members will only be able to receive 1 SRA (including Civic Allowances).

<table>
<thead>
<tr>
<th>Role</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Mayor</td>
<td>£57,710</td>
</tr>
<tr>
<td>Deputy Leader City Mayor</td>
<td>£40,747</td>
</tr>
<tr>
<td>Assistant City Mayors</td>
<td>Payable at Rate i £16,997 or Rate ii £13,597 or Rate iii £10,198</td>
</tr>
<tr>
<td>NB. The City Mayor will allocate Assistant City Mayors to relevant Band according to responsibility and workloads assigned - to be indicated on appointment.</td>
<td></td>
</tr>
<tr>
<td>Chair, Overview Select Committee</td>
<td>£9,613</td>
</tr>
<tr>
<td>Vice Chair, Overview Select Committee</td>
<td>£2,403</td>
</tr>
<tr>
<td>Chair, Children Young People and Schools Scrutiny Commission</td>
<td>£8,011</td>
</tr>
<tr>
<td>Vice Chair, Children Young People and Schools Scrutiny Commission</td>
<td>£2,003</td>
</tr>
<tr>
<td>Chair, Health and Wellbeing Scrutiny Commission</td>
<td>£8,011</td>
</tr>
<tr>
<td>Vice-Chair, Health and Wellbeing Scrutiny Commission</td>
<td>£2,003</td>
</tr>
<tr>
<td>Chair, Neighbourhood Services and Community Involvement Scrutiny Commission</td>
<td>£8,011</td>
</tr>
<tr>
<td>Vice Chair, Neighbourhood Services and Community Involvement Scrutiny Commission</td>
<td>£2,003</td>
</tr>
<tr>
<td>Position</td>
<td>Amount</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>Chair, Heritage, Culture, Leisure and Sport Scrutiny Commission</td>
<td>£8,011</td>
</tr>
<tr>
<td>Vice Chair, Heritage, Culture, Leisure and Sport Scrutiny Commission</td>
<td>£2,003</td>
</tr>
<tr>
<td>Chair, Adult Social Care Scrutiny Commission</td>
<td>£8,011</td>
</tr>
<tr>
<td>Vice Chair, Adult Social Care Scrutiny Commission</td>
<td>£2,003</td>
</tr>
<tr>
<td>Chair, Economic Development, Transport and Tourism Scrutiny Commission</td>
<td>£8,011</td>
</tr>
<tr>
<td>Vice Chair, Economic Development, Transport and Tourism Scrutiny Commission</td>
<td>£2,003</td>
</tr>
<tr>
<td>Chair, Housing Scrutiny Commission</td>
<td>£8,011</td>
</tr>
<tr>
<td>Vice Chair, Housing Scrutiny Commission</td>
<td>£2,003</td>
</tr>
<tr>
<td>Chair, Planning and Development Control</td>
<td>£8,011</td>
</tr>
<tr>
<td>Vice Chair, Planning and Development Control</td>
<td>£2,003</td>
</tr>
<tr>
<td>Chair, Licensing &amp; Public Safety Committee</td>
<td>£8,011</td>
</tr>
<tr>
<td>Vice Chairs, Licensing &amp; Public Safety Committee (two)</td>
<td>£2,003</td>
</tr>
<tr>
<td>Chair, Audit &amp; Risk Committee</td>
<td>£5,874</td>
</tr>
<tr>
<td>Chair, Standards Committee</td>
<td>£2,857</td>
</tr>
<tr>
<td>Minority Group Leader</td>
<td>£1,068 per annum plus an additional £267 per Member.</td>
</tr>
<tr>
<td>Majority Group Whip</td>
<td>£8,011</td>
</tr>
</tbody>
</table>

**Civic Allowances**

<table>
<thead>
<tr>
<th>Position</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lord Mayor</td>
<td>£16,556*</td>
</tr>
<tr>
<td>Deputy Lord Mayor</td>
<td>£5,073</td>
</tr>
<tr>
<td>High Bailiff</td>
<td>£1,775</td>
</tr>
</tbody>
</table>

*£11,213 of the Lord Mayor's allowance will be provided via allowances, the other £5,343 will be administered by the Democratic & Members Support Manager.
(d)  ‘Independent Persons’  
‘Independent Members’  
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:-

<table>
<thead>
<tr>
<th>Position</th>
<th>Allowance</th>
</tr>
</thead>
<tbody>
<tr>
<td>‘Independent Persons’, Standards Committee</td>
<td>£2,000 plus travel expenses</td>
</tr>
<tr>
<td>‘Independent Members’, Standards Committee</td>
<td>£492</td>
</tr>
<tr>
<td>Co-opted Members of Committees / Commissions</td>
<td>£508</td>
</tr>
</tbody>
</table>

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.

(e)  Travel and Subsistence – Inside the City

£100.39 per month (£1,205 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 £25 per month (£300 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 an 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. **MISCONDUCT/WITHHOLDING OF ALLOWANCES**

In the event of a Member suspension/partial suspension, the Member’s allowances will be withheld in full or in part in accordance with the duration of the suspension.

5. **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. Where a Member becomes or ceases to be entitled to allowances within a calendar month, entitlement will be calculated on a pro rata basis. Entitlement will commence or cease three days after Election or agreement.

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

<table>
<thead>
<tr>
<th>Public Transport</th>
<th>Paid at the amount of an ordinary fare or any available cheap fares (tickets/receipts required).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxi</td>
<td>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.</td>
</tr>
<tr>
<td>Private Transport</td>
<td>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.</td>
</tr>
<tr>
<td>Car or Van*</td>
<td>45p per mile for the first 10,000 miles, 25p per mile thereafter</td>
</tr>
<tr>
<td>Motor Cycle*</td>
<td>24p per mile (all miles)</td>
</tr>
<tr>
<td>Pedal Cycle</td>
<td>20p per mile (all miles)</td>
</tr>
</tbody>
</table>

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 | The same rates as if the vehicle were privately owned
(car/light van) (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.

<table>
<thead>
<tr>
<th>Meal</th>
<th>Qualifying duty period (inclusive of travelling time)</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breakfast</td>
<td>3 hours before 11.00 am</td>
<td>£8.00</td>
</tr>
<tr>
<td>Lunch</td>
<td>2 hours between 12 noon and 2.00 pm</td>
<td>£10.92</td>
</tr>
<tr>
<td>Tea</td>
<td>3 hours including 3.00 pm to 6.00 pm</td>
<td>£4.78</td>
</tr>
<tr>
<td>Dinner</td>
<td>3 hours ending after 7.00 pm</td>
<td>£18.72</td>
</tr>
</tbody>
</table>

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.
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://www.leicester.gov.uk/media/180802/organisational-chart-jan
2016.pdf